

# REPORT ON THE ACTIVITIES OF THE ESIL INTEREST GROUP ON INTERNATIONAL LAW OF CULTURE 2020-2021



**International  
Law  
of Culture  
Interest  
Group**



---

## Presentation

The ESIL Interest Group on International Law of Culture (Group) was established on 15 September 2018 at the ESIL 14th Annual Conference in Manchester. Since then the activities of the IG have greatly developed focusing on a wide range of themes relating to this growing area of international law. Indeed, the main objective of the group is not only to study the legal regulation of the spheres of culture and heritage but also to provide a platform for deep reflection on the cultural conditions and foundations of international law, its making and operationalisation.

## Coordinating Committee

Beatriz Barreiro Carril (Rey Juan Carlos University, Madrid) \* Giovanni Carlo Bruno (National Research Council of Italy, Naples) \* Andrzej Jakubowski (Polish Academy of Sciences/University of Opole) \* Lucas Lixinski (UNSW Sydney).

## Group's activities (October 2020 – October 2021)

### *Workshops*

- **Searching Solidarity for Fighting against Cultural Exclusion towards Migrants and Refugees in Europe in Times of Populism**  
**Online Workshop 15 April 2021**

On 15 April 2021, the Group held an international online workshop on 'Searching Solidarity for Fighting against Cultural Exclusion towards Migrants and Refugees in Europe in Times of Populism'. The workshop topic was designed in line with the general theme of the 2021 ESIL Research Forum: *Solidarity: the Quest for Founding Utopias of International Law*. The Universal Declaration of Human Rights clearly sets in Article 13 the right of everyone to leave any country, including their own, and to return to said country. While some would maintain that this right is merely soft law or even utopian, it is clear that at least in some cases said right can imply hard law obligations, including *jus cogens* norms (non-refoulement principle). The question of forced migrants' rights was important in the context of the main topic of this forum: 'Solidarity: The Quest for Founding Utopias of International Law', because it must be interpreted in conjunction with the often-forgotten obligation of solidarity in the same declaration ('all human beings [...] should act towards one another in a spirit of brotherhood'). As international legal scholarship has devoted enormous and much-needed attention to refugee and migrant rights, less attention has been paid to the enjoyment of cultural rights of migrants and refugees, and the connection between culture and the construction of more solidary and cohesive societies. The UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, for instance, is yet to adopt a general comment on cultural aspects. Further, issues concerning culture and identity are crucial in relation to current waves of populism, where leaders maliciously mischaracterize the cultural lives of migrants –therefore contributing to the creation of what Oliver Roy called 'imaginary communities'. These populist pushes ignore developments of International Law in the field of culture of the past decades, and contribute to tearing social cohesion and solidarity between local communities and migrants. The objective of this workshop was to give visibility to these developments as well as to analysis their limits and possibilities.

See Annex 1: Programme of the Online Workshop on Searching Solidarity for Fighting against Cultural Exclusion towards Migrants and Refugees in Europe in Times of Populism.

- **Methodology of Teaching, Researching and Practising International Law of Culture: Good Practices and Lessons Learned**  
**Hybrid workshop, 8 September 2021**

The aim of this workshop was to explore, identify and debate the methodological underpinnings and challenges faced by academics and practitioners in the field of the International Law of Culture (ILC) in their professional activity. We sought to share experiences and good practices related to the choice of proper methodology, as well as the difficulties that we experience but are usually too afraid to admit. The 2021 ESIL Annual Conference (9-11 September 2021) in Stockholm – entitled *Changes in International Lawmaking: Actors, Processes, Impact* – offered a fitting framework for such a workshop. Indeed, the methodology of the ILC is not only affected by the diversity of cultural actors involved in international lawmaking, but it is also profoundly impacted by matters of cultural expertise and evidence, which often constitute a thorny issue for the law, in terms of its scholarship, practice and education. For most legal scholars, methods of legal research are pretty well-defined, but they do not necessarily fit into solving problems embedded in ILC. As ILC lawyers we are constantly confronted with knowledge and methods produced by disciplines outside the law yet crucial for the law of culture, such as cultural/social anthropology, sociology, political science, and international relations, not to mention the need to follow recent developments in interdisciplinary research areas such as cultural studies, (critical) heritage studies, and development studies. Thus, in the context of the Stockholm Conference we sought to pay special attention to the following persistent problems: What kind of methods – perhaps also extra-legal ones – does the ILC require? How should the canon of legal methodology be extended (and what constitutes ‘the canon’)? How is the current canon responding to the concept of methodological interdisciplinarity? What does it mean in practical terms to apply ‘interdisciplinary approaches’ to teaching, researching and practicing ILC? When is such an approach needed? What are the limitations of applying extra-legal methods to ILC? The rich exchange during the workshop showed that the topic will continue to be an important concern of this interest group.

See Annex 2: Program of the workshop Methodology of Teaching, Researching and Practising International Law of Culture: Good Practices and Lessons Learned



## ***Other activities***

- Edited volume: ***15 years of the UNESCO Diversity of Cultural Expressions Convention: Actors, Processes and Impact***

Beatriz Barreiro Carril, Andrzej Jakubowski and Lucas Lixinski have co-edited a collection of essays stemming from the online workshop '15 years of the Convention for the Protection and Promotion of the Diversity of Cultural Expressions and Lessons for New Ways of International Law-Making: Actors, Processes, Impact' (9 September 2020). The book proposal has already been submitted to an international publisher.

## **Group's future activities**

The Group's agenda for the forthcoming months comprises the following activities:

- Support for initiatives by the Group's members.  
The Group's Convenors regularly invite all IG members to submit their proposals for scholarly meetings and seminars, and encourage them to consider promoting their academic activities within the Group and among the wider ESIL community. For instance, the Call for Papers for a hybrid conference, entitled 'The Intentional Destruction of the Cultural Heritage of Mankind (IDCHM): what are the Remedies under International Law', to be held at the University La Sapienza in Rome on 2-3 December 2021, has already been circulated among the Group's members in July. The final programme and details for attending the Conference will be published soon.
- Establishment of a multilingual scholarship bibliography on International Law of Culture.  
The Group is trying to set up a multilingual scholarship bibliography on International Law of Culture available online for all IG and ESIL Members, with a specific attention to linguistic, cultural and geographical diversity.

## Annex 1

Pre-Research Forum Workshop - ESIL IG on International Law and Culture

### **Searching Solidarity for Fighting against Cultural Exclusion towards Migrants and Refugees in Europe in Times of Populism**

online Workshop 15 April 2021, 9.30 - 11.00

ESIL Forum Platform

**Introduction:** Hanna Schreiber (University of Warsaw)

**The Right of Minority-Refugees to Preserve their Cultural Identity: An Intersectional Analysis',** Stephanie E. Berry (University of Sussex) and Isilay Taban (University of Sussex)

**Current Challenges of the Migrants' Cultural Heritage,** Alina Gentimir (Alexandru Ioan Cuza University)

**Discussant:** Giovanni Carlo Bruno (National Research Council of Italy CNR · Institute for Research on Innovation and Services for Development IRISS) – Coordination Committee IG International Law on Culture Q&A

## Annex 2

### ESIL Annual Conference 2021

#### 'Changes in International Lawmaking: Actors, Processes, Impact'

9-11 September 2021, Stockholm, Sweden

ESIL IG on International Law of Culture

#### Methodology of Teaching, Researching and Practising International Law of Culture: Good Practices and Lessons Learned

#### IG workshop, Wednesday 8 September 2021

11:00-13:00 UTC+1

Hybrid event. All participants are required to register for the ESIL Annual Conference.

To register, please follow this link: <https://esil2021.se/register/>

For onsite participants the location of the workshop will be South House, Building D, room D307 (more information in Conference website: <https://esil2021.se/pre-conference-workshops/> and <https://esil2021.se/>)

For online participants please send an email to Dr. Andrzej Jakubowski ([AndrzejJak@poczta.fm](mailto:AndrzejJak@poczta.fm)) in order to receive the Zoom link.

#### Program

**11:00-11:15**

**Opening remarks:** *Andrzej Jakubowski (University of Opole, visiting fellow of Amsterdam Center for International Law)*

**Presentation of the workshop's topic:** *Beatriz Barreiro (Rey Juan Carlos University, Madrid)*

**First part (presentation of papers) 11:15-12:00**

Moderated by *Andrzej Jakubowski*

Cultural Expertise in International Law: Methodological Challenges and the Promise of Pluralism

*Noora Arajärvi, Noora Arajärvi (The Hertie School & CHAD, Université Paris Nanterre)*

How to understand rules-in-use? Application of Elinor Ostrom's methodology to international (cultural heritage) law

*Hanna Schreiber, University of Warsaw*

**Second part: 12:00-12:40. Debate** animated by *Beatriz Barreiro* from a **conversation with:**

*Yvonne Donders, University of Amsterdam*

*Alexandra Xanthaki, Brunel University*

**Third part: 12:40-13:00. Technical questions/future initiatives,** moderated by *Giovanni Carlo Bruno (CNR, Italy)*

### **Coordinating Committee of the IG on International Law of Culture**

Beatriz Barreiro: [beatriz.barreiro@urjc.es](mailto:beatriz.barreiro@urjc.es)

Giovanni Carlo Bruno: [giovannicarlo.bruno@cnr.it](mailto:giovannicarlo.bruno@cnr.it)

Andrzej Jakubowski: [andrzejjak@poczta.fm](mailto:andrzejjak@poczta.fm)

Lucas Lixinski: [l.lixinski@unsw.edu.au](mailto:l.lixinski@unsw.edu.au)