

# EVENTS AND CONFERENCES

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## International Law of Culture within ESIL: A New Interest Group Manchester, 13-15 September 2018

In September 2018, during the 14th Annual Conference of the European Society of International Law (ESIL) in Manchester (United Kingdom) a new Interest Group in the field of International Law of Culture was created. It aims to gather together the many researchers working in this highly developed but fast-changing field and seeks to contribute to its systematization, as well as to the identification of complex issues which need further clarification.

In fact, the relations between the international legal field and culture are old and varied. Typically, scholarship and legal practice in this area have focused more generally on the Eurocentric origin or “cultural” bias of International Law, with International Cultural Heritage Law as a specialized subfield. However, with the arrival of the 21st century important new developments concerning culture have taken place in International Law, with the consequent development of new areas of interest within the discipline. Equally important is the fact that such developments use a different, “contemporary” conception of culture, which is understood as fluid, transformed, and dynamic, enabling the creation of manifestations of diverse cultural expressions beyond static or fixed monuments and sites, the traditional foci of international legal work. A dynamic

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understanding of culture also assumes that it is not isolated from other factors such as power – including economic power – but rather is closely intertwined with them. The “old” conception of culture as static is clearly being abandoned by more recent developments, even if some of its effects still linger. Understanding the difficult work of accommodating the new and old visions of “culture” and its role is one of the biggest challenges facing the field today. Even if the “old” concept of culture was not explicitly or rigidly enshrined in legal instruments, it was very easily assumed and reinforced by many legal operators. The fact that there were no international legal documents challenging the dominant view aided its entrenchment, and the challenge to widen its conception was only clearly met in 2009 in two United Nations (UN) instruments: The General Comment on the Right to Take Part in Cultural Life by the Committee on Economic, Social and Cultural Rights; and the appointment of an Independent Expert (now Special Rapporteur) on Cultural Rights.

However, the UN was not the only organization where this new take on culture gained traction in the 21st century. UNESCO, as a specialized UN agency, has fostered the conclusion of two relevant international treaties; one dealing with intangible heritage (2003) and the other with cultural diversity (2005). Both instruments are crucial in changing the conception of culture from static to dynamic, and putting communities and individuals front and centre in the definitions of cultural practices within the scope of the treaties. These two instruments therefore mark decisive moves away from a limited, elitist, and Eurocentric conception of culture. Furthermore, the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions enters directly into the regulation of international trade of cultural products, establishing clearly that these are not “like products” for the purposes of allowing for cultural exceptions to free trade rules.

These shifts have received limited attention from learned societies however, and scholars are therefore missing important opportunities to engage with culture as a regulatory object, and to use the soft power that derives from culture in international law and relations.

The field of International Law of Culture is connected with other areas of International Law. In this sense, this new Interest Group (IG) would like to interact with other IGs within ESIL in a way that fosters exchanges between ESIL members and leads to a more systemic, less fragmented, work on International Law. The report of the Special Rapporteur on Cultural Rights, launched only some days ago on the occasion of the 10th anniversary of this mandate and referring for instance to the links between cultural rights and climate change or digital governance (to name only two examples), confirms this need for connexion with other areas of International Law. This new IG, coordinated by Andrzej Jakubowski (Institute of Law Studies of the Polish Academy of Sciences in Warsaw, Poland), Lucas Lixinski (Faculty of Law, University of New South Wales in Sydney, Australia), and Beatriz Barreiro (Rey Juan Carlos University in Madrid, Spain), also wishes to create and promote links with other groups working in the field of International Law of Culture within other associations. All suggestions and ideas will therefore be warmly welcomed.