



UNIVERSITÀ
CATTOLICA
del Sacro Cuore

Law and the arts

PROF. ARIANNA VISCONTI

Course aims and intended learning outcomes

The course aims at providing students with basic competences on both international and national criminal law protection of cultural heritage, as well as with all relevant and most up-to-date criminological knowledge about the empirical dimension of offences against cultural property. To this effect, the course also aims at providing students with basic competences on international, EU, and comparative cultural property law, including the most relevant non-penal issues.

At the end of the course, students

- will possess the basic technical terminology and legal knowledge to understand and discuss common questions related to cultural heritage protection (both in peacetime and wartime), cultural property ownership regimes, circulation of rights over cultural objects, cultural property import, export, return and restitution rules, criminal offences against cultural property, and related issues;
- will be able to identify at least the most common indicators of possible legal risks (and particularly penal risks) related to dealing in cultural property and/or collecting art and antiquities, possess basic due diligence standards, and, more broadly, recognize specific legal issues related to cultural heritage both movable and immovable;
- will be able to assess the general outline of legal questions possibly emerging in the art and antiquities market, as well as in the management of collections, museums and other cultural institutions, to make informed decisions taking into account the most relevant laws involved, and to correctly select specific areas of competence to refer to for more complex legal problems in these fields;
- will know how to communicate and discuss common legal issues pertaining to cultural property and cultural heritage law with both specialist and non-specialist interlocutors;
- will have developed the learning skills necessary for them to continue studying in a mostly autonomous way, including, when needed, to update their basic knowledge according to new developments in cultural heritage law.

Course content

1. Definitions of “cultural heritage” and “cultural property”.
2. The criminology of offences against cultural heritage: destruction and devastation; looting, illicit export and other forms of scattering; transnational trafficking in cultural property and organized crime; dark figure and grey market; forgeries.
3. International Law and cultural property protection: humanitarian law; the UNESCO Conventions; the UNIDROIT Convention; Council of Europe policies; European Union policies; UNODC's initiatives.
4. Criminal Law and cultural property protection: basics of Italian and Comparative Criminal Law; cultural heritage in the Italian Constitution; Criminal Law provisions pertaining to cultural heritage protection: damage and disfiguring (arts 635, co.2, n.1, 639, co.2 and 733 Penal Code); special offences against cultural property provided for in d.lgs. 42/2004 (arts 169-172); illicit alienation (art. 173); illicit export of cultural property (art. 174); offences related to archaeological excavations (arts. 175 and 176); forgery (art. 178).
5. Basics on Criminal Law protection of author's rights.



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Reading list

Students who attend regularly will study on their notes, as well as on other materials the teacher will provide during the year through the Blackboard platform.

Students which do not regularly attend lectures are strongly encouraged to get in touch with the teacher, and will in any case refer to papers and materials to be published on the teacher's webpage and on Blackboard, and mainly to:

J. BLAKE, *International Cultural Heritage Law*, Oxford University Press, 2015.

C. FORREST, *International Law and the Protection of Cultural Heritage*, Routledge, 2011, pp. 56-223 (pp.1-55 are also strongly recommended to students without, or with very limited, prior legal education).

All the laws, treaties, directives, regulations, etc. are publicly available on the Internet. Students who anyway feel the need for an edited (albeit not complete) collection may refer to:

A. CIAMPI, *La protezione del patrimonio culturale: strumenti internazionali e legislazione italiana* (The Protection of Cultural Heritage: International Instruments and Italian Legislation), Giappichelli, 2014.

Teaching method

Lectures will be held in English (basic Italian legal terminology will be also provided when indispensable). Discussions in class and tests will be run accordingly. Students who attend regularly will be invited to take part in seminars (possibly with the participation of external experts) as well as discussions on cases and papers provided during lectures and/or through the Blackboard platform.

Assessment method and criteria

Students who attend regularly will be evaluated through two written tests, the first one, scheduled about mid-course, with a multiple choice questions structure, the second one, at the end of the course, with a mixed multiple choice / open-ended questions structure. The tests will assess the student's understanding of course topics, their knowledge of basic legal terminology and main legal provisions pertaining to cultural heritage and cultural property, their ability to distinguish different legal issues and assess the most correct legal references to address them. Students who attend regularly, but who happen to fail one of the written tests, will need to take a further oral examination to complete their evaluation. Students who wish to improve their evaluation as resulting from the aforementioned two written tests will also be able to take a further oral examination, covering all course topics. Further details will be published on Blackboard.

The understanding and abilities of students who have not regularly attended lectures will be assessed through a thorough final oral examination. Students who are unable to attend are strongly encouraged to get in touch with the teacher before starting their preparation, to better understand the specificities of the course topics and how to make the best use of the referred reading list.

Notes and prerequisites

Students will not be evaluated on the quality of their English, but it is required that they are able to correctly understand and discuss course topics in that language, and that they acquire the correct technical terminology.

Law students, who wish to attend the course, are required to check for possible differences in courses calendars and to ascertain the starting date of Law and the Arts lectures, which follows the schedule of the Faculty of Economics.