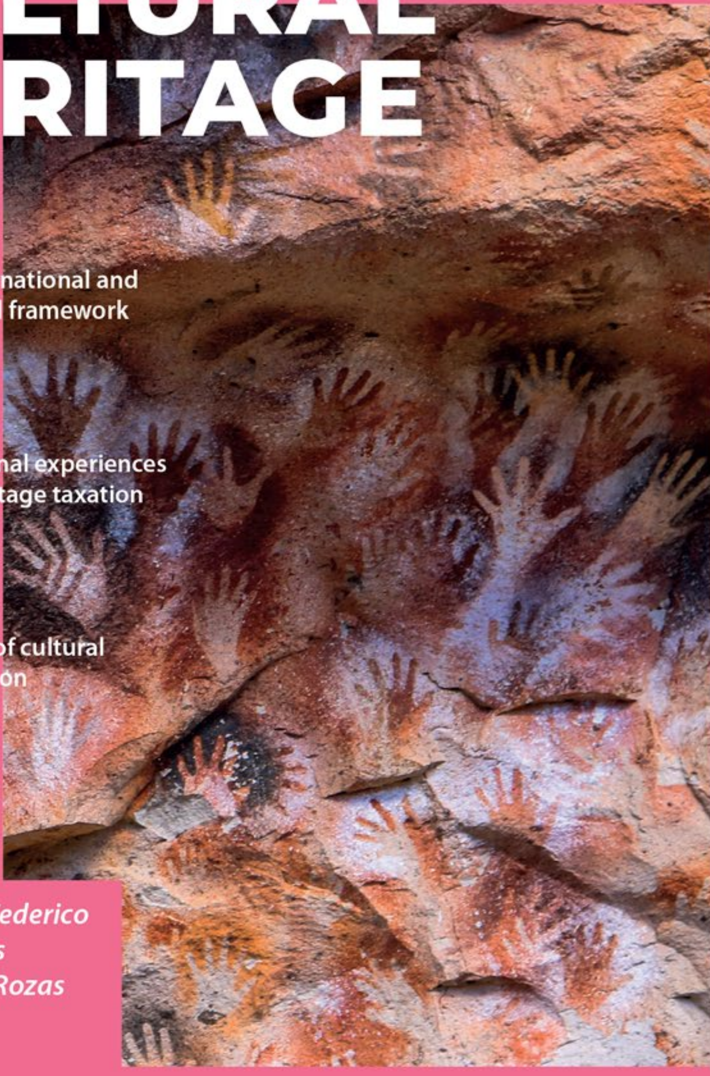
# TAXATION AND CULTURAL HERITAGE



**PART 1**

Financial, international and European legal framework

**PART 2**

Selected national experiences in cultural heritage taxation

**PART 3**

Topical issues of cultural heritage taxation

**Editors**

*Lorenzo del Federico*
*Sigrid Hemels*
*José-Andrés Rozas*
*Silvia Giorgi*

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# Taxation and Cultural Heritage

## Why this book?

This book is the result of an in-depth, interdisciplinary and comparative study of the public financial regime of historical heritage. It gives an overview of legal frame - works and public policies for targeting tax incentives so as to finance and promote cultural heritage. It gives examples on how this can be done in a systematic and efficient way. It fills the existing gap in international literature on cultural heritage finance and taxation, bringing together experts from different parts of Europe and the world to discuss different approaches and strategies.
The book consists of three parts.

In **part 1**, financial, international and European frameworks are analysed, with specific reference to the guidelines and constraints stemming from the OECD, UNESCO and the European Union.

In **part 2**, selected national experiences in cultural heritage taxation are analysed in order to identify the best practices in the sector. This part provides a comprehensive overview of the current state of the regulatory framework for cultural heritage in a significant number of countries around the world. It covers both the constitutional context and the taxation and public spending policies aimed at cultural heritage preservation and promotion.

In **part 3,** topical issues of cultural heritage taxation are discussed, including the VAT regime for artwork, museum taxation, free ports for art, transfer in lieu, art cities and artists' tax regimes. The book ends with a conclusion in which the most important findings in the three parts are analysed, compared and summarized.

There are many and diverse financial initiatives around the world aimed at protecting, preserving and enhancing the cultural heritage of humanity. While the focus is usually on direct subsidies, this book focuses on tax incentives and the regulatory context in which they function. This study, promoted by Professor Lorenzo del Federico at the University of Chieti – Pescara, offers a rich overview of these initiatives.


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# Chapter 1

# Introduction

Lorenzo del Federico,* Sigrid Hemels,** José-Andrés Rozas***
and Silvia Giorgi****

Cultural heritage could be a key driver of socio-economic development, and taxation may play an important role in its enhancement. Nevertheless, internationally, there is no homogenous awareness of such potential. In some countries, the lack of resources to properly protect cultural heritage is the most important issue. Other countries face the problem that even if tax incentives prompt massive funding mechanisms – either public or private – they are not always efficiently structured and targeted.

In June 2019, the Chieti – Pescara University hosted a 2-day conference, where speakers from all over the world shared their views on tax incentives for cultural heritage and presented national experiences regarding measures addressing cultural heritage taxation and promotion. This conference represented the peak of a research project, coordinated by Prof. Lorenzo del Federico, as part of a Project of Relevant National Interest Research, funded for 70% by the Italian Ministry of Education, University and Research (MIUR) and for the remainder by the Universities of Chieti – Pescara, Florence, Venice Ca' Foscari and Teramo. It was the only Italian project in the field of law selected by the MIUR and recognized to be of valid scientific interest.[1] During the conference, the idea arose of publishing an international book to disseminate the results of the research project to a wider audience. Prof. Sigrid Hemels and Prof. José-Andrés Rozas Valdes actively joined the editorial plan and shared their expertise on the topic as co-editors of the book. Dr Silvia Giorgi was part of the editorial

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1. Projects of Significant National Interest (PRIN) are calls for proposals promoted by the Ministry of Universities and Research to allocate funds to research projects in any scientific field. The aim of the PRIN is to fund research projects freely proposed by universities and to encourage interaction between the various players in the national public research system and between them and other public and private, national or international research organizations.

team as a young researcher who had followed the research project from its beginning.

This book contains the papers written in connection with this conference, as well as further input that emerged during this academic exchange. It collects the results of 3 years of research, with a focus on international, European and comparative profiles. It is divided into three parts. In Part 1, international and European frameworks are analysed, with specific reference to the guidelines and constraints stemming from the OECD, UNESCO and European Union (chapters 2-9). In Part 2, selected national experiences in cultural heritage taxation are analysed in order to identify the best practices in the sector (chapters 10-18). Lastly, in the third part, some topical issues are developed, offering specific insight into the main issue of cultural heritage taxation (VAT regime for artwork, museum taxation, free ports for art, transfer in lieu, art cities and artists' tax regimes) (chapters 19-25). The book concludes with a summary of the most important findings (chapter 26).

This book provides an overview of legal frameworks and public policies for targeting tax incentives so as to finance and promote cultural heritage. It gives examples of how this can be done in a systematic and efficient way. Its function is to close the existing gap in international literature on cultural heritage finance and taxation, bringing together experts from different parts of Europe and the world to discuss different approaches and strategies.

Issues, methodologies and guidelines are discussed in chapter 2 by Lorenzo del Federico, who also focuses on the reasons why lawmakers intervene in the cultural sector through subsidies or tax relief.

Against this backdrop, the emphasis falls on the international framework, with special reference to OECD guidance. In chapter 3, Anna Mignosa addresses the main aspects of the role of the OECD regarding policies for culture and cultural heritage in particular, referring to cultural economic theories and explaining the contributions of international organizations to policy diffusion.

The role of UNESCO and the financial crisis it faces is analysed in chapter 4 by Marc Bourgeois, Yassin Hachlaf and Antoine Vandenbulke. They answer the question of whether the system set up by the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage[2] can still be considered alive and effective.

The framework of EU policies and constraints follows in chapter 5, in which Edoardo Traversa analyses the EU policies and funding underlying the trend to incentivize private-sector involvement. In chapters 6 and 7, the State aid prohibition is analysed. In chapter 6, Marta Villar Ezcurra discusses whether it is the purpose of State aid regimes to interfere or prevent cultural protection and promotion and to what extent a State aid analysis is needed. In chapter 7, Carlo Eugenio Baldi identifies the uncertain boundary between State aid and non-State aid, analysing European Commission decisions.

In chapter 8, Ricardo García Antón deals with the constitutional traditions of the EU Member States of preserving cultural heritage. Part 1 of the book ends with chapter 9 on international tax treaties and cultural heritage, in which Sigrid Hemels analyses the main model tax conventions and evaluates whether the public policy rationale of confining tax incentives to domestic charities is still valid.

In Part 2 of the book, national experiences are investigated and compared. In each chapter, a similar structure is used, discussing the general context and systematic framework, analysing tax incentives for cultural heritage owners, patrons, museums, art cities and international investors and mentioning best practices.

Janet Milne opens Part 1 with chapter 10 on the United States, with special references to taxable income deductions for charitable contributions (including donations within the cultural sector). In chapter 11, French best practices are presented by Alexandre Maitrot de la Motte. Among them, some recent peculiar developments are the *Loto du patrimoine* (heritage lotto) for raising funds for the Heritage Foundation and monuments considered to be at risk, as well as the “Notre Dame de Paris” project. In chapter 12, Roberto Cordeiro Guerra discusses the Art Bonus for donations to the cultural sector in Italy (an Italian best practice).

In chapter 13, Juan Enrique Varona Alabern shows that there are many tax benefits related to cultural heritage in Spain. These include exemptions from real estate and property tax, reductions in the taxable base in respect

2. *UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage* (16 Nov. 1972).

of the gift and inheritance tax and deductions from individual and corporate income tax. The Spanish tax system can be considered quite efficient in encouraging taxpayers to carry out actions directed at protecting and promoting cultural heritage.

In chapter 14, Christine Osterloh-Konrad discusses Germany. Among the various German measures, the special deduction of 9% for expenses incurred for (unprofitable) cultural heritage preservation stands out. In chapter 15, Sabine Kanduth-Kristen mentions the Austrian accelerated depreciation as a best practice to encourage private investments in heritage-protected buildings.

In chapter 16, on Sweden, Björn Westberg, Cristina Trenta and Eleonor Kristoffersson underline that, although there are no particular provisions in Swedish tax law regarding cultural heritage, there are essential provisions mainly in income tax and real property assessment law.

Chapter 17 provides a Latin American overview, in which Betty Andrade, Jonathan Barros Vita and José-Andrés Rozas select examples from various Latin American countries. Part 2 of the book ends with chapter 18 by Menita Giusy De Flora, who focuses on Portugal, Switzerland, Turkey and the United Kingdom.

In Part 3 of the book, targeted topics are addressed. In chapter 19, Fabrice Pezet discusses the VAT regime for works of art, in which he analyses the concept of "artwork" for VAT purposes. In chapter 20, Antonio Leo Tarasco and Silvia Giorgi address, respectively, the financial and tax regimes for public and private museums, emphasizing the interdependence between the two and the importance of own income for museums, which is not common in all of the countries analysed in the chapter.

In chapter 21, Caterina Verrigni discusses philanthropy and sponsorship in the cultural sector, taking into account the 2020 OECD report on Taxation and Philanthropy[3] and four specific jurisdictions, namely Australia, Chile, Germany and the United Kingdom. Francesco Montanari, discusses free ports for art in chapter 22.

In chapter 23, Sigrid Hemels analyses various regimes that enable taxpayers to pay their taxes with cultural heritage transfers. In chapter 24, Loris

3. OECD, *Taxation and Philanthropy* (OECD 2020), available at https://www.oecd.org/ctp/taxation-and-philanthropy-df434a77-en.htm (accessed 10 Nov. 2021).

Tosi and Ernesto-Marco Bagarotto offer an overview of the taxation of art cities, discussing tourist taxes and a case study on Venice. Dick Molenaar examines tax incentives for artists and investments in contemporary art in chapter 25. He explores the rationale behind these incentives and discusses the regimes in Belgium, Ireland, Mexico and the United States.

In chapter 26, Sigrid Hemels and José-Andrés Rozas conclude the book and give an overview of the main findings.

# Chapter 2

# Public Finance and Tax Measures for Cultural Heritage: Issues, Methodologies and Guidelines

Lorenzo del Federico*

## 2.1. Themes, problems and objectives

Cultural heritage, understood as a complex of cultural, artistic, historical and environmental assets, both tangible and intangible, is valued by many citizens and countries around the world. In the various political, legal, economic and social spheres, there is a convergence of opinions, shared even beyond the different ideological and cultural matrices. Nevertheless, more could be done for cultural heritage, either at the international level, the European level or the domestic level.

UNESCO initiatives are dispersed on various fronts of excessive amplitude, and the policies of the European Union are bogged down on the issue of financial balances and may suffer the negative impact of the so-called "ban on State aid". The interventions of states are characterized by specific national needs and constant political and financial contingencies.

The great season of public promotion of cultural heritage had its peak in the 1980s, with its best-known (and perhaps excessive) experiences in the United States.[1] However, for a quarter of a century now, most states have been experiencing serious difficulties. They are crushed by the lack of resources and the growing costs of managing and safeguarding cultural heritage, which, in recent years, have been compounded by the welfare crisis, environmental issues and, most recently, the health emergency of COVID-19.

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1. A.L. Field, M. O'Hare & J.M.D. Schuster, *Patrons Despite Themselves: Taxpayers and Tax Policy* (New York University Press 1983); and M. O'Hare, *Arts policy research for the next 25 years: a trajectory after "Patrons Despite Themselves"*, 32 Journal of Cultural Economics 4, p. 281 (2008).

In the national and international debate, attention to cultural heritage has been given a new impulse by the strong appeal and rapid development of the so-called "creative industries", including, first and foremost, the audiovisual industry.[2] Organic policies and programmes for the development of the economy of culture, centered on the production of culture and on the creative industries, can create a virtuous circuit for all of its different components, including cultural heritage. However, the political, institutional and financial landscape does not seem favourable because of the scarcity of resources and the diversity of the context between cultural heritage (oriented towards non-profit) and creative industries (oriented towards profit).

Another complicating factor in the management of cultural heritage is that it is at times commodified and subordinated to the economy of tourism, which has developed to such an extent that it has given rise to reactions and new policies for sustainable tourism. The case of Venice is emblematic as a UNESCO site and art city endangered by tourist overcrowding.

As far as public finance is concerned, the scarcity of resources obliges governments to identify priorities. This may hamper the rampant pan-culturalism, both at the level of states and within the policies of the European Union and UNESCO. This confusingly tends to place very different cultural phenomena characterized by very different legal, economic and financial connotations on the same level. Pan-culturalism leads to a dispersion of public resources that should be focused on strategic objectives.

Without going into the merits of cultural policy, the underlying option here is clear and distinct. The analysis focuses on the protection and promotion of the core of cultural heritage – understood as tangible heritage (real estate and museums, both public and private) – because of the priority of the preservation of historical heritage and the obvious synergy with the recovery and promotion of the urban context, landscape and environment. Therefore, once this basic choice has been made, it is possible to disregard all of the qualification issues relating to a specific area of cultural heritage *lato sensu* (crafts, folk traditions, theatre, literature, music, audiovisuals, education, sports, etc.).

2. R.E. Caves, *Creative industries: Contracts between arts and commerce* (Harvard University Press 2000); and S. Hemels & K. Goto (eds.), *Tax Incentives for the Creative Industries* (Springer 2017).

These are major themes to which UNESCO[3] is committed. These themes are well known to scholars,[4] but here, they can be left aside so as to focus on cultural heritage, understood in its essential dimension (as tangible heritage, i.e. real estate and museums, both public and private). This choice is facilitated by solid national legislation that is quite comprehensive and reliant on these themes in the most important countries of the European Union from the point of view of the European market and cultural pre-eminence, where there are organic laws for the protection of cultural heritage.

The issue is addressed from the point of view of public resources allocated to the protection and promotion of cultural heritage, with reference to both direct funding and indirect funding (i.e. through tax measures).[5] This is certainly not intended to overshadow the side of private resources and the market, but it is clear that public resources play a fundamental role, especially in states where the most significant part of the cultural heritage belongs to the public sphere and is managed by it. Moreover, it is clear that most cultural policies are the expression of public policies and that public policies guide the actions of private individuals. It is rather a matter of creating the most appropriate conditions to encourage private investment in the sector of cultural heritage, both through favourable tax measures and through the proper recognition of patronage and the development of instruments of co-partnership between public and private investments,[6] while at the same time avoiding distortions and safeguarding the public interest and the objectives of public policies.[7]

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3. *See* http://uis.unesco.org/sites/default/files/documents/unesco-framework-for-cultural-statistics-2009-en_0.pdf (accessed 18 Nov. 2021).
4. D. Throsby, *The economics of cultural policy* (Cambridge University Press 2010); and K. Goto, *Defining Creative Industries*, in S. Hemels & K. Goto (eds.), *Tax Incentives for the Creative Industries* p. 11 (Springer 2017).
5. On quantitative profiles, *see* A. Klamer, A. Mignosa & L. Petrova, *Cultural Heritage policies: a comparative perspective*, in I. Rizzo & A. Mignosa (eds.), *Handbook on the Economics of Cultural Heritage* p. 44 et seq. (Edward Elgar 2013).
6. *See*, for example, critically: J.M.D. Schuster, *Tax Incentives in Cultural Policy*, in A. Ginsburg & D. Throsby (eds.), *Handbook of Economics of Art and Culture* p. 1255 (Elsevier 2006); and, more recently, F. Revelli, *Tax incentives for cultural heritage conservation*, in I. Rizzo & A. Mignosa (eds.), *Handbook on the Economics of Cultural Heritage* p. 129 (Edward Elgar 2013). Instead, in a proactive sense, *see* A. Di Majo, F. Marchetti & P.A. Valentino (eds.), *L'intervento dei privati nella cultura* (Giunti Ed. 2013); and S. Hemels, *Tax Incentives for Museum and Cultural Heritage*, in *Tax Incentives for the Creative Industries* pp. 12 and 107 (S. Hemels & K. Goto eds., Springer 2017).
7. OECD, *Taxation and Philanthropy* (OECD 2020).

From a theoretical point of view, cultural policies fall into four functional categories: (i) cultural heritage preservation; (ii) cultural production; (iii) the destruction of tangible and intangible culture; and (iv) dependence on negligent behaviour.

The neglect and destruction of culture are negative policies, while the preservation and production of culture are policies of a positive nature. From another perspective, destruction, negligence and preservation are all policies that look backward, related both positively and negatively to cultural heritage.

Production is a future-oriented policy: the engine for the development of new cultural industries.[8] Promoting production means creating new expressions of art in their tangible (monuments, museums, archives, libraries and archaeological finds), intangible (music, artwork creation, theatre performance, festivals and landscape) and material (decorative arts and design) forms. Theoretically, the models of preservation and production are not of equal importance. The model of preservation is subordinate to that of production, as without production, future cultural use or consumption is not possible. However, it is clear that the preservation of accumulated heritage is a precondition for good production, or, rather, strategic input to produce new culture. The basic choice is to focus primarily on financial and tax policies for the preservation of cultural heritage, seeking to find the mechanisms to foster the conditions for the desirable inclusion of policies for the production of culture.

The theoretical framework covers (i) the underlying reasons for why states must fund cultural heritage protection; (ii) the correct methodologies for conforming implementation tools to the underlying reasons; and (iii) the merits and demerits of the various implementation-funding tools, comparing subsidies (direct funding) and tax benefits (indirect funding).[9]

8. In this sense, *see* W. Santagata, *La fabbrica della cultura: Ritrovare la creatività per aiutare lo sviluppo del Paese* (il Mulino 2007).

9. The issue is extremely significant. In the European scenario, states have a propensity to use tax measures rather than subsidies. This is especially true when the public policies are related to institutions and subjects outside the public sector. From an empirical point of view, it appears that fiscal aid is more favourable to the beneficiaries than grants are. On these themes, *see* P. Nicolaides, *Grants versus Fiscal Aid: in Search of Economic Rationality*, 14 EU State Aid Law Quarterly, 3, p. 410 (2015). Even those who criticize the proliferation, ambiguity and sometimes distortion of tax incentives in favour of private individuals who finance art and cultural heritage must admit the force of attraction and driving force (Schuster, *supra* n. 6, at p. 1286 et seq.). Certainly, the more mature approach in favour of tax incentives recognizes their undoubted advan-

From the point of view of public finance, in the context of policies for cultural heritage, the following are relevant: (i) the guidelines and initiatives of UNESCO,[10] the OECD and the European Union;[11] (ii) the adequacy in terms of coordination and coherence of financial and tax policies in domestic legislation; (iii) the types of subsidies and the rationale behind them (financed by general taxation); (iv) types of tax benefits and the rationale behind them; (v) the margins for the development of special taxes; (vi) the financial and tax regimes of the managing bodies; (vii) the financial and fiscal regimes of the forms of co-participation between public and private entities; (viii) the existing European constraints in terms of State aid; (ix) the forms of attraction of international patronage; and (x) the financial and fiscal synergies between sustainable tourism and the use of cultural heritage.

## 2.2. The reasons why states finance cultural heritage

There are various reasons why states finance cultural heritage. The core of the justifications is both political and ideological. Scholars have highlighted specific goals of cultural policies: (i) to promote excellence, innovation and accessibility; (ii) to recognize and celebrate national, regional or local identity;(iii) to safeguard continuity; and (iv) to promote diversity.[12] When these political and ideological justifications take on the nature of juridical values through the elaboration of general principles, constitutional norms, legal norms, etc., a juridical dimension of the protected interests takes shape. However, there are also economic reasons, which have been

tages, but on the condition that they meet OECD guidelines: "[A] prerequisite for the effective and efficient use of tax incentives is that [they] are accounted for, controlled and evaluated in the same way as direct subsidies." *See* S. Hemels, *Tax Incentives as a Creative Industries Policy Instrument*, in *Tax Incentives for the Creative Industries* p. 33 and 54 (S. Hemels & K. Goto eds., Springer 2017), in line with OECD, *Tax expenditures in OECD countries* (OECD 2010); and OECD, *Recommendation of the Council on budgetary governance* (OECD 2015).

10. UNESCO, *Operational Guidelines for the Implementation of the World Heritage Convention* (World Heritage Centre 2017).

11. As for the European Commission's proposals, they start from "The economy of culture in Europe", *infra* n. 18 and go to A New European Agenda for Culture (COM(2018) 267 final, *infra* n. 21), approved in 2018. On quantitative profiles, *see* EUROSTAT, *Culture statistics* (Publications Office of the European Union 2016).

12. D. Throsby, *The economics of cultural policy* pp. 42-45 (Cambridge University Press 2010); F. Benhamou, *Public intervention for cultural heritage: normative issues and tools*, in *Handbook on the Economics of Cultural Heritage* p. 3 et seq. (I. Rizzo & A. Mignosa eds., Edward Elgar 2013); and K. Goto, *Why Do Governments Financially Support the Creative Industries?*, in *Tax Incentives for the Creative Industries* p. 22 (S. Hemels & K. Goto eds., Springer 2017).

extensively investigated with regard to the role of cultural and creative industries,[13] also implicit in the area of cultural heritage protection.

Regarding the search for points of contact between economic studies and legal studies, it revolves around Pigouvian theories on externalities and Baumol's law.[14] Positive or negative externalities are the set of external effects (also known as "external economies" or "external diseconomies") that the activity of a subject has, outside of market transactions, on the production or well-being of other subjects. When the action of a person determines the benefits of others without that person receiving compensation for it, there are positive externalities for these other subjects or for the economy as a whole. When, conversely, the action provokes costs for others (costs that the acting person does not bear), there are negative externalities (external diseconomies).

Externalities can be produced or borne by undertakings or individuals. As a result of negative externalities, the private activity (production/consumption) with which the external diseconomy is associated is pushed to a higher level than is socially efficient (excess production/consumption). In the presence of positive externalities, on the other hand, productive activity is pushed to a lower level (deficit in production/consumption).

The presence of externalities therefore determines a divergence between the private and social aspects of costs and benefits, a phenomenon that is the cause of "market failure", thus making it impossible for a system of perfect competition to spontaneously determine the best allocation of productive resources and the maximum welfare of economic agents.

These issues are typical of environmental economics and law, and they are similarly reflected in cultural heritage economics and law.[15] Consider, for example, a commercial enterprise that, with its technological systems

13. Caves, *supra* n. 2; and Goto, id., at pp. 23-30.
14. The reference is to the classic studies of Pigou, which, since the last century, have underlined the role of the state in resolving the problem, taxing the productions that create negative effects or subsidizing those that generate positive ones so as to equalize the marginal social cost with the marginal social benefit; *see* A.C. Pigou, *The economics of welfare* (Cambridge 1932). For Baumol's law, the so-called "cost disease", *see* W.J. Baumol & W.G. Bowen, *Performing Arts: The Economic Dilemma* (Cambridge University Press 1966).
15. For the bases of economic theory, see W.J. Baumol, *Application of welfare economics*, in *A Handbook of Cultural Economics* p. 9 (R. Towse ed., Edward Elgar 2011). *See also*, for an overview, A. Ginsburg & D. Throsby (eds.), *Handbook of Economics of Art and Culture* (Elsevier 2006).

(antennas, exhaust pipes, etc.), disfigures the landscape of a city of art. It does not consider such damage in its costs, but they represent costs for the community, degrading the cultural fabric of the city and weakening the attractiveness for other commercial activities (especially those of a touristic-cultural nature). In this case the social costs may be greater than the private costs. On the other hand, the recovery, maintenance and appropriate productive use of a historical building in a city of art may lead to high costs for its owner (it would be more convenient to localize the activity in a modern and functional district), but realizes a high benefit for the collectivity, enhancing the cultural fabric of the city and favouring the start and development of commercial activities (above all, those of a touristic-cultural nature).

There are also other economically relevant factors. It is sufficient to think of the impact of cultural heritage on the various sectors of the economy, from restaurants to hotels, from tourism to entertainment, from specialized construction to craftsmanship, etc. This is an example of a "multiplier effect". For example, commercial activities, hotels, restaurants, bars, etc. enjoy positive externalities deriving from museum visitors, but museums do not have the possibility of obtaining compensation from the businesses that enjoy these benefits.

More generally, from the protection of cultural heritage comes the promotion of the national image and "brand", with the consequent promotion of tourism and exports. With regard specifically to public goods (or collective goods) that are part of the cultural heritage, it is difficult for the market to function optimally, precisely because of the characteristics of these goods. In fact, these are goods for collective use that cannot be individualized, that is, goods that cannot be excluded from free use (non-excludable) and cannot be consumed (non-rival), in the sense that the use of the good by one subject does not reduce the possibility of its use by others. An emblematic example is that of places of value in art cities. Moreover, many goods that are part of cultural heritage are so-called "impure" public goods, which satisfy these two conditions of being non-excludable and non-rival to some extent, but not fully.[16] An example is a cultural heritage site for which an entrance ticket must be bought.

16. J. Gruber, *Public finance and public policy* p. 192 (Worth Publishers 2016).

Baumol's law (so-called "cost disease")[17] states that the unit cost of labour increases more in sectors with low productivity growth (such as art and culture) than in those with high productivity growth (such as technologically advanced industries). Through redistributive public intervention, the former group of sectors is supported with resources from the latter group. Classic examples are restoration, traditional museum services, live music and theatre.

These are reasons why states finance the protection of cultural heritage. This book studies their relevance to the constitutional principles of public finance and taxation in order to verify the legitimacy and rationality of legislative interventions and the consistency in their concrete application.

## 2.3. The policies of the European Union

European integration has reached a substantial and inescapable dimension. The policies of the European Union assume a fundamental role for all Member States,[18] which, at the same time, must comply with UNESCO and OECD guidelines. National financial and tax policies must be in line with the European and international framework. This includes the EU fundamental freedoms and constraints on State aid.

Since the adoption of the European Agenda for Culture in 2007, cultural heritage has assumed an increasing role in the action of all European institutions. In the context of the Europe 2020 strategy, aimed at promoting new sources of smart, sustainable and inclusive growth, the Commission published, in 2010, the Green Paper on Unlocking the potential of cultural and creative industries.[19] This Green Paper provided a list of typical expressions of the sector, such as artistic and monumental heritage, archives, libraries, books and press, visual arts, architecture, performing arts, audio and audiovisual media/multimedia, and outlined the functions that these businesses should take on: preservation, creation, production, dissemination, trade/sales and education.

17. W.J. Baumol & W.G. Bowen, *Performing Arts: The Economic Dilemma* (MIT Press 1996).
18. European Commission, *The economy of culture in Europe* (2006).
19. European Commission, Green Paper: Unlocking the potential of cultural and creative industries, COM(2010) 183 final (27 Apr. 2010), available at https://op.europa.eu/en/publication-detail/-/publication/1cb6f484-074b-4913-87b3-344ccf020eef/language-en (accessed 18 Nov. 2021).

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