

# THE VICTORIOUS YOUTH DOUBLE DILEMMA: FROM HERITAGE NETWORKS TO ORIGIN AND BACK

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## ABSTRACT

This paper investigates the multifaceted journey of the Statue of Victorious Youth, an extraordinary Hellenistic bronze sculpture with a contested modern legacy. The study adopts an interdisciplinary approach, combining art historical and archaeological analysis with private international law to explore both the statue's origins and the complex legal disputes surrounding its ownership. Central to the analysis is the dual challenge of reconciling the legal doctrines of *lex originis*—the law of cultural origin—and *lex rei sitae*—the law of location—highlighting a “double dilemma” between juridical frameworks and evolving cultural-historical understandings. The research critically examines recent landmark rulings, especially the European Court of Human Rights decision affirming Italy's claim, while engaging with current archaeological scholarship that advocates moving beyond fixed cultural containers toward a networked view of heritage. The paper underscores the need for nuanced, ethically grounded legal policies that respect the interconnected nature of ancient material culture, and it outlines the implications of these insights for heritage management, restitution processes, and museum ethics in a globalized world.

**Keywords:** Hellenistic sculpture, Victorious Youth, *lex originis*, *lex rei sitae*, cultural heritage law, cultural networks, interdisciplinary study

## INTRODUCTION

In *The Statue of Victorious Youth*, also known as the Getty Bronze, is not only a remarkable artistic masterpiece of the ancient world but also a focal point where multiple disciplines converge to unravel its complex story. This life-sized bronze statue of a youthful athlete—imbued with the triumph and cultural ideals of the Hellenistic period—embodies far more than aesthetic achievement. Its journey from creation, through centuries submerged beneath the Adriatic near Fano, Italy, to modern legal disputes underscores a profound interdisciplinary and juridical dilemma at the intersection of art history, archaeology, cultural heritage law, and international relations.

This paper foregrounds the necessity of an interdisciplinary approach to fully appreciate the statue's multifaceted significance and contentious modern fate. It situates the *Victorious Youth* within its artistic and cultural contexts, drawing on art historical and archaeological scholarship to understand the statue's stylistic origins, technical mastery, and symbolic meaning within the broad, intertwined networks of Hellenistic culture. Simultaneously, it introduces the complex legal and ethical challenges that have emerged following its acquisition by the J. Paul Getty Museum and Italy's subsequent claims for restitution, anchored in the competing private international law principles of *lex originis* (law of cultural origin) and *lex rei sitae* (law of location).

These competing legal principles frame a "double dilemma." The first is the legal challenge of determining which jurisdiction's laws rightfully apply to the statue – a question complicated by the statue's mobility, uncertain provenance, and the historical layering of cultural identities it embodies. The second dilemma resides within the cultural and scholarly domain: how to reconcile fixed, often Eurocentric and nationalistic cultural categories used in legal settings with contemporary archaeological and historical understandings of the ancient past as a dynamic network of interconnected cultures rather than isolated "containers." These dual tensions reveal the limits of traditional frameworks and highlight the

urgent need for dialogue between disciplines to develop nuanced legal and ethical approaches that reflect complex cultural realities.

By emphasizing this interdisciplinarity and the dual challenges posed by both legal doctrines and cultural-historical paradigms, this chapter frames the Victorious Youth not merely as an artwork or legal object, but as a catalyst for broader reflections on heritage, identity, and international cooperation. This paper aims to deliver a holistic analysis that weaves together artistic scholarship, archaeological theory, international law, and cultural policy to illuminate the statue's historical journey and the contemporary questions it raises for cultural restitution, museum ethics, and the evolving definitions of cultural belonging in a globalized world.

## HOISTED FROM THE DEEP, LINGERING IN THE AIR

The Statue of Victorious Youth has been the subject of considerable scholarly attention across multiple disciplines, establishing a rich, but fragmented, body of research. One of the first art historians and archaeologists who influenced the analyses on the statue was Bernard Ashmole. He was an early expert consulted during the statue's acquisition phase and, thus, had unique opportunity to inspect the statue in the early 1970s. He is among the early supporters of the initial attribution of the statue to Lysippos, the renowned sculptor working on the court of Alexander the Great (Ashmole ca. 1970–1977; Getty Museum 1996). The analyses of stylistic and technical attributes of this remarkable artefact continued from 1973 to 1986 under the guidance of the curator at the Getty Museum, Jiri Frel, revealing the technical mastery of a lost wax-casting technique and its representation of youthful athletic idealism in contrast to Classical muscular forms. Frel placed the statue in the wider Hellenistic context, suggesting stylistic parallels with a portrait of Demetrios Poliorketes (king of Macedon 294–288bc) and other representations of the same period (Frel 1981, 72–75). While certain conservation efforts were also documented and analysed at that point, a more

comprehensive overview with be published a decade later (Frel 1978; Scott and Podany 1989; Mattusch 1997).

It was only in 1997 that Mattusch published the monograph *The Victorious Youth*, with wide focus and thorough analyses of the art historical aspects, possible archaeological contexts and scientific dating, as well as discussions of the statue's attribution and cultural significance (Mattusch 1997). The limited art historian and archaeological investigations focus on provenance, material culture, and regional contexts, albeit indirectly due to the statue's lack of archaeological excavation context. Researchers like Mattusch (1997) and others have pointed to the wide geographic parallels of similar sculptures across the Hellenistic world, from Macedonia to Bactria, underscoring the cosmopolitan cultural networks of antiquity. The statue's submerged discovery and ambiguous journey remain central puzzles in archaeological inquiry.

On the legal front, significant attention has been directed at the dispute over the statue's ownership, which created a wider forum of authors that, through this case, already provided some broader analyses of the complex interplay of national laws, international conventions, and ethical considerations that define cultural property disputes.

The growing legal literature on this case in the last two decades mostly addresses the intricate issues surrounding cultural property disputes, focusing on the conflict between national heritage claims and museum acquisition rights. Central to the discussion is Italy's assertion of ownership based on cultural patrimony and laws prohibiting illicit export, contrasted with the Getty Museum's defence emphasizing legal purchase and the statue's disputed provenance, including its recovery in international waters (Ritchie 2009; Li and Sargent 2017). The literature highlights challenges posed by inconsistent international conventions and enforcement difficulties, emphasizing the need for flexible legal frameworks that consider both the cultural nationalism of source countries and the broader nature of heritage (Lanciotti 2021; Bernard 2023; Ku 2024). These analyses collectively reveal the complexity of repatriation cases, advocating for nuanced, context-sensitive solutions that balance legal, ethical, and cultural considerations (Ritchie 2009; Li and Sargent, 2017; Lanciotti 2021; Bernard 2023; Vrdoljak 2024; Ku 2024).

At the same time, and independently from the developments of this case, interdisciplinary scholarship increasingly emphasizes the importance of transcending rigid cultural and national categorizations when examining cultural artefacts and confronting “culturalist thinking” in archaeology and broader historical research (Holtof 2017; Versluys 2024). In recent decades, archaeologists and anthropologists have forged collaborative, multidisciplinary works that reconnect heritage to sociological, political, ecological, and other societal challenges, broadening academic interests and perspectives (Funder et al. 2019; Hodos et al. 2017; Colomer 2017; Meskell 2009). These multidisciplinary approaches have introduced vital new viewpoints, encouraging a move beyond traditional boundaries and enriching our understanding of the past (Appiah 2018; Cannadine 2013). However, while such research has generated important conceptual advances, the theoretical and practical legal aspects of heritage related to these endeavours remain insufficiently integrated and are often understudied within contemporary interdisciplinary discussions.

Despite the breadth of existing research, notable gaps remain and emerge in the last years. In that context, this paper reaches towards the missing links, but also, towards new dynamics, encouraged by significant epistemological and ontological questions of an inevitable upcoming multidimensional and multidisciplinary academic and societal dialogue.

First, the art historical and archaeological literature related to Victorious Youth is mainly centred on reports and analyses of Getty’s own curators and associates. While many of those analyses are of high quality, a wider comparativist approach and decentring of the research focuses will provide important perspective both for the statue and Hellenistic art in general.

In addition, the introduction of a new interdisciplinary approach in the research related to this artefact will reveal its hidden potential to contribute to the present vivid debates among archaeologists, historians and researchers from related disciplines dealing with the complex relations between heritage

and identities, globalization of ideas vs. globalization of materials and connectivity in antiquity and modernity.

Most importantly, the landmark decision of the European Court of Human Rights (ECtHR) in 2024 in the case *J. Paul Getty Trust and Others v. Italy* which is specifically and atypically affirmative towards the *lex originis* principle, creates a new tendency in transnational legal settings and implicitly, but inevitably, refocuses the multidisciplinary academic endeavours. It is more than obvious, now, that this case will become emblematic for many future interdisciplinary debates focused on the cultural and legal aspects of heritage, identities and belonging. This rapid legal development creates a critical gap of knowledge in the complex definitions and paradigms that determine the elements of global, regional, local, intertwined, unique and shared heritage of cultures, nations, states, communities, groups, entities and individuals. Academic conceptions that might have a significant bearing on future court cases and decisions built upon the *lex originis*.

## THE UNIQUE JOURNEY OF THE STATUE OF VICTORIOUS YOUTH

The Statue of Victorious Youth, also known as the Getty Bronze, is an exceptional example of ancient bronze sculpture dating, according to majority of researchers, from the period of life of Alexander the Great to the later centuries of rule of his esteemed descendants – widely known as Diadochi. This life-sized bronze figure was discovered submerged in the Adriatic Sea near Fano, Italy, in 1964 and subsequently acquired by the J. Paul Getty Museum in 1977 (Mattusch 1997; Ashmole 1977). The statue depicts a nude young athlete in a contrapposto stance, raising his right hand to place a victory wreath upon his head, symbolizing triumph in athletic competition frequently utilized in the court propaganda of the descendants of Alexander the Great (Frel 1982; Pausanias 2nd century CE).

Since the statue was not excavated archaeologically, no contextual evidence about its original placement, dedicatory inscriptions, or setting is available. While our understanding of its precise cultural role, original audience, and the identity of

the youth depicted, are limited, its geographical origin and journeys represent a mystery that keeps on piling up even today.

The archaeologists and art historians have made efforts to grasp the context of the statue, underlining that it was crafted using the lost wax technique. The present analyses clarify that the sculpture exemplifies the high technical skill and artistic finesse of bronze casting during the Hellenistic period (roughly the period between Alexander the Great and Cleopatra VII) (Mattusch 1997). Stylistic analyses also confirm this dating, as the figure's slender and elegant physique illustrates the typical aesthetic departure from the muscular ideal of the Classical period towards a more naturalistic and expressive representation of youthful beauty in the Hellenistic period (Mattusch 1997; Frel 1982).

The statue's attribution remains a subject of scholarly debate. While initially attributed to Lysippus, the renowned 4th-century BCE sculptor and official artist of Alexander the Great's court, more recent analyses propose it was created by later artist on one of the Hellenistic courts that innovated the technics, but kept certain proud traditions and symbolics related to "time of Alexander" and Lysippus' stylistic innovations (Frel 1982; Mattusch 1997; Daehner and Lapatin 2015).

Yet, these convincing academic reconstructions of the statue's original social and cultural context as a political symbol linked to the Macedonian elites (Mattusch 1997), are not particularly helpful in generating a clear picture of its geographic origin. The art historian research and numismatic evidence provide wide parallels, not just in the traditional centers like the Macedonian kingdom, Antioch or Alexandria, but also throughout the Hellenistic world, as far as Bactria (present day Afghanistan, Tajikistan, and Uzbekistan) (Mattusch 1997, 80–86). The assumption that this statue relates to a vast number of artefacts hoarded in Rome from the closest Hellenistic kingdoms that the Romans conquered and looted is logical, yet hypothetical.

However, the journey of the Victorious Youth is neither geographically limited between Uzbekistan and Italy, nor completed in antiquity. In modernity this "adventurous Youth" moved from the Mediterranean to the continent (Germany) and all through the New World from Brassil to California (Fincham

2014; Dettelbach 2018). After all, it is a representation of the Hellenistic kings that irrespective of the geographical location of their courts unanimously claimed that they are rulers of the “whole world” – *cosmocrators* (Tevdovski 2025, 61–90; Tevdovski 2020; Strootman 2014, 38–6; Stewart 1993).

## *LEX ORIGINIS*, THE RETURN AND THE JOURNEYS YET TO COME

The story of the modern journeys of the “Victorious Youth” began in 1964, when Italian fishermen off the Adriatic coast near Fano hauled up this long-submerged bronze from their nets. The modern adventures of the celebrated “Youth” went through a murky chain of sales through antiquities dealers of numerous countries and continents, shadowed by smuggling and incomplete documentation. By the early 1970s this ancient statue was in the hands of the international art market, and in 1977 it was purchased for the J. Paul Getty Museum in Malibu (later relocated to the Getty Villa) for nearly \$4 million, becoming one of the museum’s signature masterpieces. Nonetheless, this was not the end of the road.

No matter how glorious this far new destination was, the “Youth” has yet new journeys ahead. While the world is still waiting of its glorious return to Italy, this “ancient hero” opened many new avenues for us to travel. Part of them certainly being the analyses of the accomplishments, shortcomings and the potential of legal, scientific, sociological and humanistic research and their implementation in contemporary and future international challenges.

Many new analyses in these and related fields will commence from and build upon the proceedings and landmark decision of ECtHR in the case of J. Paul Getty Trust and Others vs. Italy, regarding a dispute centring on the Victorious Youth.

This case in essence focuses on the consequences of Article 1 of Protocol no. 1 to the ECHR and the tension between private property rights and the public interest in preserving cultural heritage. The judgment that is in favour of Italy, underscores the principle that states have a legitimate interest in reclaiming cultural artefacts that are part of their national

heritage, even if those are held by private entities abroad (Rumenov and Tasev 2025). Interestingly, without formally abandoning *lex rei sitae* principle, the Court weighed Italy's cultural connection to the artefact – its symbolic, historical, and narrative relevance – as legally and morally significant:

irrespective of that issue, the Italian State had acquired ownership of the Bronze as it had been discovered by an Italian-flagged vessel and therefore within Italian territory, in accordance with Article 4 of the Italian Navigation Code (see paragraph 116 below). Moreover, although antiquities experts had put forward several hypotheses (that the Bronze was an original, a Roman copy, a travelling exhibit or part of an imperial collection), the Bronze was most probably the work of the Greek artist Lysippus and its connection with Italy had to be considered 'certainly not marginal', as at the time the Statue had been created the artist had most probably visited Rome and Taranto. At the relevant time, Greece and Rome had enjoyed good relations and, thereafter, **Roman civilisation developed as a continuation of Hellenic civilisation**. This was sufficient, according to the GIP, to establish a significant connection between the cultural object and Italy. (ECtHR 2024, par. 89)

In addition, the Court of Cassation, entering an extensive overview and interpretation of classical history with relative focus on cultural history, has held as follows:

there is no doubt that the Statue of the 'Victorious Youth' [...] is part of the State's artistic heritage. This conclusion is based [...] on its belonging to that cultural continuum that has, since its inception, linked Italic and Roman civilisation to Greek culture, of which the Roman culture can well be regarded as carrying the torch. As Mr [S.C.]'s defense expertly reminds [us] [...] substantial military incursions into Greece on the part of the Romans only began in 146 B.C. with the fall of Corinth and the defeat of the Achaean League (although the conquest of Macedonia occurred before

then, which is not a coincidence when one considers that the sculptor Lysippus owes part of his fame to his bronze statue depicting, with astounding realism, the features of Alexander the Great, who favoured him as the master of the craft; see the Anthology of Planudes, epigram no. 119), so much so that only in the proto-imperial era Horace, in his Epistle to Augustus, mentioned, in the famous couplet, *Graecia capta, ferum victorem cepit/et artes intulit agresti Latio* ('Greece, the captive, made her savage victor captive, and brought the arts into rustic Latium', from Horace's Epistles, 1, 2, v. 156 et seq.), the Greek influence on Italian territory goes back much further; many of the most important Greek historical figures were born in what were then the Greek colonies on Italic territory (Gorgias was born in Leontinoi, Archimedes in Syracuse, to name but a few of the major figures), other lived there to the point of claiming a sense of belonging (notably, Herodotus, born in Halicarnassus in Asia Minor, was called 'Herodotus of Thurium', due to his lengthy stay in the Greek colony of Thurium, today's Apulia); the first literary and artistic expressions referring to Latin culture can easily be attributed to figures educated in a Greek environment (one for all, Livius Andronicus, who arrived in Rome – following Livius Salinator, whose family name he took – from his native Taranto, the city where Lysippus of Sicyon had stayed and worked. (ECtHR 2024, par. 100)

Moreover, this extensive historical argumentation reaches an overarching conclusion heavily burthened with historical and archaeological paradigms, or rather hypotheses, reaffirmed the position that:

a continuum between Greek civilisation, which had expanded onto Italian territory, and the subsequent Roman cultural experience; a continuum confirmed by the presence off the coast of Pedaso, in what is now the Marche Region, of the Statue of the 'Victorious Youth'. (ECtHR 2024, par. 100)

it may be reasonably inferred that, whether the Statue was carried by a ship that in turn had sailed from Italian territory – the presence of Lysippus of Sicyon in what used to be Taranto has been indeed documented – or whether it was transported by a ship that had set sail from the Ionian coast of the Greek peninsula, the final destination was one of the Adriatic ports of the Italian peninsula, in further support of the artefact's place within our country cultural orbit from as far back as that time. (ECtHR 2024, par. 101)

Such affirmative relation of the ECtHR towards the *lex originis* principle, shows implicit support and enables legitimacy of *lex originis* reasoning in transnational legal settings. Furthermore, such position of the ECtHR can be seen as a warning for museums, collectors and art dealers, emphasizing the need for thorough due diligence when acquiring cultural artefacts. With that position it also highlights the growing trend of restitution claims and the potential legal and reputational risks for institutions holding disputed items (Rumenov and Tasev 2025). By affirming states' rights to reclaim unlawfully removed cultural artifacts – even decades after their displacement – the ECtHR has redefined the balance between private ownership and public interest under the ECHR.

This decision bears some repercussions for future legal and policy frameworks. Firstly, the case clearly provides that the inconsistent understanding of the main aspects of cultural heritage needs to be addressed, and more clear definitions have to be established for the key concepts such as "stolen" cultural property, or the application of *lex originis* or *lex situs*. Current frameworks—whether PIL's *lex situs* or cultural heritage law's *lex originis*—force artificial choices between competing legitimate interests. Moreover, this conceptual aspect needs to extend to other definitions such as due diligence requirements and restitution procedures based on EU provisions and international agreements. Secondly, the decision, shows the difference in the cross-border approach towards cultural property including the recognition of foreign patrimony laws and the forum shopping (Rumenov and Tasev 2025). Thirdly, the most important aspect that comes out from this decision and the support of the *lex originis* principle is the duty of

museums, collectors and dealers to adopt rigorous provenance research as a legal and ethical obligation, moving beyond mere compliance to proactive accountability. National legislation should mandate transparency in acquisition that fails to meet due diligence standards. This would require institutions to assess not just the legal title but to take into account the historical context (Rumenov and Tasev 2025).

Finally, it is more than obvious from this case that the definitions and paradigms that determine the relations of certain cultures, nations, states, communities, and the related material culture will have a meaningful bearing on the future court cases and decisions build upon the *lex originis* principle. Thus, this novel tendency opens multidimensional and multidisciplinary dilemmas that transcend from epistemological to ontological aspects of these interdisciplinary endeavours.

## ***LEX ORIGINIS VS LEX REI SITAE: THE PRIVATE INTERNATIONAL LAW DILEMMA***

The case of J. Paul Getty Trust and Others vs. Italy, regarding a dispute centring on the Victorious Youth, represents an unequivocal reminder that the consequence of the “belonging” of cultural heritage is specifically manifested in terms of the private international law aspects of cultural property. Private international law is part of law that refers to the cross-border dimensions of civil and commercial matters. Specifically, it concerns the international jurisdiction of courts, determination of the applicable law and the recognition and enforcement of foreign judicial decisions. The subject of cultural property lies on the line of public and private law relations. Its position is largely defined by the movable nature of cultural objects (Vrdoljak 2024, 2). So, this possibility to move cultural objects from one point to other distinguishes them from other forms of cultural heritage, rendering it able to be possessed, transferred, exchanged, imported, exported, removed, stolen, or returned (Ibid.). As a consequence, to properly protect cultural objects a more comprehensive action is needed covering public international law instruments (The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import,

Export and Transfer of Ownership of Cultural Property; The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects) and private international law actions.

In context of private international law actions, the problem here arises in regard to the characterization of the connecting factors, such as *lex situs* (which is dominant in the determination of the property rights) and *lex originis*. This ambiguity is highlighted for more subjective components. The *lex situs* principle refers to the law of the place where the object is situated at the time of transfer and tends to dominate in questions of title transfer of the title (Roodt 2015, 40). In terms of movable and immovable objects, it is argued that the *lex rei sitae* principle determines the applicable law with simplicity, objectivity, transparency, legal certainty and ease of application (Chechi 2017/2018, 276). Nonetheless, there are huge concerns about the implementation of a principle that generally is provided for commercial transactions, since transaction of cultural objects have different specifics (Ibid.). Most serious concern is that *lex situs* principle will provide for forum shopping and finding the best place to transfer any title regarding cultural objects (Rumenov and Tasev 2025).

It is without surprise that the *lex originis* principle is the most serious alternative for the *lex situs* principle (Chechi 2014, 97). *Lex originis* principle is implicitly affirmed in the *J Paul Getty Trust and Others v Italy* case and explicitly provided in Belgian, Kosovar, Macedonian and Montenegrin Acts of Private International Law (see Article 90 of the Belgian PILA, Art. 67 of the Macedonian PILA, Art. 69 of the Kosovo PILA, Art. 33 of the Montenegrin PILA). Its rationale is very natural, the country of the origin of the cultural objects needs to determine the applicable law, because it has the closest connection and the most legitimate claim to the objects comprising its cultural heritage (Belgian PILA Art. 90, Macedonian PILA Art. 67, Kosovo PILA Art. 69, Montenegrin PILA Art. 33). However, its application comes with a serious problem especially in terms of its ambiguity. The illustration of this problem can be seen even in the *United Nations Convention on the Law of the Sea* from 1982 where Article 149 provides:

All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for

the benefit of mankind as a whole, particular regard being paid to the **preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.**

*(United Nations Convention on the Law of the Sea 1982, Art. 149)*

Such provisions represent a legal nightmare for the judges which need to determine the applicable law based on pure historical circumstances such as country of origin, country of cultural origin and state of historical and archaeological origin. For example, what will be the case where the State of origin of a particular cargo may or may not be the flag state of a wrecked ship (Nafziger 2021, 37). Moreover, in such cases, what law could have priority over the others, if for example, the country of origin under which the vessel sailed, the state where the vessel was supposed to arrive or which provided a home port, or the state whose government or nationals commissioned the artifact (Ibid.). Another significant problem regarding the characterization of the cultural heritage in connection with the "*lex originis*" principle is the "historical nature" as opposed to "historical significance" or "historical value" (Ibid., 38). In other words, how old are objects of "historical nature"? Another problem which adds to the complexity of the characterization of the term "*lex origins*" is the continuity or the succession of the rights regarding the country of origin. For example, weather today Italy can have claim on all or the artifacts that are produced during the reign of the Roman Empire?

All these complex historical, social and philosophical questions are brought upon a judge that needs to determine the applicable law regarding property rights, contract law and damages based on connecting factors not tailored for cultural objects (Chechi 2017/2018, 274). So, to properly determine the relevant connecting factor, a judge needs to know the mechanism of commerce of cultural objects. This mechanism is consisted of a network of vast number of actors, such as auction houses, antiques dealers and galleries (Ibid.). Moreover, very important aspect that the judge needs to consider is the method in which these objects were obtained, whether these objects are of licit or illicit provenance (Chechi 2017/2018, 274). In essence the problem of the determination

of the applicable law, can be summarized to the question of the transfer of property; whether the substantive applicable law allows transfer of licitly or illicitly obtained objects and does it take into consideration the protection of *bona fide* purchasers or the original owner. By the time these disputes do reach courts of law, resolving them will always be difficult, because there is a huge interest from the side of the claimant and the respondent - the original owner from whom the work was taken and the good-faith purchaser (Fincham 2008, 113). Such legal scene provides for forum shopping, where claimants can intentionally choose jurisdictions with laws more favourable to their case (Rumenov and Tasev 2025).

One of the proposed approaches towards building a more comprehensive system for the protection of cultural objects, different from the usual commercial transactions is the building of *lex culturalis* (Chechi 2017/2018, 290; Chechi 2014, 244; Roodt 2015, 55). This system is built on the premise that there is need to restrain the uncritical application of ordinary business norms to transactions involving cultural objects (Roodt 2015, 55). The ideas behind this approach is firstly to apply the laws of the State that has the closest connection with the case at the expense of the culture insensitive *lex rei sitae*, secondly to extend limitation periods in order to prevent criminals, reckless art professionals and dishonest collectors from profiting from the expiry of time limits; and thirdly to take into consideration and enforce the ownership rights set out in the patrimony laws (Chechi 2017/2018, 293). The result of such actions should be that *lex culturalis* will allow private international law and cultural heritage law to work together with a view to restraining the application of norms that seem deferential to the commercial imperatives that dominate the international art market, and that have proved to be unable either to control or discipline effectively the demand side of the market or to fight the illicit trade of cultural property through the vast international networks (Chechi 2017/2018, 293). Only time will reveal whether this approach will ultimately prevail over the others, however recent developments in the ECtHR in the *J. Paul Getty Trust and Others v. Italy* case clearly indicate certain directions of the future development.

# THE MATERIAL CULTURE OF CULTURAL CONTAINERS VS. THE MATERIAL CULTURE OF CULTURAL NETWORKS: THE ARCHAEOLOGICAL THEORY DILEMMA

The case of J. Paul Getty Trust and Others vs. Italy, concerning the dispute over the ancient statue known as the Victorious Youth, vividly illustrates the growing significance of historical, anthropological, and archaeological evidence in different legal proceedings. These disciplines are increasingly playing a crucial role in providing essential context and enabling the formulation of well-informed arguments, which are indispensable in resolving complex private international law issues related to cultural property.

At the same time, it is a blunt reminder that legal arguments regarding archaeological artifacts often rely heavily on conservative legal definitions of cultural and national origins that do not fully embrace the complexities of archaeological methodologies and historical cultural dynamics. The existing legal frameworks tend to define ownership and heritage through fixed "cultural" categories that emerged centuries ago from historical, philological and archaeological arguments, discourses and hypotheses. Yet, while these institutionalized, semi-institutionalized and memorized "cultural" and cognitive categories are a proud reminder of the strong influence of history, archaeology, classics and related disciplines on society, many of them represent only rudimentary remnants of redundant hypotheses long since abandoned by scholars, some as far back as centuries ago.

The findings of the Court of Cassation in this case illustrate the risks of misuse of archaeological, historical and wider "cultural facts" and argumentations in providing informed and culture sensitive court decisions.

Thus, the tautological "Roman civilization developed as a continuation of Hellenic civilization" that evolves as a general ideological mantra throughout the court's "culturally sensitive" findings, represents not just a scientifically redundant argument, but also one that lacks any cross-cultural sensitivity (ECTHR 2024, par. 89). One can just imagine how this eulogy to the nineteenth century Eurocentric view of the past, as a

"Greco-Roman antiquity" interrupted by intrusions of barbarians and dark centuries, might play out if one of the parties in the case were Egypt, Syria or even Greece (Asirvatham 2008; Mac Sweeney et al. 2019; Tevdovski 2021).

So insistent are the findings of the Court that "the first literary and artistic expressions referring to Latin culture can easily be attributed to figures educated in a Greek environment", and so many Greeks lived in ancient Italy, and "Greece, the captive, made her savage victor captive," that one might question if the decision of the Court supports the return of the Victorious Youth to Italy, or the return of all Italian classical heritage to Greece (ECtHR 2024, par. 100). In this context, there is no wonder why Ritchie locates a "strong" opportunity for a Greek claim of restitution of the "Youth" (Ritchie 2009).

In the light of the knowledge of the Hellenistic provenance of the statue of a Victorious Youth, the legal search for "origin" of this prominent artefact becomes another direct and grotesque reminder of the inconsistency of the outlived "Greco-Roman model". One has no need to explore the extensive historical and archaeological research and analyses of the last decades for the shortcomings of our ideologized periodization but just be reminded of the important twentieth century remarks of Barry Strauss. Explaining the intensity of the Eurocentric bias and Saidian Orientalism embedded in the term Hellenistic (the period of provenance of the "Youth"), invented in the 19<sup>th</sup> century, Strauss underlines its "doubly problematic" character. Thus, while "one half of the term - 'istic' suggests a mere derivative of the pure and original Hellenic", or oriental hybridisation of the Western brilliance, the other half - "Hellen" ignores the great majority of non-Greek and even non-European inputs in the global developments of this historical period (Strauss 1997, 165–166). And, yet, decades after this colonialist remnant in academic research of the past were disclosed and extensively deconstructed, the culturally sensitive Court decision would assign the belonging of the heritage of the most interconnected period of ancient Afro Eurasia to the first available European – Italy, if not Greece.

It is exactly the Hellenistic period that showed all the discrepancies of the Eurocentric views of world history. Today, the extensive analyses of this period underline the destruction

of the main centres and political and ideological credos of the "Hellenic world of city states", which culminated with the destruction of Athens by the Romans (Morris 2005; Reger 2008; Kuin 2018). In this historical context the Court findings of "Greek culture, of which the Roman culture can well be regarded as carrying the torch", become almost cynical (ECtHR 2024, par. 100).

Yet, in order to understand how weak and academically redundant the historically-spiced legal argument or the historical argument with legal consequences that "cultural continuum that has, since its inception, linked Italic and Roman civilization to Greek culture", one must be reminded again of an accurate summary of present academic views in Harvard University Press edition "Classical Tradition" stating that "Alexandria, not Athens, supplied Rome, and hence later European civilization, with her models" (Grafton et al. 2010, 33; ECtHR 2024, par. 100). Furthermore, the authors of the edition underline their argument, placing focus on the arts and material culture, by quoting Oscar Wilde's visionary statement that "there is really not a single form that art now uses that does not come to us from the critical spirit of Alexandria" (Grafton et al. 2010, 33).

Maybe, here lies the reason why the advocates of the Greco-Roman synthesis in the case of J. Paul Getty Trust and Others vs. Italy avoided the most obvious argument of the Greco-Roman political synergy, or according to the findings of the Court: "At the relevant time (before the fall of Corinth), Greece and Rome had enjoyed good relations" (ECtHR 2024, par. 89). While the ancient propaganda connected with the early Eastern-Mediterranean intrusions of the Romans, "fighting for the freedom of Greece" might be convenient and utilized effectively in front of the Court, the slippery outcome is explaining who did Romans fight against. The Macedonian "invincible" (*aniketos*) rulers of the Hellenistic period, that built their imperial model on the Near-Eastern traditions of the Persians and the Neo-Assyrians, were the direct opponents of the Romans, and the "oriental otherness" upon which the "Greco-Roman world" built its ideological core (Spawforth 2012, 55–57; Strootman 2008, 207–227). And, yet this "Italian" Victorious Youth represented the "innocent" and pure glory of these "oriental despots".

In order to comprehend the level of distortion of the "historical context" of the Court findings one might focus on a simple argument related to "location" of the "possible" author of a statue. The argument that "Lysippus ... connection with Italy had to be considered 'certainly not marginal', as at the time the Statue had been created the artist had most probably visited Rome" represents a "high probability" based on three hypotheses. First, that Lysippus is author of the statue, which is at least unprovable at this point, if not already dismissed claim by the experts in the field. The second hypothesis, the Lysippus connection with Italy "was certainly not marginal", and the third, his visit to Rome is "most probable". While the probability of the first hypothesis has been already answered by numerous experts, the last two hypotheses are most interesting from the aspect of the "distorted historical context". In essence the Court is convinced that the personal and Court artist of the new "ruler of the world", Alexander the Great, out of all the important centres of the early Hellenistic world, like Pella, Ephesus, Babylon or one of the many Alexandrias would "most probably" decide to go to Rome, and if he does, that would be "certainly not marginal" episode in his life or wider societal and cultural context. A historical episode from antiquity might illustrate very accurately the level of distortion created by the traditional "Greco-Roman conceptualization", as well as the level of probability. At the year 300bc, which is the exact year Lysippus has departed, Alexander descendent, "the most famous man of his day" that sailed and fought throughout the Hellenistic world before becoming new king of Macedon, Demetrious Poliorcetos, captured Roman pirate ships that were sailing from the "half-civilized" Roman coast city of Anzio. The king sent the ships back to Rome with a message aiming "to teach them in good international manners" (Veyne 1979). Mentioning that he has heard that they are related to the "civilized" Hellens, and there have built already a temple of Castor, protector god of sailors, the king educated them: "When one has these signs of civilization, pirating can no longer be tolerated!" (Veyne 1979).

In other words, not just Lysippus and Alexander, but also many from the next generation of Hellenistic elites, including the most travelled among them, have not been to Rome, and have barely heard of the developments on the margins of the wide Hellenistic world that spread as far as India. It seems that

the highest probability of Lysippos' visit to Rome is related to a possible abduction by pirates.

The thorough analyses of Tony Spawforth on (re)inventing Greeks in Late-Republican and Early Imperial Rome for the needs of Roman identity and the ambivalent place of the Macedonians in the narratives related to the same process, is a unique possibility to explain these contemporary misunderstandings of the Hellenistic "historical and cultural context" (Spawforth 2001, 375–400; Spawforth 2012; also, Asirvatham 2008; Kuin 2018). Yet, such quest requires a more extensive elaboration inconvenient to the scope and purpose of this paper. Instead, few additional illustrative examples from the same Hellenistic Mediterranean context might serve the purpose, for the needs of this paper and expose some of the complexities of the "origin" of Victorious Youth.

Let us imagine that, instead of the "Victorious Youth", the statue was one of Hellenistic Isis. The originally "Egyptian" goddess, that was revived for the needs of the Ptolemaic religious policies and court propaganda and closely related to the established cults of the Ptolemaic and Macedonian queens (Versluys 2016; Carney 2000). The statue, in that case, as in the case of majority of Hellenistic Isis statues, would have certain Macedonian royal and/or Egyptian symbols, and yet it would resemble closely the Winckelmannian artistic standards of "Greko-Roman art" (Grafton et al. 2010).

This strong religious symbol was intimidating for the Roman elites of the republican period, to the level of prosecution, and yet one would certainly be able to claim continuity of this Hellenistic heritage with Imperial Rome. While the Roman Isis statues were iconographically very close (some art historians would claim - replicas) to the Hellenistic ones, the arguments in this case would not be centred on iconography or archaeology (Versluys 2020). The cult of Isis with many of its Hellenistic aspects, as verified by different historical sources and archaeological evidence, transformed in the later centuries into central ideological and institutional element of the Roman imperial power (Levick 2007, 153). In that context one might search for analogies with the case of Victorious Youth. Would the hypothetical Hellenistic Isis also represent the "continuity of the Greco-Roman civilization", or would it represent a glorious artistic allegory of the strength and refinement of its

adversaries (Strootman 2010, 140–57; Strootman 2018, 173–204)? Should contemporary Egypt place rights on all Hellenistic and Roman Isis sculptures around the Old World, as country of origin or through the “continuum” of the ideological, religious, artistic and civilizational contributions of its ancestors (Versluys 2021)?

It would be so much easier if these statues or their original owners could speak to us, one would think. Therefore, it might be illustrative to analyse briefly few statues that do tell us who they are, whose they are, and what and why they represent. On another corner of the Mediterranean, in South-East Turkey stands a glorious complex of statues, representing the sanctuary devoted to another descendent of Alexander the Great. Antiochus Theos of Commagene in his elaborate sepulchral monument and related epigraphic document made a serious effort to explain to us, or rather to his contemporaries and followers, how he felt about himself, his country and the world. There, his statue of a living god, much like the Victorious Youth, stands as an idealized symbol of the Hellenistic kingship. In the midst of his ambitious architectural, political and religious project Antiochus stands surrounded and shakes hands with his “deified ancestors” and “all the ancestral gods from Persia and Macedonia” (Versluys 2017, 260; Fleischer 2002, 59–60). Among them, Alexander the Great, many Macedonian later kings, including Antiochus’ Macedonian royal mother Laodice Thea, and his grandmother the Ptolemaic princess Cleopatra Tryphaina, Persian kings and local rulers of the region of Commagene, but also gods like Zeus, Helios, Mithra and other gods of the Orient. Stylistically, in Antiochus own words, the statues were made in the tradition of craftsmanship of the Persians and the Hellens, and of course there is the Goddess Commagene, a symbol of the country of this global ruler and god. Finally, the historical context, that this king was close ally, some might claim client, of Rome, whose family rose to leading positions and influenced strongly the developments in the Roman Empire. After all of that, one might ask if Antiochus own words are helping us determine any legal right in contemporary circumstances. And is he placing words in the mouth of the Victorious Youth? Does this plethora of ancient ethnonyms and conceptions translate into anything concrete today? And do archaeology, history and law possess a matrix that translates

accurately and consistently all the information that the “historical context” provides?

All this complexity leads us to a scientific dilemma developed by archaeologists, historians and other researchers of the past in the last few decades. Are the artificial boundaries developed in the process of exploring historical narratives and material culture still helpful tools in the research process or they have transformed into an obstacle that reflects our present image, while distorting our understanding of the past and heritage?

The new trends, increased knowledge and the shifting paradigms in humanities and social sciences are increasingly suggesting that neither ancient historical narratives nor material remains from antiquity could be analysed adequately through the rigid categorizations created in modernity or through any other form of consistent “cultural container” (Pitts and Versluys 2015, 12). Furthermore, the application of the globalization theory in the study of ancient past extends the possibilities of this “beyond container thinking” framework, that also involves deconstruction of the stereotypical nomenclatures, like Greek and Roman, or Greko-Roman civilization, or Eastern or Near-eastern civilizations or influences (Versluys 2015, 143–147). Instead, the complex transformative processes that created the Roman, Greek, Egyptian or other “world(s)” and their heritage has to be reanalysed, in this context, only in the wider frame of the spatio-temporal continuities and change of the Afro-Eurasian and wider globalization processes (Beaujard 2010; Agut-Labordère and Versluys 2022; Tevdovski 2024).

Through this new conceptual and methodological framework, the former “cultural containers”, ancient and modern are transformed, into a complex, vivid and constantly evolving systems of interconnected networks. This new methodology that focuses on connectivity and networks creates a shared understanding of a connected past with all its local, regional and global complexity (cf. Brughmans et al. 2016). In such new context, any ancient artefact, site, phenomenon or culture is triggered, created, modelled and predestined to dwell in correlation with numerous networking hubs and their actions and reactions in the interrelated global system.

Finally, this change of the paradigm in the research of the material culture and wider research of the past from rigid

“cultural containers” to “interconnected cultural networks”, affects directly and dramatically the application of the knowledge of the past into the cases of private international law.

While the legal dilemma between the more dominant *lex rei sitae* and the unique approaches of *lex originis* that this case study analyses, place new focus on the national and local “historical and cultural” contexts, the archaeological dilemma creates a reverse momentum. The usage of accurate and profound knowledge and understanding of heritage through the perspective of researchers of archaeology, history and related disciplines, reconnects the importance of global connectivity and networks in the past and present and establishes multiple cultural rootedness of each artefact from the past.

## CONCLUSION

The Statue of Victorious Youth encapsulates far more than the artistic excellence of the Hellenistic period; it symbolizes the complex intersections of history, culture, and law in the contemporary world. This paper has demonstrated that understanding its significance and resolving the disputes surrounding it demand a truly interdisciplinary approach—one that integrates art historical, archaeological, and legal perspectives to grasp both the statue’s multifaceted past and its contested present.

The legal conflict exemplified by the J. Paul Getty Trust versus Italy case reveals the limitations and tensions inherent in current private international law principles, especially between *lex originis* and *lex rei sitae*. These tensions constitute a “double dilemma”: a juridical challenge of applying relevant laws to mobile cultural objects, and a broader cultural challenge of reconciling rigid, often Eurocentric legal categories with the fluid and interconnected realities of ancient cultural networks. The case elucidates the urgent need for legal frameworks that are sensitive to cultural complexity and historical nuance, encouraging transparency, rigorous provenance research, and ethical accountability from museums, collectors, and policymakers.

Moreover, this paper highlights how evolving archaeological and historical scholarship, which increasingly favours networked and globalized understandings of past cultures, challenges entrenched notions of heritage as fixed within singular national or cultural containers. Such insights call for a reframing of cultural heritage law and policy that better reflects the hybrid, transregional realities of ancient material culture.

Ultimately, the journey of the Victorious Youth from antiquity to the modern museum, and the debates it has sparked, serve as a prism through which the broader challenges of cultural heritage stewardship can be examined. This paper calls for continued interdisciplinary dialogue and innovative legal and ethical approaches that honour the statue's rich, layered legacy while ensuring just and culturally informed stewardship of the shared heritage it represents. Only through such collaborative efforts can the complex legacies of ancient art and cultural property be responsibly managed in an interconnected world.

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