

Suing the European Union for Human Rights Abuses Committed by European Corporations outside the European Union's Territory

Abstract

All over the world national courts are increasingly recognizing corporate responsibility for human rights violations in both domestic and foreign land. However, the accountability of supranational institutions for corporate human rights violations is unknown. This research focuses on the European Union's (hereinafter the "EU") accountability for corporate human rights violations.

With the Treaty of Lisbon, the EU will become a party to the European Convention on Human Rights (hereinafter the "ECHR"), liable for human rights violations. In addition, EU law includes now the Nice Charter, a EU human rights body of law. This research argues that, based on the concept of positive obligation, the European Court of Human Rights (hereinafter the "ECtHR") and/or the European Court of Justice (hereinafter the "ECJ") could hold the EU liable for corporate human rights violations outside the territory of the EU.

Extraterritoriality

One of the key issues of my PhD research is the extraterritorial application of both the ECHR and EU human rights law. My research will analyze the extraterritoriality of the EU positive duty to regulate private industry under both the ECHR and EU human rights law. During the visiting research fellowship at Tel Aviv University I will focus my work on the following research questions.

- 1) Whether the EU has a legal obligation to punish human rights abuses committed by European entities outside of the EU's territory.
- 2) Whether the EU has a legal obligation to take into account the interests of foreign individuals in regulating and establishing European corporate law.
- 3) Whether obligations 1) and 2) originate from the Treaty of Lisbon, European constitutional law traditions or international human rights norms.
- 4) Whether obligations 1) and 2) are among the competences of the EU member states, the EU or both.
- 5) Whether the EU has adequate corporate regulations to prevent EU corporations from violating human rights outside the EU. This question will be analyzed through a comparative study between the EU and other countries' human rights due diligence rules, including Israel, an important European partner with an increasing number of start-up corporations.
- 6) Whether international human rights norms are applicable to the EU's human rights abuses committed outside Europe.
- 7) Whether the ECJ, the ECtHR or any other national or international court can hold the EU liable for human rights abuses committed by European corporations outside Europe.
- 8) Whether the application of the ECHR or EU human rights law outside Europe would be a way to impose European values on foreign sovereign nations.
- 9) Whether the extraterritorial application of human right law is different with respect to positive and negative obligations and to first, second and third generation rights.
- 10) Whether the concept of Universal Jurisdiction has a role in the extraterritoriality of both the ECHR and EU human rights law.

Effects

The ultimate goal of my research would be to encourage the EU to establish new corporate regulations that would take into account the human rights of foreign individuals and punish European corporations from violating fundamental rights outside the EU's territory.