

ANNEX to appeal on why and how the mandatory human rights due diligence legislation has to be initiated in the EU by its parliament's Subcommittee on Human Rights supported by the Committee on Legal Affairs

Our appeal "Why and how the mandatory human rights due diligence legislation has to be initiated in the EU by its parliament's Subcommittee on Human Rights supported by the Committee on Legal Affairs" summarised 9 reasons why and how mandatory human rights due diligence legislation has to be enacted in full compliance with EU member states' UN human rights treaty obligations and with the guidance and cooperation of the UN human rights system.

These 9 reasons are presented more in detail in the 9 sections of this annex here below.

For these 9 reasons it is crucial to address also among the UN bodies and states parties of our UN human rights treaties the ways how the EU member will violate their UN obligations on international human rights if they allow these obligations to be subordinated by the commercial competences of the EU to become re-defined to serve the regional business interests of the European corporations in the global economy in the name of 'due diligence'.

1. Human rights require due diligence founded on human rights competence to protect, respect and realise internationally recognized universal human rights impartially - without any right, task, competence or obligation to prioritize regional commercial interests in treatment of human rights in global economy or business activities.

It requires impartial human rights competence to monitor how business activities in international economy can affect universal human rights and to determine impartially what makes economic activity to respect, protect and realise human rights as universally equal for all.

Human rights due diligence must be implemented compliant to the UN human rights obligations, covering equally also European companies' global business activities - not according to other corporate accountability but according to how:

- "obligation [...] to adopt a legal framework requiring business entities to exercise human rights due diligence" requires "to ensure that they act with due diligence to avoid [...] any negative impacts on the rights" "directing the efforts of business entities towards the fulfilment of" human rights (1) so that companies "make certain that they do not impede the enjoyment of" human rights "by those who depend on or are negatively affected by their activities". (2)

- "obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over" economic, social and cultural human rights without transparently verifying how states would by such limitation of these rights "to the maximum of [...] available resources" also by "the adoption of legislative measures" when needed to respect, protect and fulfil economic, social and cultural human rights in international economic cooperation in a legal manner "compatible with the nature of these rights". (3)

What is to be established as mandatory in respect to international human rights is thus not another commercial or market priority policy which could use 'corporate accountability' on human rights, company law, development, environment, etc. (4) for regional commercial interests.

What human rights require is also according to the UNGPs "human rights due diligence" "to protect against human rights abuses by business enterprises" making them "to identify, prevent, mitigate and account for how they address their adverse human rights impacts" to "cover adverse human rights impacts that the business enterprise may cause or contribute to [...] or which may be directly linked to its operations". (5) -

Or does the EU think it can 'respect human rights' by re-defining 'human rights' and 'respect' in such new ways which are best "preserving international competitiveness" of the EU business for "functioning successfully" in global commercial competition? (6) If measures of global economic activity - trade, investment, company law, development finance, commercial rights, common commercial policy competence,- are not made to respect human rights, then:

The EU continues the human rights violating structure, which also the study produced to the EU commission under the DG Justice found to prevail as "regulatory gap between existing legal framework and Member States' obligations" under the UDHR, ICCPR, ICESCR, ICERD, etc.

The current structure violates the obligations of "Member States to take steps to ensure that people are protected from human rights and environmental harms, including by corporate actors" and "to regulate the adverse human rights and environmental impacts of their multinational corporations that occur outside their territories." (7) The current "absence of an enforceable legal instrument requiring due diligence at EU level, and very few examples of such laws at Member State level, combined with the low levels of implementation of due diligence by companies" and "the current lack of access to remedy for victims of corporate human rights and environment impacts" indicate "a gap between the existing legal framework, and Member States' international [...] obligations." (8)

States are under the international law obliged "to prevent and redress infringements [...] that occur outside their territories due to the activities of business entities over which they can exercise control, especially in cases where the remedies available to victims [...] are unavailable or ineffective." "This obligation extends to [...] corporations incorporated under their laws, or which have their statutory seat, central administration or principal place of business on their national territory". (9)

"Home States also have obligations [...] to respect, protect and fulfil [...] rights in the context of businesses' extraterritorial activities." (General Comment No. 16 of the UN Convention on the Rights of the Child) States need thus "also require corporations to deploy their best efforts to ensure that entities whose conduct those corporations may influence, such as subsidiaries [...] or business partners (including suppliers, franchisees and subcontractors), respect" economic, social and cultural human rights. (10)

Noting how obligations are neglected as "there is currently no general legal duty at EU or international level which requires companies to undertake due diligence for human rights and environmental impacts caused by their supply or value chain" (11) the new study published in 2020 as produced for the EU Commission's under its Directorate General for Justice and Consumers, "Due diligence requirements through the supply chain", found out that currently:

"Adverse human rights and environmental impacts in global value chains" continue, as there prevails "regulatory gap between existing legal framework and Member States' obligations" on human rights, "failure of corporate risk assessment" of the risks caused to those "affected by its supply and value chain", "lack of legal certainty" and "implementation of due diligence" requirements on human rights, their "increasing fragmentation" and "lack of access to remedy for those affected by the adverse human rights or environmental impacts of EU companies". (12)

To correct these severe violations, it is an important to take into account that:

- "Companies are statutory creations which would not exist if it were not for their creation through company law provisions. Corporate law by definition is a body of law which regulates corporate behaviour" (13) and "due diligence as a legal standard or duty of care requires companies" act "to prevent and address external harms" "which affect people, the environment and the planet" also in case if "these are harms beneficial [...] to the company's performance" (14) Corporate law could for example set the realisation of economic human rights as such primary definitive criterion for defining economic activity of a company that already by the definition of 'company' in the corporate law the rights to economic activity could in a legally justified way set to require any company to demonstrate as a condition of economic activity the respect for economic and other human rights as equal for all.

- Thus also in case if it may restrict trade or investment from which the company could benefit, it is responsible to prevent human rights violations "regardless of whether it is in the company's [...] interest to consider these risks" and "regardless of whether they are permitted or prohibited by" the domestic - national or regional - laws". (15) States are obliged to prevent human rights violations by business activities thus particularly also, where such violations could bring trade profits. Otherwise, if such trade benefits are not restricted by respect for human rights, the ability of the European corporations to profit by violating human rights forms the source of their competitiveness.

2. In those competences to act in international economic cooperation which the EU member states had just prior to their EU accession and can have then legally conferred to the EU, any activity in international economic cooperation has to respect, protect and realise internationally recognized human rights compliant to the states' UN obligations.

While "the Union shall act only within the limits of the competences conferred upon it by the Member States" (16) and the memberstates cannot have conferred competence which they did not even have themselves to confer, therefore:

The memberstates can have conferred to the EU only their competences which they had at the time so that they could confer their competence to the EU.

As in competences which the states had, their activities in international economic cooperation were obliged to respect, protect and fulfil economic, social and other human rights, therefore:

These human rights remain obliged to be respected, protected and fulfilled also by the competence which the states conferred to the EU to act on behalf of the se memberstates.

As EU's power to act consists of the competences which its memberstates had and then conferred to the EU and as all these competences which states had on international economic cooperation were bound to respect and realise human rights in that cooperation, thus the states could confer to the EU only competences which are bound to ensure that the activities – carried out in this respect on behalf of the EU memberstates – in international economic cooperation:

- "shall promote [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction" also in context of "international co-operation in solving international problems of an economic [...] character" which must also be "based on respect for the [...] equal rights and self-determination of peoples" (17)

- shall "take [...] action in co-operation with the Organization (UN) for the achievement of" these purposes, including how world's states as United Nations in its Economic and Social Council are authorised to make "conventions for submission to the General Assembly, with respect to matters falling within its competence" on "international economic [...] matters" and on "promoting respect for, and observance of, human rights" for all. (18)

- "shall fulfil [...] the obligations assumed by" the states in accordance with the UN Charter compliant to such their UN competences and conventions to "ensure to all [...] the rights and benefits resulting from" these, giving "the United Nations every assistance in any action it takes in accordance with" its Charter to duly implement the obligations. (19)

- "In the event of a conflict between the obligations of" the UN states parties "under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." (20)

These obligations under the UN Charter shall thus prevail over the obligations under the EU treaties in respect to the rights and competences in international economic cooperation. The implementation of such UN obligations the UN Charter authorises states to agree in the respective UN bodies by the UN resolutions and conventions to ensure due respect for human rights (21) compliant to their obligations under the UN Charter.

Human rights approved through states obligations under the UN Charter to be realised in compliance with the respective UN treaties constitute such "rights and obligations arising from agreements concluded" before EU member states' EU accession "between one or more Member State [...] and third countries" which "shall not be affected by the provisions of the Treaties" of the EU like the EU treaty itself orders. (22)

The international law requires that "subject to Article 103 of the Charter" (of the UN), the rights and obligations under treaties "shall be determined" so that if only some parties of earlier treaty are parties to a later treaty "relating to the same subject-matter", "the treaty to which both States are parties governs their mutual rights and obligations". (23)

Many UN human rights obligations which great majority of the EU memberstates have approved prior to their EU accession have been agreed as necessary to secure "respect for, and observance of, human rights" as required by the UN Charter. (24) - also through many UN human rights treaties concluded by most EU memberstates prior to their EU accession with nearly all other countries of the world.

Thus the human rights obligations these set for international economic cooperation "shall not be affected by" EU treaty provisions. (25) As the European states did not have just prior to their EU accession a competence to act in international economic cooperation without their international human rights obligations, they also cannot have legally conferred to the EU such competence which they did not even themselves have.

The EU can thus legally act in international economic cooperation on behalf of its member states only in ways which respect, protect and fulfil human rights. (26) As European states' competence to act in any international economic cooperation has been obliged to respect and implement universal human rights, their competence cannot have been legally conferred by their EU treaty to these states' regional business interests driven Union without obliging it to comply with those their obligations on universal human rights in international economic cooperation.

As far as states violate their UN human rights obligations by conferring their competence to act to such an actor, which they do not bindingly oblige to respect those obligations, they cannot credibly urge non-EU countries to respect UN human rights.

3. As all peoples have the right to self-determination from which international law permits no derogation, states are obliged to guarantee that no law, policy measure or activity (including by the EU) in global economic co-operation shall affect peoples' self-determination in any way which could deprive any people of its own means of subsistence

Both the UN Charter and the two main UN human rights covenants oblige in their first article the states to respect peoples' self-determination, their equal rights and human rights also in international economic cooperation:

States are obliged to promote "respect for [...] equal rights and self-determination of peoples" and build "international co-operation in solving international problems of an economic, social, cultural" or other character in ways which are "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction". (27)

States shall thus build their international economic cooperation to fulfil these aims accordingly through the UN as "centre for harmonizing the actions of nations" (28), to ensure as "inalienable right" that "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law" (29) so that:

"In no case may a people be deprived of its own means of subsistence" (30)

Thus also in case of "any obligations arising out of international economic co-operation" whatever they are interpreted to require, that shall not be "impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" but all peoples must be able to execute those obligations in such a way freely "based upon the principle of mutual benefit" that in their execution no people can "be deprived of its own means of subsistence". (31)

It belongs to the "economic content of the right of self-determination" that all peoples have to remain fully competent and free to secure their own means of subsistence as "an essential condition for the effective guarantee and observance of individual human rights" as required in the first article of the main UN human rights covenants and set "before all of the other rights" (32) to be respected among states' obligations under the UN Charter which "shall prevail" in relation to other obligations. (33)

Such priority is integral to the preemptory obligation of the international law which requires states to prevent activities from restricting the economic freedom of peoples to use the natural wealth and resources of their life to sustain their life and to realise their equal human rights. Freedom of economic activity is in this respect essentially freedom of people to freely realise their economic and other human rights as their economic 'freedom from want' and hunger. Economic freedom is thus people's equal freedom which shall not be restricted by non-living entities like traded wares, money, capitals, by their dead positions or non-living movements.

This peoples' right to self-determined life by which people remain free to use their natural wealth "for the effective guarantee" of human rights and at least people's "own means of subsistence" (34) is "accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted" and is thus a "peremptory norm of general international law (jus cogens)", "hierarchically superior to other rules of international law and [...] universally applicable", having explicit "acceptance and recognition by a very large majority of States". (35)

This peoples' inalienable right to self-determination as crucial obligation of all international economic cooperation has been ratified - either under the ICCPR or ICESCR – to be respected by all world's countries except 3 of them (Malaysia (Saudi-Arabia and South Sudan) and all have approved to respect peoples' self-determination as their obligation under the UN Charter. Right to self-determination thus "is one of the essential principles of contemporary international law" and "gives rise to an obligation to the international community as a whole to permit and respect its exercise". (36)

It is thus the obligation of the EU member states towards the whole world to respect and secure in all international economic cooperation peoples' inalienable right to self-determination so that "in no case may a people be deprived of its own means of subsistence" (37) and as this has been approved prior to their EU accession by EU member states' vast majority with nearly all world's countries, it "shall not be affected by the provisions of the Treaties" of the EU (38)

The ways how EU's commercial competences are set to prioritise rights and interests of European business globally, can however affect world's peoples in many ways (39) which make people to become "deprived of its own means of subsistence" - which deprivation the states are obliged to prevent in all cases in order to respect peoples' self-determination "as a norm from which no derogation is permitted". (40)

"Deprivation of a people's means of subsistence will therefore be unlawful for violating the jus cogens norm of self-determination even if purportedly authorised by some other rule of international law" (41) and all the more so in case of provisions of any such regional treaties like the EU treaties which may affect also world's other peoples.

As all EU memberstates have agreed with the countries of the whole world that all are obliged to respect, protect and realise human rights equally for all, securing all peoples' own means of subsistence and equal rights of to self-determination, also as basis for democracy worldwide, therefore:

European countries would lose their credibility on human rights and democracy, if they demand world's all other countries to respect UN obligations on human rights, peoples' self-determination and democracy, but claim that their own EU law and policy measures in international economy would have got such a privilege that they do not need to respect their UN obligations since they conferred their competence to the EU, who acts on their behalf in the international economy without being bound by the UN human rights obligations as it has signed or ratified neither any of the main UN human rights treaties nor even the UN Charter.

By creating such EU, its member states would thus betray their obligations towards the world's other countries. Such EU would consist of direct violation of the foundations of the international law and justice and would be as absurd as a corresponding situation where all other countries would reply:

"Ok, we the peoples of the rest of the globe found such Afro-Asian-American Globe Union, to whom we confer all our powers to act in relation to Europe and as this our Union has signed no UN treaties or any other treaties which we have approved with the EU or its member states, therefore this our Afro-Asian-American Globe Union which is solely responsible for acting on our behalf in all our relations to Europe, can not have any obligations towards Europe".

As the rest of the world has approved all the main UN human rights obligations, but the EU is practically the only actor who has not approved to be legally bound by the obligations of any of the main UN human rights treaties and not even by obligations of the UN Charter, the EU cannot credibly assume itself to be competent to determine by its regional commercial interests based competences what universal human rights require in global economic competition.

As far as "there may be a conflict between a peremptory norm of general international law (jus cogens) and another rule of international law" - like if people get exposed to be deprived of their own means subsistence by such measures of European business in international economic cooperation which promote the regional commercial objectives of EU's common commercial policy -, the EU treaties and competences they provide have "as far as possible, to be interpreted and applied so as to be consistent with the" peremptory international norms (42) including peoples' self-determination as the basis of democratic law and governance which secure human rights.

4. Competence to respect universal human rights in economic activity cannot be re-defined by regional commercial priorities but economic activity and policies must be ensured, determined and verified transparently to sustain life and to respect, protect and realise primarily economic, social, cultural and political human rights as equal for all.

As no derogation is permitted from peoples' self-determination as their right to be free to use the laws that determine their life and natural wealth that secures their subsistence in ways which protect and realise their human rights as equal for all compliant to such obligations under the UN Charter, which "shall prevail", the states have approved that:

- All are entitled "to a social and international order in which" human rights, also "economic, social and cultural rights" "can be fully realized". "Every organ of society" has "to promote respect for these rights""to secure their universal and effective recognition and observance" "by progressive measures" also in "international co-operation". (43)

- Each state has to act also "through international [...] co-operation, especially economic" one, "to the maximum of its available resources, with a view to achieving progressively the full realization" of the economic, social and cultural human rights "by all appropriate means, including particularly the adoption of legislative measures." (44)

- It is thus "the first responsibility of Governments" to respect, protect and fulfil human rights compliant to the obligations under the UN Charter by the competences it sets to the UN system, resolutions and treaties, as "a priority objective of the United Nations in accordance with its [...] purpose of international cooperation". (45)

- "Each State has a prime responsibility and duty to protect, promote and implement all human rights" and "to create all conditions necessary in the social, economic [...] and other fields, as well as the legal guarantees required to ensure that all persons [...] enjoy all those rights and freedoms in practice." (46)

- "Individuals, groups, institutions" also in field of business "have an important [...] responsibility in contributing [...] to the promotion of the right of everyone to a social and international order in which the rights" set forth in "human rights instruments can be fully realized". (47) "No one shall participate, by act or by failure to act [...] in violating human rights". All "who can affect the human dignity, human rights [...] should respect those rights" (48)

World's states have adopted all such human rights obligations and commitments to fulfil their obligations under the UN Charter explicitly also in respect to international economic cooperation. So "the realms of trade, finance and investment are in no way exempt from human rights principles" and thus also the EU - like all "international organizations with specific responsibilities in those areas" of business - need to respect these commitments. (49)

Economic unions and states "that have created and manage them, have a strong and continuous responsibility to take whatever measures they can" to ensure their ways "to act [...] are compatible with their human rights obligations". States' efforts to reach global economic policy's "compatibility [...] with full respect for economic, social and cultural rights" have been "insufficient" to fulfil their obligations. To respect human rights, the commercial "competitiveness [...] must not be permitted to become the primary or exclusive criteria by which [...] policies are evaluated". (50)

States "have the primary obligation to respect, protect and fulfil" human rights also "in the context of corporate activities", to act "to obtain the corporate sector's support for the realization of economic, social and cultural rights" (51) and to "promote the enjoyment" of these rights by maximum of available resources also by "directing the efforts of business entities towards the fulfilment of" economic social and cultural human rights by laws and other means. (52)

"The enjoyment of those rights" a State may subject - also by conferral of its competences to the EU - "only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society" (53) as "human well-being to which the international human rights instruments give legal expression" as "the end which trade liberalization should serve". Liberalisation of trade or investment can be neither legally nor logically competent criteria to limit economic human rights since "investors' rights [...] are instrumental rights" created by states as "defined in order to meet some wider goal" of democratic and sustained realisation of economic human rights and other human rights equally for all. (54) States have to be able to prove that 'freedom' of dead traded goods or money to move shall not be allowed restrict but only serve rights of people in economy - only as their "means, not an end." (55)

5. Legal basis of competence to act in respect to human rights in global economy is how all competence is conferred only for acting within the limits of conferred competence and to refrain thus from affecting legal obligations of parties towards non-parties or peremptory norms on peoples' economic freedom under the international law

States have thus "to ensure that their international human rights obligations are considered as a matter of priority" which "must shape the process of international economic policy formulation". (56) The UN human rights obligations have been approved internationally to be respected and applied with such competence for full and equal human rights implementation, which can not be restrictively determined by competences of other tasks. States must retain their required competence to protect and fulfil human rights by peoples' free self-determination as the priority.

States are thus primarily obliged to respect, protect and realise human rights also in global trade and investment policies and can not have legally conferred their competence in that respect to any actor which would not be bound by corresponding obligations to protect, realise and respect those human rights by due democratically determined human rights competence as prime obligations in any trade and investment policy carried out on behalf of such states.

As far as EU member states limit the realisation of human rights by conferring their competences away to the EU without obliging the EU to respect their human rights obligations in acting on their behalf, they neglect the realisation of the obligations they agreed with whole world to comply with. That would comply neither with the UN human rights treaties nor with the Vienna Convention on the Law of Treaties or other international law, not even with the EU treaty.

Also according to its own Court of Justice, the EU has to derogate from its EU treaty provided competences when they would affect memberstates' (pre-EU) UN obligations - which can "if the conditions for application have been satisfied, allow derogations even from primary law, for example from Article [...] on the common commercial policy". (57)

As far as EU is to decide on human rights without having due human rights competence, it is empowered to subordinate human rights for other purposes and thus neglect human rights obligations. Such decisions on human rights are not made competently in respect to those human rights.

The EU can not without due human rights competence set itself to be the highest authority to determine whether its acts respect, fulfil or violate UN human rights obligations of its memberstates by the ways how the EU sets European business to act in global economy through EU's commercial competences.

It can not competently decide about European corporations' global human rights impacts without due legal human rights competence on international human rights and without even approving itself to be bound by international human rights obligations, it maintains human rights violations.

Under the UN human rights obligations the respective UN treaty monitoring bodies - not the EU by its commercial competences - have been authorised to be competent to assess, monitor and guide whether and how these international 'erga omnes' human rights obligations are and shall be respected in context of global business activity.

States' such UN obligations require that towards world's peoples the EU "Member States remain responsible for the implementation of their human rights obligations [...] in respect of those powers delegated to the EU" so that "while these obligations do not directly bind the EU, if the Member States fail to give them effect in the EU's legal order, they will remain responsible for breaches committed by the EU." They thus "shall take all appropriate steps to eliminate the incompatibilities established" and "shall, where necessary, assist each other to this end". (58)

As it is not however in the power of the EU memberstates for the purposes of EU's internal needs to change the UN agreements without the consent of the world's ca. 150 other states who have concluded them, the EU memberstates need either to amend the EU law or to otherwise ensure that the EU can "succeed to the obligations of its Member States under pre-existing treaties to the extent that it has been delegated powers necessary for their implementation by the Member States". (59) EU law can not take effect to the extent to which it would prevent a member state from complying with its international UN or other agreements concluded with nearly all world countries. (60)

As "a treaty does not create either obligations or rights for a third State without its consent" (61), the EU treaties by the EU countries cannot also oblige African or Asian states to comply with common UN treaty obligations which the EU member states themselves evade and breach by conferring their own competence (to act in international economic cooperation as bound by human rights) away to the EU without obliging it to comply with their UN human rights obligations in acting on their behalf.

EU and its memberstates are particularly obliged to ensure this. as the EU's competences on commercial and market policies, their objectives, tasks and acts have not been transparently verified to comply with the UN human rights obligations which the EU memberstates had already during their EU accession and which thus determined, shaped and delimited all the competence which they had on international economic cooperation. All competences that European states had and could have thus conferred to the EU were and remain limited by those UN human rights obligations. There prevails thus a vast structural violation in that how the EU manages corporations' global activity in a way how:

"Adverse human rights and environmental impacts in global value chains" continue, as there prevails "regulatory gap between existing legal framework and Member States' obligations" on human rights, "failure of corporate risk assessment" of the risks caused to those "affected by its supply and value chain", "lack of access to remedy for those affected by the adverse human rights or environmental impacts of EU companies", etc. - as recognised also by the study produced for the EU commission under its DG Justice. (62)

But "to address the problems" described above, the due diligence study produced for the EU Commission under the DG Justice assessed however in practice on the contrary only that "any possible future EU intervention would be based on the following legal basis:

The regulation of companies' due diligence requirements is a matter of company law which falls within the EU shared competences [...] to harmonise national company laws so as to attain freedom of establishment" of business profit guided corporations" and "to approximate legislation with the object of ensuring the proper functioning of the internal market". (63)

Instead of obliging companies to respect human rights via due diligence, the EU would thus rather on the contrary regulate and restrict its member states' rights and possibilities to fulfil their UN human rights obligations to make the firms and companies to respect and realise human rights through such "companies' due diligence requirements".

EU would thus "harmonise national company laws so as to attain freedom of establishment" of "companies or firms"

to make private profit - so that such companies' freedom will not be impaired by "due diligence requirements" by which the states fulfil their UN obligations to make companies responsible to respect and realise human rights. (64)

Regarding safeguards for human rights which the member states require the firms to respect, the EU would coordinate and make equivalent through the EU "the safeguards which, for the protection of" human rights as "interests of members and others, are required by Member States of companies or firms" (65) so that the EU can ensure:

- "priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade" while securing also "that the conditions of establishment are not distorted by aids granted by Member States". (66)

- "progressive abolition of restrictions on freedom of establishment in every branch of activity" whether "resulting from national legislation" or "administrative procedures and practices [...] the maintenance of which would form an obstacle to freedom of establishment" of companies for private profit making (67)

The EU would act also to "adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States" to ensure such "functioning of the internal market" "in which the free movement of goods, persons, services and capital is ensured" even when that can impair the protection of "health, safety, environmental protection and consumer protection". (68)

Such EU's "harmonisation measures [...] shall, in appropriate cases, include a safeguard clause authorising the Member States to take [...] provisional measures" for example for "the protection of health and life of humans, animals or plants", but even these remain "subject to a Union control procedure" under which:

"The Commission shall [...] approve or reject the" protection of life or health "after having verified whether or not they are a means of [...] a disguised restriction on trade" or "an obstacle to the functioning of the internal market". (69)

So, even on measures of "the protection of health and life of humans, animals or plants" or of "the protection of the environment or the working environment" the EU is set to prioritise that "such prohibitions or restrictions shall not, however, constitute [...] a disguised restriction on trade". (70)

Is it just or reasonable to reject "the protection of health and life" which are basis of all freedom of living beings, if protected life or health restricts 'freedom' of movement of dead wares, money or capital?

Such obligation that universal human rights shall not be allowed to restrict priorities of trade or regional commercial profits, violates human rights obligations and forces human rights violations to become a source of competitiveness for European companies' global activity - as the EU competences on commercial and market policies currently maintain.

"Obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over" economic, social and cultural human rights without transparently verifying how states would by such limitation of these rights "to the maximum of [...] available resources" also by "the adoption of legislative measures" when needed to respect, protect and fulfil economic, social and cultural human rights in international economic cooperation in a legal manner "compatible with the nature of these rights". (71)

It would violate human rights still further if states' 'human rights due diligence' laws and measures get restricted and regulated by a competence for such "priority treatment" provided for companies' "contribution to the development of production and trade" - under which human rights obligations are not allowed to restrict trade, market or investment. (72) That would also violate the basic requirement how "due diligence as a legal standard or duty of care requires companies" to act "to prevent and address external harms" "which affect people, the environment and the planet" also in case if "these are harms beneficial [...] to the company's performance" which boosts trade. (73)

Due diligence in respect to human rights which are international, requires also on regionally adopted laws that States have "to guarantee the conformity of their laws and policies regarding corporate activities with the economic, social and cultural rights" to "ensure that companies demonstrate due diligence to make certain that they do not impede the enjoyment" of these rights. States must "effectively safeguard rights holders against infringements of their economic, social and cultural rights [...] establishing appropriate laws", regulations and monitoring. States must remain competent to "favouring business entities that have put in place robust and effective human rights due diligence mechanisms, in order to contribute to the protection of economic, social and cultural rights at home and abroad" and ensure that corporations must "avoid or mitigate any negative impacts on the rights". (74)

Such practices and interpretations of the EU competences which contribute to violate human rights by prioritising commercial interests shall be removed, not be further strengthened in the name of 'due diligence' related legislation. As far as due diligence would however become under EU competence of TFEU articles 50 and 114 regulated to mean such accordance of the practices of corporations with such realisation of human rights, where the aim is to make such requirements of human rights which could restrict trade, to become eliminated and regulated so that they shall not restrict trade, that can be reached more easily by modifying what is publicly meant by 'respect for human rights' in description of such company's activity than by changing the corporate practices to respect and realise human rights.

Business does not need thus to monitor or to change its practices as far as it can monitor and direct what becomes publicly communicated as 'human rights' in relation to its activities through its selection of impacts which it prefers to monitor and present, through its arrangement and description of its connection to the impact and of its leverage or lack of it. It alone remains able to communicate "the scale, scope and [...] character of the impact" and "the assessment and determination of severity" of the impact and its prioritisation. (75)

As the corporation can itself identify, assess, monitor, select and communicate to the public what it likes about its own impacts on human rights, all what human rights could require the corporate to change in its commercial practices, the corporate could communicate as prohibited restriction of trade/investment. And it can communicate 'respect for human rights' to mean what promotes its business, and leave all else to remain its business secret. Under such 'due diligence', the company would gain power to identify, assess, select and describe itself what could be relevant "human and environmental impacts of the company's activities", how it is "acting upon the findings" and "tracking the effectiveness of these actions" and "communicating how impacts are addressed" (76)

The EU member states violate human rights if they allow their Union and trade or commercial actors of interests to limit, modify, re-determine or restrict the realisation of internationally agreed universal human rights by such regional commercial interests and competences, which are authorised to treat human rights as prohibited restrictions of trade.

And it would lead to further violations of internationally recognised human rights if EU regulation could require human rights due diligence in globalised business to be narrowed down to concern only "all EU-recognised human rights and environmental impacts" (like was "provided for reference to stakeholders" in the 'due diligence' study produced for the EU / DG Justice), because both the scope and protection of rights recognised by the EU is much more narrow than under internationally recognised human rights. (77)

The rights which the EU Charter of Fundamental Rights provides are also in many other respects crucially different from what the world has agreed in the UN to respect and implement as human rights. The scope, status, respective obligations and implementation of the rights are much more narrow in the EU treaties which also provide no human rights determined specific competence focused primarily to guarantee, protect and fulfil human rights.

And what the EU has recognised in its Charter of Fundamental Rights are rights with such much narrower scope and application that this restriction does not duly comply with the UN human rights obligations. For example peoples' right to self-determination and to their own means of subsistence have disappeared or are severely limited without any due justification as well as human rights to adequate food and housing and continuous improvement of living standards as well as people's right to have their human rights progressively secured by all appropriate means by legislative and other measures and to the maximum of available resources.

Insofar as these aspects of "economic and social rights were not [...] integrated in the [...] Charter on an equal footing with civil and political rights, such negative regional signals would be highly detrimental to the full realization of all human rights at both the international and domestic levels, and would have to be regarded as a retrogressive step contravening the existing obligations of member States of the European Union under the International Covenant on Economic, Social and Cultural Rights." (78)

And particularly so "considering that, in the context of the European Union, economic and monetary policies have been fully integrated, special attention should therefore be given to economic and social rights as a corollary to these steps of integration" as in respect to these aspects of ESC rights and related obligations, the situation is still that "so far [...] they have not achieved the same degree of justiciability and enforceability as civil and political rights" and can not "fully secure the protection of all human rights". (79)

Human rights tend remain thus merely declared 'values' under the EU competences and not protected, realised and thus not duly respected as internationally recognised rights which they are - and which all international economic

cooperation which the EU does on behalf of its memberstates is obliged to protect, fulfil and thus duly respect.

Thus if European corporations would be obliged to respect in global economy only "all EU-recognised human rights", that would violate to a great extent many internationally recognised human rights. Also "this would deviate from the UNGPs and the OECD Guidelines which refer to internationally-recognized human rights" (80) and increase the options of the corporations to distort the content what is publicly meant by human rights, to serve their business interests.

Under the EU even "any limitation on the exercise of" "the fundamental rights" recognised by the EU's Charter "may be made [...] if they are necessary and genuinely meet objectives of general interest recognised by the Union". (81) While the EU has generalised specific regional commercial corporate interests to be treated as if they were general public interests, that is not due justification to limit states' competence and obligations to realise universal human rights equally for all in international economy.

Rights provided under EU's Charter of Fundamental Rights are thus already in themselves limited in a highly undue manner in many respects compared to human rights recognised under the UN treaties and UDHR () but the EU Charter itself promises that "nothing in this" limited recognition of rights which it provides shall be observed or applied in ways "restricting or adversely affecting human rights" protection recognised by "international law and by international agreements to which [...] all the Member States are party". (82)

EU member states thus violate not only international human rights abut also EU Charter by allowing their Union to limit the realisation of internationally agreed human rights by their regional commercial interests serving EU treaties and competences and allow European corporations contribute through 'due diligence' to redefine human rights.

The more that what is publicly meant by 'respect for human rights' becomes through undue 'due diligence' produced and paid by corporations as a part of their business, the more the whole concept and idea of what 'human rights' publicly means becomes corruptly determined by what is profitable for business. This would encourage the corporation to invest to modify what is publicly meant by 'human rights' in relation to its activities into something what beneficits the corporation.

States have however "obligation [...] to adopt a legal framework requiring business entities to exercise human rights due diligence in order to identify, prevent and mitigate the risks of violations of Covenant rights, to avoid such rights being abused, and to account for the negative impacts caused or contributed to" also by the "entities they control". (83) States cannot remove such their obligations to protect human rights under the ICESCR by conferring their competence to act in international economic cooperation to a body who would not be equally obliged by the ICESCR.

Human rights due diligence cannot be duly legislated or regulated by restricting or subordinating it to become a tool used and determined by a competence to boost trade, markets or investments.

Quite on the contrary, trade, markets and investments can be duly free and economic only to the extent they fully and duly realise and protect economic human rights in a sustainable way, duly respecting also all human rights. People's human right to self-determination of its economic activity is its freedom to realise economic and other human rights - people's economic freedom from want, hunger and other deprivation of subsistence. Such people's equal economic freedom shall not be restricted by non-living entities' dead movements of dead traded wares, money or capital.

Peoples' competence to freely protect or secure human rights by democratic self-determination the states shall not limit by any conferral of states or peoples competence - certainly not by conferring away 'freedom' from peoples' life to promote the 'freedom' of non-living entities like money, wares or corporations. Only living beings can be free, not dead wares or money.

What the EU needs to build proper due diligence policy in terms of human rights and to exercise credible respect for human rights in globalised economy in compliance with peoples' right to self-determination, is not regional business interests driven competence but democratically determined legislative and policy competence on human rights to monitor, protect, fulfil and thus duly respect human rights as universally equal for all as the prime obligation also in international economic cooperation.

For these purposes most relevant tasks in the EU to guard that the globalised business actors and investments will respect human rights belong to the The European Parliament Subcommittee on Human Rights, The states can not legitimately derogate from their international UN obligations on universal, inalienable and indivisible human rights, for any commercial or other regional competences, interests or treaties.

Human rights obligations in respect to corporations' business activities have to be guided in international economic cooperation most essentially by these UN obligations and in the EU its parliament's Subcommittee on Human Rights is mandated in most focused way to "oversee the respect for human rights in the EU's external actions" in international economy as prime commitment (84) as "responsible for issues concerning democracy, the rule of law, human rights [...] in third countries and the principles of international law". (85)

6. Economic freedom is based on human rights on peoples' self-determination of legislative and executive powers over natural wealth by which they live so that people whose rights are affected can democratically control and set such legislative and executive competences to respect, protect and fulfil human rights in transparent, verifiable way

Peoples' self-determination and human rights on economic freedom of their life are determined, respected and implemented compliant to the UN obligations as defined by the UN system and shall not be allowed to be redefined by money, business interests or commercial powers in the name of 'due diligence'.

It is the inalienable right and economic freedom of the peoples to self-determine the use of natural wealth as their own means of subsistence by which they live their life, to secure and realise primarily their equal human rights so that this fundamental right and freedom shall not become restricted or discriminated by trade or business, so that:

- "All peoples have the right of self-determination" to "freely determine their political status and freely pursue their economic, social and cultural development" (86) as "an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights." (87)

- All people have equal rights "to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage [...] guaranteeing the free expression of the will of the electors" (88) By this freedom of democratic self-determination the "citizens [...] exercise power as members of legislative bodies or by holding executive office" as elected representatives "accountable through the electoral process for their exercise of that power." (89)

Democracy requires that people can elect by their vote their representatives to be competent to make laws which fully protect and fulfil the human rights of the people and to make the legislative and executive powers and competences re-determined to better protect and fulfil people's rights. States have to use law and sources of peoples' subsistence primarily to protect and fulfil human rights equally for all via people's democratic determination of legislative and executive powers.

Democratic legislative and policy competences are thus based on peoples' self-determination so that people could change them through democratic parliamentary elections. Insofar as legislative and executive powers or competences affect people's life, people must be able by free democratic vote to secure such powers or competences to respect the life of the people as self-determined also in terms of securing people's own means of subsistence

Free elections are "essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them" and to thus "ensure that the authority of government continues to be based on the free expression of the will of electors" as guaranteed by law (90) through "the constitutional [...] processes which in practice allow the exercise of this right". (91)

But in the EU elections however people can elect only such parliamentarians/representatives who will not have power to change or correct the predetermined EU competences to respect, protect and realise people's human rights. Thus the EU competences are not based on peoples' right to self-determination or on democracy.

In the EU treaties peoples' fundamental right to self-determination is nowhere recognised even though it is "essential condition for the effective guarantee and observance of individual human rights" (92) and democracy.

No matter what is people's will and however people's majority would like to ensure democratically by their vote the EU competences to be set to respect, protect and realise primarily and fully people's equal human rights compliant to our UN approved human rights, the EU does not allow people to secure human rights by their democratic vote.

And as the member states' legislative and policy competences were prior to the EU accession essentially determined by peoples' self-determination by democratic votes, why and how did such democratic elections-determined competences - when conferred to the EU - turn into competences which no people's democratic vote can determine?

Even if it may be assumed that EU treaties have such constitution-like nature, which could somehow justify that EU's competences would remain legislative and executive policy powers beyond the control of peoples' democratic vote, that violates still human rights related to democratic control to secure human rights, since even if "the representatives exercise only those powers which are allocated to them in accordance with constitutional provisions" (93), still:

Democratic freedom requires that people can also "choose or change their constitution" by the results of their vote when they consider that necessary to secure human rights. This right to "democratic government based on the consent of the people" includes thus peoples' "right to choose the form of their constitution or government" and "must guarantee and give effect to the free expression of the will of the electors". (94)

And as the member states did not have just prior to their EU accession any such legislative or policy competences which are fixed to remain the same no matter what kind of parliament people will vote, states have thus not conferred to the EU competences which they had when they started their EU accession, and it would be useful to know:

As states did not have even themselves such legislative and executive powers and policies which can not be changed through any parliamentary election, from where and how could the states confer to the EU such fixed legislative and executive competences which neither the EU parliament nor any national parliaments can change?

How and why was the EU agreed to get competences which are not decided by peoples' vote but are fixed to remain beyond the capacity of citizens to change them by people's votes in any EU elections or in any national elections?

the ways how legislation, administration and policies were defined and divided to different sectors in European states before their EU accession were determined on the contrary to change continuously on the basis of democratic vote - re-determined according to how people see their rights to be best secured and by what kind of tasks, responsibilities, aims or powers allocated for each sector.

Member states did not have objectives of trade, market competition or investment or respective competences which would have been fixed to be independent from what people vote but these were changed and redetermined by people's democratic vote. But the EU maintains the contents and divisions of competences to different legislative or policy spheres and the 'allocation of powers fixed by the Treaties' in a manner which peoples' votes can not change.

Now the EU functioning remains widely and primarily predetermined by such EU's treaty-set competences which can not be decided, changed or influenced even by a great majority citizens' votes in the EU elections and not even by a great majority of europarlamentarians representing the citizens.

In terms of declared values EU is enacted to be "founded on the values of respect for [...] democracy, equality, the rule of law and respect for human rights" (95) so that for the purpose of how "the Union contributes to the [...] development of" these values in its activity which "ensures free movement of [...] services, goods and capital, and the freedom of establishment", "it is necessary to strengthen the protection of fundamental rights [...] by making those rights more visible in a Charter". The EU "therefore recognises the rights, freedoms and principles set out" in its Charter of Fundamental Rights. (96)

In practical functioning the EU is founded to act however so that for its sectoral competences to legislate and execute policies, human rights are merely such declared "values" which "shall not extend in any way the competences of the Union", who shall act to realise its values only "commensurate with the competences which are conferred upon it". (97) 'Developing' international human rights thus to be reduced into such 'values' of the EU which can be protected and applied only compliant to the regional commercial and other interests of EU competences, which can not be influenced by human rights and are thus set to be superior to human rights, "this Charter does not establish any new power or task for [...] the Union, or modify powers and tasks defined by the Treaties". (98)

In the Charter the EU recognises thus such various 'fundamental rights', which it has contributed to 'develop' to be in such a way crucially different from indivisible universal human rights that these rights belong only to the EU citizens and can be respected and applied only in accordance with the EU's competence which "ensures free movement of [...] services, goods and capital, and the freedom of establishment" as the priority in EU's action. (99)

Thus the way how the EU recognises such 'fundamental rights' to be respected "shall not extend in any way the competences of the Union" (100), the strongest of which are determined to prioritise regional commercial interests of business actors and "the Union shall act only within the limits of the competences conferred upon it [...] to attain the objectives set out therein". (101)

In activity carried out under EU's sectoral competences, human rights can be respected and realised thus only compliant to what is 'commensurate with' those EU's competences, which are predetermined and dominated by EU's such strongest exclusive competences to realise its regional business interests, which thus crucially affect and determine through business interests whether and how human rights are allowed to be protected and realised.

As the EU is obliged to focus to act primarily according to the tasks and interests of its sectoral competences, particularly those of its strongest exclusive competences - like removal of trade and investment restrictions to secure free movement of goods, services, capitals and corporate workforce, "expansion of consumption within the Union" and supply of raw materials, etc. (102) -, this affects globally people's human rights in many ways but the EU does not have respective competence dedicated to protect and fulfil human rights of the people.

Instead of having any due competence to respect the obligations to protect and realise our internationally recognised human rights and peoples' self-determination as obligations of the EU's legislative and executive activity, EU is obliged to act by its competences to boost primarily regional business interests of custom union, internal market, competition, monetary and common commercial policy, marine resources - and secondarily other aims on energy, research, industry, transport, territorial cohesion, technology development, space, tourism, etc. by other shared/weaker competences

The EU has thus ca.30 different competences to legislate and govern to boost commercial interests and for whatever other regional etc. aims but not a single competence dedicated and focused purely to protect and fulfil just human rights - to duly respect them as people's basic rights that are to be realised under the international law as universally equal for all as recognised in the UN.

For ensuring the realisation of human rights in practice as such internationally recognised basic rights - and not as mere declared 'values' of the EU - peoples have internationally equal rights to democratic self-determination of the legislative and executive competences by which they are governed. Under EU's competences however on the contrary:

- Human rights are subordinated into mere values without any specific competence dedicated, focused and obliged duly to protect and fulfil just human rights, all internationally recognised to be respected and as indivisible whole

- On legislative and executive competences by which the EU governs us, peoples are not recognised democratic self-determination by which they could secure their human rights to become protected, realised and thus duly respected.

The practical "functioning of the Union" is thus founded on such EU competences (103) which are fixed to serve primarily business interests and can not be changed by any democratic vote in any election and which do not respect UN obligations to protect and realise internationally recognised human rights as equal for all as the EU has not agreed to be party to the UN human rights treaties - not even to the UN Charter.

Compliant to this how people's vote can not in any election change the EU competences on which "the functioning of the Union" is founded, the EU treaty does not fulfil its promise that "the functioning of the Union shall be founded on representative democracy" as "union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen" (104) whose rights they affect. Such commercial competences which are fixed in advance before our votes - to predetermine the EU functioning - no matter whatever the majority of the EU citizens would think or vote on such competences in respect to how these may affect people's human rights - can neither duly reflect or fulfil our democratic rights as citizens nor respect our human rights.

People have no right to democratic self-determination since no matter whomever people vote in any EU election that can not change the content and nature of the EU competences, which are predetermined in the EU treaties to determine how the EU shall act and legislate - affecting the life and rights of the people without any due competence dedicated to fulfil, protect or even respect their internationally recognised human rights.

Even if 80-90 % of all people in the EU would like to vote such parliaments and governments who would change such EU competences so as at least to secure their human rights, in the EU people have no right to correct EU competences to protect and realise their human rights - no matter what they would vote in any election. EU excludes already beforehand all competence to act duly compliant to citizens' democratic rights to protect and fulfil indivisible human rights compliant to the UN Charter, UDHR and UN human rights treaties and people's democratic will.

To the extent to which the EU's functioning is determined only by its ca. 30 predetermined competences of its bureaucracy, which are not duly focused to guarantee, protect and fulfil human rights compliant to our international

obligations, the EU can not in a duly democratic way respect our will and rights as citizens to secure human rights by our decisions. So far our "views in all areas of Union action" are not respected and the EU parliamentarians whom we vote cannot "exercise legislative [...] functions" and "functions of political control". (105)

In respect to people's 'fundamental rights' the EU and its memberstates "shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers" and "in the exercise of their respective powers" "as conferred [...] in the Treaties." (106)

However, in respect to how the EU and its member states have to "respect the rights, observe the principles and promote the application thereof in accordance with their respective powers", "nothing in this" shall be observed or applied in respect to the scope or level of protection in ways "restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by [...] international law and by international agreements to which [...] all the Member States are party" (107) like they are party to UN Charter, the ICESCR and many other UN human rights treaties.

Thus no matter what the EU may or may not legislate under its ca. 30 competences presented in TFEU articles 3-6, the EU has a competence to protect internationally recognised human rights from being affected by such EU acts or measures to which the EU does not have a competence and from any EU measures which could restrict or adversely affect human rights and fundamental freedoms as recognised, in their respective fields of application, by [...] international law and by international agreements to which [...] all the Member States are party"

Thus also the ways how the "freedom to conduct a business [...] is recognised" under the fundamental rights in the EU action which "ensures free movement of persons, goods, services and capital, and the freedom of establishment" (108) shall not be interpreted, observed or applied in ways which would be "restricting or adversely affecting human rights and fundamental freedoms as recognised, in [...] international law and by international agreements to which [...] all the Member States are party" (109), like the UN human rights agreements to which all the EU member states are party.

"The rights and obligations arising from agreements concluded before" EU accession by its member states also in respect to international economic cooperation with "third countries [...] shall not be affected by the provisions of the Treaties" of the EU (110) on its competences, under which also "the Union shall act [...] to attain the objectives set out" for it in its treaties (111) including that:

- "in its relations with the wider world, the Union shall uphold and promote its values" so that "It shall contribute to [...] mutual respect among peoples [...] and the protection of human rights, [...] as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter". (112)

- "The Union's action on the international scene shall be guided by [...] democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations." (113)

- "The Union shall [...] work for a high degree of cooperation in all fields of international relations, in order to [...] consolidate and support democracy, the rule of law, human rights and the principles of international law" and to "promote an international system based on stronger multilateral cooperation". (114)

Thus "the Union shall respect" all this "in the development and implementation of the different areas of the Union's external action" (115) so that also "the common commercial policy shall be conducted" accordingly, "in accordance with" these principles and objectives. (116) "In order to respond to citizens' concerns regarding the sustainability of our trade flows, the respect of [...] human rights, as well as international key commitments for sustainable development" is important for due functioning of EU's commercial competence. (117)

Therefore, while the EU has not approved to be bound by any of the main UN human rights treaty obligations or other obligations under the UN Charter and EU's own activity under its sectoral competences does not have any due human rights based competence to protect, realise and thus duly respect human rights which are internationally recognised to be protected and realised as equal for all, still:

The EU is obliged by its treaties and under the international law to fully respect in all its activity - including commercial policies - globally the UN obligations of its member states to protect and realise internationally approved human rights as universal and indivisible equally for all and the equal rights of all peoples to democratic self-determination required for realising their human rights freely as secured by their own means of subsistence.

As this EU's obligation does not arise from any of the contents of EU's sectoral competences, but rather from EU's obligation to respect those international competences and obligations of its memberstates under the UN treaties, which can not have been conferred to the EU as they are agreed between its member states and nearly all other countries of the world - whose approval would be needed for any change in those states' obligations and competences, therefore:

That functioning of the EU's through which it can fully and in a duly competent way respect its member states' international UN obligations and respective competences on protecting, realising and only thus duly respecting human rights as internationally equal for all also in any international economic cooperation where the EU may act on behalf of its member states, can be authorised only by such human rights based competence, which arises from the rights of the people to secure their internationally recognised human rights through their democratic vote.

This functioning of the EU can rise from such human rights competence of the parliamentarians whom people have voted to secure people's internationally recognised human rights and who have adopted a position in the parliament to do this as their primary task so that they have adopted as people's elected representatives a task to "oversee the respect for human rights in the EU's external actions, with an added emphasis on ensuring coherence between all the Union's external policies (e.g. on trade [...]) and its human rights policy". (118)

This is necessary as "the Union shall be founded on the present Treaty" on European Union "founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights" so that "the functioning of the Union shall be founded on representative democracy" to realise human rights, equality and people's freedom as a "stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen" (119) whose rights the decisions affect.

This functioning of the EU can certainly not in a democratic way arise from such EU's sectoral competences, which the people can not determine by their democratic vote and under which the EU does not itself have those UN obligations to protect and realise internationally recognised human rights as universally equal for all as such priority in any international economic cooperation, which is obliged to independent from any regional commercial interests of European business.

EU competences and their relation to people's rights have to be based on people's democratic vote and respect to their human rights. If the EU is to achieve anything like the EU treaties' promise on our rights as citizens, we have to get transparent democratic rights to elect representatives who have the power to legislatively redirect all EU competences to fully comply with the human rights obligations of all its member states to protect and fulfil all our indivisible human rights recognised in the UN treaties as universally equal for all , as the EU acts on behalf of the member states.

7. Autonomy of the EU law requires that EU's exercise of competences comply with the limits and obligations which its member states (at the moment prior to their EU accession) had under the international law on their competences to confer their competences to such unions or actors like the EU

Due to the obligations under the UN Charter, including their implementation via UN treaties and resolutions on human rights, as far as EU memberstates' have conferred competence to the EU to act on their behalf in international economy on matters covered by their UN obligations agreed through the UN Charter to be implemented via UN treaties and resolutions, then "in drawing up those measures" the EU has to respect "the terms and objectives of the resolution concerned and of the relevant obligations under the Charter [...] relating to such implementation". (120)

By judging so, also the EU Court of Justice has ruled that to implement obligations under the UN Charter "constitutes the exercise of the primary responsibility" (121) of the EU memberstates whose obligations in respect to the rights of third parties "shall not be affected by the provisions of the Treaties" of the EU. (122)

As "it is not for the Community judicature [...] to review the lawfulness of such a resolution adopted by an international body" (123) in which EU is not even a party, it is even much less in the competence of EU's common

commercial policy to be any authority to monitor and scrutinise the human rights impacts of its own activity.

Particularly so as it does not have a power even to determine what does those UN human rights obligations exactly require from the EU, as the EU has not even approved them to apply directly to EU's own activities even though they bind the EU through its member states obligations and the international law.

As all actions under the competences which memberstates had and then conferred to the EU were thus obliged to respect the human rights obligations under the UN treaties, so far their competences are legally conferred to the EU only so far as the acts under the EU competences shall equally comply with those UN human rights obligations(124)

As far as states had in respect to international economic cooperation only such competences to act which respect the UN human rights obligations - related to 3rd parties - so far their competences are legally conferred to the EU only to the extent the acts under these competences are equally obliged to respect the concerned human rights.

As practically world's all states including all EU member states have approved the human rights obligations of the UN Charter and UN human rights treaties to cover all their international economic cooperation, as far as the EU treaty confers to the EU the competence to act in international economic cooperation on behalf of its member states, the EU law can be autonomous only to the extent it fully adopts and competently fulfils such its memberstates' UN obligations

As far as the EU leaves unclear whether and how it is ready and fully competent to fulfil these UN obligations, the EU law remains dependent on those its member states' obligations as the EU justice has no authority to determine such UN obligations and how they delimited and shaped memberstates' competences which were then conferred into EU competences. The EU law's autonomy would also require it to make explicit what do the UN human rights obligations require in international economic cooperation - also as or when carried out by the EU on behalf of its member states.

As any due autonomy of the EU law would require explicit internationally recognised determination on its relation to international law - in respect to human rights, self-determination and 'jus cogens' norms, if the EU is interested on autonomy of its law, it has to demonstrate for the international consideration, how it assumes the autonomy of its law to be in practice related to such its member states' international human rights and other UN agreements, which have their own mechanisms agreed for monitoring and implementation, which are autonomous from the EU.

Any due competence to determine what do the UN human rights obligations require in international economic cooperation must be as competence on international human rights independent from any regional commercial interests.

If a legal system claims an autonomy which is not based on such peoples' recognised right to self-determination of the legislative and executive powers and competences on law and governance, such autonomy is not democratic or legal.

The EU can save its international credibility on human rights only as far as it starts to respect human rights in global business activity compliant to the UN human rights obligations via member states' full human rights competence in international economic cooperation which EU member states have agreed with the world in the UN to ensure.(125)

As far as "there may be a conflict between a peremptory norm of general international law (jus cogens) and another rule of international law" - like if people get exposed to be deprived of their own means subsistence by such measures of European business in international economic cooperation which promote the regional commercial objectives of EU's common commercial policy competence -, the EU treaties are "as far as possible, to be interpreted and applied so as to be consistent with the" peremptory international norms. (126)

The peremptory norm of right to self-determination gives rise to "obligations owed to the international community as a whole (obligations erga omnes), in which all States have a legal interest" and "any State is entitled to invoke the responsibility of another State for a breach of" it. (127) "Even pursuant to its lawful negotiations and treaties with other States or foreign, non-national, private entities (i.e. foreign investors), a State may not foreclose its citizens from control of or access to the wealth and resources of a nation". (128)

People's self-determination and other "peremptory norms of general international law generate strong interpretative principles which will resolve all or most apparent conflicts". (129) Also the European Court of Justice ruled in case where the EU tried by a trade liberalisation agreement with Morocco to benefit commercially from the trade covering also Western Sahara, that people's right to self-determination has to be respected under the international law. (130)

EU Court of Justice ruled that EU did not duly respect the international law of such obligations on people's rights even though EU "repeatedly reiterated the need to comply with those principles" because still its commercial policy of trade liberalisation agreements in practice "intended to implement those agreements in a manner incompatible with the principles of self-determination" "Such implementation would necessarily be incompatible with the principle that Treaty obligations must be performed in good faith, which nevertheless constitutes a binding principle of general international law applicable to subjects of that law who are contracting parties to a treaty". (131)

8. EU discriminates against world's other peoples' human rights based on their ethnic cultures of economy and violates thus their rights when EUs commercial corporate policies act globally to gain such commercial control on world's natural wealth/resources, which deprives world's other peoples of their own means of subsistence

EU's commercial competences are structured to keep, build or gain commercial control on world's such natural wealth and resources which often belong to world's other peoples' own means of subsistence of which people shall be 'in no case' deprived. Trade and business by corporations form an oppressive culture of economy and discriminate against other, often more self-subsistent and sustainable forms of economy and economic exchange.

As far as world's peoples are deprived of their own means of subsistence by such measures of European heritage of world's commercial control which discriminate against those other peoples' rights to have their ethnic cultures of economy treated in culturally equal way in respect to the survival of their life-heritage, their own way of life as people who they are, that violates not only their self-determination but also their right to be protected from discrimination based on ethnic distinctions.

As all peoples' right to self-determination has been approved as a universal "norm from which no derogation is permitted" also in any international economic or other cooperation at least so that "in no case may a people be deprived of its own means of subsistence" and as all states "shall promote the realization of the right of self-determination, and shall respect that right" (132), therefore:

a) Also in case of peoples who do not have a state in their control this people's right "imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising their right to self-determination". (133)

These "obligations exist irrespective of whether a people entitled to self-determination depends on a State party to the Covenant or not" (134) so that all peoples without distinction "may, for their own ends, freely dispose of their natural wealth and resources" for equally securing their own means of subsistence. (135)

b) Also in case of people of any ethnic origin or life-heritage, the right to self-determination and other human rights shall be secured equally in respect to any ethnicity so that all people can exercise human rights "without discrimination of any kind as to race, [...] national or social origin, property, birth or other status" and "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination". (136)

States are obliged to "eliminating racial discrimination in all its forms" including "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin [...] impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms" also in respect to the economic public life." (137) This "protection from [...] racial discrimination" has also reached a status of basic or fundamental human right "as a norm of jus cogens" "from which no derogation is permitted". (138)

States shall thus prohibit the practices which impair the enjoyment of equal human rights of people through any distinction based on their ethnic life-heritage or characteristics including the impacts of "colonialism and all practices of [...] discrimination associated therewith". (139)

People who live under governance imposed on them by others in a way which has taken their area by which they live to be controlled for purposes of others and continues to transfer people's own sources of subsistence to serve economic purposes of others, such discriminatory colonial impacts in respect to ethnicity have to be eliminated. There prevails "persistent or structural disparities and de facto inequalities resulting from the circumstances of history that continue to deny to vulnerable groups and individuals" equal treatment of their legal rights. (140)

Also "global, regional and national initiatives to guarantee human rights protections in the extractivism economy must ensure that they account for the global structural racial inequality" "This means that corporate due diligence, State and corporate transparency and duties to consult and ensure prior, informed consent must all be evaluated against a

substantive benchmark of how well they promote self-determination, development and sovereign equality." "Powerful States [...] must commit to undoing the structures of subordination and inequality that persist. In addition, human rights actors within the global system and elsewhere must ensure that all of their work meaningfully confronts global structural racial inequality in the extractivism economy" and "the persisting structural and individualized racial discrimination in the operation of such an economy." (141)

African, American and Asian peoples were forced through centuries of colonisation and slavery to become citizens of states and nations whose borders and laws were drawn against their will to the lands where they lived - structuring their lives, identities, economies, laws and governance to serve the European purposes and powers of global trade, investment, commercial control and consumption, depriving peoples of their own means of subsistence. (142)

People's right to self-determination must be respected as equal to any ethnicity and "applicable to [...] all peoples who have not yet achieved independence" as "a legally enforceable right erga omnes" under the international law as its essential principle also in EU's international economic relations, as judged also the EU Court of Justice in 2016. (143)

While all peoples have equal rights to such democratic self-determination of laws and governance on lands and natural wealth by use of which they can live and secure their own means of subsistence and their human right, still in reality:

Majority of world's peoples live within states, borders, jurisdictions, cultures of economy or state governance founded often by force for such foreign economic interests which displaced and undermined peoples' own self-subsistent life-heritages and their rights to sustain and govern their own lives and economies compliant to their own life-heritages. States have to "be sensitive towards the rights of persons belonging to ethnic groups, particularly their right to lead lives of dignity, to preserve their culture" also in respect to how "all peoples have the right to determine freely [...] their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation". (144)

Deprived thus of their lands and of their life's self-determined ethnic integrity as peoples, in respect to their own life-heritages of the areas where they have lived, the majority of them have remained ethnic or cultural minorities in the states, whose borders, laws and governance have been imposed on them from outside."in former colonial territories, long-standing citizenship and nationality laws often discriminate against indigenous peoples or persons belonging to racial and ethnic minorities, in ways that reinforce ethno-nationalist conceptions of political membership. In some cases, racial or ethnic discrimination in access to citizenship or naturalization renders these groups stateless, preventing them from fully enjoying their human rights" (145)

As "all peoples may, for their own end" realise their "inherent right [...] to enjoy and utilize fully and freely their natural wealth and resources" at least so that "in no case may a people be deprived of its own means of subsistence", in case of any people who remain a minority in a state ruled by other peoples, states are also obliged to ensure that:

Where "ethnic [...] minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture" (146) which "may consist in a way of life which is closely associated with territory and use of its resources" like for example also in case of peoples who continue their life-heritage and are identified as indigenous peoples. (147)

This kind of "particular way of life associated with the use of land resources [...] may include such traditional activities" that are crucial for people's own subsistence or to sustain community's life and which States have to respect and may need to secure also by "positive legal measures of protection". (148) States shall thus not discriminate against different ethnicity by depriving them of the distinct life-heritages by which they hold, inherit and use the lands, waters and forests as adapted to living by their customary practices and forms of traditional occupation on their lands to sustain life as characteristic for them as their own means of subsistence.

Land's customary subsistence use by traditional occupation by which people sustain their life in accordance with their own life-heritage confers for them a right to such subsistence use of land for sustenance of their life. Peoples' diverse, often unique ways to sustain their life as distinctive for them and for the life of the land where they live, make their culture of economy collectively characteristic to their life and crucial to sustain their own life as people who they are.

Such people have a right "to engage in economic and social activities which are part of the culture of the community to which they belong" when such activity "is a form of subsistence and an ancestral tradition handed down from parent to child" and "economic development may not undermine the rights protected" or "have a substantive negative

impact" on "way of life and the economy of the community, forcing its members to abandon their land and their traditional economic activity" (149) Thus all types of peoples' own, ethnically distinct means of subsistence have to be secured as integral to the "economic content of the right of self-determination" which is crucial "for the effective guarantee and observance of individual human rights" (150) to "be exercised without discrimination of any kind as to race, [...] national or social origin, property, birth or other status." (151)

As European colonial powers started after the 2nd World War to lose their direct colonial control over the colonised states they had created, they started however to unite to build their common European commercial power to keep the structures of the global economy to serve European industry and consumption through the globalised European corporations - continuing the worldwide commercial flows for European interests as earlier.

So the EU has been set explicitly to secure in global economy the movement of goods, services, capitals and corporate workforce without restriction for EU's supply of raw materials and "expansion of consumption within the Union" etc. (152) And even where in some other respects, the EU's "rule is, on its face, consistent with the relevant peremptory norm of general international law (jus cogens)" still "its application in a particular way, would be contrary to the relevant peremptory norm." (153)

As peoples' right to self-determination of their "own means of subsistence" of which people shall in no case be deprived and the prohibition of racial discrimination are both such peremptory norms of international law from which no derogation is allowed, and as the protection and realisation of human rights is the primary responsibility of governments, how is it secured that the EU competences in areas like common commercial policy respect these rights? Those whose position and power are linked to the EU common commercial policy, assume that "the protection of human rights is just one element in monitoring responsible behaviour by companies and corporate accountability in a much broader context of complex global value chains, patterns of trade and global supply, and corporate governance" which needs to be managed for "guaranteeing the level playing field for European businesses in competitive global economy" and for "strengthening Europe's place in global value chains, which is an essential task in particular at times when Europe faces tough and often unfair competition from the likes of US, China etc. " (154)

So for such EU representatives, the EU's competitive position in the top of world's over-consumption is the priority under which the equality of universal human rights remains undermined or subordinated - even though in reality the wealth from the concerned global value chains is already in a very disproportionate manner serving such unsustainable over-consumption in the EU and other rich countries, which threatens the future of Earth's life. EU representatives tend to assume that "global trade openness and globalisation have had positive effects, lifting millions of people out of poverty and as such can contribute to the economic growth, prosperity and competitiveness of countries" and would "promote international cooperation on fighting unfair competition and protectionism in third countries." "preserving international competitiveness while guaranteeing high social and environmental standards is a prerequisite for a successful European strategy" but faces "the challenge of functioning successfully in a changing global economic setting" where it has to "increase its cooperation with the rising economies" (155)

In reality however the global impacts of such commercial powers like EU's competence in common commercial policy maintain continuous human rights violations globally and are highly discriminatory for vulnerable people's economic human rights to food, water, housing, work or in respect to their cultures of self-subsistent economies.

Through EU's commercial interests and powers and privileges which they provide for the TNCs, diverse peoples in the world have been deprived of their own means of subsistence and of their opportunity to self-determine their life on the basis of their own life-heritage. When world's lands, waters and forests are taken away from the sustainable self-subsistent (non-commercial) livelihoods - which do not show up in GDP - under the commercial control of the rich countries' corporations, that feeds GDP and polluting over-consumption, which pollutes much more per person as those self-subsistent livelihoods.

This type of **regional protectionism of the European commercial culture of economic exchange restricts in a deeply discriminatory manner the equal economic rights all other - less commercial - cultures of economic exchange** also regarding many ways how they have fulfilled economic human rights to people's self-determined access to adequate food and housing, work and other means of subsistence in much more sustainable and human rights efficient way than the prevalent globalised powers of European commercial heritage of trade. To respect human rights and sustainability, all forms of economic rights have to be treated equally compliant to that how sustainably they realise economic human rights and other human rights.

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States have peremptory obligations from which no derogation is allowed under the international law to "guarantee the right of everyone, without distinction as to [...] ethnic origin, to equality" also "in the enjoyment of the [...] right to own property", right to inherit (156) and "economic, social and cultural rights [...] to housing;" , "to work, to free choice of employment, to just and favourable conditions of work" and "to equal participation in cultural" practices (157)

Thus people's rights to their distinct ethnic forms of property, heritage, work, living or habitation must be respected, protected and treated in international economic cooperation in a way which respects their ethnic life-heritages of their own practices and cultures of life, economy and exchange equally as the the rights of globalised commercial activities are treated. As the UN "has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form [...] they exist" (158), also the forms how the globalised structures of commercial world economy were forced on many peoples by the colonial powers in ways which can discriminate against diverse ethnic life-heritages who got forced to serve the aims of the colonially build commercial world economy. (159)

"Property status, as a prohibited ground of discrimination [...] includes real property (e.g. land ownership or tenure) [...] or the lack of it". Human "rights, such as access to water [...] and protection from forced eviction, should not be made conditional on a person's land tenure status, such as living in an informal settlement" or "determined by, a person's current or former place of residence; e.g. whether an individual lives or is registered in an urban or a rural area, in a formal or an informal settlement, is internally displaced or leads a nomadic lifestyle.." (160)

Peoples' own cultures of economy which consist of peoples' distinctive self-determined ways "to enjoy and utilize fully and freely their natural wealth and resources" for their own ends of their life (161) have widely been and continue to be integral to peoples' "own means of subsistence" of which they shall not be deprived. Such traditional occupations which are characteristic to their ethnicity and by which they hold and use the lands as integral to their own means of subsistence, confer a right to such land as integral to people's own means of subsistence and shall thus not be discriminated in international economic cooperation .

People's rights to hold and inherit land and other property as theirs in accordance with their own ethnic life-heritage, have thus to be secured so that their customary forms of property and their cultures of economy are in a publicly demonstrable manner treated in culturally equal ways in relation to that how the rights of the activities of the globalised commercial culture of economy and ownership are now treated.

States have to ensure that people of minorities "will continue to benefit from their traditional economy" "so as not to endanger the very survival of the community and its members". (162) To ensure that measures taken in the name of 'development' will not "substantially compromise or interfere with the culturally significant economic activities of a minority or indigenous community" states have to "to ensure the effective participation of members of minority communities in decisions which affect them" "in relation to these measures" through "the free, prior and informed consent of the members of the community". (163)

States have to "adopt [...] effective measures, particularly in the fields of [...] culture and information, with a view to combating prejudices which lead to racial discrimination". (164) Identification of ethnic or descent based features of people, their life and how it relates to the land shall be taken into account primarily as based on their ethnic/other "self-identification" (165) under which people's life-heritage, their own ways and means to subsist, belong also to what constitutes for people their own ethnicity - in respect to which , the rights of all must be treated equally.

If people's ethnic origin or life-heritage are used as basis for "impairing equality of opportunity or treatment" of or "access [...] to particular occupation" this belongs to prohibited racial discrimination. (166) To secure equal rights for victims of discrimination, State "shall [...] in the social, economic, cultural and other fields" act by "special and concrete measures" "guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms." (167)

As occupations carry people's own means of subsistence, "no one 'should be excluded from exercising the occupation of their choice on discriminatory grounds" such as controlling all lands around the globe by forcibly globalised European heritage of commercial land titles. This links "equal treatment and protection of [...] traditional occupations to effective guarantees for their possession and ownership rights over traditional lands and resources." (168)

"The prohibition of discrimination and equal protection for [...] traditional occupations requires, inter alia, 'that measures are adopted to resolve the problem of land ownership', in accordance with the traditional ownership rights of these communities." (169) As far as people have been customarily self-employed for their subsistence to sustain

their life by their traditional occupations, States have also in this respect "to promote [...] equality of opportunity and treatment in respect of employment and occupation". (170) For people's "right to engage without discrimination in traditional occupations and livelihoods", "recognition of the ownership and possession of the lands they traditionally occupy and access to their communal lands and natural resources for traditional activities is essential". (171) States have for example "to allow indigenous peoples access, on equal footing with other [...] population... to resources which enable them to carry out their traditional and subsistence activities, particularly to land". People's right to "engage in their traditional occupations if they so choose" requires them to "have access without discrimination to" what is "necessary to carry out these occupations, including land and resources". (172)

Where indigenous peoples "have lost their land and resources to colonists, commercial companies and State enterprises [...] the preservation of their culture and their historical identity has been and still is jeopardized." State has to recognize and protect their rights "to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories." (173) "indigenous people view recognition, reparation and reconciliation as a means of addressing colonization and its longterm effects and of overcoming challenges with deep historical roots. In this regard, recognition of the right of indigenous peoples to self-determination (including free, prior and informed consent), their rights to autonomy and political participation, their claims to their lands and the recognition of indigenous juridical systems and customary laws should be considered an essential part of recognition, reparation and reconciliation." (174)

Under the international law of treaties, in the interpretation of treaties "any relevant rules of international law applicable in the relations between the parties" "shall be taken into account" (175) and "peremptory norms of general international law (jus cogens) are" also "applicable in relations primarily between States and international organizations and must [...] be taken into account in the interpretation of treaties" (176)

But "where it is not possible to arrive at an interpretation" of specific EU treaty/law/provision "that is consistent with the peremptory norm of general international law" like peoples' right to self-determination, such EU treaty/law/provision "is to be invalidated". (177) EU memberstates "have a legal obligation to [...] eliminate as far as possible the consequences of any act performed in reliance on any provision of the treaty which conflicts with a peremptory norm of general international law" and bring the EU acts "into conformity with the peremptory norm of general international law (jus cogens)." (178) As far as the EU provisions are in conflict with superior international legal obligations they need to be eliminated or separated away "from the remainder of the treaty with regard to their application" and so far other, non-conflicting provisions of the EU treaties could remain applicable. Otherwise "a treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law." (179)

In respect to the long history of violations, which still continues, States have to "adopt an approach to reparations that accounts for not only historical individual and group wrongs, but also the persisting structures of racial inequality, discrimination and subordination that have slavery and colonialism as their root causes. Reparations entail accountability, including the transformation and rehabilitation of those structures and relations fundamentally distorted by slavery and colonialism, and that sustain contemporary racial inequality, discrimination and subordination" and reparations for violations of socioeconomic rights as well as civil and political rights. (180)

"States should decolonize the very laws applicable to reparations for slavery and colonialism. In other words, States should reform existing laws where necessary to make them fit for the purposes of undoing the legacies of historical racial discrimination and injustice, including by looking to indigenous and other value and legal systems to inform the process. International lawyers and judges must play their parts to ensure the decolonization of the applicable legal doctrines." "States must place victims and survivors (including descendants [...]) of the historic and contemporary racial injustice associated with colonialism [...] at the centre of processes designed to achieve reparations. Reparations cannot be achieved unless those groups have a meaningful seat at the decision-making.." (181)

9. To stop violating human rights by its commercial policies on corporations the EU must correct its policies on corporations to become determined by international human rights obligations and by requirements of more democratic international order approved by the UN General Assembly compliant to the will of world's majority

The majority of world's countries have already for decades demanded these human rights violating structures of global economy to be corrected, but it has been the commercial competences of the EU, who has not approved to be bound by the international human rights obligations, together with the US and other rich countries which have prevented the structures of the global economy from being corrected to respect and realise human rights.

As "everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized" (182) and the states have to ensure this international order, their "responsibility for managing worldwide economic and social issues,[...] must be shared among the nations of the world and should be exercised multilaterally" (183) through the UN, therefore:

- "Everyone is entitled to a democratic and equitable international order" which "fosters the full realization of all human rights for all" through "the strengthening and enhancement of international cooperation to increase equality of opportunities" in world's economy. (184)

- Everyone has "the right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States" and on "equitable participation [...] without any discrimination, in [...] global decision-making;" to secure more "equitable access to benefits from the international distribution of wealth through enhanced international cooperation [...] in international economic, commercial and financial relations " (185)

As "all human rights are universal, indivisible, interdependent and interrelated and [...] the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis", the UN General Assembly is "deeply concerned that the current global economic, financial, energy and food crises, resulting from a combination of several [...] macroeconomic and other factors, [...] represent a global scenario that is threatening the adequate enjoyment of all human rights". (186)

It is the responsibility of the international community "to remove the current obstacles [...] to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world". Also powerful states actors' "extraterritorial application of their [...] legislation" contributes to violations of human rights. States have to act "urgently for the establishment of a new international economic order based on equity, sovereign equality, interdependence [...] and cooperation among all States" so as to "correct inequalities and redress existing injustices". (187)

"International cooperation in the field of human rights [...] should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms". (188) Regarding the "human rights violations and abuses by some transnational corporations and other business enterprises", states need "to ensure that appropriate protection, justice and remedies are provided to the victims" and that business "must contribute to the means of implementation for the realization of the right to development". (189)

"A democratic and equitable international order, as prescribed in the Charter of the United Nations, cannot be achieved only through the deregulation of trade, markets and financial services". States have to secure "the right of peoples and nations to permanent sovereignty over their natural wealth and resources", "equality of opportunity for all, to the enjoyment of their human rights, including the right to development", "to equal participation without discrimination in economic, social, cultural, civil and political life". (190)

States have to take into account "that democracy is not only a political concept, but that it also has economic and social dimensions" and "respect for cultural diversity and the cultural rights of all, since this [...] advances the application and enjoyment of universally accepted human rights across the world. (191)

The EU opposes the realisation of human rights in these respects. While human rights belong to people and respective obligations to the states, the mutual relations between the states in fulfilling their obligations are required to be equitable and to build such equitable international order that:

- All states have to act in equitable way "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" and also "international co-operation in solving international problems of an economic [...] character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction". (192)

- "All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice" (193) which is authorised to solve legal questions so that it can apply international conventions, customary law, "the general principles of law recognized by civilized nations" or "decide a case ex aequo et bono, if the parties agree thereto". (194)

- "Geographically disadvantaged States shall have the right to participate, on an equitable basis" to utilise under

certain conditions the living resources of the sea - with an access ICJ "in order to achieve an equitable solution" for example under the UN Convention of the Law of the Sea. (195)

- "Non-permanent members of the Security Council" have to be selected according "to equitable geographical distribution". (196)

- In election of the UN Human Rights Committee, UN Committee on Elimination of Racial Discrimination (CERD) and other UN treaty bodies, "consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems". (197)

- "Equitable, impartial and independent administration of justice" is needed - equitable also in respect to different civilisations - for realisation of the "right to equality before the courts and the right to a fair and public hearing by an independent court". (198)

The UN Secretary-General and the UN General Assembly are now however expressing concern "about the regional imbalance in the current composition of the membership of the human rights treaty bodies in favour in particular of representatives of members from Western European and other States". (199)

- States need also in respect to legislators and governance "to achieve equitable representation" of different ethnic and cultural origins (200) to secure "that any future legislation is fully compatible with the principle of equality and nondiscrimination" so that no ethnicity is "underrepresented" "in the civil service, in particular in decision-making positions in legislative and executive bodies" in order. (201)

- States need to secure "the rights of persons belonging to ethnic groups, particularly their right to lead lives of dignity, to preserve their culture, to share equitably in the fruits of" economy and of their representation "in the Government of the country [...] vesting persons belonging to ethnic or linguistic groups [...] with the right to engage in activities which are particularly relevant to the preservation of the identity of such persons or groups." (202)

- States need to ensure FPIC and "equitable sharing of benefits to be derived from" "the exploitation of the subsoil resources of the traditional lands of indigenous communities ." (203)

- Any obligations of international economic co-operation must be in such equitable way "based upon the principle of mutual benefit" that all peoples remain free to practise "for their own ends" their "inherent right [...] to enjoy and utilize fully and freely their natural wealth and resources" at least so that: "In no case may a people be deprived of its own means of subsistence" (204)

- By such means people can realise their human rights and also in any international economic co-operation each state must remain competent to act "to the maximum of its available resources" for "achieving progressively the full realization" of economic, social and cultural rights "by all appropriate means, including particularly the adoption of legislative measures." (205)

International order which realises human rights obligations through peoples' this kind of mutually beneficial relations is equitable between the states - as proportional to the means and resources available for them - and realises in the required equitable way also the following human rights obligations on how "everyone is entitled to a social and international order in which the rights and freedoms set forth" in the UDHR "can be fully realized" (206) so that:

a) States, "recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures [...] which are needed [...] to ensure an equitable distribution of world food supplies in relation to need" (207) as "hunger constitutes [...] a violation of human dignity and therefore requires the adoption of urgent measures [...] for its elimination" and also in international cooperation "the primary responsibility of States is to promote and protect the right to food" and right of "everyone to be free from hunger" (208) like the UN General Assembly reminds.

b) "States and private actors, as well as international organizations" have "to take fully into account the need to promote the effective realization of the right to food for all", to secure "access to land, water" and natural resources and "to avoid any negative impact on the enjoyment of the right to food for all people at all times". (209) so that states have to:

- be "ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water" including "adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples". (210) Also the United Nations Convention on the Law of Non-Navigational Uses of Watercourses requires compliant to its Statement of Understanding "providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation". (211)

- be obliged "to ensure equitable distribution of all available water facilities and services" and "to prevent third parties from interfering [...]with the enjoyment of the right to water", "from denying equal access to adequate water; and polluting and inequitably extracting from water resources." (212)

- "prevent the contamination and inequitable extraction of water" and "reduce the inequitable distribution of water facilities and services" as otherwise "violations [...] follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to water by third parties" (213)

Under their obligations on the right to health, States need also "to ensure equitable distribution of all health facilities, goods and services" and "violations of the obligation to fulfil occur through [...] the failure to take measures to reduce the inequitable distribution of health facilities, goods and services". (214)

States have also international obligations "to facilitate access to plant genetic resources for food and agriculture, and to share, in a fair and equitable way, the benefits arising from the utilization of these resources, on a complementary and mutually reinforcing basis" (215) and similar obligations on ensuring "fair and equitable benefit sharing arising from the utilization" of wild biodiversity also for the indigenous and local communities. (216)

As the EU tends to claim that the concept of equitable treatment - like fair and equitable sharing of benefits - would be too unclear, it is however in any case at least as clear as "the similarly worded notion of fair and equitable treatment in international investment law, for which the meaning of 'fair and equitable' was [...] not clarified in the relevant treaties." (217)

While the EU wants to give to the investors extremely strong and global rights to "fair and equitable treatment" without saying the concept being unclear, at the same time it rejects as unclear decade after decade the demands of the majority of world's peoples to become recognised "fair and equitable treatment" correspondingly for their human rights. Also in terms of investments however, the "International adjudication has instead fleshed out fair and equitable treatment by relying on international human rights law notions such as procedural fairness, non-discrimination, and proportionality" (218) - which are continuously used also in the EU law and its treaties - which also use for example the concept of people being entitled to regionally "equitable representation" (219) similarly as the corresponding UN commitments speak about world's people's rights to 'equitable international order', which the EU wants to reject as unclear.

Notes and references

1. CESCR, General comment No. 24 (2017) E/C.12/GC/24, on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, , paragraphs 15, 23-24 and 50
2. CESCR Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights, E/C.12/2011/1, paragraph 4
3. ICESCR articles 2.1 and 4 and E/C.12/GC/24, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraphs 12 and 23, and General comment No. 3: The nature of States parties' obligations, paragraphs 9-11, see also E/C.12/2007/1, An evaluation of the obligation to take steps to the "maximum of available resources" under an optional protocol to the covenant, paragraphs 6-11
4. Letter of INTA chair Bernt Lange to the DROI
5. UNGP, principles 4, 15 and 17
6. European Parliament resolution of 25 October 2018 on harnessing globalisation: trade aspects (2018/2005(INI))
7. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, Chapter IV, section 2.4 Regulatory gap between existing legal framework and Member States' obligations, pages 222-223
8. *ibid.* , page 225
9. General comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraphs 30-31
10. General comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraphs 33, and Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, pages 224-225

11. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, page 225
12. *ibid*, page 222 and more widely Chapter IV. Problem analysis and options for regulatory intervention, sections 2.1-2.7
13. *ibid*, page 259
14. *ibid*. pages 251, 265-266 and 268
15. *ibid*. pages 251 and 265-266
16. TEU article 5.2
17. UN Charter, articles 1(3) and 55
18. UN Charter, articles 56 and 62
19. UN Charter, articles 2.2 and 2.5
20. UN Charter, article 103

21. Thus, in order "to maintain international peace and security" by resolutions of the UN Security Council which "shall act in accordance with the Purposes and Principles of the" UN, including also "respect for human rights and for fundamental freedoms for all" (UN Charter articles 1 and 24.2 and 25), all these obligations under the UN Charter "shall prevail" as a whole becoming duly implemented and secured by states - also as required via the UN Economic and Social Council resolutions on "conventions for submission to the General Assembly" for its approval so that the states "shall give the United Nations every assistance" for "the realization of human rights and fundamental freedoms for all" (UN Charter, article 1.3 and 2.5, 13.1b, 55-56, 62.2-62.3 and 68)

To implement these their human rights obligations under the UN Charter, states adopted in 1948 in the UN a resolution determining that their respective human rights competence has to "give priority in its work to preparation of [...] Covenant on Human Rights" and implementation and proclaiming Universal Declaration of Human Rights (UDHR). (UN General Assembly resolution 217 (III) on International Bill of Human Rights, A and F)

Under the UDHR, which has become a part of the the customary international law:

Everyone is "entitled to realization,[...] of the economic, social and cultural rights" also in international co-operation and "to a social and international order in which the rights [...] can be fully realized" without other limitations than what is "determined by law solely for the purpose of securing due recognition and respect for" human rights of others equally for common benefit. (UDHR articles 22, 28 and 29.2.)

22. Treaty on Functioning of the European Union (TFEU), article 351
23. Vienna Convention on the Law of Treaties, article 30, paragraphs 1 and 4
24. UN Charter, articles 1(3) and 55
25. TFEU, article 351
26. As prior to their EU accession the states had competences to act in international economic cooperation only in ways which respect, protect and fulfil human rights, they can have legally conferred their competences of international economic cooperation to the EU thus only in ways which guarantee that their competence to fulfil their UN human rights obligations is not affected by any treaties, laws or measures that they have adopted or allowed due to the EU.
27. UN Charter, articles
28. UN Charter, articles
29. ICCPR and ICESCR, article 1.2
30. ICCPR and ICESCR, article 1.2
31. ICCPR 1.2 and 47, CCPR, General comment 12, paragraphs 1 and 5 and ICESCR 1.2 and 25
32. ICCPR 1.2 and CCPR, General comment 12, paragraphs 1, 2 and 5. This is the case also when the enjoyment of "subsistence is an essential part of the enjoyment of all other rights" (Henry Shue 1980, Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy, second edition 1996, page 27)

33. UN Charter article 103
34. ICESCR, article 1.2.
35. ICCPR, article 1.2 and Vienna Convention on the Law of Treaties, article 53 and International Law Commission (ILC), Peremptory norms of general international law (*jus cogens*), draft conclusions 2, 3 and 7.2 and annex on peremptory norms, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 56, <https://legal.un.org/docs/?path=../ilc/reports/2019/english/chp5.pdf&lang=EFSRAC>

Also the UN Security Council has recognized "the inalienable right of the people [...] to self-determination" and called upon all States to respect that right. (A/CN.4/727, Fourth report on peremptory norms of general international law (*jus cogens*) by Dire Tladi, Special Rapporteur paragraph 111)

36. International Law Commission (ILC), Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, article 40 and its commentary paragraph 5, in the Report of the International Law Commission on the work of its fifty-third session, page 113
37. ICESCR, article 1.2
38. TFEU article 351
39. EU has approved for example commercial laws and WTO to authorise countermeasures against the restrictions of the movement of goods in markets, even though under the international law "countermeasures shall not affect [...] obligations for the protection of fundamental human rights" such as the obligation that "in no case may a people be deprived of its own means of subsistence" or "other obligations under peremptory norms of general international law".

"a bilateral or multilateral treaty might renounce the possibility of countermeasures being taken for its breach, or in relation to its subject matter. This is the case, for example, with the European Union treaties, which have their own system of enforcement. Under the dispute settlement system of WTO, the prior authorization of the Dispute Settlement Body is required before a member can suspend concessions or other obligations under the WTO agreements in response to a failure of another member to comply with recommendations and rulings of a WTO panel or the Appellate Body". (International Law Commission (ILC), Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 50.1 (d) and its commentary paragraph 10, in the Report of the International Law Commission on the work of its fifty-third session, pages 132-133)

40. ICESCR, article 1.2 and International Law Commission (ILC), Peremptory norms of general international law (jus cogens), draft conclusions 2, 3 and 7.2 and annex on peremptory norms, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 56

41. Adam McBeth 2009, International Economic Actors and Human Rights, page 38

42. International Law Commission (ILC), Peremptory norms of general international law (jus cogens), draft conclusion 20, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraphs 56 and 57, <https://legal.un.org/docs/?path=../ilc/reports/2019/english/chp5.pdf&lang=EFSRAC>

43. UDHR preamble, articles 22 and 28

44. ICESCR, article 2.1

45. Vienna Declaration of the World Conference on Human Rights on 1993, paragraphs 1 and 4

46. A/RES/53/144, UN General Assembly "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", article 2.1

47. A/RES/53/144, UN General Assembly "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", article 18.3

48. A/RES/53/144, UN General Assembly "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", articles 10-11

49. E/1999/22, chap. VI, para. 515, Globalization and its impact on the enjoyment of economic, social and cultural rights, paragraphs 4-5 and E/2000/22, pages 128-129, Statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, paragraph 2

50. E/1999/22, chap. VI, para. 515, Globalization and its impact on the enjoyment of economic, social and cultural rights, paragraphs 4-5

51. E/C.12/2011/1, Committee on Economic, Social and Cultural Rights Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights, paragraphs 3 and 6

52. E/C.12/GC/24, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraphs 23-24

53. ICESCR, article 4 and UDHR 29.2

54. E/CN.4/Sub.2/2003/9, Human rights, trade and investment, Report of the High Commissioner for Human Rights, 2 July 2003, paragraphs 24 and 37

55. E/2000/22, Statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, pages 128-129, paragraphs 5-6 and 8

56. E/2000/22, Statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, pages 128-129, paragraphs 5-6 and 8

57. European Court of Justice, Kadi case, ECLI:EU:C:2008:46, paragraph 301 and current EU common commercial policy articles are TFEU articles 206-207

58. TFEU article 351 and OHCHR publication "The EU and International Human Rights Law, pages 8 and 31,

https://europe.ohchr.org/Documents/Publications/EU_and_International_Law.pdf

59. OHCHR publication "The EU and International Human Rights Law, page 31

60. Like for example in respect to the ILO agreement like in Levy case.

61. Vienna Convention on the Law of Treaties, article 34

62. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, section IV. Problem analysis and options for regulatory intervention, 2.1-2.7

63. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, IV. Problem analysis and options for regulatory intervention, section 3.1, page 231, referring to TFEU, articles 50(1) and 50 (2)g) and 114)

64. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, page IV. Problem analysis and options for regulatory intervention, section 3.1, page 231 and TFEU articles 49 and 50.1

65. TFEU article 50.2 (g)

66. TFEU articles 50.2 (a) and (h)

67. TFEU articles 50.2 (c) and (f)

68. TFEU articles 26, 114.1 and 114.3

69. TFEU articles 36, 114.4 and 114.6 and 114.10

70. TFEU articles 36 and 114.4

71. ICESCR articles 2.1 and 4 and E/C.12/GC/24, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraphs 12 and 23, and General comment No. 3: The nature of States parties' obligations, paragraphs 9-11, see also E/C.12/2007/1, An evaluation of the obligation to take steps to the "maximum of available resources" under an optional protocol to the covenant, paragraphs 6-11

72. TFEU article 50.2 a

73. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, page 251, 265-266 and 268
74. CESCR, E/C.12/2011/1 , Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights, paragraphs 4-5 and 50
75. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report,, page 251
76. *ibid*, pages 250 and 261
77. *ibid.*, page 277
78. E/2001/22, ANNEX VIII, Statement of the Committee on Economic, Social and Cultural Rights to the Convention to draft a Charter of Fundamental Rights of the European Union, paragraphs 4, pages 169-170
79. E/2001/22, ANNEX VIII, Statement of the Committee on Economic, Social and Cultural Rights to the Convention to draft a Charter of Fundamental Rights of the European Union, paragraphs 3 and 5, pages 169-170
80. Study on due diligence requirements through the supply chain, produced for the EU Commission 2020 under the DG Justice, Final report, page 277
81. EU Charter of Fundamental Rights, article 52
82. EU Charter of Fundamental Rights, article 53
83. E/C.12/GC/24, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and
84. <https://www.europarl.europa.eu/committees/en/droi/home.html>

85. <https://www.europarl.europa.eu/factsheets/en/sheet/165/human-rights>

As "its delegations regularly visit relevant countries" and "human rights are an essential element of meetings with non-EU parliaments", responsible for human rights legislation around the world, this is crucial for being adequately aware about the human rights legislations around the world . (74) "Members from other committees and bodies with responsibilities in this field shall be invited to attend the meetings of the subcommittee." (http://www.europarl.europa.eu/doceo/document/lastrules/RESP-AFET_EN.html?redirect)

While the main task of the Committee on International Trade is to contribute to building "financial, economic and trade relations with third countries and regional organisations" through legislating, implementing and monitoring these to be conducted compliant to the focus and main purposes of the common commercial policy and EU's other economic and financial purposes and competences. INTA focuses on what happens in EU's activities in respect to third countries as conducted primarily in terms of the impacts on EU's trade, investment and financial business whereas human rights of people in the EU and in third countries have tended to remain addressed according to what serves the concerned commercial policies' overall objectives. (https://www.europarl.europa.eu/doceo/document/lastrules/RESP-INTA_EN.html)

As far as "INTA leads the debate about the future shape of international trade and stands up for a rules-based trading order" it has to ensure that international UN obligations on protect and fulfil human rights shall become fully respected in all ways how it contributes to "the definition of the Union's trade policy" if the committee claims that the committee in respect to EU commercial policy "acts as its democratic conscience", "shaping an EU trade policy that has fair trade, sustainability and the regulation of global value chains at its heart." (<https://www.europarl.europa.eu/committees/en/inta/home.html>) This is far from the reality.

86. ICCPR article 1.1
87. General comment No. 12: Article 1 (Right to self-determination)) paragraph 1
88. ICCPR article 25. b
89. General Comment No. 25 CCPR/C/21/Rev.1/Add.7, paragraphs 6-7
90. General Comment No. 25 CCPR/C/21/Rev.1/Add.7 paragraph 9
91. General comment No. 12: Article 1 (Right to self-determination)) paragraph 4
92. CCPR, General comment 12, paragraphs 1 and 5
93. General Comment No. 25 CCPR/C/21/Rev.1/Add.7, paragraph 7
94. General Comment No. 25 CCPR/C/21/Rev.1/Add.7, paragraphs 1,2,6 and 21
95. TEU article 2
96. EU Charter of Fundamental Rights, preface
97. TEU articles 3.6 and 6.1
98. EU Charter of Fundamental Rights preamble and article 55
99. EU Charter of Fundamental Rights, preface
100. TEU, article 6.1
101. TEU, article 5.2
102. TFEU articles 28-29, 32, 49-50, 56 and 63
103. TFEU, articles 1-3 and TEU articles 3(6), 5 and 6(1)
104. TEU, articles 1 and 10
105. TEU articles 11 and 14
106. EU Charter of Fundamental Rights, articles 51 and 52.5
107. EU Charter of Fundamental Rights, article 53
108. TEU article 6.1
109. EU Charter of Fundamental Rights, article 53
110. TFEU articles 351
111. TEU, article 5.2
112. TEU, article 3.5

113. TEU, article 21.1
114. TEU, article 21.2 (b) and (h)
115. TEU, article 21.3.
116. TFEU articles 205 and 207.1
117. The Chair of the European Parliament's Committee on International Trade, 17.12.2019 Reply to AFET/DROI request for authorization to draw up an own-initiative report pursuant to Rule 54 of the Rules of Procedure on human rights due diligence legislation
118. <https://www.europarl.europa.eu/committees/en/droi/home.html>
119. TEU articles 1-2 and 10.1
120. European Court of Justice, Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities, (Kadi case), Joined cases C-402/05 P and C-415/05 P, ECLI:EU:C:2008:46, paragraph 296
121. European Court of Justice, Kadi case, ECLI:EU:C:2008:46, paragraph 294
122. TFEU, article 351
123. European Court of Justice, Kadi case, ECLI:EU:C:2008:46, paragraph 4
124. This how states' UN human rights obligations determined and shaped the limits and contents of states' competence in international economic cooperation already at the time of their EU accession, determined and shaped thus also limits, scope and contents of the competences which these states had in their possession as available for conferral to the EU. As the competences which the states had in their possession to confer to the EU in respect to international economic cooperation, were thus determined and delimited already in their EU accession by states' UN human rights obligations in respect to 3rd parties, those competences were thus determined and delimited also in being conferred to the EU.
125. On obligations under the UN Charter and on their implementation via UN treaties on human rights as universally equal rights of people in regard to subsistence and self-determination to sustain democracy, states have committed to use law and resources also in terms of international economic cooperation primarily to secure such people's rights.
126. International Law Commission (ILC), Peremptory norms of general international law (jus cogens), draft conclusion 20, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraphs 56 and 57, <https://legal.un.org/docs/?path=../ilc/reports/2019/english/chp5.pdf&lang=EFSSAC>
127. International Law Commission (ILC), Peremptory norms of general international law (jus cogens), draft conclusion 17.1-17.2 and annex, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 56, <https://legal.un.org/docs/?path=../ilc/reports/2019/english/chp5.pdf&lang=EFSSAC>
128. Pedro J. Martinez-Fraga, C. Ryan Reetz, 2015, Public Purpose in International Law, page 304
129. International Law Commission (ILC), Peremptory norms of general international law (jus cogens), draft conclusion 5, in A/74/10, ILC Report on the work of the seventy-first session (2019), see also and paragraph (3) of the commentary to article 26 of the articles on responsibility of States for internationally wrongful acts.
130. Court of Justice of the European Union (Grand Chamber), Case C-104/16 P, ECLI:EU:C:2016:973 JUDGMENT OF THE COURT (Grand Chamber) 21 December 2016, paragraphs 88-89 and 105
131. Court of Justice of the European Union (Grand Chamber), Case C-104/16 P, ECLI:EU:C:2016:973 JUDGMENT OF THE COURT (Grand Chamber) 21 December 2016, paragraphs 123-124
132. ICCPR articles 1 and 47, ICESCR articles 1 and 25
133. CCPR, General comment 12, paragraph 6
134. CCPR, General comment 12, paragraph 6
135. ICESCR article 1.2
136. ICCPR 2.1 and 26
137. ICERD articles 1.1 and 2.1
138. A/CN.4/727, Fourth report on peremptory norms of general international law (jus cogens) by Dire Tladi, Special Rapporteur paragraphs 92-93 and 100
139. ICERD preface and articles 1.1 and 2.1
140. CERD/C/GC/32, General recommendation No. 32 The meaning and scope of special measures, paragraph 24
141. A/HRC/41/54, Global extractivism and racial equality, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, paragraphs 65-67
142. The colonized states and economies established by the European powers in Africa, America and Asia, displaced peoples' own life-heritages and their self-determined economies by colonisation's foreign laws and powers to serve such global commercial economy which was build and structured for European colonial purposes. Even when colonised states got officially independent, transferring local management of such structures into hands of Africans, Americans and Asians, still their countries' economies, legislation and executive powers remain structured to serve the globalised purposes and overconsumption of the global North and small rich elites of the global South.
143. Court of Justice of the European Union (Grand Chamber), Case C-104/16 P, ECLI:EU:C:2016:973 JUDGMENT OF THE COURT (Grand Chamber) 21 December 2016, paragraph 88
144. CERD, General recommendation XXI on the right to self-determination, paragraphs 4-5
145. A/HRC/38/52, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, paragraph 49
146. ICCPR article 27

147. CCPR/C/21/Rev.1/Add.5, paragraph 3.2
148. CCPR/C/21/Rev.1/Add.5, paragraph 7
149. CCPR/C/95/D/1457/2006, Angela Poma Poma vs. Peru, paragraphs 7.3-7.5
150. Article 1.2 of the ICCPR and ICESCR and CCPR, General comment 12, paragraphs 1, 2 and 5
151. ICESCR, article 2.2 and ICCPR article 2.1
152. TEFU articles 28-29, 32, 49-50, 56 and 63
153. International Law Commission (ILC), Peremptory norms of general international law (jus cogens) , draft conclusion 20 and commentary on draft conclusion 20, paragraph 3, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraphs 56-57
154. The Chair of the European Parliament's Committee on International Trade, 17.12.2019 Reply to AFET/DROI request for authorization to draw up an own-initiative report pursuant to Rule 54 of the Rules of Procedure on human rights due diligence legislation
155. European Parliament resolution of 25 October 2018 on harnessing globalisation: trade aspects (2018/2005(INI))
156. ICERD article 5 d (vi) and (v)
157. ICERD article 5 e (i), (iii) and (vi)
158. ICERD preamble
159. State shall not discriminate against different ethnic peoples' own distinct subsistence heritages, their forms of property or how they hold, inherit and use by their customary occupations the lands, waters and forests to sustain life characteristic for them as their own means of subsistence. The ways how the areas where peoples have lived by using the lands as a part of their own means of subsistence through their traditional occupations on those lands, confers thus rights for people to the lands as used by their traditional occupation as their own means of subsistence.

160. CESCR, E/C.12/GC/20, General Comment 20 on "Non-discrimination in economic, social and cultural rights", paragraphs 25 and 34
161. ICESCR article 25
162. CCPR/C/95/D/1457/2006, Angela Poma Poma vs. Peru 7.6- 7.7
163. CCPR/C/95/D/1457/2006, Angela Poma Poma vs. Peru 7.2 and 7.6
164. ICERD article 7
165. CERD, General recommendation VIII concerning the interpretation and application of article 1 (1990)
166. ILO 111, articles 1.1 (a) and 1.3
167. ICERD article 2.2
168. CEACR, Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Uganda, 2014/2015
169. CEACR, Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), El Salvador 2008/2009. See also CEACR, Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Cambodia, 2013/2014
170. ILO Convention 111 - Discrimination (Employment and Occupation) Convention, 1958, articles 1.1 (a), 1.3 and 2
171. CEACR, 'Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Ethiopia', Report of the Committee of Experts on the Application of Conventions and Recommendations, ILC.107/III(A), (Geneva: International Labour Office, 2018), 363; CEACR, 'Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Australia', Report of the Committee of Experts on the Application of Conventions and Recommendations, ILC.107/III(A), (Geneva: International Labour Office, 2018), 340
172. CEACR, Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Democratic Republic of Congo 2013/2014
173. CERD, General recommendation XXIII on the rights of indigenous peoples, paragraphs 3 and 5
174. A/HRC/EMRIP/2019/3, para.73
175. Vienna Convention on the Law of Treaties article 31, paragraph 3(c)
176. International Law Commission (ILC), Peremptory norms of general international law (jus cogens) , commentary on draft conclusion 20, paragraph 4, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 57
177. International Law Commission (ILC), Peremptory norms of general international law (jus cogens) , commentary on draft conclusion 20, paragraph 6, and annex, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 57
178. International Law Commission (ILC), Peremptory norms of general international law (jus cogens) , draft conclusion 12.1 (a)-(b), in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraph 56
179. Vienna Convention on the Law of Treaties, article 53 and International Law Commission (ILC), Peremptory norms of general international law (jus cogens) , draft conclusions 10.1 and 11.2, in A/74/10, ILC Report on the work of the seventy-first session (2019), paragraphs 56
180. A/74/321, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance regarding the human rights obligations of Member States in relation to reparations for racial discrimination rooted in slavery and colonialism, paragraph 57
181. A/74/321, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance regarding the human rights obligations of Member States in relation to reparations for racial discrimination rooted in slavery and colonialism, paragraph 58-59
182. UDHR article 28 and A/C.3/74/L.38 Promotion of a democratic and equitable international order, preface
183. A/C.3/74/L.38 Promotion of a democratic and equitable international order, preface (<https://undocs.org/A/C.3/74/L.38>)
184. A/C.3/74/L.38 Promotion of a democratic and equitable international order , preface and paragraphs 1, 2 and 4
185. A/C.3/74/L.38 Promotion of a democratic and equitable international order , preface and paragraphs 6 e, 6 h & 6 m

186. A/C.3/74/L.38 Promotion of a democratic and equitable international order , preface and paragraph 8
187. A/C.3/74/L.38 Promotion of a democratic and equitable international order , preface and paragraphs 13-14
188. A/C.3/74/L.41 Enhancement of international cooperation in the field of human rights, paragraph 7
189. A/C.3/74/L.40/Rev.1 The right to development, paragraph 21
190. A/C.3/74/L.38 Promotion of a democratic and equitable international order , preface and paragraphs 6 b and 16
191. A/C.3/74/L.38 Promotion of a democratic and equitable international order, paragraph 6 k
192. A/C.3/74/L.38 Promotion of a democratic and equitable international order paragraphs 1.2-1.4
193. UN Charter Articles 93 and 96
194. Statute of the International Court of Justice, article 38.1-2
195. UNCLOS, articles 70.1, 74.1 and 83.1
196. UN Charter article 23.1
197. ICCPR, article 31.2 and ICERD article 8.1
198. CCPR GENERAL COMMENT 13 Equality before the courts and the right to a fair and public hearing by an independent court established by law, paragraph 4 and CCPR/C/GC/32 , General Comment No. 32 article 14: Right to equality before courts and tribunals and to a fair trial paragraph 22
199. UN General assembly A/RES/74/155, 'Promotion of equitable geographical distribution in the membership of the human rights treaty bodies' and A/74/227 Report of the Secretary-General on the same issue, paragraph 25
200. CCPR/C/JPN/CO/5 , paragraph 12
201. CCPR/C/ISR/CO/4 Human Rights Committee's concluding observations on fourth periodic report of Israel, 7-8
202. CERD General recommendation XXI on the right to self-determination, paragraph 5
203. CERD/C/62/CO/2, paragraph 16
204. ICESCR, articles 1.2 and 25
205. ICESCR, article 2.1
206. UDHR article 28 and A/C.3/74/L.38 Promotion of a democratic and equitable international order, preface
207. ICESCR, article 11.2 (b)
208. A/C.3/74/L.37/Rev.1 The right to food, paragraphs 1, 10 and 13
209. A/C.3/74/L.37/Rev.1 The right to food, paragraphs 17 and 23-24
210. E/C.12/2002/11, General Comment No. 15 (2002), The right to water paragraph 7
211. United Nations Convention on the Law of Non-Navigational Uses of Watercourses articles 5, 7 and 10 and its Statement of Understanding A/51/869 of 11 April 1997
212. E/C.12/2002/11, General Comment No. 15 (2002), The right to water paragraphs 23 and 37 e
213. E/C.12/2002/11, General Comment No. 15 (2002), The right to water paragraphs 43 b (i) and (iv)
214. E/CN.4/2000/4, General Comment No. 14, The right to the highest attainable standard of health, 43 (e) and 52
215. International Treaty on Plant Genetic Resources for Food and Agriculture, articles 1.1 and 10.2
216. CBD articles 1, 8 j, 15.7, 19.2 and Nagoya Protocol, articles 1, 5, 8 and 12
217. <https://academic.oup.com/ejil/article/27/2/353/1748393> (Elisa Morgera The Need for an International Legal Concept of Fair and Equitable Benefit Sharing, in European Journal of International Law, Volume 27, Issue 2, May 2016, Pages 353–383
218. <https://academic.oup.com/ejil/article/27/2/353/1748393> (Elisa Morgera The Need for an International Legal Concept of Fair and Equitable Benefit Sharing, in European Journal of International Law, Volume 27, Issue 2, May 2016, Pages 353–383
219. TEU, PROTOCOL (No 5) On the Statute of the European investment bank, article 11.7