

TRADING AND HUMAN RIGHTS IN NON- SELF-GOVERNING TERRITORIES

ESIL IG “EU AS A GLOBAL ACTOR” EU TRADE AGREEMENTS AND THE DUTY
TO RESPECT HUMAN RIGHTS ABROAD

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Legal framework affecting Non-Self-Governing Territories

EU

- 3, 21...TEU
- Human Rights, values and principles (clauses, Strategic Framework and Action Plan, Guidelines...)
- CJEU case law

IL

- UNGAR 1514, 1514, 1803, 2625...
- IHL
- Human Rights conventions
- International Criminal Law
- ICJ case law

Western Sahara and the Prolific EU-Morocco Bilateral Relations

- Can Western Sahara cases affect EU policies developed in other occupied territories?
- The agreement and its territorial scope
- EU is contravening its own principles and previous practice
- The need to ensure consistency and effectiveness in its external relations
- *Polisario Front* as a National Liberation Movement

Palestine and the Products of Occupied Territories

- Advisory Opinion ICJ
- But... Economic relations with Israel are still strong: Association Agreement
- Nevertheless: EU has imposed defined limits
- Interpretative note
- CJEU Cases c-38/08 and 363/18

Crimea as an Example of EU Consistent Practice

- Strong limits (restrictive measures): Restrictions on exporting products, sanctions, embargos, freezing of assets, prohibition of travel...

EU Kosovo-Serbia Constructive Dialogue

- EU as a conditional mediator
- Positive effects on the EU constructive neutrality

Gibraltar in the Margins (of Brexit)

- Non-Self-Governing Territory INSIDE the EU (by now)
- Disputed sovereignty non affecting the relation with EU neither in positive or negative manner

Conclusion

- EU has positioned as a global leader → Crimea and Kosovo practice
- Gibraltar is at standstill (Brexit and the historical conflict)
- Crimea, Palestine and Western Sahara: EU total respect of the duty of non-recognition. Different levels on the question of trading and human rights:
 1. **Crimea**: strongest level of respect for the obligation of non contributing to the occupation
 2. **Palestine**: in the middle
 3. **Western Sahara**: lowest level of protection. Why?

Thank you!

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