

# HUMAN RIGHTS AND BUSINESS IN A GLOBALISED WORLD

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## **Abstract**

*Globalisation generated the multinational corporations. As the movement for the protection of human rights intensified, it reached the activities of the large corporations which quite often disregard the human rights. In this context, the responsibilities of the states are no longer limited to positive or negative obligations in their relations with the citizens, but they include efforts for protecting human rights in relationships between private individuals.*

*The paper presents some of the infringements that are associated with business activities and the solutions promoted by international organisms. International documents promoting principles and proposing measures in the area of soft law, European solutions and national legislation are presented.*

*The article also looks into new rights in the field of human rights shaped by the progress of information and technology in business such as the right to be forgotten by the internet, the right to the protection of personal data and rights associated to the copy-right.*

**Keywords:** *human rights; business; international documents; jurisdiction*

**JEL Classification:** [K 2, K 38]

## **1. Introduction**

Business activities are commercial, industrial or financial activities performed in order to obtain a profit. The purpose of these activities makes it so that, in some situations, the owners of the business run their activity in such a fashion that it violates human rights.

In an era of intense development in what concerns industry, communications and globalisation, a great number of human activities is performed in the domain of private or public businesses. Fewer and fewer activities that ensure the fulfilment of a general interest need are still effectively run by the state, as most of the them are outsourced to a larger or smaller extent, and more and more of them take the form of industrial and commercial public services.

Thus, the number of legal relationships generated by industrial and commercial public services in which the state must respect the human rights guaranteed by various international conventions is increased. Among these,

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the European Convention of Human Rights has a particularly important role, as the violations of its dispositions and the interpretation of these dispositions are covered by an international court of justice – the European Court of Human Rights, and the application of the Convention is guaranteed through various mechanisms ratified by the member states of the European Council.

The case-law of the European Court of Human Rights has ruled that the state is obligated to ensure that the rights established in the Convention are respected not just in the relationships between the state and its citizens or residents, but also in the relationships between private individuals, in certain situations.<sup>1</sup> Protection against certain violations of human rights during the activities performed by private individuals can be attained by means of legislative dispositions adopted by the state and of the judicial system (Cherednychenko, 2006, p. 203).

Thus, the state's role in protecting the rights enshrined by the Convention in the relationships born due to business activities is extended.

## **2. International documents concerning human rights and business**

The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on September 10, 1948. Romania signed the Declaration on December 4, 1955 when, through Resolution R 955 (X) of the General Assembly of the UN, it became part of the member states.

The dispositions contained in the UN documents more resemble recommendations. However, the activity of the UN is especially important in defending the fundamental rights, known under the generic term of "human rights." The United Nations carry out numerous studies and formulates recommendations. Even if the member states of the UN are not always immediately receptive, the reports raise awareness among the populations in what concerns their rights.

Private organizations, in many cases, manage to find the levers for the obtainment of protection for their various rights through legal or moral means, in accordance with the recommendations of the UN or other international organizations at state level, as their role as partners has been recognized by the UN ever since the end of the 1960's (Stamatopoulou, 1999, p. 284). At the same time, the UN's recommendations serve as a guide for the interpretations that the European Court of Human Rights (ECtHR) gives to the European Convention of Human Rights (ECHR).

In the domain of business, in 2011, the UN created a set of Guiding Principles on Business and Human Rights, upheld through Resolution R 17/4 of June 16, 2011 (United Nations Organization, 2011). This Guide defines

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<sup>1</sup> *X and Y v. the Netherlands*, March 26, 1985.

business enterprises as “specialized organs of society performing specialized functions,” and it has been established that they are obligated to heed all legal regulations whose purpose is the respect for human rights.

The purpose of the guide is to support globalisation that is socially sustainable, to support the individuals and collectives affected by the violation of human rights, and to reinforce the standards and practices in the domain of human rights. First of all, the state has an enshrined role in ensuring protection against the abuse resulting from violations of human rights by third parties, including here business enterprises, in its territory and jurisdiction. In order to achieve this, the states must take measures to prevent, investigate and punish abuse, as well as to ensure that reparations are given for the produced damages, by means of efficient policies, legislation and legal remedies (United Nations Organization, 2011, pp. 3-4), as well as to make visible and known their requirement from all enterprises operating on their territory to respect human rights in any activity that they undertake.

The content of the document shows that there is a connection between the state and business enterprises first of all through the enterprises owned or controlled by the state, but also through the enterprises that are supported by the state in their activity, through credit export and insurance agencies or through guarantees offered by the state for investments, through commercial treaties or concluded contracts.

In what concerns private businesses, the state is obligated, according to the Guide, to ensure that the business enterprises operating in war zones around the world are not involved in activities that violate human rights (United Nations Organization, 2011, pp. 3-4). In general, the states must ensure a coherent conduct among all of their bodies in order to highlight the obligation to respect human rights on their respective territories in what concerns business activities and in order to offer information that is relevant to the enterprises, as well as guidance and assistance to this end.

The companies themselves are obligated to respect human rights while carrying out their activities, at least to the minimum established through the Universal Declaration of Human Rights and the International Labour Organization’s Declaration of Fundamental Principles and Rights at Work. The responsibility of the enterprises is directly proportional with their size and the severity of the consequences of the violation of human rights.

A third pillar, beside the states’ obligations to protect citizens from the actions of third parties and the obligations of the companies to respect human rights in the case of those affected by their actions, is the victims’ right to an effective remedy in case their human rights are violated.

The Guide establishes the obligatory existence of adequate judicial, administrative, legislative and other non-judicial means to ensure the possibility

to ascertain any violation of human rights and the remedy for its effects. This final pillar has attracted the least attention, as the fewest of actions have been carried out to find solutions to implement it (Yiannibas & Roorda, 2017).

When responding on April 26, 2013 to a question asked through official channels, the Office of the High Commissioner for Human Rights showed that the requirements of the Guide are applicable to financial activities in the case of minority shareholders, who must supervise the manner in which their investment is used and, should they notice that the financial institution that they hold shares in is using their funds for activities that are detrimental to human rights, it is their duty to cease their relationship with said institution.<sup>2</sup>

Beside the Guide upheld by Resolution R 17/4 of June 16, 2011, the following documents also feature international standards:

1. Universal Declaration of Human Rights (UN, 1948);
2. International Covenant on Civil and Political Rights (UN, 1966);
3. International Covenant on Economic, Social and Cultural Rights (UN, 1966);
4. Declaration on Fundamental Principles and Rights at Work (International Labour Organization/ILO, 1998);
5. Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO, 1977);
6. The Geneva Conventions on humanitarian law (1949);
7. OECD Guidelines for Multinational Enterprises (1976). The Guidelines present a Due Diligence Guidance for Responsible Business Conduct;
8. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (2008)<sup>3</sup>
9. Interpretive guide to UN Guiding Principles' corporate responsibility to respect human rights, by Office of UN High Commissioner for Human Rights<sup>4</sup>.

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<sup>2</sup> The official response of the Office of the High Commissioner for Human Rights from April 26, 2013 to the question regarding the applicability of the Guiding Principles on Business and Human Rights for Minority Shareholders, <http://www.ohchr.org/Documents/Issues/Business/LetterSOMO.pdf>, accessed on 06.10.2016.

<sup>3</sup> <https://business-humanrights.org/sites/default/files/reports-and-materials/Ruggie-report-7-Apr-2008.pdf>, accessed on 06.10.2016.

<sup>4</sup> <http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>, accessed on 06.10.2016.

### **3. Mechanisms for the protection of human rights in the context of business activities**

Globalisation, and the extraordinary circulation of capital and workforce that have come with it, has led the United Nations, as well as other international organizations and structures, to get involved in the identification of problems and the formulation of solutions concerning the protection of human rights in the context of business activities. Issues were especially found in developing countries, connected to the use of child labour in light industry, natural disasters produced by the extractive and natural resource processing industries or the violation of the right to a private life by telecommunications companies.<sup>5</sup> Problems were found in the activity of private companies and in the domains where, traditionally, the responsibility had fallen on the shoulders of the states, such as with military activities or ensuring the application of the law. In this sense, Recommendation 1858 (2009) of the Parliament of the European Union showcased the legislative void in regard to the activity of private security and military firms, pointing at the erosion of the states' monopoly in utilising force without any legislative statement concerning the protection of human rights.

The key element of these issues is, thus, the identification of the manner in which the states can verify that the companies whose headquarters are located on their territory, but carry out their activities on the territory of other states respect human rights, and the identification of the manner in which a state's citizens can obtain protection from their state and reparations for the damages caused by the companies who perform their activities in the state that the victims are residents of, but have their headquarters in another state.

A study conducted at the request of the Council of Europe (Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, 2010)<sup>6</sup> highlighted some of the relevant aspects concerning the failure to respect human rights in carrying out business activities and the existing international possibilities to counter these violations.

This document leads to a few conclusions.

The first of them is that the globalisation of the economy exhibits concrete challenges in the effective protection of human rights, especially in developing countries. Numerous situations are presented where multinational companies conduct activities through subsidiaries that are part of the group coordinated or led by such a company, activities during which some of the most important human rights are flagrantly violated (the right to life, the right

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<sup>5</sup> <https://business-humanrights.org/sites/default/files/reports-and-materials/Ruggie-report-7-Apr-2008.pdf>, accessed on 06.10.2016.

<sup>6</sup> Doc. 12361/27.09.2010, Raportor: H. Haibach, member of the European People's Party group.

not to be tortured or treated in an inhuman or degrading way, the right to private and family life), sometimes at a large scale, with assistance from the states where these companies are conducting their activities.<sup>789</sup>

These situations occur especially in the states where no real protection of human rights is ensured and which are outside the jurisdiction of the bodies monitoring that human rights are respected in the states where the companies have their headquarters.

In general, the fight against the violation of human rights is, for now, conducted internationally through recommendations adopted by various international bodies with responsibilities in this field, such as the Organization for Economic Cooperation and Development, the Subcommittee for the UN Human Rights of the International Labour Organization, and, on a European level, the Council of Europe and the European Parliament.

These recommendations have led to the formation of the concept of „corporate social responsibility” (or CSR), a concept that demands of companies to voluntarily take into consideration and adapt accordingly to the current social and environmental issues when conducting their business activities and in their interactions with their shareholders (Commission of the

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<sup>7</sup> The European Center for Constitutional and Human Rights, a non-governmental organization with headquarters in Germany, forwarded, on 26.08.2013, a legal opinion in the capacity of *amicus curiae*, to an Argentinian tribunal, in a case where Mercedes-Benz Argentina S.A., a subsidiary of Mercedes-Benz whose headquarters is in Germany, was accused of human rights violations. The non-governmental organization claimed that the subsidiary of Mercedes-Benz was involved in the kidnapping and disappearance of certain members of their trade union during the 1976-1983 Argentinian military dictatorship. See: [https://www.ecchr.eu/en/our\\_work/business-and-human-rights/corporations-and-dictatorships.html](https://www.ecchr.eu/en/our_work/business-and-human-rights/corporations-and-dictatorships.html).

<sup>8</sup> In 2006, the multinational oil company Traqifigura, with headquarters in the United Kingdom, illegally transported and deposited toxic waste from Amsterdam in the Ivory Coast, and concealed what the contents of their cargo were. As a result of the spread of the toxic waste, more than 100,000 people required medical care and 15 deaths occurred, according to the information offered by Amnesty International UK ([www.amnesty.org/en/latest/news/2016/04/trafigura-a-toxic-journey/](http://www.amnesty.org/en/latest/news/2016/04/trafigura-a-toxic-journey/)), accessed on 06.10.2016.

<sup>9</sup> According to Amnesty International, in 1990, the Shell Petroleum Development Company of Nigeria (SPDC), a subsidiary of the English-Dutch company Shell requested, on 29.10.1990, the protection of the Nigerian state from the peaceful protests against the building of an oil transportation conduit over the property of the protesters. In the following days, the police attacked a village that was home to the protesters with firearms and grenades, killing at least 80 people and setting almost 600 houses on fire. Shell constructions were used as starting bases for the attacks, while the food and payment of the soldiers was provided by the company. Shell requested the same type of help in the following years, being subsequently accused of being an accessory to murder, torture and other violations of human rights ([business-humanrights.org/en/shell-lawsuit-re-nigeria-kiobel-wiwa](http://business-humanrights.org/en/shell-lawsuit-re-nigeria-kiobel-wiwa); [www.aljazeera.com/news/2017/11/amnesty-shell-involved-nigeria-abuses-1990s-171128091650769.html](http://www.aljazeera.com/news/2017/11/amnesty-shell-involved-nigeria-abuses-1990s-171128091650769.html), accessed on 06.10.2016.).

European Communities, 2006). We should also mention the fact that the International Guidance on Social Responsibility, ISO 26000 was released in 2010 – developed by the International Standardization Organization (ISO).

A more concrete result was obtained by private initiatives, such as the Global Network Initiative (created in 2008 through the association of various important companies from the information technology field in order to ensure freedom of expression in the digital sphere and the right to the confidentiality of personal data), Business for Social Responsibility (which deals with offering guidance in terms of the environment, human rights, economic development or transparency), the Fair Trade Movement or Social Accountability International (which created the 8000 standard, awarded to firms that allow the free association of workers, do not obtain any advantages from forced or child labour, abstain from discrimination against personnel, ensure a safe and healthy workplace environment, treat their employees with dignity and respect, heed the legislation in terms of work schedules and rest periods, and ensure a salary that at least meets the minimum legal threshold and the industry standards) (Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, 2010).

On a national level, states such as Germany, the United Kingdom and Denmark have chosen to associate with recommendation mechanisms, while Belgium has passed laws to award certificates and labels for corporate conduct that fits the concept of social responsibility (Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, 2010). Norway has assumed a more cutting position, as they have legislated the obligation of private pension funds to make known its investments, as the state can, through the National Pension Fund of Norway, withdraw the money from these funds if the investments were related to companies that have performed their activity while violating human rights, and, in 2005, Norway founded the Ethics Council Advising the Ministry of Finance on ethical matters associated with investments – murders, torture, deprivation of freedom, forced labour, hard labour in the case of children and other forms of child exploitation, severe violations of human rights during war times, severe degradation of the environment, massive corruption, etc. (Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, 2010).

As a result of the recommendations given by this council, the Norwegian Pension Fund has excluded from its portfolio the following companies: Grupo Carso from Mexico, Shanghai Industrial Holdings from China, and Lingui Development Berhad from Malaysia for severe violations of human rights, the environment, and the manufacturing of weapons and tobacco (Sourbes, 2011).

If, on a national level, a commercial company with headquarters in a certain state can be held responsible for activities that have violated human

rights, pursuant to the national legislation, on an international level, several legal mechanisms have been noted that allow holding corporations with headquarters in a certain state accountable for the activities performed with the violation of human rights by one of its subsidiaries in another state, pursuant to international conventions.

Two problems arise from such situations: that of the jurisdiction of the court summoned to protect the violated right and that of proving culpability and the causation between the management of the multinational company and the activity of the subsidiary. In this context, the states are assigned an important role in adopting internal legislation in the field of private international law that grants jurisdiction to their own courts in the cases where the victims, who are citizens of another state, were under the authority and control of the state that they have submitted their complaint to. In the case of the signatory states of the ECHR, this obligation was confirmed in the case of *Markovic et al. v. Italy*, where the Italian state believed that they do not have competence in presiding over cases stemming from complaints that concern civil damages for a group of people from Serbia and Montenegro due to human rights violations committed during a 1999 NATO mission in Belgrade.

The Italian courts declared that they are not competent given that the Italian legislation did not provide for the possibility of obtaining civil damages for violations of public international law norms. The European Court of Human Rights believed, however, that the plaintiffs were under the jurisdiction of Italy that concerns the respect for human rights and, as a result, they had to benefit from the state's obligation to ensure them access to justice. There have been commentaries and observations concerning certain treaties by the United Nations that indicate the fact that the states have obligations that subscribe to the international requirements concerning human rights for the prevention of, but also to guarantee remedies in the case of abuse committed by multinational corporations on the territory of other states (Augenstein & Jägers, 2017, p. 15).

We must mention that there are already precedents in what concerns accountability for the violation, through business activities, of international rules related to human rights. The tribunals of Nuremberg have convicted, for being accessories to war crimes, several leaders of commercial companies due to their co-opting slavery in their labour practices or for providing German military organizations with the gas used in Nazi gas chambers (Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, 2010, p. 20).<sup>10</sup>

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<sup>10</sup> Also see footnote 106 of the document.

More recently, the Dutch courts convicted a Dutch citizen for being an accessory to the violation of war time laws and customs, as he delivered chemical substances to the Saddam Hussein Iraqi regime in the 1980s, substances that were used in the obtainment of the toxic gases used against the Iraqi population. It was considered that this case demonstrates that international criminal law is no longer directed only towards state officials, but also companies, businessmen and businesswomen, if it can be demonstrated that they were accomplices in the violation of international criminal law norms (Clapham, 2008).

The United States of America initially identified a possible approach through a normative act dating back to 1789, named the *Alien Tort Claims Act* (a normative act concerning foreigners' claims for damages). According to this document, the federal courts of the USA have jurisdiction of "any civil action by an alien for a tort only, committed in violation of the law of nations." On the basis of this law (Windsor, n.d.), the American federal courts declared themselves competent, in the 1990s, to preside over cases such as *Wiwa v. Royal Dutch Petroleum Co.* (1995)<sup>11</sup>, *Mushikiwabo v. Barayagwiza* (1996)<sup>12</sup> and *Doe v. Unocal* (1996).<sup>13</sup> However, as of late, the application of the *Alien Tort Claims Act* has been limited, as the Supreme Court of the USA narrowed, in 2004, the purpose for which a lawsuit can be filed on the basis of this law to those lawsuits that are related to violations of international „specific, universal and obligatory” norms, which do not include baseless arrest and detention.<sup>14</sup>

Following the debates concerning the applicability of the *Alien Tort Claims Act* that arose in the American case-law in regards to the cases of accountability on the part of companies for incitement and complicity (Anon., 2008), in 2013, it was again the Supreme Court of the United States of America which ruled that the *Alien Tort Claims Act* has to do with accountability on the basis of federal laws and does not apply in the case of damages produced in a foreign country, due to the fact that the American

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<sup>11</sup> Nigerian US immigrants sued the oil company, claiming that it participated, along with the Nigerian government, in actions that violated human rights, among which were the confiscation of property and air and water pollution. The case ended in 2009 through a transaction, where the company paid 15.5 million dollars' worth of damages.

<sup>12</sup> An American district court awarded 105 million dollars' worth of damages to 5 Rwandan citizens for the torture and murder of their relatives by Hutu governmental forces and militias during the 1994 Rwandan genocide.

<sup>13</sup> A group of human rights activists sued, on behalf of several anonymous farmers (John Does) from Burma, the American company Unocal, claiming that it was an accomplice to the Burmese government in the case of several violations of human rights, among which were forced labour, forced relocation, rape and murder, during the construction of the Yadana natural gas pipeline in southern Myanmar. The case ended with Unocal paying a sum of money that was not disclosed to the public.

<sup>14</sup> The case of *Sosa v. Alvarez-Machain*.

courts would interfere with the legislation of other states, with possible exceptions, however, in the cases where „the claims for damages touch and concern the territory of the United States” with „sufficient force” in order to rebut the presumption of non-extraterritoriality of the *Alien Tort Claims Act* (Supreme Court of the United States, 2012).

In the European Union, Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters provides, in art. 2, that the persons who reside on the territory of a member state can be sued before the courts of the respective member state. In regards to these dispositions, the European Court of Justice showed in the case of *Owusu v. N. B. Jackson*, 2005 (C-281/02) that a court of law from a member state of the European Union cannot decline the jurisdiction that it is given according to art. 2 of the 1968 Brussels Convention (which established dispositions that are identical to those of art. 2 of European Regulation no. 44/2002) on the grounds of a non-member state possibly being a more suitable forum for the trial of the case that it was presented with, even if no other member state is involved in the case (meaning that the plaintiff resides in a non-member state and the actions and consequences that the complaint was filed for happened in a non-member state).

As a result, civil suits concerning human rights violations, whose subject is civil rights and obligations, against corporations whose headquarters are located in a member state of the European Union can be brought before the courts of the state where the corporation is headquartered even if the plaintiff does not come from a member state and the damages were produced outside of the European Union, most frequently in the state where the plaintiff resides.

This regulation is useful, given that the corporation is subject to heeding the legal dispositions from the state that it is headquartered in, as European legislation gives more attention to human rights. However, subsidiaries that effectively cause damages in states outside of the European Union are distinct entities. The fault of the parent corporation in what concerns the conduct of the subsidiary must be established for a successful trial, which is, in most cases, an especially difficult aspect to prove (Augenstein & Jägers, 2017, p. 19).

Currently, the ECHR is no longer the only European normative act on this matter. On December 7, 2000, the Charter of Fundamental Rights of the European Union (the Charter) was adopted at the European Union Level, standing as a declaration, with the purpose of being a point of reference for a unified approach in terms of human rights across the Union. Along with the Treaty of Lisbon, concluded in 2007 and entered into force on December 1, 2009, where, in art. 6, par. (1), it is provided that the juridical value of the Charter is the same as that of European treaties, the Charter became obligatory for the member states and European institutions.

In what concerns the correlation between the ECHR and the Charter, the preamble of the latter shows that it should be interpreted by the courts of justice of the Union and the member states while minding the explanations written under the authority of the presidium of the Convention that developed the Charter and updated under the responsibility of the presidium of the European Convention. The activity of the institutions and the legislation of the European Union are especially important not only to the member states, but also to the candidate states which adopt the cultural and moral models that go on to become true benchmarks of democracy (Gasmi, 2018, p. 160).

#### **4. New challenges in the era of globalisation**

One of the factors that have made globalisation possible is communications technology. Along with the appearance of the Internet, wide and fast access to information from all domains of social life has become possible, and the organisation, coordination and management of multinational companies has become easier.

At the same time, the possibility of transmitting information to consumers has also become greater, and the idea of collecting information that allows the optimisation of the transmission of advertising information has developed to a large extent.

The personal data of consumers, the information about their lives has, thus, become a precious commodity. Advertising is not, however, the only domain where the personal data of natural persons is used, as medical research also resorts to it, for example, collecting the data of patients suffering from various conditions and undergoing various treatments.

The massive scale of the process of collecting and processing data has led to the concept of “Big Data,” which characterizes sets of data that are extremely large and can be electronically analysed and processed in order to find patterns, trends and associations that especially focus on human behaviour and the interactions between individuals.

In this context, it did not take long for the necessity to protect personal data to arise on a global level. Thus, the right to the protection of personal data was enshrined as a fundamental right traced from the right to a private life (McDermott, 2017). EU Regulation 2016/679 – General Data Protection Regulation (GDPR), which entered into force on May 25, 2018, expressly refers to these rights, as article 1 states that the regulation „protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.”

The right to the protection of personal data is, however, distinct from the right to a private life, as the former right was born only with respect to the processing of personal data to serve a greater array of purposes (Mostert & et

al., 2017, p. 6). A special issue is protecting the personal data of employees when it comes to the employers, in the human resource management process that uses information about employees such as work performance, health, economic situation, preferences or interests, behavior, location or travels.

The Independent EU Advisory Body on Data Protection and Privacy (Article 29 Working Party, the so-called WP29) issued Opinion 2/2017, which highlights the vulnerable position of employees in what concerns the legal relationship framework at the workplace and underlines that the proportionality between the interests of the companies and the employees' right to a private life must be preserved (Ogrisek, 2017).

There has also been „a right to be forgotten” developed in relation to the specificity of the communications instated by the Internet, respectively the perennality of a piece of information about a certain person in the online sphere and the possibility for this information to be accessed at any time and by anyone and the right to a private life (Szeghalmi, 2018). In the case known as *Google Spain*<sup>15</sup>, the Court of Justice of the European Union ruled that one has „the right to be forgotten by the Internet.” Currently, this right is expressly provided for in art. 17 of the GDPR, which also states the conditions under which this right can be exercised.

It is the same virtual sphere that has also made issues concerning intellectual property more acute. Many current and legal activities by consumers are, in fact, from the perspective of the current legislation, violations of intellectual property rights.

A directive project concerning these rights on the Digital Single Market is attempting to establish a balance between the protection of copyrighted-content of copyright-holders on the Internet, on the one hand, and the competing interests and rights of Internet-intermediaries and end-users, on the other (Himanshu, 2018). Controversy was sparked between the companies that profit from exploiting websites that offer free access to artistic works promoting the freedom of information and the copyright holders.

The directive project still incites many controversies, especially art. 13 on the monitoring and filtering of Internet materials, which could clash with the right to freedom of expression, the right to information and, also, the right to a private life.

## Conclusions

Business activities affect the lives of many people and can lead to the violation of rights that are perceived as fundamental to human beings.

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<sup>15</sup> *Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González* (2014).

This has made it necessary for the obligation of states to abstain from any action that can violate fundamental human rights to also extend to ensuring that these rights are respected in the context of the relationships between private individuals and that legal remedy is possible in the case of a violation resulting from such interactions. Globalisation, when perceived as an international meshing of economies associated with the possibility of the actions of social agents, „individuals, collectives, corporations, etc.,” from one place to often have significant consequences, whether they be intentional or not, on the behavior of other agents situated somewhere else has intensified the need to protect human rights.

The rapid evolution of technology, along with the inventive nature of the business sphere in terms of the exploitation of new technologies and in terms of its frequent international institutional organisation, has highlighted that legal rules barely manage to keep up with the evolution of society in general in order to ensure efficient protection to individuals.

The difficulty is increased by the fact that, in order to have efficient protection on a global scale, several states must agree on the legal rules that should be adopted, the largest hurdle here being the problem of jurisdiction in situations with cross-border features.

The international bodies aiming to preserve the protection of human rights are writing studies and recommendations, and performing actions for the identification of issues born in the context of globalisation in order to raise awareness of these human rights, on the one hand, and, on the other, to increase the responsibility of the companies, while also drawing the states' attention towards the necessity to adopt legislation that is adapted to the issues identified, which vary from violations of rights concerning workplace relationships to ensuring the respect for the right to a private and family life, property or a healthy environment and to ensuring the respect for the right not to be subjected to torture, inhuman or degrading treatment and even respect for the right to life.

We can see that there is progress in the European area. The case-law of the ECtHR obligates states to offer access to the justice system not only in the cases of violation of national law, but also of public international law norms.

The European Union is aware of the new challenges regarding the violation of human rights and is intensely active in identifying issues and promoting legislation that ensures a just balance between the rights of individuals and those of corporations, along with as much access as possible to the justice system in order to protect human rights in situations with a transnational context.

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