

HUMAN RIGHTS IN BUSINESS

GLOSSARY

ACCESS TO JUSTICE

Access to justice is understood as the ability of individuals to seek and obtain redress through formal or informal institutions of justice for wrongful acts in compliance with human rights standards.

AMICUS CURIAE BRIEF

A submission, without binding force, by an authorized third party (NGOs or individuals) before a Court seized of the case, in order to provide additional information or arguments that may be considered in favor of either party involved in the judicial process.

APPLICABLE LAW

A court does not necessarily apply its national law to solve a case. When a legal relationship between private individuals has an international nature, either because they have different nationalities, they do not reside in the same country, or the adjudged facts happened in different States, it is possible to apply the laws of several countries. The term “applicable law” refers to the national law that governs a given question of law in such an international context. It is determined through private international law provisions resolving conflicts of laws.

BRUSSELS I REGULATION

The notion "*Brussels I*" refers to Regulation (EC) N ° 44/2001 of December 22, 2000, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which entered into force on 1 March 2002. This regulation replaces the Brussels Convention of September 27, 1968. Brussels I regulates the attribution of international jurisdiction and the terms and conditions of recognition and enforcement of judgments in the Member States, authentic instruments and court settlements.

BRUSSELS I BIS REGULATION

On July 26, 2012 the European Commission presented a proposal for amending Regulation (EU) No. 1215/2012 concerning jurisdiction and the recognition, enforcement of judgments in civil and commercial matters, which has been referred to as Brussels I bis Regulation, which entered into force January 10, 2015 and replaces Regulation (EC) No. 44/2001. This Regulation aims to further define jurisdiction in relation to third State defendants.

HUMAN RIGHTS IN BUSINESS

CONFLICT OF JURISDICTION

A legal situation when two or more jurisdictional organs (courts) claim to have competence, directly or indirectly, on a matter of international dimension.

CONTRACTUAL OBLIGATIONS

Obligations arising from a specific contract. They are governed by the agreement between the parties, provided that it is in accordance with law.

FORUM

The State in which the judicial proceedings are conducted.

HOME STATE

The State in which the parent company is domiciled or has its centre of operations.

HOST STATE

Any State other than the home State in which a company operates or invests and represents an important source of goods or services for the group or its constituent companies.

HUMAN RIGHTS

Human rights are essential safeguards inherent to all human beings that protect their dignity vis-à-vis the State and public authorities, without distinction of any kind, such as nationality, place of residence, sex, national or ethnic origin, colour, religion, or any other condition. Human rights are generally established in national constitutions and in international treaties.

HUMAN RIGHTS VIOLATIONS

Unlawful and harmful conduct that transgress human rights. These conducts can be committed by a State directly or indirectly, by omission or commission, in the exercise of its hegemonic power; or by individuals and social groups.

HUMAN RIGHTS IN BUSINESS

INTERNATIONAL LAW OF HUMAN RIGHTS

The set of obligations of the States to take action in certain situations, or refrain from acting in certain way in others, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

JURISDICTION

When a judge, or other adjudicator, is competent, *ratione loci* and *ratione materiae*, to hear and decide a case.

JURISDICTION *RATIONE LOCI*

The establishment of jurisdiction by reason of the territory of the action.

JURISDICTION *RATIONE MATERIAE*

The establishment of jurisdiction by reason of the subject matter of the action.

PRECEDENT/CASE LAW

The set of principles and doctrines contained in the decisions of the courts delivered on the same issue. Precedent, which may be mandatory in the manner and to the extent set in the Constitution itself, serves as a means for the adequate interpretation of a term or to fill gaps or loopholes.

LEX CAUSAE

Law governing the substance of the case, designated by rules of conflict of laws.

LEX FORI

Law of the jurisdiction in which the action is brought.

LEX LOCI DELICTI

Law of the country where the harmful event occurred.

HUMAN RIGHTS IN BUSINESS

LEX LOCI DAMNI

The law of the place where the injury occurs.

MULTINATIONAL ENTERPRISE

Companies owned or controlled by persons or entities in a country but operate beyond their national borders and also those belonging to persons or entities to different countries. Also referred to as transnational or international corporations.

NON-CONTRACTUAL OBLIGATIONS

Obligations that do not derive from a contract or any other legal institution. On the contrary, they refer to obligations arising from a quasi-contract, quasi-delict or law. Their effects are regulated by law.

PARENT COMPANY

A company based in a country that has subsidiaries in another country and has some influence on said companies.

PRIVATE INTERNATIONAL LAW

Private international law is the set of rules and principles that each particular legal system established to provide a regulation of matters of private law (family, contracts, etc.) with an international character.

PUBLIC INTERNATIONAL LAW

Public International Law is the set of rules and principles contained in international treaties, conventions or agreements that govern relations between States and other subjects of international law.

HUMAN RIGHTS IN BUSINESS

ROMA II REGULATION

This notion refers to the Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations. Following the adoption of this Regulation, the European Union has a unified standard for non-contractual obligations in civil and commercial matters, and in those situations where a conflict of laws exists. Therefore, this regulation applies to international issues where there is a foreign element and where there could be a potential to apply the legal rules of different jurisdictions.

SEPARATE LEGAL ENTITY

Corporate entities are legally distinct from their owners.

SUBSIDIARY OR BRANCH

A corporation in which a parent corporation has a controlling share.

HUMAN RIGHTS IN BUSINESS

References

GUERREO, S. (2006). *Derecho internacional privado*, ed. Miguel Angel Porrúa, México, 2006.

DE MIGUEL ASENSIO, P. A. (2009). El régimen comunitario relativo a la ley aplicable a las obligaciones extracontractuales. *Revista española de seguros*, núm. 140, pp. 695-726.

DE MIGUEL ASENSIO, P. A. (2013). La propuesta de modificación del Reglamento 1215/2012 (Bruselas I bis) para su adaptación al acuerdo sobre un tribunal unificado de patentes. *La ley Unión Europea*, núm. 7, pp. 3-8.

OHCHR (2014). *¿Qué son los derechos humanos?*. Disponible en: <http://www.ohchr.org/SP/Issues/Pages/WhatareHumanRights.aspx>

PEREZNIETO CASTRO, L. (1993). *Terminología Usual en las Relaciones Internacionales. Derecho Internacional Privado*. México, D.F.: Acervo Histórico Diplomático. Secretaría de Relaciones Exteriores.

RED JUDICIAL EUROPEA EN MATERIA CIVIL Y MERCANTIL. Glosario. Disponible en: http://ec.europa.eu/civiljustice/glossary/glossary_es.htm#BruxellesI

ZERK, J. A. (2010). *Extraterritorial jurisdiction: lessons for the business and human rights sphere from six regulatory areas*. Corporate Social Responsibility Initiative Working Paper No. 59. Cambridge, MA: John F. Kennedy School of Government, Harvard University.