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Human Rights and European Privat Law

European law clearly influences the private law of the Member States and not only on the level of consumer protection, environmental protection or protection of weaker parties but touches upon the basic principles of private law too. With setting limits for freedom of contract, preventing discrimination, protecting human dignity etc. the European legislation as well as the European Court of Justice clearly presented that they are ready to enforce common values of the European Community. Enforcing human rights in private law relationships in context of European law shall lead to the revision of the whole concept of European law. The universality of human rights, which is generally accepted inherent nature of these rights, requires enforcing them in private law relationships too and this cannot depend on existence of specific legislation. The fragmented nature of European law at this moment is clearly inapt to transmit such general values as are reflected in human rights. I think that today cannot be given a consequent, general and abstract answer to the question, how human rights should be enforced in private law. Human rights themselves do not constitute a coherent and homogenous system. The system of human rights consists of requirements (norms) different in their origin, their aims and in their social functions. They are not free from internal paradoxes as well. Nevertheless they reflect general values which are to come across in all of the world's legal systems. One cannot confront private law with this system of values, neither in the content nor in the nature of private law. In order to make European law capable of enforcing such values the whole concept of European law should be revised, at least from two basic points of view. One of them is the relationship of statutory legislation and court practice, including the role of specific legislation and principles or general clauses in European law which normally transmit values of human rights in national private law systems of the member states. The other context is that in the United States the "rediscovery" of the Alien Tort Claims Act did put the human rights enforcement in a new context with international tort claims. Litigations for sanctioning the violation of human rights in some of the member states indicate the possibility or demand for similar way of human rights enforcement in Europe which should be managed on Community level. The consequent interpretation of such values would require estone final judicial forum but the relationship of CJEU and ECHR could not be made clear by legislative means and this may neither be necessary. The already existing problem of concurrent interpretations between constitutional courts of member states and ECHR as well as CJEU which in its quality may be similar to that of the CJEU and ECHR in interpretation of human rights. This may require addressing the problem of competing competences as a whole in European context.