

Talk

Supranational Protection of Human Rights in Europe

(on Cohabitation of the European Court of Human Rights and the Court of Justice of the European Union)

Judge Lech Garlicki, European Court of Human Rights

Date: 19 April 2013 (Fri) 7:00pm

Venue: Classroom 7, CUHK Graduate Law Centre, 2/F, Bank of America Tower, Central, HK

(The event is co-organized by EUAP & the Centre for Rights and Justice of the Chinese University of Hong Kong.)

One of the interesting developments in the recent times is the emergence of so-called multi-polar legal systems. Particularly in the human rights area there are parallel instruments of protection: constitutions at the domestic level, regional human rights treaties at the regional level (Europe, Americas and Africa) and universal human rights treaties at the global level. Those instruments are enforced by separate judicial or quasi-judicial mechanisms established separately at each of those levels.

In Europe this “vertical” plurality of instruments and mechanism is supplemented by a “horizontal” division: next to the European Convention on Human Rights (enforced by the European Court of Human Rights) human rights are protected by the Charter of Fundamental Rights of the European Union (enforced by the Court of Justice). Thus, it may so happen that the same individual case may be submitted to the domestic courts (including the supreme and/or constitutional court), the EU Court of Justice and the European Court of Human Rights.

While there are sufficient coordinating mechanisms between the domestic level and each of the supranational jurisdictions, no such mechanism exists in respect of relations between the ECtHR and the EU CoJ. While both Courts are doing their best in elaborating daily avenues of cooperation, it has been also decided that more formal instruments have to be established. Both, the practice of jurisprudential cooperation and the proposals for future changes deserve a more detailed presentation.

