

The European Union's Economic Engagement with Areas of Contested Sovereignty

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Abstract

The European Union is under an obligation to respect international law in the exercise of its powers, and the 'strict observance' of international law is required under Article 3(5) Treaty on European Union. This obligation gives rise to particular challenges when the EU engages with third countries where such activity involves occupied territories or areas of 'contested' sovereignty. In recent years, litigation has been brought before the Court of Justice of the European Union (CJEU) challenging the legality of various agreements with the Kingdom of Morocco on the grounds that they violate principles of public international law, such as the right to self-determination and violations of international humanitarian law. In *Western Sahara Campaign UK* and *Front Polisario*, the CJEU found that the agreements in question did not apply to the territory of Western Sahara, and therefore the agreements could escape review on these grounds. While the CJEU deals with public international law in its legal reasoning, applying principles of customary international law and treaty interpretation in the 1969 Vienna Convention on the Law of Treaties, the Court does so in a way that allows the EU's economic agreements with Morocco to stand, and without examining whether such agreements may violate the EU's obligation to, for example, not recognise an illegal situation arising from a breach of international law. This lecture discusses the recent Western Sahara litigation, focusing on this tension. How does the EU seek to maintain economic relations with Morocco, while at the same time respecting its obligations under international law? It discusses both the recent case-law of the CJEU as well as the way the EU institutions have since reacted to such judgments in their relations with the Morocco.