



MAX PLANCK INSTITUTE
FOR COMPARATIVE PUBLIC LAW
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Where in the Eurozone is IHRL? Challenges to the Effective Protection of Socio-economic Rights in the Aftermath of the Sovereign Debt Crisis

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Since 2008, the Eurozone States facing balance of payment problems required assistance from a plurality of actors, which agreed to provide for the aid conditionally on the implementation of 'austerity measures'. As is well documented, the cumulative impact of this set of policies has often encroached on fundamental rights.

In order to challenge such policies, (alleged) victims and political actors initiated proceedings before bodies in charge of assessing the respect of the fundamental rights enshrined in international, EU and domestic legal regimes binding (at least some) of the actors involved in the rescue packages.

While the majority of the remedies at the international and EU level proved to be either ineffective or inadequate, the constitutional review of austerity measures has represented the most suitable means to seek effective remedies for violation of socio-economic rights. However, most of those rulings declared the invalidity of the disputed measures due to the incompatibility with general principles of domestic constitutional law (such as proportionality and protection of legitimate expectations), rather than for breaching guarantees enshrined in international instruments.

Against this background, Giulia Ciliberto suggests two interpretative approaches to adjudicate the conformity with international human rights law standards at the domestic level. The first approach takes into account the few judgments of the Portuguese and Greek courts which declared the unconstitutionality of the contested policies by explicitly referring to socio-economic rights set forth in those international treaties that form part of the relevant municipal legal system. The second approach relies on the doctrine of *Existenzminimum* and on the principle of proportionality: although rooted in national systems, they could constitute a way to comply with the two pillars of the protection of socio-economic rights under international law – namely, the minimum core obligation and the prohibition of unjustified retrogressive measures.

Giulia Ciliberto is a Ph.D. candidate in International Law at University of Naples Federico II (Italy). The provisional title of her thesis is: "Eurozone Sovereign Debt Crisis, Conditionality Measures and Violation of Fundamental Rights: Attribution, Responsibility and Redress". She is currently a visiting scholar at the Max Planck Institute for Comparative Public Law and International Law.

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