

Recharting the Judicial Enforcement of the European Social Charter at the National Level

Citation for published version (APA):

Papadopoulos, N. A. (2023). *Recharting the Judicial Enforcement of the European Social Charter at the National Level: renewed dynamics for the protection of economic and social rights in Europe*. [Doctoral Thesis, Maastricht University]. Maastricht University. <https://doi.org/10.26481/dis.20230124np>

Document status and date:

Published: 01/01/2023

DOI:

[10.26481/dis.20230124np](https://doi.org/10.26481/dis.20230124np)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
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- The final published version features the final layout of the paper including the volume, issue and page numbers.

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Propositions accompanying the doctoral dissertation

Recharting the Judicial Enforcement of the European Social Charter at the National Level: Renewed Dynamics for the Protection of Economic and Social Rights in Europe

Nikolaos A. Papadopoulos

1. The theoretical endorsement of economic and social rights as human rights is not always translated into genuine practical engagement by actors and into tangible effects for the enjoyment of these rights by individuals under modern neoliberal capitalism.
2. Economic and social rights litigation at the domestic level is intrinsic to the full realization of such rights; Yet, the effectiveness of such rights may be a matter of political will and commitment, thus requiring various means of exerting political pressure other than litigation.
3. Given the existing variety of links between international, regional and national human rights documents and mechanisms, the protection of economic and social rights should be seen as an interconnected and integrated exercise.
4. The actual practice of domestic courts with respect to the European Social Charter illustrates that the only obstacle in the judicial application of socio-economic rights, *qua* directly enforceable rights, is the politicized and ideologically-rooted stance on the false dichotomy between civil and political rights and socio-economic rights.
5. Where socio-economic rights under the constitution or international sources (e.g. ECHR, EU law) prove inadequate in the face of austerity or other restrictive measures, the European Social Charter may serve as a minimum tool of effective protection of such rights through its application by domestic courts and as interpreted by the European Committee of Social Rights.
6. The European Social Charter's structural limitations, *qua* international economic and social rights treaty, or the absence of a monitoring mechanism that leads to a binding judgment by a judicial organ dealing with violations of such rights suffered by individuals, should not be seen as an impediment to the Charter's effectiveness.
7. The recent examples of the European Social Charter's mobilization, enforcement and influence at the domestic level have laid the groundwork for the Charter to come out of the shadows of the past and become a reliable and effective human rights living instrument for the realization of economic and social rights.
8. The focus on the enforcement of the European Social Charter by domestic courts across Europe shifts the insight of human rights legal research that has traditionally put emphasis on other instruments, actors and parts of the world to address the current challenges to the effective judicial protection of economic and social rights at the national level.
9. "Two roads diverged in a wood, and I,
I took the one less travelled by,
And that has made all the difference".

– Robert Frost (The Road Not Taken, 1916)
10. "Outside of a dog, a book is a man's best friend; Inside of a dog it's too dark to read".

– Groucho Marx