DIALOGUE BETWEEN HUMAN RIGHTS AND CONSUMER RIGHTS. A FIRST STEP TOWARDS THE "PRIVATIZATION" OF HUMAN RIGHTS LAW

Jose H. Sahain[1]

Abstract
The extrapolation of standards from conventional human rights systems - based on the principles of progressivity, complementarity and cross-protection of rights - should be taken into account in the defense of consumers' interests. To do this, we must think in dogmatic basis for the application of human rights principles to consumers. This work gives an account of some arguments in that sense. These allegations constitute our scientific contribution. A new, more "privatized" vision of human rights law contributes to the latter, which not only focuses on state non-compliance with citizens' rights, but also on the transgressions of companies against consumers and users.

Keywords
Dialogue. Consumer. Rights. Human. Horizontality. Individuals.

Summary

[1] Professor. Tucuman National University. Argentina

1. Retrospection: Constitutionality of Consumer Law

A look back enables us to argue that the paradigm of the constitutional dimension of consumer rights is consolidated in Latin American comparative law.

This constitutional hierarchy is widely accepted in Latin America. Colombia[2], El Salvador and Venezuela regulate consumer protection as a "principle". Argentina, Brazil, Costa Rica, Ecuador, Paraguay, Peru, Bolivia, Mexico, as fundamental rights[3]. And in those constitutional reforms in process, such as the failed Chilean reform of 2022, consumer rights were assigned a "fundamental" character in articles 81 and 82.

In Europe, only Poland, Lithuania, Bulgaria and Spain enshrined them as a principle, and Portugal as a fundamental right. There, the constitutional dimension of consumer protection, like that of social rights in general, is still under debate.

2. Propensity of consumer rights as Human Rights

Some of the American systems approach consumer rights as human rights, which is unthinkable in European regimes.

2.1. From the constituent

The Constitution of Guatemala considers the rights of consumers as "social human rights", at least in the way in which protection has been included in Section X.

In Mexico the enunciation of consumer rights is not quantitatively significant, but the constitutional provision is inserted in Chapter I, Title I, entitled "Of Human Rights and their Guarantees". The rights of consumers,

---

[2] The constitutionalization of Consumer Law has been ratified by the Constitutional Court of Colombia, Ruling C-1141/00, dated 08/30/2000, file D-2830. Idem: judgment C-313/2013, dated 05/23/2013, file D-9345.

[3] More information can be found in: Sahian 2017. Sahian 2019. Sahian 2018, 545. Sahian 2022, 105. Sahian 2021b, 21.

indirectly through rules for the protection of free competition, are qualified as "human rights".

2.2. Systematic Micro Doctrine

In Argentina, the majority doctrine of Consumer Law, with different nuances, consents -almost uniformly- the dialogue of this branch with human rights (Caramelo[4], Wlasic[5],
Torres Buteler[6], Sobrino[7], Ghersi[8], Arias[9], Vinti[10], Lovece[11], Chamatropulos[12], among many others).
Analyzing the publicity, Martina Rojo argues that *"due to the process of "constitutionalization" and "conventionalization" of Private Law, the rule is not exhausted; it must be integrated, not only with constitutional principles, but also with those principles derived from Human Rights Treaties"*[13].
A strong link between human and consumer rights has also been established in Brazil[14].
With less emphasis, the phenomenon is also present in jurisprudence[15].
In Argentina, such a dialogue has legal support in articles 1097 and 1098 of the Civil and Commercial Code

2.3. Extra micro systemic Doctrine

---

4 Caramelo 2011, 43 and 57.
5 Wlasic 2011, 329-333.
6 Torres Buteler 2009, 125.
7 Sobrino 2015, 1008.
8 Ghersi 1994, 22-23.
9 Arias 2015, 815.
10 Vinti 2015, 60.
11 Lovece 2016, 7.
12 Chamatropulos 2015, 294-295.
13 Rojo 2021, 140. Vila Ortiz 2021, 4.
14 Pasqualotto 2009, p. 68.
15 Superior Court of Justice of Corrientes (Argentina), 28/11/2014, "Finanpro S.R.L. vs. García, Ramón s/Ejectivo".

In this area, there are isolated pronouncements[16].
Research in the English *Common Law* has raised the question of the link between human and consumer rights (Sinai Deutch[17], Jagielska and Jagielski[18], Iris Benöhr[19]).
Something similar can be predicted in China[20].

2.4. Resistance

A rigorous look at "externality" warns us that this logic still requires solid debates with other legal disciplines. This path has not managed to take shape irreversibly in scientific fields foreign to the Consumer Law of certain nations, in the jurisprudence of the Human Rights Courts, nor in the International Human Rights Treaties with constitutional hierarchy, and in certain sectors of international doctrine.

2.5. International instruments

At the international level, the United Nations Guidelines for Consumer Protection approved by Resolution 39/248 of the United Nations General Assembly and amended on December 22, 2015 (point III.5), in which several references to consumers in vulnerable and disadvantaged situations are verified (arts. 5 para. B, 11 para. A, 42, 77), deserve to be emphasized.

3. DOGMATIC BASIS FOR THE APPLICATION OF HUMAN RIGHTS PRINCIPLES TO CONSUMERS

[16] XVIII Ordinary Congress of the Argentine Association of International Law and XIV Argentine Congress of International Law.
[17] Deutch 1994, 537- 578.
[18] Jagielska y Jagielski 2012, 343-344.
[19] Benöhr 2013, 48.
[20] Gan 2008, 18.

We will now present some theoretical arguments, the answers to which allow us to trace a rapprochement between human rights and consumer rights.

3.1. Approximation between the concepts of "consumer", "citizen" and "person".

Consumers are not a separate group of people[21] in a consumer society. The rights of consumers are characterized by the fact that they belong to all human beings[22].

The notion of consumer in a market economy is close to the figure of the citizen in classical constitutionalism[23]. But now the State is no longer the only threat. Companies are to an equal or greater degree. The EU's Digital Service Act and Market Service Act reflect this, insofar as they are concerned with protecting the privacy, intimacy and economic interests of digital users against large companies (e.g. Google); no longer against the State, as was the case in the past.

The homo politico has been displaced by the homo consumers[24].

There has been a shift from the conception of the citizen to the facet of the consumer[25]. Along these lines, Benjamin defines consumer law as "the legal discipline of the 'everyday life' of the inhabitant of the consumer society"[26].

3.2. Parallelism between consumer and environmental rights

There is an irreversible tendency for environmental rights to be subsumed in the world of "economic, social and cultural" human rights ("ESCR"[27]).

---

21 Fernández de la Gándara 1995, 38.
22 Barral 2010, 131.
23 Against García Manrique 2009, 14.
24 Bauman 2008, 1.
25 Barría Bahamondes, 2013, 23 y 25. Ruiz-Rico Ruiz 1991, 178. Pelayo González-Torre 2001, 55.
26 Benjamin 1993, 913.
27 Sandoval Terán 2007, 8.

And, in turn, environment and consumption converge in what is called "sustainability rights", which is synthesized in SDG 12: "Ensure sustainable consumption and production patterns". Thus, Consumer Law is growing towards the "environmental paradigm", which has forged the expression "green consumption" or "environmentalization of Consumer Law"[28]. In this effort, section 1094 CCyC establishes, as a principle, that of "access to sustainable consumption", establishing an explicit dialogue of sources with Environmental Law.

Normologically, there is constant joint regulation (sections 41, 42 and 43 of the Argentine Constitution; sections 37 and 38 of the EU Charter of Fundamental Rights; sections 97 and 98 of the failed attempts at a European Constitution).

Now, environmental rights have been attributed doctrinally[29] and jurisprudentially[30], with certain ease, the guarantee of progression and non-reversibility[31], characteristic of human rights; on the other hand, in Consumer Law it has required greater efforts[32], which demands to tend to the principle of "sustainable consumption", as a strategy so that the rights of consumers run the same fate as environmental rights.

3.3. Dignity and equity as a justification for consumer rights

Consumer rights have been catalogued as human rights, since the former especially involve diverse manifestations of the dignity and equity of the person, as well as human rights.

---

[28] Sozzo 2013, 87.

[29] Prieur 2013, 10.

[30] Costa Rican Court, Constitutional Chamber, vote 2012-13367 of September 21, 2012.

[31] Esaín, José A.; quoted in Garrido Cordobera 2014, 1199.

[32] Resolution 36/2019 Mercosur.

Sections 1097[33] and 1098[34] of the Civil and Commercial Code account for this connection.

In fact, based on the anti-discrimination principle, the Inter-American Court of Human Rights has assumed, in an elliptical manner, a problem of business practices against users discriminated against because of their homosexuality, in a Supermarket[35].

3.4. Theory of non-enumerated human rights

Human Rights Treaties only provide a minimum standard, which does not imply the denial of other rights that are not explicitly enshrined (art. 29 American Convention on Human Rights, art. 5 International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights); for us, those of consumers.

In the European human rights system, there are no rules on non-enumerated rights; however, by means of an evolutionary exegesis, the possibility of contemplating non-enumerated rights[36] has been exceptionally accepted. The idea of dignity served the same purpose.

Based on this logic, consumer rights, although not enunciated in international treaties, can be treated as if they were contained in conventions.

---

[33] Art. 1097.- "Decent treatment. Suppliers must guarantee conditions of attention and dignified treatment to consumers and users. The dignity of the person must be respected in accordance with the general criteria arising from human rights treaties. Suppliers must refrain from engaging in conduct that places consumers in embarrassing, humiliating or intimidating situations".

[34] Art. 1098.- "Equitable and non-discriminatory treatment. Suppliers must give consumers equitable and non-discriminatory treatment. They may not establish differences based on guidelines contrary to the constitutional guarantee of equality, especially that of the nationality of consumers".

[35] Inter-American Court of Human Rights, "Olivera Fuentes Vs. Peru", 04/02/2023, considering 97.

[36] Gros Espiell 2000, 168; who quotes Gerard Cohen-Jonathan.

The following sections are tools to justify the above.

3.5. Theory of complementarity

The complementary nature that the Constitution grants to international treaties implies the necessary non-contradiction between the rights provided for in the dogmatic part of the Constitution and those set forth in the Human Rights Covenants. But this complementarity also generates that the double protection, internal and international, supposes a mutual correlation of the rights and principles of different sources[37].

Therefore, principles of International Law can be extrapolated to the whole set of fundamental rights, including those of consumers. The prohibition of regressivity is applicable to consumer rights.

3.6. Overlapping rights

The autonomously perceived rights of consumers, enunciated in the Fundamental Laws, are replicated in several of the Human Rights Treaties. For example: "health"[38], "dignified treatment"[39], effective judicial protection[40], among others.

---

[37] Bazán 2012, 49.

[38] Arts. 3 and 25.1 of the Universal Declaration of Human Rights, Art. 12.1 of the International Covenant on Economic, Social and Cultural Rights and Arts. I and XI of the American Declaration of the Rights and Duties of Man. The European Social Charter endorses the right to health in Articles 11 and 13, while the Charter of Fundamental Rights of the European Union guarantees it in Article 35.

[39] In art. 1 of the Universal Declaration of Human Rights. In a more immediate way it can also be said that education (for consumption) is guaranteed in art. 26 of the Universal Declaration of Human Rights and in art. 13 of the International Covenant on Economic, Social and Cultural Rights. In turn, the constitution of consumer and user associations can be extracted from articles 22 of the International Covenant on Civil and Political Rights, 22 of the American Declaration of the Rights and Duties of Man and 16 of the American Convention on Human Rights.

[40] It is guaranteed in Articles 8 of the Universal Declaration of Human Rights, 14 of the International Covenant on Civil and Political Rights, XVIII of the American Declaration

But the right to "an adequate standard of living"[41] for the individual and his family stands out, which cannot but be realized through consumption, so that the satisfaction of this guarantee requires sufficient protection of the rights of consumers.

There is a first case in the latter sense, where the Inter-American Court questions the State's validation of the health insurer's decision to unilaterally and arbitrarily terminate the "home hospitalization" regime that the child Martina Vera, diagnosed with Leigh syndrome, required in an essential way for her survival[42].

The ruling recalls, in recital 20, General Comment No. 15 (2013) of the United Nations Committee on the Rights of the Child on the right of the child to the enjoyment of the highest attainable standard of health (art. 24). This document, in turn, states that state authorities as well as private providers of health services must develop care programs within the framework of the comprehensiveness of the rights involved to make the right to health effective from the perspective of the rights of girls and boys as users and beneficiaries of the services. What interests us, for the purposes of our reasoning, is the mandate to private providers.

3.7. Cross guardianship

This is a technique[43] used by the European Court of Human Rights - and not so much by the Inter-American Court of Human Rights - to protect rights not explicitly guaranteed in the conventions. In addition to the environmental rights already mentioned, the European Court has been

---

of the Rights and Duties of Man and Articles 8 and 25 of the American Convention on Human Rights.

41 Arts. 25.1 Universal Declaration of Human Rights, 11 International Covenant on Economic, Social and Cultural Rights, more elliptically XI American Declaration of the Rights and Duties of Man, 13 European Social Charter).

42 Inter-American Court of Human Rights: "Vera Rojas and Others v. Chile", Judgment of October 1, 2021.

43 It is also called "por carambola" or par ricochet.

placing, in a praetorian or evolutionary manner, migrants under conventional protection through the guarantee of conventional rights expressly protected, such as the right to family and private life[44].
The environment is not formally protected in the European Convention on Human Rights, notwithstanding which the European Court of Human Rights shows sensitivity to the protection of environmental rights[45], through the technique of cross-protection of rights[46].
There is no argument to avoid that such conclusions can also be exportable to the consumerist sphere, in the cases in which an analogous and adequate juxtaposition is verified.

3.8. Intersectionality and Hypervulnerability

As is well known, the logic of "vulnerability" is very present in International Human Rights Law. The Inter-American Court of Human Rights (in a communiqué of April 14, 2020, in the context of the COVID 19 pandemic, declared that: "Given the nature of the pandemic, economic, social, cultural and environmental rights must be guaranteed without discrimination to all persons under the jurisdiction of the State and, in particular, to those groups that are disproportionately affected because they are in a situation of greater vulnerability".
The IACHR Court has also reasoned that "every person in a situation of vulnerability is entitled to special protection, by reason of the special duties whose fulfillment by the State is necessary to satisfy the general obligations to respect and guarantee human rights"[47].
Although the notion of hypervulnerability of the consumer has not been the subject of a pronouncement by the Inter-American Court of Human

---

[44] Gill and Almeida 2021, 120.
[45] Hatton I" Judgment of 02/10/2001.
[46] Martín-Retortillo Baquer 2005, 20.
[47] Inter-American Court of Human Rights, 08/31/2012, "Furlán y Familiares v. Argentina."

Rights, this Court has developed the idea of "intersectionality", which represents the foundation of what we now call hypervulnerability.
Intersectionality is a concept coined by the activist Kimberlé Williams Crenshaw, a referent of the so-called "black feminism".
The Inter-American Court of Human Rights was introduced into the logic of "intersectionality of vulnerability factors" in the case of "Gonzales Lluy et al. vs. Ecuador"[48], where it referred to the limitations in the "intersectionality of vulnerability factors". where it referred to the limitations in the access to education of Talía Gonzales because of having HIV, being a woman, disabled, a child and living in poverty. The accumulation of characteristics identified strengthened the condition of vulnerability and, consequently, especially enhanced the discrimination of which she was a victim.
More indirectly, the IACHR Court, in "Poblete Vilches" held the Chilean State responsible for not guaranteeing Poblete Vilches her right to health without discrimination, through basic and urgent necessary services in relation to her special situation of vulnerability as an elderly person, which resulted in her death[49].
For its part, the treatment of the problem of the so-called hipervulnerable consumers has been gaining special importance in recent years (with different terminology: "underconsumers"[50] or "particularly fragile consumers"[51]) and bears a striking similarity to that concept.

---

[48] Inter-American Court of Human Rights, 01/09/2015.
[49] Inter-American Court of Human Rights, 08/03/2018, "Poblete Vilches et al. v. Chile," para. 160.
[50] The expression belongs to GHIDINI, G. Per i consumatorí, Bologna, Zanichelli, 1977, p. 64.
[51] The expression belongs to BIHL, "La protection du consommateur particuliérement fragüe", JCP (Semaine Juridique, ed. Entreprise), no. 2, 1985, pp. 34-36; as quoted in CAVANILLAS MÚGICA, S., "La protección del subconsumidor en la normativa sobre responsabilidad civil por productos o servicios defectuosos", Estudios sobre Consumo,

It has also been taken up in regional comparative law[52]. And, more elliptically, some European Community legislation covers cases of particularly vulnerable consumers[53].

Directive 2011/83/EU in its recital 34 refers to the so-called vulnerable consumer. The French Consumer Code insinuates this concept in its art. 121-1; and the Italian Digest of Consumer Protection does the same in arts. 4 and 20.

In the original version of the Spanish General Law for the Defense of Consumers and Users, the subjective right to "legal, administrative and technical protection in situations of inferiority, subordination or defenselessness" was incorporated (art. 2.1.f). Later, in the Royal Legislative Decree 1/2007 of November 16, 2007, which approved the Revised Text of the General Law for the Defense of Consumers and Users, this "basic right" character was maintained, but the wording of the precept was reformed, making it more similar to the constitutional context. Thus, it regulated: "The protection of their rights by means of effective procedures, especially in situations of inferiority, subordination and defenselessness" (art. 8.f.). The new text retained the idea of "inferiority, subordination and defenselessness" which, strictly speaking, constitutes the logic and purpose of the whole system of consumer protection, but which, in this hypothesis, represents a concretion of the protection due to those consumers who suffer an aggravating cause of inferiority, subordination and

---

Madrid, Ministerio de Sanidad y Consumo: Instituto Nacional del Consumo, no. 18, 1990, p. 45.

[52] Such is the case of the Brazilian Consumer Defense Code, whose art. 39, para. IV, rules as an abusive practice the fact of taking advantage of the consumer's ignorance, age, health or social condition to impose its products or services on him.

[53] Commission Decision 2010/15 of 16 December 2009; Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009, concerning Common Rules for the Internal Market in Electricity; the Multiannual Consumer Program, currently in force, that is for the period 2014-2020 (EU Regulation 254/2014 of the European Parliament); among others.

defenselessness. Aggravated protection of consumers has also been recognized in some statutes of Spanish Autonomous Communities[54]. But the truth is that, notwithstanding the theoretical relevance of such provisions, they have not experienced in the jurisdictional work a parallel practical notability or remarkable effectiveness.

The turning point in the subject in the South American region was marked by Resolution 139/2020 of May 28 (Secretariat of Domestic Trade of Argentina), which regulated the concept of hyper-vulnerability, specifically in the procedural framework. This extraordinary Resolution, in its art. 2[55], provides a detailed list of the circumstantial weaknesses that may contribute to the configuration of an aggravated vulnerability. The regulation rightly focuses on traditional "hypo-sufficiency".

---

[54] See ACEDO PENCO, A., "Los subconsumidores como colectivos de especial protección reconocidos en el Estatuto de los Consumidores de Extremadura", Anuario de la Facultad de Derecho, Badajoz, Universidad de Extremadura: Servicios de publicaciones, núm. 22, 2014, pp. 195-203.

[55] Section 2. - For the purposes of the present measure, the following conditions, among others, may constitute causes of hypervulnerability: (a) claims involving rights or interests of children and adolescents; (b) being persons belonging to the LGBT+ (lesbian, gay, bisexual and transgender) collective; (c) being persons over 70 years of age; (d) being persons with disabilities pursuant to a certificate evidencing such; (e) being a migrant or tourist; (f) belonging to communities of native peoples; (g) rurality; (h) residence in popular neighborhoods pursuant to Law No. 27. 453; i) situations of socio-economic vulnerability accredited by any of the following requirements: 1) Being a Retired or Pensioned Person or Worker in Relation of Dependency who receives a gross remuneration less than or equal to TWO (2) Minimum Vital and Mobile Wages; 2) Being a Single Taxpayer registered in a category whose monthly annual income does not exceed TWO (2) times the Minimum Vital and Mobile Wage; 3) Be a Beneficiary of a Non-Contributory Pension and receive gross monthly income not exceeding TWO (2) times the Minimum Vital and Mobile Wage; 4) Be a beneficiary of the Pregnancy Allowance for Social Protection or the Universal Child Allowance for Social Protection; 5) Be registered in the Social Monotax System; 6) Be included in the Special Social Security System for Domestic Service Employees (Law 26. 8) Be a holder of a Life Pension for Veterans of the South Atlantic War (Law No. 23,848);

Art. 3 of the Resolution, from paragraphs a) to h), contains rules of effective procedural and procedural protection, among which the following stand out: "favoring efficient and expeditious procedures for the adequate resolution of conflicts" (paragraph a) and elimination and mitigation of obstacles in the access to justice of the hyper vulnerable (paragraph b). Article 4.a of that resolution requires that "all communication shall use clear, colloquial language, expressed in a plain, concise, understandable and appropriate to the conditions of hyper-vulnerable consumers". In line with the latter, although in a broader sense because it is not limited to the hyper vulnerable, the Code under analysis prescribes, among the duties of the magistrate, that the resolutions must "use clear and accessible language and may not use expressions in other languages" (art. 16.4 second part). Finally, it should be noted that under the logic of art. 3.b of Resolution 139/2020, the 100 Brasilia Rules on Access to Justice for Persons in Conditions of Vulnerability (of the XIV Ibero-American Judicial Summit) must be taken into account. In other words, these are a series of provisions aimed at improving the effective protection of these particularly vulnerable consumers.

However, the emergence of consumers in digital environments seems to place us in the presence of a new kind of hyper-vulnerability produced by the technological phenomenon itself. In this dimension, at first, the accent was only placed on digital illiteracy[56], but today it is already clear that the lack of comparison with the non-digital consumer, places the digital consumer per se as an "original" hyper-vulnerable[57].

In short, the concept of intersectionality of vulnerabilities of Human Rights Law presents an exact correlation with the idea of hyper-vulnerability of Consumer Law.

4. PRIVATIZATION OF HUMAN RIGHTS LAW

[56] Muler 2020, 1.

[57] Sahián 2022, 105.

Human rights, at least in their international aspect, are thought of as a guarantee against state transgressions. We believe that we must call for a privatization of human rights in order to make them more valuable in the face of the real serial violators of human rights in the consumer society, i.e. corporations. Thus, a new idea of horizontality of human rights contributes to a rapprochement of consumer rights and human rights.

4.1. *Drittwirkung der Gundrechte*

Drittwirkung der Gundrechte or effectiveness (as imported from Germany[58]) vis-à-vis third parties is a constitutional procedural technique for the protection of fundamental rights aimed at making them effective in relations between private individuals, usually at a higher jurisdictional level, both at the state and possibly at the international level.

Normologically, European fundamental rights emerged to guarantee the interests of individuals against a potentially infringing State. The logic of Drittwirkung came to temper that strictness.

In Latin America, on the other hand, it expanded the idea of constitutional rights that operate against both the State and individuals[59].

That paradigm of expansive constitutional rights can perhaps be exportable to human rights law.

Sociologically, the State was considered the only subject capable of causing massive damage, which merited the creation of the category of fundamental rights and, as far as we are concerned, human rights that were also born as protection against the State.

---

[58] Judgment of the Federal Constitutional Court of Germany, 1958, Case Lüth/ BVerfGE 7 Veit Harlan v. Erich Lüth, 198.

[59] This logic of horizontal effect is embedded in constitutional rights in the Americas. For example, there is no inconvenience in suing individuals for amparo in Argentina (art. 41 and 43 of the Argentine Constitution).

But, on the one hand, the notion of the State is finite. So much so that supranationality, internationalization and globalization have been competing for conceptual supremacy.

As a result, in the consumer society, the private sector occupies a place it did not have before. And, secondly, because of new technologies, a company such as Google is capable of generating, for example, much worse damage to privacy than any state could do. So, protection against private individuals is as important, if not more important, than protection against the public sector.

The European Union's *Digital Market Act* is proof of this[60].

In fact, the International Court of Human Rights has not been totally aliened to the *Drittwirkung*[61] theory. The condition that the imputable subject is only the State is nowadays indisputable, but it can be made compatible with a requirement of respect at the collective level.

It was Cançado-Trindade who began to expressly mention Drittwirkung. In his vote in Advisory Opinion No. 18, he explains that the rights contained in the American Convention on Human Rights are of a jus cogens nature and, therefore, of erga omnes requirement. The cited judge says that the Inter-American Court has pointed out that the fundamental principle of equality and non-discrimination, because it belongs to the domain of jus cogens, entails obligations *erga omnes* of protection that bind all States and generate effects with respect to third parties, including individuals[62]. But just as importantly, the judge is astonished that "to date, these horizontal and vertical dimensions of the erga omnes obligations of protection have passed

[60] The Digital Markets Act establishes a set of objective criteria to identify "gatekeepers", which are large digital platforms that offer so-called core platform services, such as online search engines, app stores and messaging services.

[61] Barona Martínez 2022, 45-60.

[62] Reasoned opinion of Cançado-Trindade in Advisory Opinion 18 on The Legal Status and Rights of Undocumented Migrants, para. 74.

entirely unnoticed by contemporary legal doctrine"[63]; which per se justifies this work.

Other actors, such as corporations, which cannot appear in international courts, also have a duty to protect the rights of their peers because their respect is *erga omnes* and, although the State will be internationally responsible, the duty to protect is incumbent on all.

4.2. The control of conventionality

The application of the *Drittwirkung* by the European Court of Human Rights is based on the understanding that the obligation of individuals to respect the rights and freedoms of others is normally imposed, immediately and directly, by the public authority itself. This is the approach adopted by the European Court of Human Rights and which has its origin in the "Airey v. Ireland" judgment of October 9, 2001. Ireland", of October 9, 1979, subsequently confirmed in a large number of judgments, including, among many others, "Lopez Ostra v. Spain", of December 9, 1979, and "Lopez Ostra v. Spain", of December 9, 1979. Spain", of December 9, 1994, and "Ilascu et al. v. Moldova and Russia", of July 8, 2004.

However, the European Court of Human Rights continues to tie Drittwirkung to a state obligation, in this case, to ensure that private individuals respect human rights.

Moreover, the doctrine of *Drittwirkung*, both in the case law of the European Court of Human Rights and in that of the Court of Justice of the European Union, knows substantial limits that are manifested, mostly, in the field of social rights[64], which in many cases is characterized by private relations, such as consumer or labor relations.

---

[63] Cançado-Trindade's reasoned opinion in Advisory Opinion 18 on the Legal Status and Rights of Undocumented Migrants, para. 78.

[64] Tomás Mallén 2022, 231.

The control of conventionality, which owes its name to the Inter-American Court of Human Rights[65], has its greatest success in converting national courts into its auxiliaries. It has imposed on national judges the task of exercising the control of conventionality over domestic laws, in direct application of the Convention[66]. This leads Canosa Usera to call this phenomenon the *"latest fruit of the Ibero-American constitutional laboratory"*[67]. And he does so in its two variants: conforming interpretation[68] or harmonization and declaration of unconstitutionality[69]. It has received different names respectively: repressive or destructive and preventive or constructive[70]; strong and weak. But this second possibility has diminished harmonization, which Ferrer Mac Gregor criticizes[71].

The former is confused with the test of constitutionality in countries that, like Argentina[72], assign constitutional hierarchy to treaties.

In the inter-American system, from a functional and institutional perspective[73], there are two controls: an international one and a domestic one (of national judges) supervised by the former. Unlike the European Court of Human Rights, which has opted to develop a greater jurisprudence, but has been content for domestic judges to interpret

---

65 It arises in the case of "Almonacid Arellano vs. Chile, Preliminary Objections, Merits, Reparations and Costs," Judgment of September 26, 2006, Series C No. 154, paras. 123-125.

66 Dulitzky 2014, 568-569.

67 Canosa Usera 2013, 95-96.

68 Sagues 2017.

69 Ferrrer Mac-Gregor, reasoned vote in Inter-American Court of Human Rights "Cabrera García and Montiel Flores v. Mexico, 26/11/2010.

70 Sagues, quote en Canosa Usera 2015, 36.

71 Ferrer Mac-Gregor 2011, 384.

72 In Mexico, for example, it is above the Law, but below the Constitution. In Europe, the tendency has not been to recognize it as having constitutional rank, except for Austria and Holland, which even place it above. The most common formula is supra-legal (Portugal, Spain, France, Belgium) or legal (Italy, Germany).

73 Fix Zamudio and Valencia 2013, 19 y 20.

domestic rights in the light of its doctrine, i.e., a harmonizing function, without the possibility of a diffuse declaration of unconstitutionality that resembles unconstitutionality.

On the other hand, the Old Continent has done so in matters of communitarianism, since the "Simmenthal" case, where the national judges are judges who carry out diffuse control of communitarianism of the national norm. Sagues argues that that precedent (together with "Flaminio Costa") is an equivalent of "Almonacid Arellano" for the American conventional system, so that European national judges could perform a diffuse control of conventionality like that of communitarity.

The same logic is followed by Jimena Quesada[74], starting from the parallelism between the "primacy" of Community Law and the "prevalence" of the Treaties. But this idea is rejected by the majority constitutionalist doctrine which, in addition to the conceptual distinction between these terms, argues that the European Court of Human Rights and the legislations have had the opportunity to postulate this diffuse control of conventionality and have not done so[75]. Although Protocol 16 implies an approximation of systems, since it implies a "conventional advisory opinion"[76], which is similar to the Community preliminary ruling, and which would reinforce the intersection between the European Court of Human Rights and national judges.

This has an impact on our research because all national judges are obliged to diffuse conventionality control, although the American judges have more powerful effects. In turn, as companies are legitimized in the internal conventionality control, therefore, consumer rights can be brought closer to Human Rights Law, this concludes with a viable "conventionalization of consumer rights in Latin America, not predictable in Europe.

---

[74] Jimena Quesada 2013, 28.
[75] González Pascual 2013, 118.
[76] Alonso García 2014, p. 152.

4.3. Corpus Iuris

In the inter-American case, the object of conventionality control is not only the American Convention on Human Rights, but it has been expanding the corpus iuris to other similar instruments[77]. Ferrer Macgregor defines the inter-American *corpus juris*: *"Thus, for example, the standards established by the European Court of Human Rights, international treaties of the universal system, the resolutions of the United Nations Committees, the recommendations of the Inter-American Commission on Human Rights or even the reports of the special rapporteurs of the OAS or the United Nations, among others, may form part of its jurisprudence, provided that the Inter-American Court uses them and makes them its own to form its interpretation of the inter-American corpus juris and create the conventional norm interpreted as an inter-American standard"*[78].

The latter could enable the SDGs of Agenda 2030 of the United Nations, the "Guiding Principles on Business and Human Rights"[79] and especially the Report on Business and Human Rights: Inter-American Standards of the Inter-American Commission on Human Rights[80] to be used as corpus iuris in the review of conventionality.

An international human rights law is beginning to be constructed that specifically addresses business.

The aforementioned Report on Business and Human Rights: Inter-American Standards[81] mentions among the fundamental inter-American

---

77 Mumare 2022, 176 a 181.

78 Voto Razonado de Ferrer Mac Gregor en Corte IDH "Cabrera García y Montiel Flores vs. México", del 26/11/2010, nota al pie 64.

79 United Nations, 2011, p. 15.

80 Report on Business and Human Rights: Inter-American Standards. Adopted by the Inter-American Commission on Human Rights, November 1, 2019 / [Prepared by the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights].

81 Approved by the Inter-American Commission on Human Rights, November 1, 2019 / [Prepared by the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights].

criteria on business and human rights: A. Centrality of the person and human dignity; B. Universality, Indivisibility, Indivisibility, and the right to the highest attainable standard of human rights. Universality, Indivisibility, Interdependence, and Interrelatedness of Human Rights; C.
Equality and non-discrimination; D. Right to development; E. Right to a healthy environment; F. Right to defend human rights; G. Transparency and access to information; H. Free, prior and informed consultation and general participation mechanisms; I. Prevention and due diligence in the area of human rights; II. Prevention and due diligence in human rights matters; J. Accountability and effective reparation; K. Extraterritoriality; L. Combating corruption and state capture.
The same document establishes that States must: prevent human rights violations in the context of business activities; supervise the effective enjoyment of human rights in the context of business activities; regulate and adopt domestic law provisions in the context of business activities and human rights; investigate, sanction and guarantee access to effective redress mechanisms.
Point 11 of the "Guiding Principles on Business and Human Rights"[82] stipulates that "business enterprises should respect human rights. This means that they should refrain from infringing on the human rights of others and address any adverse human rights impacts in which they have a stake".
We believe that the debate should take place because the context in which human rights germinated has been modified; and today individuals and especially large companies are the main transgressors.

4.4. The employer in the control of conventionality

[82] Approved by the Inter-American Commission on Human Rights, November 1, 2019 / [Prepared by the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights].

At a given moment, the control of conventionality expanded beyond the jurisdictional sphere, reaching the administrative sector[83].

And following this line, we believe that the concern of the businessman to become a more active subject in the protection of human rights, through political commitments, due diligence processes (with systems of incentives and sanctions), and assumption of responsibility and duty of reparation, should be invigorated.

But we know that, considering the prevailing criteria and norms, there is an impediment to the competence ratione personae for the passive standing of individuals before international human rights courts.

The procedural application of the Drittwirkung at the international level encounters a seemingly unavoidable impediment, since the subjects of public international law are primarily States. This would prevent the maximum degree of horizontality, which would be that individuals could be sued or tried before international courts.

In international human rights law, due to the idea that only States have ius standi in the field of public international law, there is resistance to the possibility of horizontality that characterizes *Drittwinkung*[84]. But this does not preclude some alternatives, as will be explained in the following section.

4.5. Possibilities of privatization

Thus, although it is currently unfeasible to think of companies passively legitimized in the field of international human rights law, there are several alternatives for research into the "privatization of human rights law" and, therefore, for bringing it closer to the inhabitants of consumer society, i.e., consumers and users.

a) The existence of norms that enable the "passive legitimization against individuals at the domestic level", for violation of human rights, does not present obstacles, if the constitutional regime enables it. For example, an

---

[83] United Nations, 2011, p. 15.

[84] Inter-American Court of Human Rights, "Gelman v. Uruguay" (para. 239).

amparo against private individuals in Argentina (art. 43 of the Argentine Constitution).

This was not predictable in European countries, with respect to fundamental rights, until the diffusion of the German theory of Drittwirkung, analyzed above.

Certainly, the ordinary jurisdictions, with the exception of the contentious-administrative, deal daily with disputes and violations of fundamental rights between individuals.

This is because the application at the national level of the conventional principles will depend on the normative and constitutional framework of each State. In most of the Americas, the direct application of a conventional instrument between private parties is not questionable.

b) A more reliable manifestation of the previous generalized design of the presence of the Drittwirkung is made visible when the control of conventionality, which must be carried out by judges, is obligatorily and imperatively present in relations between private parties, by constitutional or legislative mandate. The latter is what ends up configuring the phenomenon of "Conventionalization of Private Law". In Argentina, the section 1097 of the Civil and Commercial Code expressly indicates this for consumer relations.

It should be clarified that the relationship between the Constitution and the Civil Code in Europe is not like the reality in Latin American latitudes. The instability of the European constitutional history contrasts with the stability of the civil codification. Hence, what is known as "constitutionalization of Private Law" has more significance in Latin America.

c) Another stage is given by the international responsibility of the State for acts of individuals. Here there are different intensities.

A first step would be when states are responsible for the complicity of private individuals who violate human rights.

A further step, where one can already speak of an interference of the Drittwirkung, is when the state could be internationally responsible for the existence of attitudes of tolerance, acquiescence, omission, or lack of control, for example when states lack appropriate "administrative, judicial"

mechanisms for judging violations of rights generated by private individuals[85].

A further level is given by the State's duty of due diligence or prevention. Moving into the labor field, in the "Chowdury et al. vs. Greece" Judgment of March 30, 2017, the Strasbourg Court found a violation of Article 4 of the Convention because of the Greek authorities' failure to prevent a group of forty-two Bangladeshi nationals from being hired without work permits for the strawberry harvest, leading them into a situation of trafficking in human beings[86].

Now, when the risk is not certain, immediate, and determined, this state responsibility before the IHRL is a fiction, which makes up for the impossibility of responsibility to the individual.

It has been said, not without reason, that a State cannot be responsible for any violation of human rights committed between individuals within its jurisdiction, since the erga omnes nature of the treaty obligations of States does not imply an unlimited responsibility of these against any act of individuals[87].

---

85 Clapham 1993, 163-206.

86 Inter-American Court of Human Rights, "Olivera Fuentes v. Peru", 4/02/2023 (Preliminary Objections, Merits, Reparations and Costs). In particular, on August 11, 2004, Mr. Olivera and his same-sex partner were reprimanded by the staff of the "Dulces y Salados" cafeteria of the "Santa Isabel de San Miguel" Supermarket for publicly displaying affectionate behavior. On October 1, 2004, Mr. Olivera filed a complaint for discrimination before INDECOPI, which was rejected, obtaining a final unfavorable decision in cassation on April 11, 2011. The Commission concluded that the State violated the guarantee of reasonable time due to the time taken by each authority to resolve the appeals filed, without the State having provided reasons to justify the lapses in the decision of each appeal. In view of the above, it concluded that the Peruvian State is responsible for the violation of the rights to judicial guarantees, privacy, equality before the law and judicial protection enshrined in Articles 8(1), 11, 24 and 25(1) of the American Convention, in relation to the obligations established in Article 1(1) of the same instrument.

87 European Court of Human Rights, Chowdury and Others v. Greece of 30 March 2017, para. 86.

d) Another way to strengthen respect for human rights in private legal relations is to erect private enforcement. To this end, the companies themselves should contain operational mechanisms (administered by the companies themselves) to discuss the direct reparation of damages caused, and alternative means of conflict[88] resolution should be encouraged, which in the digital market are developed as ODR (Online Dispute Resolution)[89].
e) In our thesis, we think that it deserves a robust debate the fact that if a State is condemned for a violation deployed by an individual, the Court, in addition, could generate an effect on the individual. We are aware that, if an indirect effectiveness of this nature were to be mediated, the Inter-American Court of Human Rights would become more like a fourth instance, which generates resistance per se. What are the tools that could be used?
One possibility would be for the judgment of the International Court to have an expansive effect against the private individuals who violated human rights. But without the participation of these private third parties in the process, it would become questionable due to the violation of due process and the right to defense, which could only be fully guaranteed with some degree of participation of these private third parties in the process.
An alternative to the above would be to take into consideration the theory of the indirect effects of the judgment, making the principle of congruence[90] and res inter alias iudicata more flexible. Or that, without the judgment

88 "Guiding Principles on Business and Human Rights," United Nations, 2011, recitals 27-29.
89 Sahian 2021a, 1.
90 This is feasible in Argentina, in consumer relations. Article 95 in fine of the Code of Procedure in Consumer Relations of the CABA prescribes: "When issuing a judgment, the judge shall decide based on the claims of the parties in a reasonably founded manner, adjusting to a more effective solution of the dispute. Likewise, the judge may relax the congruence in order to provide greater protection and effectiveness of the fundamental rights of consumers who have not been part of the process, but who may be affected by the conduct of the supplier, especially in the case of hypervulnerable consumers, within the scope of Sections 1710 to 1713 of the Civil and Commercial Code".

having direct procedural consequences on individuals, the decision may be taken into consideration, as evidence or enforceable title against the individuals, by the injured parties.

In other words, if the State is sanctioned, the liability of the individual may also be underlying, as in the case of "Olivera Fuentes vs. Peru"; in which case a relaxation of the res judicata could also make the offending supermarket liable, not under international law, but under domestic law. If there had been exhausted proceedings, it would be necessary to accept the relaxation of the principle of res judicata of the country. But the latter would be unthinkable? The res judicata review mechanism would seem to encourage it.

In Supranational Consumer Law, such a solution has already been allowed by the Court of Justice of the European Union, making res judicata more flexible in pursuit of the principle of effective protection of consumers as vulnerable[91].

---

[91] Court of Justice of the European Union, 17/05/2022, Judgments in case C-600/19 Ibercaja banco, in joined cases C-693/19 SPV Project 1503 and C-831/19 Banco di Desio e della Brianza and others, and in cases C-725/19 Impuls Leasing România and C-869/19 Unicaja Banco. The Court is asked whether national procedural principles, such as the principle of res judicata, may limit the power of national courts, in particular enforcement courts, to assess the potentially unfair nature of contractual terms. Are principles of domestic procedural law which do not allow such an assessment in the context of enforcement, even of their own motion by the court hearing the enforcement proceedings, compatible with Directive 93/13 on the ground of the existence of prior national judgments? In the first of the above cases. In the first of those cases, the Court reaffirms that European Union law precludes national case-law which limits in time the effects of restitutionary measures and confines them exclusively to sums wrongly paid in application of an unfair term after the delivery of the judgment declaring that term to be unfair. 9 Furthermore, the Court considers that the application of the national procedural principles at issue is liable to make it impossible or excessively difficult to protect those rights, thereby infringing the principle of effectiveness. European Union law precludes the application of national procedural principles under which a national court hearing an appeal against a judgment limiting in time the restitution of sums unduly paid by the consumer as a result of a term declared unfair cannot examine of its own motion a plea alleging infringement of

It would not be the first time that an exception has been made to these institutes aimed at legal certainty, as happened with the non-applicability of statutes of limitation to crimes against humanity.

And the truth is that we must think about how to respond to the challenges of a new theologized era[92], where the risks come from the private sector, in equal or greater magnitude than from the public sector. To maintain a vision of human rights as it is today would be tantamount to Europe's having stuck to the idea of exclusively vertical fundamental rights.

5. CONCLUSION

We must put on the agenda a robust debate on the extrapolation of principles of Conventional Human Rights Law to the Consumer Defense Microsystem.

The extrapolation of standards from conventional human rights systems - based on the principles of progressivity, complementarity, and cross-protection of rights - should be taken into account in the defense of consumers' interests.

And a new, more "privatized" vision of human rights law contributes to the latter, which not only focuses on state non-compliance with citizens' rights, but also on the transgressions of companies against consumers and users.

---

that provision and order the full restitution of those sums, where the failure of the consumer concerned to challenge such a limitation in time cannot be attributed to total passivity on his part.

[92] Ciuro Caldani 2022, 14.

6. REFERENCES[93]

Alonso García, Ricardo, The National Judge at the European Crossroads of Fundamental Rights, Thomson Reuters Civitas, Madrid, 2014.

Arias, María P., "Benefit of free justice in consumer relations. Situation of the Provincial Courts of the City of Rosario", in La Ley Litoral, La Ley, September, Buenos Aires, 2015.

Barocelli, Sebastián, "Towards the construction of the category of hipervulnerable consumers", in Consumidores Hipervulnerables, El Derecho, Buenos Aires, 2018.

Barona Martínez, Natalia, "Application of the theory of Drittwirkung der Grundrechte in International Human Rights Law and the Ecuadorian legal system", in Iuris Dictio N° 29, June, 2022, DOI: http://dx.doi.org/10.18272/iu.v29i29.2281.

Barral, Inmaculada, "The rights of the consumers and the limits of the competence framework in the 2006 statute of Catalonia", in Castella, Andreu J. and Grammond, S. -coordinators-, Diversity, Fundamental Rights and Federalism. A dialogue between Canada and Spain, Atelier Libros, Barcelona, 2010.

Barría Bahamondes, Marcelo, "Citizenship, market and structural violence in the framework of the modernization of the State: abandonment and exclusion of the consumer citizen in Chile", in Revista de Derechos Fundamentales, Universidad Viña del Mar, no. 10, Valparaíso, 2013.

[93] The titles of the books and magazine articles have been translated into English.

Bauman, Zygmunt, "Exit Homo Politicus, Enter Homo Consumens", in Soper, K. and Trentmann, F. -editors.-, Citizenship and Consumption, Palgrave MacMillan, New York, 2008.

Bazán, Víctor, "Fundamental Rights -particularly Economic, Social and Cultural Rights- in the Plurinational State of Bolivia and certain challenges faced by constitutional justice in this regard", in Anuario Iberoamericano de Justicia Constitucional, Centro de Estudios Políticos y Constitucionales, no. 16, Madrid, 2012.

Benjamin, Antonio H., "Consumer Law", in Jurisprudencia Argentina, Abeledo Perrot, t. II, Buenos Aires, 1993.

Benöhr, Iris, EU Consumer Law and Human Rights, Oxford University Press, Oxford, 2013.

Canosa Usera, Raúl, Conventional Control, Thomson Reuters Civitas, Madrid, 2015.

Canosa Usera, Raúl, ""Is full control of conventionality possible in Spain?", paper at the IX Congreso Iberoamericano de Derecho Constitucional "Jorge Carpizo", Tucumán, 2013.

Caramelo, Gustavo, " Constitutionalization of consumer rights", in Picasso y Vázquez Ferreyra -directores-, Ley de Defensa del Consumidor Comentada y Anotada, La Ley, t. III, Buenos Aires, 2011.

Chamatropulos, Demetrio A., "Consumer Defense", in Chomer, Héctor and Sícoli Silvio -directors-, Derecho Comercial, La Ley, t. IV, Buenos Aires, 2015.

Ciuro Caldani, Miguel Ángel, " Contributions to the humanist legal strategy in a new era / Humanity in constant evolution", in Hernández, Frustagli

and Santarelli -directors-, El Derecho Privado en el Siglo XXI, t. I, LA LEY, Buenos Aires, 2022.

Clapham, Andrew, "The "Drittwirkung" of the Convention", in R. St. J., Matscher, F. and Petzold, H. -editors- The European System for the Protection of Human Rights, Macdonald, Dordrecht: Martinus Nijhoff Publishers, 1993.

Deutch, Sinai, "Are Consumer Rights Human Rights?", Osgoode Hall Law Journal, York Université, vol. 32, num. 3, 1994.

Dulitzky, Ariel E., " The impact of conventionality control: A paradigm shift in the Inter-American human rights system?", in Rivera, Julio (h) -director-, Tratado de los Derechos Constitucionales, Abeledo Perrot, t. I, Buenos Aires, 2014.

Fernández de la Gándara, Luis, "Consumer policy and law: theoretical reflections and normative analysis", in Estudios sobre Consumo, Ministerio de Sanidad y Consumo: Instituto Nacional del Consumo, No. 34, Madrid, 1995.

Ferrer Mac-Gregor, "Conforming Interpretation and Diffuse Control of Conventionality. The new paradigm for the Mexican judge", in Carbonell Miguel, Salazar, Miguel, Derechos Humanos: un nuevo modelo constitucional, UNAM, Mexico, 2011.

Fix Zamudio, Héctor and Valencia, Salvador, Human Rights Reforms, Collective Processes and Amparos, Porrúa - UNAM, Mexico, 2013.

Gan, Shaoping, "Essay: Consumer Rights: A Part Of Human Rights", Journal of International Business Ethics, Center for Applied Ethics - Chinese Academy of Social Sciences, vol. 1, num. 1, Beijing, 2008, DOI:

http://www.americanscholarspress.com/content/BusEth_Abstract/v1n108-art2.pdf).

García Manrique, Ricardo, ""The Hidden Enemies of Social Rights -five erroneous beliefs about human rights-", in Cuaderno Electrónico nº 5. Human Rights and Democracy, 2009, DOI: www.portalfio.org/inicio/presentacion/cuaderno-electronico-n-5.html.

Garrido Cordobera, Lidia M. R., "Applying the principles of non-regression, solidarity and pro homine. Environmental challenge of the XXI Century", La Ley, t. F, Buenos Aires, 2014.

Ghersi, Carlos et al., Law and responsibilities of companies and consumers, Buenos Aires, Ediciones Organización Mora Libros, 1994.

Gill, Ana Rita and Almeida, Susana, "The direct and indirect (par ricochet) protection of migrants in the light of The European Convention on Human Rights: brief notes on the evolution of the strasbourg court's case-law", in Human(ities) and Rights, Global Network Journal, Vol.3, 2021.

González Pascual, Maribel, "El CSDH as part of European constitutional law, in Queralt Jiménez, Argelia -Coordinator-, El Tribunal de Estrasburgo en el Espacio Judicial Europe, Thomson Reuters, Aranzadi, Cizur Menor, 2013.

Gros Espiell, Héctor, "Human rights not enunciated or not enumerated in American constitutionalism and in art. 29.c) of the American Convention on Human Rights", Anuario Iberoamericano de Justicia Constitucional, Centro de Estudios Políticos y Constitucionales, No. 4, Madrid, 2000.

Jagielska, Monika and Jagielski, Mariusz, "Are consumers rights human rights?", in Devenney, James and Kenny, Mel -editors-, European

Consumer Protection: Theory and Practice, Cambridge University Press, Cambridge, 2012.

Jimena Quesada, Luis, Jurisdicción Nacional y control de convencionalidad, Thomson Reuters Aranzadi, Cizur Menor, 2013.

Lovece, Graciela I., ""Consumer relations. Prevention, safety and business risk", La Ley, newspaper of 04/08/2016, Buenos Aires, 2016.

Martín-Retortillo Baquer, Lorenzo, ""Cross defense of rights: Environmental protection in the jurisprudence of the European Court of Human Rights", in Anuario Jurídico de La
Rioja- Parlamento de La Rioja, no. 10, 2005.

Muler, German, " The principles of the consumer protection system and its projection in digital environments", La Ley 28/12/2020, Buenos Aires, 2020.

Mumare, María, "International Responsibility of the State for the Omission of Conventionality Control in Judicial Cases on Consumer and User Rights", thesis submitted for the degree of doctor, Universidad de Mar del Plata, School of Law, 2022.

Pasqualotto, Adalberto, "Fundamentalidade e Efectividade de Defesa do Consumidor", Revista Brasileira de Direitos Fundamentais e Justicia, HS Editora, no. 9, October - December, Porto Alegre, 2009.

Pelayo González-Torre, Ángel, "The consumer society: critical ideological rehabilitation", Studies on Consumption, Ministry of Health and Consumption: National Institute of Consumption, No. 59, Madrid, 2001.

Prieur, Michel, "Prologue", in Peña Chacón, Mario -director-, El principio de no regresión ambiental en el derecho ambiental comparado [Libro en línea], United Nations Development Program, San José, Costa Rica, 2013.

Rojo, Martina, "Abusive Advertising And Human Rights In Argentina", Human(ities) and Rights, Global Network Journal, Vol.3, 2021.

Ruiz-Rico Ruiz, Gerardo, "Social and Political Foundations in the Social Rights of the Spanish Constitution," Revista de Estudios Políticos (Nueva Época), Centro de Estudios Políticos y Constitucionales, No. 71, Madrid, 1991.

Sagues, Sofía, Jurisprudential dialogue and conventionality control in light of the experience in the Argentine case, Max Planck Institute, 2017, DOI: http://www.derechoshumanos.unlp.edu.ar/assets/files/documentos/control-de-convencionalidad-a-la-luz-de-la-experiencia-en-argentina.pdf

Sahián, José H., "The principles of consumer law. General considerations and brief approach to the problem of users in digital environments", in RCCyC 2022 (September-October), Buenos Aires, 2022.

Sahian, José H., "ODR Online Dispute Resolution", in Revista LA LEY, 13/10/2021, Buenos Aires, 2021.

Sahián, José H., " General principles of consumer protection in the process and interpretation of the rules", in RDCO 308, 04/05/2021, Buenos Aires, 2021.

Sahián, José, " Progressivity and Non-Regressive Principles in the Preliminary Draft of the Consumer Defense Law", Special Comments to the Preliminary Draft of the LDC, 111, Buenos Aires, 2019.

Sahián, José, " Progressivity and Non-Regressivity Principles in the Rights of Consumers", LA LEY 2018-A, 545, Buenos Aires, 2018.

Sahián, José, " Constitutional Dimension of consumer protection", La Ley, Buenos Aires, 2017.

Sandoval Terán, Areli, Understanding economic, social, cultural and environmental rights (Desca), DESCA Equipo Pueblo A.C., Mexico, 2007.

Sobrino, Waldo A. R., "Prescripción de cinco años en seguros en el nuevo Código", La Ley, t. A, Buenos Aires, 2015.

Sozzo, Gonzalo, ""The resystematization of the regulation of consumption in the Draft Civil Code 2012", Revista de Derecho Privado, Buenos Aires, Ministry of Justice and Human Rights of the Nation, year II, no. 4, Buenos Aires, 2013.

Tomás Mallén, Beatriz, "Fundamental Rights and Drittwirkung in Multilevel Perspective: Recent Developments in European Law", UNED. Revista de Derecho Político, No. 115, September-December, 2022.

Torres Buteler, Eduardo, "Consumer Protection in the Light of International Human Rights Treaties", Revista de la Facultad de Derecho y Ciencias Sociales de la Universidad Católica Argentina, vol. 2, 2009, DOI: http://bibdigital.uccor.edu.ar/ojs/index.php/RFD/issue/view/201.

Vinti, Ángela M., ""When the customer is not right. About a ruling", La Ley, February, Buenos Aires, 2015.

Vila Ortiz, Clara, "Abusive advertising in the Civil and Commercial Code and the incidence of the Fundamental Rights of the Consumer in its configuration", Revista de Derecho del Consumidor - N° 10 - April, 2021.

Wlasic, Juan C., Critical Manual of Human Rights, Buenos Aires, La Ley, 2nd ed. act., Buenos Aires, 2011.