

When international courts beat politics

The European Court of Human Rights has been object of criticism in recent years. One strong critique came from the Danish presidency of the Council of Europe in 2017. Despite arguing for radical reforms, the Danish pushback did not lead to significant changes. Under the right circumstances, international human rights courts can survive politics.

What we knew before

International courts, including human rights courts, are created by states. Because they rely on the support of states for their existence, we have assumed that these institutions were extremely vulnerable to pushback and backlash from their member states.

What we know now

The Danish government used its presidency of the Council of Europe to launch a criticism of the European Court of Human Rights. This, however, moved the debate from national politics into the arena of international politics. Here, other states and NGOs countered the Danish criticism. As a consequence, the final Copenhagen Declaration ended up voicing

considerable support for the court.

International politics can shield human rights courts from populist nationalism.

Implications of new knowledge

The Danish case gives us a better understanding of how national critique fares on the international arena. However, whereas the Danish criticism was dismantled at the level of international politics, other types of pushback can have serious consequences. Especially subtle forms of obstruction that bypass diplomatic channels seem to be detrimental. Identifying and bringing to light such forms of pushback in order to counter-mobilize is crucial for the survival of international courts and human rights.

Research source

[Two Level Politics and the Backlash against International Courts: Evidence from the Politicisation of the European Court of Human Rights](#)

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