

# International Law

Storebrand Sustainability Team



**Storebrand aims to invest in corporations that contribute actively to sustainable development. We believe such practices – when integrated into core business – will be financially rewarded. Furthermore, we have implemented a standard for all investments under management by the Group; Storebrand standard. This standard leads to certain corporations being excluded from investment. Among them are companies involved in serious violations of International Law.**

## Definition

International law encompasses rules and principles of general application dealing with the conduct of nations and of international organisations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical. Storebrand has a separate criterion for human rights and thus human rights are not included in this description. This criterion focuses mainly on international criminal law and humanitarian law.

## Background

Modern warfare is not what it used to be: one state against another. Since the Second World War we witness how more and more non-state actors are involved in armed conflicts, such as private military forces. In addition, we can also see how traditional corporations may also be involved indirectly while carrying out economic activities for example while exploiting natural resources. In these situations, these economic activities may lead to the financing of campaigns of violence or maybe the cause of the conflict all together or of its continuation.

Several studies and reports by the International Committee of the Red Cross describe how business activities during an armed conflict might fall under the scope of international humanitarian law and could constitute war crimes. The International Commission of Jurist has also issued a few reports where corporate responsibility in armed conflict situations is analysed, specifically corporate complicity or contribution to international crimes.

Even though there is no forum where companies can be prosecuted as legal entities at the international law level, company officials have been tried for crimes under international criminal law at an international level, previously, after the Second World War by the Nuremberg Tribunal for being involved in crimes of the Nazi regime<sup>1</sup>. Furthermore, as national legal systems incorporate international criminal law into their domestic legislation, they often include legal entities, including companies, in the list of potential perpetrators. This is the case of Norway since March 2008. The Norwegian Penal Code counts with over 16 war crimes for acts committed abroad "on behalf of an enterprise registered in Norway".<sup>2</sup>

<sup>1</sup> For example for supplying Zyklon B gas to concentration camps.

<sup>2</sup> LOV 2005-05-20 nr 28: Lov om straff (straffeloven). Kapittel 4. Foretaksstraff

In this context, Storebrand evaluates cases where companies might contribute to breaches of international humanitarian law, international criminal law and other fundamental ethical norms or international law in general including human rights. This will usually take place when companies have operations in conflict areas or under repressive regimes, occupied territories or Non-Self-Governing territories. For example, Storebrand will look into situations where: security companies assist an occupying state to "maintain the peace" in a conflict area; companies help an occupying state power to extract the natural resources of an occupied territory; help the occupying power by selling goods and services that further the occupation or the settlement of the occupying power's civilians in occupied territories or may contribute to genocide by funding campaigns of violence. In addition, Storebrand will also require companies to examine their supply chains to ensure that for example their buying of raw materials is not contributing to fuel conflict, such as in the case of conflict minerals.

For Storebrand as an investor, it is of interest that corporations act responsibly and not in a way that causes damage to operations or reputation, results in legal action, or diminishes future business opportunities.

## International law and conventions

The UN Charter, The Hague and Geneva Conventions together with UN Resolutions, decisions from the International Court of Justice and decisions from the International Criminal Court form the basis for Storebrand's International Law violations criterion.

### **Conventions and UN Resolutions basic to the International Law Criterion**

The UN Charter	Geneva Protocol to the Hague Convention
The Geneva Conventions	UN Security Council Resolutions
Protocols additional to the Geneva Conventions	UN General Assembly Resolutions
The Hague Conventions	International Court of Justice Decisions
	International Criminal Court Decisions

The International Committee of the Red Cross' work and its essential rules on International humanitarian law, although not legally binding, also serve as guidance for Storebrand's International Law criterion in addition to, in some cases, references to EU and Norwegian/Swedish official recommendations on international law matters.

Furthermore, a long series of voluntary guidelines also inform this criterion such as: UN Guiding Principles; OECD Guidelines for multinationals in "weak governance" zones; UNGP & PRI Guidance on Responsible Business in conflict-affected and high-risk areas; or the Voluntary Principles on Security and Human Rights. In addition, in particular regarding private military and security companies, Storebrand will assess company behaviour based on the Montreux Document and the International Code of Conduct for Private Security Services Providers.

## Scope

Storebrand will not invest in companies involved in serious violations of international law. In the event that subsidiaries of a company are involved in serious violations of international law, but are not publically listed, the closest listed company above the subsidiary in the hierarchy, with a controlling interest, is excluded. In the event that a subsidiary involved is listed, the parent company is also excluded if it has a controlling interest in the subsidiary. If a parent company is involved in serious violations of international law, listed subsidiaries are only excluded if they are involved in the same

unacceptable activities. Storebrand will also consider exclusion in cases where suppliers or other business partners (such as joint ventures), systematically violate the criterion. Storebrand will not exclude companies based on operations in specific countries, but will assess the manner in which they run their business in the countries they operate in.

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