

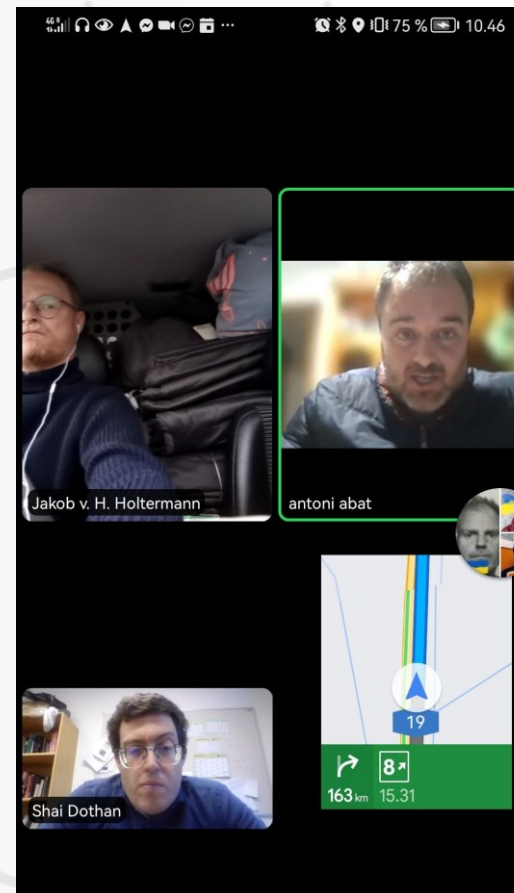
# EU and the Social Contract: Insecurity

Approaching *via negativa* through the War in Ukraine

Jakob v. H. Holtermann, Associate Professor in Legal Philosophy, (Nicholas Haagensen, Assistant Professor in Legal Sociology), iCourts – Centre of Excellence for International Courts (jvhh@jur.ku.dk)



UNIVERSITY OF COPENHAGEN



# EU and the Social Contract: Insecurity

The War in Ukraine as the apparent antithesis of EU and the Social Contract:

- No EU (apparently):
  - Ukraine is not an EU member state
  - EU is not a party to the Rome Statute
- No social contract (apparently):
  - Ukraine as belonging to the "The European Orient"
  - The war as a Hobbesian state of nature – everyone's right to everything
  - Standard ICJ critique: no rational actors in war



# EU and the Social Contract: Insecurity

## Hypothesis:

- Immanent or rudimentary presence of EU and the Social contract in the War in Ukraine; justice as a regulative idea (Kant)

## Method:

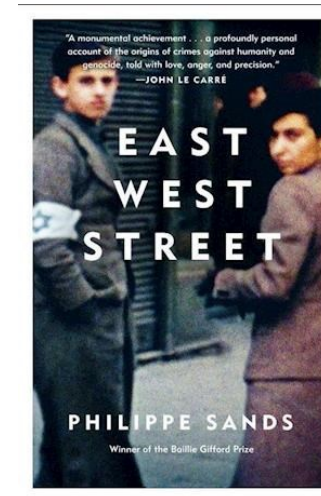
- From thought experiment to sociologico-philosophical investigation; from law in the books (Kelsen) to living law (Ehrlich)
- Modal investigation: not *whether or not*, but *how* does EU and the Social Contract exist in the War in Ukraine in spite of its formal absence?



# EU and the Social Contract: Insecurity

Signs of immanent or rudimentary presence of EU and the Social contract in the War in Ukraine:

- EU in ICJ, e.g. through EuroJust
- Ukraine's Centre for Civil Liberties and Oleksandra Matviichuk
  - A crisis of despair: why continue?
  - "But you are here now?"
  - Reznikov's speech; "I want to live"-project; a Russian tank crew; generals in Moscow;
  - ICJ and the social contract; justice, truth, accountability; punishment **as a regulative idea: a hope; a promise; a threat; a process; a present and not only future phenomenon; shady legality**
- East West Street and the origins of International Criminal Justice (Iryna Marchuk)



# Oleksandra Matviichuk's question of despair is a question to all of us – and a question to you:

- Does it matter?
- Can there be justice in war? Can there be justice in an unjust peace?
- Put differently: Can we make sense of “EU and the social contract” in Ukraine?

# Thank you

- Questions/comments: [jvhh@jur.ku.dk](mailto:jvhh@jur.ku.dk)