

The contribution of international courts and tribunals to the methodology of international law

OC - (ILA-14121) - AFRICAN REGIONAL JURISDICTION: HOW AFRICAN UNION IS CREATING AN INNOVATIVE REGIONAL JURISDICTION FOR INTERNATIONAL CRIMES

Rui Garrido (Portugal)¹

1 - ISCTE - Instituto Universitário de Lisboa

Rui Garrido

Ph.D candidate in African Studies at ISCTE - Instituto Universitário de Lisboa.

M.A in Human Rights by the University of Minho School of Law.

Abstract

This proposal aims to understand the response of the African Union to the cases against Omar al-Bashir of Sudan, and Uhuru Kenyatta of Kenya of the International Criminal Court. Several African leaders accused the ICC to undermine the regional peace and stability achieved both in Sudan and Kenya, and the situation became worse when, in 2018, three African countries announced their intention to withdrawal from the Rome Statute for the ICC – Burundi, South African and The Gambia. This was just the tip of the iceberg, and the mediatic part of a process that happened in the backstage, in which the African Union played a central role. The African Union acted proactively in finding a way to avoid the ICC to trial another African citizen and engaged itself in the strengthening of its judicial institutions. The AU adopted the Malabo Protocol in 2014, a legal text that expands the jurisdiction of the African Court of Justice and Human Rights to international crimes. The African Court on Justice and Human Rights will replace the African Union Court of Justice and the African Court on Human and Peoples' Rights, operating a significative transformation in African Union Architecture of Justice, but also creates a very innovative International Court. The jurisdiction of the criminal law section of the African Court is much broad than of the ICC, and go far beyond of the Rome Statute, not only in the crimes of genocide, crimes against humanity, war crimes and crimes of aggression, but also because ten (10) new international crimes are included in the Protocol. The Malabo protocol, but also other African experiences with international crimes – as the case of the Extraordinary African Chambers in Senegal – represents the emergence of an African Regional Jurisdiction. This regional jurisdiction, under the aegis of the African Union, will occupy the role played by the ICC in fighting impunity, but also to avoid that The Hague based Court to conduct another investigation over an African country, as the AU proposes an International Court with similar jurisdiction and complementary only with national and regional jurisdictions. This proposal aims to understand this African Regional Jurisdiction, and its key contributions to International Criminal Law.

Palavras-chave : African Court on Human and Peoples' Rights, East African Court of Justice, Sexual orientation and gender identity