

The contribution of ITLOS to the development of the Law of the Sea

OC - (ILA-14175) - THE PROBLEM OF ENFORCEMENT JURISDICTION IN MARITIME AREAS: SOME RESULTS OF THE M / V NORSTAR CASE

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Abstract

UNCLOS has palpably affirmed, territorial seas, archipelagic waters and international straits (or parts thereof) are within the territory of the state, so the issues of combating offenses governed primarily by laws of the coastal state. Nevertheless, it should be noted that the flag's jurisdiction continues to apply on board a ship in a foreign port. Therefore, the exercise by the coastal state of its jurisdiction on board such a vessel will be associated with a number of practical difficulties. M / V Norstar was arrested in the internal waters of Spain by Spanish authorities acting upon request of Italian authorities. Italy maintained that article 87 UNCLOS is irrelevant *ratione loci* with respect to the instant case since the M/V "Norstar" was seized within Spanish territorial waters. But the Tribunal observed that even when enforcement is carried out in internal waters, article 87 may still be applicable and be breached if a State extends its criminal and customs laws extraterritorially to activities of foreign ships on the high seas and criminalizes them.

Scientific interest of this research lies in considering the features of the establishment and implementation by States of their jurisdiction in its territory and beyond its borders, including in marine areas. But main focus of the author is dedicated to analysis of the ITLOS's legal position on the law of the sea and its impact on the implementation of prescriptive and enforcement jurisdiction in the future.

Palavras-chave : enforcement jurisdiction, prescriptive jurisdiction, the law of the sea