

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

OC - (ILA-14179) - JURISPRUDENCE OF REGIONAL COURTS AND INTERNATIONAL LAW: METHODOLOGY OF COHERENCE

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Have more than 80 publications, most of them in Russian. Some latest on the topic of the conference are, e.g. 2 chapters as an author and editor of 'International Justice in XXI century' (Minsk, 2016. 470p., in Russian); Procedural Status of Individual in International Litigation (Collected Writings of the Faculty of International Relations, 2019, pp. 28-54, in English.)

Abstract

Fragmentation of international law through diversification of its application by international courts could have caused its inconsistency, instability, unpredictability. Oppositely, in a world of heterogenic interests and trends (Simma B., *Universality of International Law from the Perspective of a Practitioner*, EJIL, 2009, Vol.2, pp.265-297), only international law can stand as «as glue» (Peters A., *The refinement of International Law: from fragmentation to regime interaction and politicization – I·CON* (2017), Vol. 15 No. 3, 671-704.) for all relations and a core of international order. Constitutionalization, politicization, meta-constitutionalization, globalization of international law and order, mutual recognition and «compatibility» of international legal regimes, rapprochement and «integration» of different subsystems are contemporary recipes in doctrine to overcome any difficulties related to post-modern burst and multiplication of regional models and legal regimes. Jurisprudence of regional courts show differentiated attitude and motives to comply to international legal order. However, the overall tendency is one of coherence.

To explore methodology of coherence in regional context one should analyze the use of international law in regional courts practice, impact of regional jurisprudence on the development of common international law,

a nature of autonomous regimes in international law through the lens of regional case-law, examples of regional courts practice and negative fragmentation of international law, and vice versa - compliance issues, as well as use of case-law of international courts by international judges and mutual citation (judicial dialogue - more broadly) and some other aspects.

Legal instruments for providing coherence in regional court's practice are : following *hierarchy* of international legal norms (though very special one, with special attention to principles and jus cogens in general) and building *network architecture* of legal regimes; using common methodology on interpretation (special method to systemic approach), common values and principles adherence, including «humanization» of international law – in this sense the role of regional courts in forming «commonly shared horizon of meanings» is difficult to exaggerate.

Harmonized (balanced) diversity is today's pragmatic response to multiple issues of stabilization of international legal order. Regional courts can be primary actors in this new coherent strategy.

The article has some empirical innovations: besides such traditional regional courts being analyzed in the context, especially ECJ and ECtHR, some less analyzed regional courts practice, namely the COurt of the Eurasian Economic Union and the Economic Court of the Commonwealth of Independent States are in the focus. Special attention is paid to the role of ICJ's opinions and legal positions for regional courts in application of general principles and customary rules of international law.

Palavras-chave : regional court, international law, coherence