

The Legality of Unilateral Countermeasures in International Law

Abstract

The aim of this thesis is to examine the legality of unilateral countermeasures in international law. The term refers to measures adopted by a State in response to a wrongful act committed by another State in order to induce the wrongdoing State to comply with its obligations of cessation and / or reparation. Given the decentralized character of contemporary international law, countermeasures represent the effective mechanism of enforcement equally available (at least formally) to all States to seek the restoration of the legal relationship with the responsible State. Nevertheless, like other forms of self-help, countermeasures are liable to abuse, which is only aggravated by the controversial history of reprisals and factual inequalities between States. For this reason, countermeasures are lawful only if certain conditions are met. These conditions, nowadays codified in Draft Articles on Responsibility of States for Internationally Wrongful Acts, are the main subject of interest of this thesis, which is divided into four chapters. Chapter One deals with the concept of State responsibility and the enforcement of international law. Chapter Two is concerned with the role of countermeasures in international law, the International Law Commission's work of codification and the historical development of the law of reprisals before the adoption of the Charter of the United Nations in 1945. Chapter Three turns its attention on the legal restrictions of the right to resort to countermeasures. These restrictions are as follows: actual existence of a wrongful act, conditions relating to resort to countermeasures, the principle of proportionality, obligations that are excluded from the scope of countermeasures and the temporary character of countermeasures. Chapter Four focuses on the legality of third-state countermeasures (i.e. countermeasures taken in response to breaches of obligations owed to the international community as a whole). The purpose of this chapter is to determine whether customary international law recognizes a right to third-state countermeasures in protection of obligations *erga omnes*.

Key words: international responsibility, countermeasures, legality