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Description for general public of the project „Retorsions in public international law”

The prohibition of the use of force delegatized retaliatory measures of an armed character. As a result, since 1945, if a State's rights under public international law are breached by another State, the State concerned may reply only with measures which are collectively called retorsions. The existence of such measures is of utmost importance in a decentralized system such as international law. In definitions of retorsions two traits are highlighted: the legality of measures undertaken as retorsions; and fact that they constitute an unfriendly act.

The most frequently mentioned examples of retorsions are termination of diplomatic relations; withdrawal of voluntary aid programs; declaration of a State's diplomatic envoy as a *persona non grata*; nonrecognition of government; verbal denunciations regarding the other country etc.

The aim of the project is to find out what the position of retorsions is in the practice of States. States rarely refer to the notion of retorsions, but instead they often name certain conduct of other States as 'unfriendly'. Does it mean that without using any specific terminology and naming their actions, States are actually exercising retorsions, even if implicitly? Or are retorsions only a theoretical notion created in the doctrine of law that has no translation in the practice of States? Thus, one of the aims of the project is to determine the rules which govern the employment of retorsions on the grounds of States' practice. Moreover, scholars claim that there are certain limitations imposed on the application of retorsions such as proportionality, equality, reasonableness, or humanitarian concerns. However, the question should be posed of whether these constraints are specific only to retorsions and whether these values and principles are not universal and should not be applied by States every time they act in international relations towards another State or international organization. Regardless of the answer to this question, one should also investigate whether there are any other limitations that are specific only to retorsions. Another aim of the research is to introduce clear differentiation between retorsions, reprisals and countermeasures. Countermeasures are measures which are established to protect a legal relationship or secure compensation. However, some commentators claim that countermeasures are limited to 'measures that would otherwise be contrary to the international obligations of an injured State vis-à-vis the responsible State, if they were not taken by the former in response to an internationally wrongful act by the latter in order to procure cessation and reparation.' (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries). Reprisals include measures which breach international law. Finally, the project seeks to explain the role and place of retorsions within the system of international law.

The research will be conducted via examination of the relevant States' practice and the scholarship which so far has discussed retorsions and/or other measures undertaken by States in response to wrongful acts. The aim of the examination of States' practice will be to find out how States perceive retorsions; how they qualify them; and what role retorsions play in international relations. On the other hand, the aim of examination of the scholarship will be to trace back the history of the notion of retorsions, create definitions of retorsions/reprisals/countermeasures, as well as to determine what limits may be possibly imposed upon retorsions.

The results of the project will enable further examination of cases of retaliatory measures applied by States and will make it possible to assess them as reprisals/retorsions, unlawful/lawful measures, etc. They will also make it possible to observe whether, and, if the answer is positive, how, the scholarship influences the practice of States and vice versa, not only in case of retorsions but also in the other fields. Finally, the outcomes of the project will also demonstrate how States deal with wrongful acts directed against them - if States are willing to reply to wrongful acts by legal measures, and consequently, do not escalate the disputes, or if they are looking for confrontation and reach for illegal means to reply to wrongful acts.