

Session of Oslo - 1977

**Public Law Claims Instituted by a Foreign Authority
or a Foreign Public Body**

(Twentieth Commission, Rapporteur : Mr Pierre Lalive)

(The French text is authoritative. The English text is a translation.)

The Institute of International Law,

Recalling the Resolution on "The Application of Foreign Public Law" which it adopted at its Wiesbaden Session on 11 August 1975, and wishing to specify the scope of its application with respect to the admissibility of public law claims instituted in legal proceedings by a foreign authority or a foreign public body,

Taking account of the state of opinion and of practice with respect to such claims as well as of the tendency, particularly in some recent conventions, towards increased co-operation and mutual assistance,

Adopts the following Resolution :

I

- a) Public law claims instituted in legal proceedings by a foreign authority or a foreign public body should, in principle, be considered inadmissible in so far as, from the viewpoint of the State of the forum, the subject-matter of such claims is related to the exercise of Governmental power.
- b) Such claims should nevertheless be considered admissible if, from the viewpoint of the State of the forum and taking account of the right of the defendant to equitable treatment in his relations with the authority or body in question, this is justified by reason of the subject-matter of the claim, the needs of international cooperation or the interests of the States concerned.

II

Public law claims other than those referred to in the preceding Article, instituted in legal proceedings by a foreign authority or a foreign public body, should be considered admissible, as for example claims which from the viewpoint of the State of the forum stem from or are ancillary to private law claims.

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(1 September 1977)