

7 RES EN
7th Commission
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7th COMMISSION

Are there Limits to the Dynamic Interpretation of the Constitution and Statutes of International Organizations by the Internal Organs of such Organizations (with Particular Reference to the UN System)?

Rapporteur: Ms Mahnoush Arsanjani

RESOLUTION

Limits to Evolutive Interpretation of the Constituent Instruments of the Organizations within the United Nations System by their Internal Organs

The Institute of International Law,

Noting that international organizations are established by multilateral agreements or by decisions of other international organizations,

Noting that organs of international organizations routinely interpret their constituent instruments in the course of their operations and should be able to adjust quickly to the new challenges in their changing environments in order to remain relevant and perform their assigned functions,

Noting also that interpretation is necessary when the constituent instrument of an international organization is ambiguous or silent on a specific issue,

Noting further that evolutive interpretation may take place not only if the text of a constituent instrument is ambiguous, but also in the absence of any relevant text addressing the issue at hand,

Recognizing that the appropriate use of amendment procedures of constituent instruments of international organizations is conducive to maintaining the integrity and coherence of those instruments,

Whereas this Resolution employs the term “evolutive interpretation” to refer to interpretation of constituent instruments in order to achieve perceived needs of an international organization that are consistent with its object, purpose and functions,

Recalling that the legislative history of the constituent instruments of certain international organizations shows that these organizations were allowed to interpret their own constituent instruments, in certain cases without external oversight,

Whereas highly significant activities of some international organizations owe their existence to the evolutive interpretation by these organizations of their constituent instruments,

Adopts the following Resolution:

1. International organizations may resort to evolutive interpretation of their constituent instruments to address current challenges and to fill unforeseen gaps.
2. Articles 31 to 33 of the Vienna Convention on the Law of Treaties which reflect customary international law shall be applied in the interpretation of the constituent instruments of international organizations, taking into account any relevant rules of the organizations as provided in Article 5 of the aforesaid Convention.
3. Evolutive interpretation by international organizations of their constituent instruments shall be consistent with those instruments and in particular with their object and purpose.

4. Evolutive interpretation by international organizations of their constituent instruments shall take account of the fundamental principles of international law, often reaffirmed, initiated and promoted by these organizations themselves.
 5. Evolutive interpretation by international organizations of their constituent instruments may not violate *jus cogens* including internationally protected fundamental human rights.
 6. In exercising their competence to interpret their constituent instruments, international organizations shall pay due regard to the functions of other international organizations.
 7. Unless otherwise provided in the constituent instrument of the international organization, when there is a general agreement among the membership of the international organization as to an interpretation, the interpretation should be presumed to be valid and *intra vires*.
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