

Sovereign Immunity vis-à-vis the Municipal Legal Remedy of Specific Performance

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51 ATENEO L.J. 878 (2007)

SUBJECT(S): PUBLIC INTERNATIONAL LAW

KEYWORD(S): SOVEREIGN IMMUNITY, CONTRACTUAL BREACH BY STATES, SPECIFIC PERFORMANCE

As a general rule in public international law, international laws are binding only upon the consent of states. The power of sovereign immunity has been a source of controversy in international law, particularly with respect to the private sector, where the latter is left at a disadvantage in cases of state contracts entered into by the two parties. This becomes more problematic in light of the continued growth of commercial dealings between states and the private sector.

Upon the principle that states, as much as individuals, are bound by their contractual obligations, it is imperative that the terms of contracts must be complied with in good faith by both parties. Thus, it is questioned whether the decree of specific performance be similarly imposed upon defaulting state parties.

Since different rules govern the issue of state suability, it may be assumed that no immediate solution can be forwarded to resolve this deadlock on the question of liability. However, specific performance is still an available remedy for private claimants in cases wherein states breach their contractual obligations.