

African International Dispute Settlement and the Paradox of Regional Economic Integration

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The role of judicial institutions in international law keeps growing, with regard to regional (Africa, the Americas, Europe) as well as thematic (trade, FDI, human rights) integration. This paper examines integration in Africa's RECs through the lens of their judicial institutions. It describes the features of the emerging case law, identifying several interrelated problems shared by most active supranational courts in Africa and demonstrating the practical importance of individual complaint mechanisms as well as institutional disputes between community organs for the promotion of regional integration.

It also shows that while there is only few litigation on the technicalities of economic integration, some regional courts are rapidly gaining importance as *de facto* human rights courts. Their decisions on rule of law, touching issues of national sovereignty, are at the forefront of regional integration -- a development that marks a new era in African international relations. Threatening the traditional predominance of inter-governmentalism on the continent, the regional case law has already provoked some counter measures by states, at times thwarting the logic of regional integration and harmonization.

Most importantly, the paper diagnoses a lack of communication and cooperation between the national and regional levels. While in the EU the dialogue between national and supranational judges (through preliminary questions) is at the core of an effective and efficient legal harmonization, such dialogue is virtually inexistent in Africa, although the regional treaties would offer the necessary procedural tools. This is doubly debilitating since it hinders an extensive application of community law and an amelioration of the performance of national judiciaries along the lines of supranational standards.

The paper concludes in particular that the improvement of individual complaint procedures is a precondition for a generally accelerated regional integration; such improvement requires an increased *cooperation with* and *delegation to* national courts. At the same time, the success of a prospering regional jurisdiction is closely tied to the parallel progress of integration in the executive and legislative field, with all three branches of regional government enabling an actual polity on the supranational level.