



Ordine internazionale e diritti umani

International Legal Order and Human Rights
Ordenamiento Jurídico Internacional y Derechos Humanos
Ordre juridique international et Droits de l'Homme

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THE SPANISH ACT 16/2015, PASSED ON 27 OCTOBER, IN THE LIGHT OF THE DUTCH JUDGEMENT ON IMMUNITY FROM JURISDICTION OF INTERNATIONAL MILITARY BARRACKS OF NATO

Today international doctrine refers to an absolute functional immunity or to a relative functional immunity on the basis that international organizations enter the marketplace to obtain goods and services to facilitate the achievement of their objectives. However, it is the application of these rules in practice that increasingly causes controversies since the invocation of immunity does not entail adequate means of redress for claimants.

The long awaited Spanish Act (Ley Orgánica 16/2015 of 27 October) on Immunities plans on it by demanding an internal dispute resolution mechanism to guarantee the right to access to the courts as a requirement for the courts to recognize the immunity from jurisdiction. The judgment of 8 February 2017 of the Limburg District Court is a good example of this novel regulation in the Spanish legal system. In addition, this Dutch judgment refers to the disputed customary international law on the subject.