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TESI DI DOTTORATO IN DISCIPLINE GIURIDICHE INTERNAZIONALISTICHE ED EUROPEE

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TITOLO DELLA TESI: General Principles of Law as Applied by International Administrative Tribunals between Horizontal and Vertical Cross-Fertilization

ABSTRACT DELLA TESI :

the proliferation of international administrative tribunals (iats) represents one of the most relevant challenges for international administrative law (ial). this may lead iats to embrace different directions in settling legal disputes between ios and their staff members, resulting in fragmentation of the law. yet a closer examination of the caselaw of these tribunals reveals that international administrative judges tend to resolve disputes consistently with the solutions adopted by their counterparts in other ios. in numerous judgments, iats have adopted decisions based on “general principles of law” and have referred to judgments and practices of other tribunals to define their content.

thus, the research analyses how interactions between iats develop general principles for adjudicating disputes between ios and their employees. specifically, the work studies the cross-fertilizations of these principles taking place simultaneously on a vertical and a horizontal level. about the vertical dimension, the thesis analyzes how international administrative judges identify legal norms and principles widespread in domestic legal systems to deduce applicable rules of ial. regarding the horizontal dimension, the research studies how and why iats exchange with one another to elaborate common practices, interpretations, and arguments based on general principles.

the research involves a doctrinal reading of decisions issued by the most relevant iats, namely iloat, undt/unat, and wbat. however, the inquiry of the horizontal level will be complemented by an empirical approach aimed at gauging the dialogue between iats, through measurement of direct

citations and thanks to a linguistic analysis of judicial decisions. the interplay between the doctrinal approach and the empirical methods has been revealed to be useful in the study of international courts and the applications of sources of law. therefore, these quantitative findings can then undergo the doctrinal process of systematization aimed at illustrating the content and the functions of general principles recognized by iats.