IMPLEMENTING INTERNATIONAL LAW NATIONALLY: INCORPORATING INTERNATIONAL LAW IN ARGENTINA

MARCOS NELIO MOLLAR
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THE RELATIONSHIP BETWEEN DOMESTIC LAW AND INTERNATIONAL LAW

ISSUES RELATE TO

THE INCORPORATION OF INTERNATIONAL LAW INTO STATE LAW

THE RELATIONSHIP HIERARCHY BETWEEN INTERNATIONAL LAW AND STATE LAW
INCORPORATION OF INTERNATIONAL LAW INTO DOMESTIC LAW

**MONISM**

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**DUALISM**

IN ARGENTINA, INCORPORATION OF INTERNATIONAL LAW INTO DOMESTIC LAW IS AUTOMATIC (WITHOUT ANY FORMAL STATE ACT OF TRANSFORMATION OF INTERNATIONAL LAW IN ORDER TO BE APPLIED INTO THE INTERNAL LEGAL ORDER)
INCORPORATION OF INTERNATIONAL LAW INTO ARGENTINE DOMESTIC LAW

TREATIES CONCLUDED “IN GOOD AND DUE FORM” (ACCORDING TO VIENNA CONVENTION ON THE LAW OF TREATIES, 1969)

A COMPLEX FEDERAL ACT

INTERNATIONAL STAGES OF CONCLUSION OF TREATIES

- NEB
  - NEGOTIATION
  - ADOPTION
  - AUTHENTICATION
  - RATIFICATION
  - ACCESSION

INTERNAL STAGE OF CONCLUSION OF TREATIES

- NLB
  - NATIONAL CONGRESS
  - APPROVAL LAW

Only has the effect of authorizing the National Executive Branch to ratify the treaty in international plane.

CSJN CASE: EULOGIO FRITES AND AMERICA ANGLEICA ALEMAN DE BARRERA c/ PEN – Ministry of Foreign Affairs, 04/12/95
ARGENTINE REGULATORY HIERARCHY

National Constitution

According to Arts. 27, 30, 31 and 75, incs. 22 and 24 of Argentine National Constitution

Human Rights Declarations and Treaties with constitutional hierarchy (12)

Others international treaties and supra-state organizations’ norms

Laws of National Congress
ARGENTINE REGULATORY HIERARCHY

NATIONAL CONSTITUTION

- The American Declaration of the Rights and Duties of Man;
- the Universal Declaration on Human Rights;
- the American Convention on Human Rights;
- the International Covenant on Economic, Social and Cultural Rights;
- the International Pact on Civil and Political Rights and its Optional Protocol;
- Convention on the Prevention and Punishment of the Crime of Genocide,
- the International Convention on the Elimination of all Forms of Racial Discrimination;
- the Convention on the Elimination of all Forms of Discrimination against Women;
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- The Children’s rights convention
- Convention of the rights of persons with disabilities

CSJN CASE: ANALIA MONGES v. Universidad de Buenos Aires, 26/12/96
ARGENTINE REGULATORY HIERARCHY

INTERNATIONAL TREATIES

SUPRA-STATE ORGANIZATIONS’ NORMS

LAWS OF NATIONAL CONGRESS

SINCE CSJN CASE: EKMEKDJI NA MIGUEL v. SOFOVICH, GERARDO AND OTHERS, 1992

CONSTITUTIONAL REFORM 1994
How to search for treaties concluded by the Argentine Republic?

Official website: [https://tratados.cancilleria.gob.ar/](https://tratados.cancilleria.gob.ar/) (only available in spanish)
THANK YOU VERY MUCH

MARCOS NELIO MOLLAR
mnmollar@Hotmail.com