



UNIVERSITÀ DI PAVIA
Dipartimento di
Giurisprudenza

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Autonomy and Coherence in the EU External Relations

Giada Grattarola
giada.grattarola@unipv.it

Preliminary remarks

- ▶ The principle of autonomy is widely considered to work as a «**coherence device**».
- ▶ However, the ECJ has adopted a very strict interpretation of the principle at hand in its case-law strand relating to the lawfulness of dispute settlement devices established by international agreements concluded (or to be concluded) by the EU. See in particular:
 - ▶ Case C-459/03, *Commission of the European Communities v. Ireland*, Judgment of the Court (Grand Chamber) of 30 May 2006 [Mox Plant case];
 - ▶ Opinion 2/13 of the Court of 18 December 2014, *Accession by the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms*;
 - ▶ Case C-741/19, *Republic of Moldova v. Komstroy LLC*, Judgment of the Court (Grand Chamber) of 2 September 2021.

'Coherence' and 'autonomy': a one-sentence definition

- ▶ In general, the notion of 'coherence' can be understood as encompassing both a negative and a positive dimension. The first side entails the absence of contradictions in the EU legal framework; the positive one implies instead, among other aspects, the active and synergic promotion of common goals.

The required coherence of the Union's external action seems also to follow a specific 'directional' orientation, which goes from the inside to the outside.

'Coherence' and 'autonomy': a one-sentence definition

- ▶ The 'autonomy' of the EU legal order can be considered as systemic and structural capacity of self-rule – i.e., as power of the Union's institutional framework to identify the applicable rules in the relevant legal system.
- ▶ This common understanding of the 'autonomy' of the EU legal order is well enshrined also in the ECJ's line of case-law concerning the lawfulness of dispute settlement mechanisms established by international agreements binding the EU. However, the Court seems to adjust the scope of application of the principle of autonomy according to the nature of the relevant agreement, differentiating between:
 - ▶ **Mixed «bilateral» agreements;**
 - ▶ **Mixed «multilateral» agreements.**

Interactions between the principles of coherence and autonomy

The ECJ's strict interpretation of the principle of autonomy does not affect the supportive relationship between the principle of coherence and the principle of autonomy in the EU external relations field.

Indeed, the protection of the autonomous nature of the EU legal order:

- ▶ Only prevents the conclusion of international treaties affecting the coherence 'directionality';
- ▶ Does not seem to preclude the actual promotion of the objectives set by the EU primary law.