

municipal laws, brings up, as may be clearly noted, an element which is entirely irrelevant to the proper conception of international responsibility, inasmuch as it is evident that any violation of the municipal law which bears no connection with international conduct, is immaterial from the point of view of international responsibility.

As regards official acts beyond the scope of the officers' authority, there is a great majority of the governments which uphold State responsibility. Norway, however, holds to the ancient doctrine which established certain conditions specifically set forth before the State could be held responsible for damage caused by incompetent agents.¹ Holland, too, does not recognize conclusively or without reservation the responsibility of the State in this regard, even though the incompetent officer should have availed himself of his official investiture.² Responsibility under such circumstances has also been denied by Poland.³ Finally, Czechoslovakia has adopted a less radical view, upholding responsibility even when the incompetency of the officer is unknown, but denying it when the official function served merely as an excuse for the wrongful act.⁴

(g) This administrative responsibility of the State covers all the injurious acts of its constituent political subdivisions, and in political confederations, also those of each one of the federal states. In cases of private or independent entities, there is nothing to be added, inasmuch as they are

any such acts or omissions which are contrary to the international obligations of the State, or to its municipal law, or amount to negligence under that law, the State is bound to make reparation. If effective means of redress are provided in the courts, they must first be exhausted (see answer to point XII). The same rules apply to loss or injury caused on the sea as on land."

¹"We presume that international responsibility will be involved in this case if the State has failed to prevent the act in question although it might have done so, for if the State has neglected to take against the official in question the steps prescribed under its laws, or, again, if the State has not allowed the foreigner in question to take his case to court and proceed with it there."

²"The fact that the official, though acting in his public capacity, has exceeded his competence should not be conclusive."

³"If, however, the act of the official is only contrary to the law of the country or if it is in the nature of an omission, the risk of such an act—which is regular in form—falls exclusively on the person concerned, and the State does not incur international responsibility. The acts of Government officials acting in their public capacity, but exceeding their authority, do not involve the responsibility of the State under municipal law nor do they constitute grounds for international responsibility. The acts of a Government official exceeding his official authority are not acts of the State considered as a juridical person. Responsibility might be allowed in exceptional cases, as provided in clause 4 of the Conclusions of the Committee of Experts."

⁴"An act exceeding the powers granted, where the exercise of the public authority entrusted to an official of the internal administration or to a diplomatic or consular agent merely furnished the occasion for the act in question, cannot be held to constitute the exercise of a function for which the state must be held responsible. Acts of this kind are merely private acts, and must be dealt with as provided in VII (b), (c) and (d). On the other hand, mere orders of the internal administration restricting the official's powers cannot absolve the State from responsibility if the powers are not externally (juridically) defined."