A Hermeneutical Perspective upon the ‘Mitigation of Damages’ Principle: The Metamorphosis of a Concept in International Law

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VI. Conclusion: ‘Mitigation of Damages’ and the Relevance of Semiotic Boundaries

The next step of our analysis led us further, to the chimeric realm of ‘lex mercatoria’ and its founding uncertainties. In such lax normative circumstances, the ‘mitigation of damages’ principle escaped from its insular conceptual ‘cocoon’, gradually acquiring new meaning. To be more precise, this distinct semantic field – dominated by a universalist obsession – allowed damage mitigation to relate in new manners to other linguistic units, relieving it from its strict obligational nature. Gradually, under the dynamic and fluid auspices of international commercial law, the ‘mitigation of harm’ principle attained the status of a prominent damage-limiting mechanism, invoked not as an unfulfilled obligation, but rather as a defence, of the breaching party. However, despite this essential metamorphosis, the linguistic marker of a ‘duty’ to mitigate was formally maintained, symbolizing a lingering tendency to understand the concept in the light of efficiency-related assumptions.
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Referring Principles:

VII.4 - Duty to mitigate