

DIPLOMATIC IMMUNITY AND OPPORTUNITY

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Abstract: Diplomatic Immunity and Diplomat's Rights and Vienna Convention on Diplomatic Laws are detailed in the following article

Key words: Diplomatic immunity, Diplomats, laws, Vienna Convention, diplomatic relations, mission, Diplomatic agent

Diplomatic immunity is a status granted to a diplomat that exempts them from the laws of a foreign jurisdiction. It must be noted that immunity is a privilege of the state that a diplomatic agent represents. As such, a person cannot allege breach of immunity if the sending state does not contest a violation.

- It basically ensures that the diplomats cannot get prosecuted by the authorities of the receiving state. The acts of diplomacy may be performed by the head of the state, government, Minister of foreign relations, or by Diplomatic Agents.

The word 'diplomat' has been derived from a French term 'diplomate' which means a person whose duty is to represent his country in the receiving country and to further negotiate on behalf of his State. Diplomats enjoy a very special status both abroad as well as in the home. The early historians trace the origin of this concept of diplomacy from the Mediterranean region, China, the Middle East, and India.

The Vienna Convention on Diplomatic Relations (1961), which most countries have ratified, offers diplomats acting as officials of state almost total protection from subjection to criminal, administrative, and civil laws belonging to the country in which the diplomatic mission is located. Diplomats assigned to missions located in foreign countries remain subject to the laws of their home countries. The diplomat's country of origin has prerogative over whether or not a host country may prosecute a diplomat under its (i.e. 'foreign') laws.

Freedom of communication

Diplomatic agents are free to communicate any information for official purposes to the state by which they are accredited. Article 27 of the Vienna Convention lays down that the freedom of communication includes the use of couriers and code messages.

The Diplomatic Relations Act of 1978, 22 U.S.C. § 254a et seq. governs diplomatic immunity in the United States. Title 22 specifies the degree of protection awarded to diplomatic personnel; protection increases in parallel with the official's status within a diplomatic mission. Article 31 of the Vienna Convention provides for three exceptions to the diplomatic immunity which are as follows:

A real action relating to private immovable/tangible property.

An action relating to succession.

An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

For more information about specific immunities granted to foreign diplomats residing in the U.S., see the U.S. State Department's list of immunities and privileges.

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