

DIPLOMATIC AGENTS' PRIVILEGES AND IMMUNITIES

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ABSTRACT

This research examines the extent of diplomatic immunity, specifically in cases where a diplomat commits a criminal offense. This situation raises concerns as it contradicts the fundamental principles upon which diplomatic relations between countries are established, namely, the promotion of economic, social, and cultural ties. The occurrence of such crimes committed by a diplomatic agent undermines the very purpose of fostering these relations. This issue necessitates an investigation into the fundamental characteristics and attributes of diplomatic immunity. It has been observed in global conventions and customary international law that states generally do not relinquish the immunity of their diplomatic representatives, unless the diplomat engages in a non-task-related criminal act, thereby permitting prosecution within the host state's jurisdiction.

KEYWORDS

International public law, diplomatic relations, diplomatic agents.

I. Introduction

To begin with, the provisions contained in the Vienna Convention on Diplomatic Relations clearly outline the steps involved in establishing diplomatic missions. The convention offers states the option, if they so choose, to establish diplomatic missions to one another. The convention then requires the host nation to make it easier for missions to relocate there. The agreement is important because without its rules, establishing diplomatic relations would be unregulated and ungoverned. The convention is essential because it safeguards the host state's authority to declare certain staff members *persona non grata* and lays down the conditions for the termination of diplomatic ties between states. This is significant because it allows for the termination of diplomatic ties between governments to be done amicably

and without escalating existing tensions. The recall of the Kenyan ambassador to Somalia in 2019 following a diplomatic conflict over the two states' shared maritime border serves as an illustration of when the provision on severance of diplomatic ties, which also implies the recall of diplomatic agents, is appropriate. The protocol also ensures the security of diplomatic cargo and facilities. This is important since it restricts the host state's potential for harassment. According to the convention, the sending state must give its permission before the host state may enter a diplomatic post. This safeguards diplomatic protocol and ensures the security of important state information when it is being transported within and outside of the mission. Additionally, the treaty defends and ensures channels of contact between diplomatic missions and the sending governments. The convention states that the receiving state must ensure the development of all communication channels required for diplomatic missions, including satellite communication. This is significant because it upholds the convention and permits the effective maintenance of diplomatic relations, which depends heavily on communication between the sending state and its mission.¹

II. Personal Inviolability

Diplomatic privileges and immunities are founded on long-standing custom. They are crucial to the management of relations between independent sovereign states, because they allow ambassadors and their staff to act independently of any local pressures in negotiations, to represent a foreign state while being protected from attack or harassment, and to speak freely to their own governments. Such privileges and immunities are supplied on the principle of reciprocity, which has shown to be the best assurance possible that the laws would be followed. Any government that denies privileges or immunities to a diplomat on its soil is aware that doing so puts it at risk for both the collective protest of the corps diplomatique in its own capital and retaliation against its own representative from the government whose diplomat it has insulted.²

¹ Diplomacy Network, The Role Played by the Vienna Convention on Diplomatic Privileges and Immunities in Diplomatic Practice (2023). <https://diplomacynetwork.com/the-role-played-by-the-vienna-convention-on-diplomatic-privileges-and-immunities-in-diplomatic-practice/> (2023.08.20.)

² Gore-Booth, L.: Satow's Guide To Diplomatic Practice. *Verfassung in Recht Und Übersee*, 12(3), 1979. pp. 274–275. <https://doi.org/10.5771/0506-7286-1979-3-274>

Article 29 of the Vienna Convention presently ensures the safeguarding of the inviolability of diplomatic agents on a personal level. In a similar way to the concept of mission premises being inviolable, this notion can be understood from two perspectives. Firstly, it is important to note the existence of immunity shielding them from any legal action by law enforcement officers of the receiving state. The individual in question cannot be subjected to arrest or detention. In the event that a diplomat is under suspicion of committing an offense, it is possible that they may receive an invitation to accompany a police officer to a police station for the purpose of verifying their identity. However, it is important to note that the diplomat cannot be subjected to arrest or any form of coercion in order to comply with this request. The second aspect, which presents challenges in terms of interpretation, pertains to the unique responsibility of safeguarding: The host state is obligated to treat the individual with appropriate regard and must undertake all necessary measures to prevent any form of assault on their physical well-being, personal liberty, or inherent worth.³

Clearly of a different scale, a number of prominent ambassadors were abducted in the late 1960s and early 1970s. To capture the head of mission of an embassy, there was no need to storm and destroy the building. The objective of a mass demonstration might be to express a natural or induced national feeling, whereas the motives behind the abductions of specific ambassadors were far more cold-blooded and deliberate. Nearly always, the goal was to pressure a government into making a specific concession under the threat that, if the concession was withheld, a person would die and the government would be held accountable both publicly and in the eyes of the nation the victim represented. The US applied to the Court after Iranian terrorists occupied its Embassy in Tehran on November 4, 1979, and kidnapped its diplomatic and consular staff. On the United States' request for provisional measures, the Court held that there was no more fundamental prerequisite for relations between States than the inviolability of the premises of embassies and indicated provisional measures for restoring the Embassy premises to the United States and releasing the hostages. In its Judgment of 24 May 1980, the Court found that Iran had violated and was still violating obligations owed by it to the United States under conventions in force between the two countries and rules of general international law, that this violation engaged its responsibility, and that the Iranian Government was bound to secure the staff's immediate release. The

³ Ibid.

Court reiterated the importance of international law governing diplomatic and consular interactions. It noted that while militants' actions on November 4, 1979, could not be directly attributed to the Iranian State due to a lack of information, the State had done nothing to prevent the attack, stop it short, or force the militants to leave and release the hostages. The Court found that after 4 November 1979, certain Iranian State organs approved the acts complained of and decided to perpetuate them, turning them into Iranian State acts. Despite the absence of the Iranian Government and after rejecting Iran's two communications arguing that the Court could not and should not hear the matter, the Court rendered judgment. By Order of 12 May 1981, the matter was discontinued and removed from the List, therefore the Court did not have to rule on reparation for the US Government's injury.

The anticipated transgressions primarily encompass acts of homicide, abduction, assaults on individuals, violent assaults on both public and private properties, as well as any acts of intimidation or endeavors to perpetrate any of the aforementioned transgressions.⁴ The sending and receiving states must agree on the 'necessary procedures' to protect diplomats and other inviolable individuals. The Vienna Convention's negotiators inserted "appropriate" to clarify that the receiving state's obligations are limited. In major capitals, several thousand diplomats, their families, and the embassies' administrative and technical staffs and their families are entitled to inviolability. It would be impossible to provide special police protection for each of them. However, if there is proof of a threat to a diplomat's safety, such as a mob attack or a planned kidnapping, the sending state can demand that the receiving state provide exceptional protection, such as an armed guard. In cooperation with the receiving state, a wealthy sending state may safeguard vulnerable diplomats. The receiving state's gun and violence regulations apply to sending state bodyguards. The receiving state's 'necessary procedures' to defend personal inviolability do not entail submitting to kidnappers' demands after a diplomatic kidnapping.⁵

On August 28, 1968, in Guatemala City, the first attempted kidnapping shocked the globe. When his official automobile was halted in a downtown roadway, American Ambassador John C. Mein was returning to his office from lunch at the Embassy residence. Mr. Mein leaped out and ran when he saw several young people

⁴ Ibid.

⁵ Gore-Booth, 1979.

in fatigue uniforms approaching the automobile and was shot dead. Fuerzas Armadas Rebleeds stated the next day that he was killed "while resisting political kidnapping." Seven months later, on 2 March 1969, the Federal German Ambassador, Count Karl von Spreti, was kidnapped by the same organization and compelled to release seventeen political prisoners. While the diplomatic corps was negotiating with the Guatemalan government and the German government was pressing for release on the conditions suggested, the price was upped to twenty-five detainees and 700,000 US dollars, which the Germans volunteered to pay. The Guatemalan government argued that the executive order could not overturn court verdicts for some detainees. The kidnapers' deadline passed and Count von Spreti's body was found with a bullet wound in the temple on 5 April.⁶ The protection of diplomatic agents and their premises is established by customary international law, as evidenced by the provisions outlined in the 1961 Vienna Convention on Diplomatic Relations. The state that is the recipient of diplomatic missions bears a distinct responsibility to actively prevent any acts of aggression against the personal well-being, liberty, and honor of diplomats, as well as to ensure the protection of diplomatic premises. International cooperation plays a crucial role in ensuring the prevention and punishment of offenses committed against diplomats. Considering this objective, there has been a growing recognition of the need for an international convention, similar to those addressing the hijacking and sabotage of aircraft, that focuses on establishing legal mechanisms to prevent and penalize acts of aggression against diplomats.⁷

II. Immunity from Jurisdiction

Jurisdictional immunity refers to the legal principle that individuals who possess this immunity are exempt from being summoned before courts for any unlawful acts or offenses committed in the host country while serving in a permanent diplomatic mission. The immunity is primarily procedural in nature, although it is not limited to this aspect alone. According to the well-known ruling in the seminal case of *Dickinson v. Del Solar*, it is important to note that diplomatic privilege does not confer immunity from legal accountability, but rather grants exemption from the jurisdiction of the host country. Therefore, the diplomatic agent's jurisdictional immunity entails that, when a motion is made on behalf of the

⁶ *Ibid.*

⁷ *Ibid.*

individual in question, a court in the receiving State will declare itself lacking the authority to adjudicate on the substantive aspects of a legal proceeding initiated against said individual. Jurisdictional immunity encompasses all forms of jurisdiction, including criminal, civil, and administrative.⁸

The diplomatic agent's immunity from criminal jurisdiction entails that they are exempt from being summoned before the criminal courts of the host State for any unlawful acts or offenses committed in that State while carrying out their diplomatic mission. Criminal jurisdiction encompasses the legal processes involved in prosecuting and penalizing unlawful acts or offenses. According to C. Hurst, it is important to note that being immune from a country's criminal jurisdiction does not automatically guarantee complete immunity from being subjected to constraint by local authorities.⁹

The range of offenses that can be taken into consideration is extensive. The primary category of offenses involving diplomats encompasses various transgressions, including but not limited to instances of driving under the influence and negligence, violations related to parking, and possession of illicit substances. However, there have also been reported occurrences of more severe crimes such as rape, assault, and robbery.

In the early hours of Friday, February 13, 1987, an automobile operated by Kiatro O. Abisinio, the Ambassador Extraordinary and Plenipotentiary of Papua New Guinea to the United States, collided with three stationary vehicles and a vehicle halted at a stop sign on Wisconsin Avenue in the northwestern region of Washington, D.C. Ambassador Abisinio was transported to Georgetown University Hospital in a state of unconsciousness, subsequently experiencing a rapid recovery. During his hospitalization, he was formally accused by the District of Columbia police of "negligently operating a motor vehicle by failing to exercise proper care and attention while driving." According to the police report, it was indicated that the individual in question exhibited clear signs of intoxication. However, it is noteworthy that no impartial assessment or examination was conducted by the authorities, as a gesture of deference towards his diplomatic immunity. Following the occurrence of the accident, Ambassador Abisinio was

⁸ Przetacznik, F.: The History of the Jurisdictional Immunity of the Diplomatic Agents in English Law. *Anglo-American Law Review*, 7(4), 1978, pp. 348-395. <https://doi.org/10.1177/147377957800700402>

⁹ Ibid.

promptly summoned back to his home country in accordance with the established diplomatic protocol.¹⁰

The inclusion of personal character within the scope of ordinary diplomatic immunity from jurisdiction can be considered an integral component of positive international law. The personal exemption, nevertheless, ceases to exist upon the conclusion of the duties of the diplomatic agent, either upon their departure from the host country to which they are accredited or, if they choose to remain after a reasonable duration has transpired. At this critical juncture, when diplomatic immunity *ratione personae* cease to exist entirely, diplomatic immunity *ratione materiae* emerges as a prominent factor. The aforementioned type of immunity is limited in its scope to official actions carried out in the fulfillment of diplomatic responsibilities, yet it remains in effect indefinitely.¹¹ Papua New Guinea's Ambassador Extraordinary and Plenipotentiary to the United States, Kiatro O. Abisinio, hit three parked automobiles and a car halted at a stop sign on Wisconsin Avenue in northwest Washington, D.C., shortly after midnight on February 13, 1987. Ambassador Abisinio went to Georgetown University Hospital in a coma and recovered fast. While hospitalized, D.C. police accused him of "failing to pay full time and attention to driving." The police reported that he was "obviously drunk," but due to his diplomatic immunity, no objective test was carried out. As per diplomatic etiquette, Ambassador Abisinio was recalled by his country following the accident. The accident wounded two Americans. ABC Radio News desk assistant Stephen E. Hagan, 26, was gravely hurt. Martha Clement, Mr. Hagan's 22-year-old companion, was hospitalized but discharged the next day. Both Americans sued the Embassy of Papua New Guinea's insurance carrier. In line with the recent *Madoo v. Globe American Casualty Co.*⁸ ruling, Ambassador Abisinio filed suit before losing his diplomatic accreditation.

The Department of State's Office of Foreign Missions referred the incident to the U.S. Attorney for the District of Columbia, Joseph DiGenova, for investigation and possible criminal prosecution hours after the tragedy. The ambassador was indicted in April.¹⁰ This is the first time the US or any other nation has tried an ambassador after his or her accreditation has expired for an act that happened while accredited. The Abisinio issue and the Department of State's effort

¹⁰ Larschan, B: The Abisinio Affair: A Restrictive Theory of Diplomatic Immunity, *Columbia Journal of Transnational Law*, 26/1988, pp. 283-285.

¹¹ Dinstein, Y.: Diplomatic Immunity from Jurisdiction *Ratione Materiae*, *The International and Comparative Law Quarterly*, 15(1), 1966, pp. 76–89. <https://doi.org/10.1093/iclqaj/15.1.76>

to establish a restrictive conception of diplomatic immunity have raised questions about a receiving State's duties under international law.¹²

Diplomatic immunity is applied to domestic employees' compensation claims under Article 31.1(c). However, mission members and their families can work outside the mission or provide paid professional services. Thus, the spouse of a mission member who works as a doctor, teacher, or administrator in the receiving State may be sued.

The obvious immunity exception for such activities has removed an essential barrier to spouses and other family members of diplomats working independently in the receiving State in many States. Some States have agreements stating the absence of immunity, or a specific guarantee may be a condition of allowing a spouse to work, however, Parties to the Vienna Convention do not need such a safeguard.¹³

Regarding the matter of exemption from jurisdiction, it is applicable, as stated by the research, throughout the duration of the diplomatic office, encompassing both official and private actions. The central argument is that while foreign diplomats are subject to local law in relation to private acts, their immunity is limited to the "exercise of jurisdiction." However, when it comes to official acts, their immunity extends to both the jurisdiction and the law of the receiving State.¹⁴ Diplomatic immunity, whether based on personal or functional grounds, is primarily manifested in an exemption from legal proceedings. The distinction between the two types of immunity is characterized by the temporary nature of the former, which ceases upon the completion of the assignment, while the latter persists beyond that timeframe. However, there is no discernible differentiation in their association with regional legislation. The aforementioned conclusion aligns with both the literal interpretation and underlying principles of Article 39 (2) of the Vienna Convention. Furthermore, it adheres to the overarching principle articulated in Article 41 (1), which stipulates that individuals who benefit from privileges and immunities have an obligation to uphold the laws and regulations of the host country, while still preserving their own privileges and immunities.¹⁵ A high-ranking Afghan

¹² Larschan, 1988.

¹³ Denza, E.: Diplomatic Law: Commentary On The Vienna Convention On Diplomatic Relations, *European Journal of International Law*, 20(4), 1966, pp. 1286–1288. <https://doi.org/10.1093/ejil/chp082>

¹⁴ Dinshien, 1966.

¹⁵ Ibid.

diplomatic official, enroute to purchase an air-conditioning unit from a Queens-based appliance store, collided his vehicle with that of a woman during a disagreement pertaining to a parking spot. The female individual was positioned adjacent to the edge of the road, reserving a parking area for her male companion, who was maneuvering his vehicle in reverse to occupy said space. Following the disclosure of his identity as an Afghan diplomat, the diplomat firmly asserted his request for the woman to provide him with personal space. Subsequently, he proceeded to verbally offend her and intentionally collided his vehicle with hers.¹⁶ There are two questions that arise for a diplomatic agent seeking to traverse a third state while enroute to or from the state to which they have been assigned. Does international law confer upon him an inherent entitlement to unrestricted passage, particularly during periods of peace, and does he possess any specific privileges and immunities during his transit? The practice regarding both matters exhibits significant variation across different time periods.¹⁷

During the late 19th and early 20th centuries, there was a general increase in travel restrictions and tighter controls imposed by states. As a result, foreign diplomats were required to obtain a visa in advance, if such a visa was necessary for an ordinary traveler of the same nationality. The response of the French Government to the passage of M. Soule demonstrates a shift in perspective.¹⁸

The absolute exemption of a public minister from civil jurisdiction may not be universally applicable. It is widely acknowledged among nations that a public minister is granted immunity from the civil process in relation to any matter that is directly or indirectly related to their official duties. Nevertheless, there is a divergence of opinions among nations regarding the extent to which diplomatic immunity extends to the private matters of diplomatic personnel. While a significant portion of nations grants comprehensive immunity from any form of civil jurisdiction, a smaller faction has expressed an opposing perspective. The alternative perspective, which may be considered more favorable, would not provide an exemption from local civil jurisdiction in cases that are completely unrelated to the official responsibilities of the minister but rather pertain solely to a commercial or professional endeavor in which they are involved. In general, when an individual

¹⁶ Goodman, D. H.: Reciprocation as a Means of Curtailing Diplomatic Immunity Abuse in the United States: The United States Needs to Play Hard Ball. *Houston Journal of International Law*, 11/1988, pp. 393–413, 404.

¹⁷ Gore-Booth, 1979.

¹⁸ Ibid.

who is granted diplomatic immunity initiates a civil lawsuit against a citizen of the host country, the citizen has the right to file a counterclaim against the diplomatic agent. Nevertheless, although the agent has relinquished his immunity by initiating legal proceedings against the national, with regard to the counterclaim, the minister has not waived his entitlement to be shielded from the enforcement of the civil judgment in the event that the national prevails in the litigation.¹⁹

III. Inviolability of Diplomats' Residence and Property

Historically, there was a lack of differentiation in practical terms between the "residence of the ambassador" and the "premises of the embassy" until a relatively recent period. In the context of a diplomatic mission, it was customary for the composition of the entourage to include an ambassador, potentially accompanied by a secretary who, by contemporary standards, would be recognized as possessing diplomatic privileges. Additionally, the ambassador's family and a retinue, primarily responsible for attending to the ambassador's personal needs and bolstering their social standing, rather than engaging in diplomatic tasks, would reside and operate from a unified dwelling. However, in the current century, there has been a significant increase in the number of diplomatic and official personnel, surpassing the capacity of the ambassador's residence. As a result, it has become customary for official activities to take place in a separate office building referred to as the chancery, while the ambassador's private residence may be physically detached from it. The commonly observed convention was to grant inviolability to the residences of staff members, excluding the ambassador. However, this matter was rarely disputed as these residences were not susceptible to politically motivated attacks to the same extent as the embassy and thus did not typically require additional police protection measures. The definition of 'premises of the mission' in the Vienna Convention is limited to the ambassador's residence. However, Article 30 stipulates that the private residence of a diplomatic agent is also granted the same level of inviolability and protection.²⁰

The International Court of Justice (ICJ) deemed the counterclaim filed by Uganda against the Democratic Republic of the Congo (DRC) in the case of the Democratic Republic of the Congo v Uganda as admissible in 2005. This

¹⁹ Koffler, W. F.: A Passing Glimpse at Diplomatic Immunity *Kentucky Law Journal*, 54(2), 1965.

²⁰ Gore-Booth, 1979, p. 122.

counterclaim asserted that Congolese soldiers had engaged in actions that threatened and mistreated individuals from the Ugandan diplomatic mission in Kinshasa, thereby violating Article 29 of the Vienna Convention. The International Court of Justice (ICJ) determined that the purported violation pertained to rights owed directly to Uganda, thereby obviating the requirement for the affected diplomats to exhaust local remedies. In 2005, the Eritrea Ethiopia Claims Commission affirmed Ethiopia's assertion that Eritrean guards unlawfully apprehended and held the Chargé d’Affaires of Ethiopia for a duration of less than one hour, thereby violating his inviolability as stipulated in Article 29. Ethiopia violated Article 29 by conducting searches of the persons and luggage of Eritrean diplomats who were mandated to depart.²¹

It is important to acknowledge that personal inviolability prohibits the personal delivery of legal documents to a diplomat or any other individual who is entitled to diplomatic immunity. While service of process does not entail arrest or detention and does not directly infringe upon the person, freedom, or dignity of the diplomat, it does represent the exercising of jurisdiction by the receiving State to enforce its laws. Consequently, it violates the principle of personal inviolability, similarly to how serving processes through mail on premises that are considered inviolable (as previously discussed in relation to Article 22) also breaches their inviolability. In 2000, an Irish criminal court determined that the act of serving legal documents on the British Ambassador to Ireland violated both his personal inviolability and the inviolability of the British Embassy in Dublin, rendering the service of proceedings ineffective. In the case of *Reyes v Al-Malki*, the English Court of Appeal affirmed that personal service of process on a diplomatic agent is prohibited under Article 29. The prohibition is equally applicable in cases where service is attempted on a diplomat or an individual who possesses diplomatic inviolability, acting as an agent for their government, a distinct political entity of their government, or a political party. As a result, United States courts determined that the service of legal documents on President Jiang Zemin of China, during his visit, could not be executed through the Falun Gong Control Office. Similarly, the service of legal documents on President Mugabe of Zimbabwe, as the representative of the political party ZANU, was also deemed invalid by the US courts.²² The act of examining the personal belongings of a diplomat in extraordinary situations

²¹ Denza, 2009, pp. 221–222.

²² Denza, 2009, pp. 223-224.

represents a significant deviation from the customary principle of a diplomat's property being immune from interference in the host country. Additionally, it is important to note that if a diplomat refuses to permit the inspection or testing of their baggage by agents of an air carrier, in accordance with the prevailing practices established in response to the rise of hijacking and terrorism on aircraft, the carrier is not obligated to provide transportation services to the diplomat.

Article 36 does not contain any explicit provisions pertaining to the search of incoming consignments of articles intended for the official use of a diplomatic mission or for the personal use of a diplomat. Consequently, the regulation of this matter falls within the purview of the receiving state. The sending state retains the prerogative to dispatch any highly sensitive items that it prefers not to be subjected to inspection by utilizing a diplomatic bag. The contents of the bag must be designated for official purposes, with no additional restrictions on their nature.²³

IV. Commencement and Termination of Privileges and Immunities

Article 39 of the Vienna Convention states that personal privileges and immunities commence when the entitled person enters the receiving state to take up his post. If he is already in the receiving state, his privileges and immunities begin when the Ministry of Foreign Affairs receives notification of his appointment. This provision clarifies the critical date for diplomatic agent immunities, which can be the date of appointment, formal credential presentation (for heads of mission), or arrival in the territory. If legal proceedings have already begun when immunity arises, it may be raised to stop them (unlike a waiver, which cannot be stopped by the sending state). If the receiving state is told of the appointment as a diplomatic agent of a person against whom criminal actions are pending or suspects the appointment was intended to hinder civil processes, this may pose problems. When told of the diplomatic appointment of a person facing serious criminal accusations, the UK Government asked the state to withdraw the notification, which it did. If a state refused to withdraw a notification, the receiving state could declare the individual *persona non grata*, but it would also have to argue that the procedure was an abuse of diplomatic immunity and that it was not required to grant the normal period of immunities that might allow the person to leave the country with impunity.²⁴

²³ Gore-Booth, 1979, pp. 140.

²⁴ Gore-Booth, 1979, pp. 129-130.

According to Article 39(2), individuals would maintain their immunity for acts carried out in the course of their official duties as members of the mission. Based on this formulation, it can be inferred that the immunity granted to an individual in a receiving state would not extend to actions performed outside the scope of their official duties as a member of a diplomatic mission. This is the case even if the individual enjoyed immunity from prosecution at the time.²⁵

Once an agent has been recalled and departed from the receiving state, it is important to note that they are not entitled to any form of immunity should they choose to return in an unofficial capacity. The possibility of him continuing his career in the diplomatic service of his own country is irrelevant. The aforementioned perspective is underscored by the viewpoint expressed by the Queen's Advocate in the year 1840. The British Chargé d'Affaires stationed in Munich was reassigned during a period of absence on leave. Despite the absence of any publicly stated reasons for his return to Munich, he later made a visit to the city after his successor had assumed full responsibilities in office. During his tenure, the Bavarian authorities initiated legal proceedings against him. The Queen's Advocate provided counsel to Lord Palmerston, asserting that given the prevailing circumstances, the former Chargé d'Affaires did not possess diplomatic immunity and that there were no valid reasons to warrant intervention by the British Government in his favor.²⁶

Irrespective of the grounds for the termination of a diplomat's appointment or their continued affiliation with the diplomatic service of the sending state, the diplomate maintains their immunity from the jurisdiction of the host state for the duration required to conclude their affairs and return to their home state. In situations where a diplomate is expelled due to engaging in activities that pose a threat to the security of the state, it is possible for a diplomate to be subjected to restraint in the interest of public safety. However, it is important to note that the inviolability of the diplomat's person is still upheld.²⁷

Due to the variability of circumstances associated with each case, it is unfeasible to establish definitive parameters regarding the duration required for an individual who has concluded their diplomatic duties to finalize their preparations for departure. Typically, the issue can be resolved through a process of consultation among the relevant officials. Following the rupture in diplomatic relations between

²⁵ Shaw, M. N.: *International Law, Sixth Edition*. Cambridge, Cambridge University Press, 2017. pp 769.

²⁶ Jones, R. R.: *Termination of Diplomatic Immunity 1948, British Year Book Of International Law*. London, Royal Institute Of International Affairs, 2016. pp. 262-279.

²⁷ Jones, 1948.

the United States and Turkey in April 1917, the Turkish Chargé d'Affaires stationed in Washington expressed his request for a temporary stay in the United States due to health issues. The host state did not raise any objections to this request.²⁸ The assertion that a diplomat's immunity ceases immediately upon the conclusion of their mission is inconsistent with established norms and conventions. The prevailing and more favorable perspective allows the diplomat a reasonable duration to vacate the premises. This interpretation suggests that the need for a duration of time for the officer to disengage from their assigned task has been understood. Challenges often arise regarding the initiation and duration of diplomatic status and immunity in cases where the government of the sending state has experienced a change that deviates from the constitutional or legal procedures outlined in the sending state's recognition by the receiving state.²⁹

V. Conclusion

The preservation of diplomatic practice and the protection of the diplomat's dignity during their work in the receiving country have been significantly influenced by the concept of personal sanctity. This principle, which is endorsed by the Vienna Convention on Diplomatic Relations of 1961 and jurisdictional immunity, has played a crucial role in preventing diplomats from being compromised and allows them to exercise their functions without interference. The concept of personal immunity arises from the recognition that diplomats are vulnerable to potential attacks, requiring the recipient state to ensure their protection and facilitate the execution of their official responsibilities. Similarly, jurisdictional immunity, which has been granted to diplomatic agents since the seventeenth century and subsequently regulated by the Vienna Convention of 1961, is based on the principle of refraining from prosecuting them for any offenses they may commit within the host state's territory. The act of transferring the authority to adjudicate on said crimes from the receiving state to the sending state implies that the sending state's relinquishment of the diplomat's jurisdictional immunity is a prerequisite for the possibility of holding the individual accountable within the jurisdiction of the receiving state. It is important to note that this immunity is not granted to the

²⁸ Ibid.

²⁹ Koffler, 1965.

specific diplomatic agent, but rather to the position of representing their country. This delegation has played a significant role in shaping legal principles and international initiatives through theoretical frameworks. In the realm of philosophy, there exists a discussion surrounding the concept of immunities and their legal adaptation in a manner that does not infringe upon the territorial sovereignty of a state. In this context, the receiving state grants approval for punitive authority to be exercised over the diplomat outside of its regional jurisdiction, thereby relinquishing the jurisdiction of its regional judiciary. This decision is made based on a political consensus that has been met with significant controversy but has been legally adjusted to align with regional sovereignty. Consequently, the international community must refrain from interfering in internal affairs and violating national sovereignty in order to maintain the continuity of these diplomatic relations. This study examines the extent of jurisdictional immunity, which is only applicable in cases where a diplomatic envoy commits a criminal offense. This contradicts the foundational principles upon which diplomatic relationships between countries are established, namely the promotion and advancement of economic, social, and cultural ties. The occurrence of such crimes committed by a diplomat is incongruous with the hypothesis underlying the establishment of these relations. This necessitates an investigation into the fundamental characteristics and attributes of diplomatic immunity. It has been observed in global conventions that states generally do not relinquish jurisdictional immunity for their diplomatic representatives, unless they engage in criminal misconduct unrelated to their official duties, thereby permitting prosecution within the jurisdiction of the host state. The preservation of diplomatic practice and the protection of the dignity of diplomats during their work in foreign territories have been significantly influenced by the concept of personal sanctity. The concept of personal immunity is based on the premise that diplomats are susceptible to potential attacks, which necessitates the recipient state to safeguard them and enable them to carry out their official responsibilities. Jurisdictional immunity, which has been granted to diplomats since the seventeenth century and was formally regulated in the Vienna Convention of 1961, is an extension of this principle. It ensures that diplomats are not subject to prosecution for any crimes they may commit within the territory of the host state. The act of transferring the authority to adjudicate on said crimes from the receiving state to the sending state implies that the sending state's relinquishment of the diplomat's jurisdictional immunity is linked to the potential for holding the individual accountable within the jurisdiction of the receiving state. It is important

to note that this immunity is not granted to the specific diplomat, but rather to the position of representing their country. This delegation has played a significant role in shaping legal principles and international initiatives through theoretical frameworks. In the realm of philosophy, the concept of immunities and their legal adaptation is a topic of interest. It involves ensuring that such adaptations do not infringe upon the territorial sovereignty of a state. In this context, the receiving state grants approval for the exercise of punitive authority by the diplomat's state, thereby relinquishing its regional judiciary's jurisdiction over the matter. This decision is made through a political consensus, which has been subject to considerable controversy. However, it has been legally adjusted to align with the principles of regional sovereignty. Consequently, the international community must refrain from interfering in internal affairs and violating national sovereignty in order to maintain the continuity of these diplomatic relations.