

INVIOABILITY DOCTRINE IN DOMESTIC LAW

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In domestic law, the inviolability of diplomatic premises is usually implemented through national legislation, such as diplomatic immunity acts or other specialized laws¹. These laws incorporate the principles and obligations of the VCDR into the domestic legal system, ensuring the protection of diplomatic premises and personnel.

Domestic courts also play a crucial role in upholding the inviolability of diplomatic premises, as they interpret and apply national and international law in cases involving diplomatic disputes or alleged violations². For example, courts may be called upon to determine whether a particular action by a foreign diplomat qualifies as a breach of the inviolability of diplomatic premises, which could lead to the waiver of immunity or other legal consequences³.

In Uzbekistan, the inviolability of diplomatic premises is protected by law. The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On Measures to Improve the Legal Framework for the Activities of Foreign Diplomatic Missions and Consular Posts in the Republic of Uzbekistan" establishes that the premises of diplomatic missions and private residences of the heads of diplomatic missions, as well as the living quarters of members of diplomatic missions, are inviolable⁴. This means that these premises cannot be entered or searched by the authorities of the host country without the consent of the head of the diplomatic mission. The resolution also establishes that these premises and furnishings, as well as vehicles belonging to the diplomatic mission, enjoy immunity from search, seizure, requisition, arrest, and other coercive actions⁵.

The protection of the inviolability of diplomatic premises in Uzbekistan is further reinforced by the establishment of a specialized court to handle diplomatic disputes. The court, which is called the Specialized Inter-District Economic Court, has jurisdiction over disputes involving diplomatic missions, consular posts, and their personnel.

In addition, the National Guard of the Republic of Uzbekistan can provide protection to the premises of diplomatic missions and private residences of the heads of diplomatic missions and members of diplomatic missions with the consent of the Ministry of Foreign Affairs of the Republic of Uzbekistan⁶.

Overall, the inviolability of diplomatic premises is an important aspect of the legal framework for the activities of foreign diplomatic missions in Uzbekistan. The country has taken measures to ensure that diplomatic missions and their personnel enjoy the privileges and immunities granted to them under international law, including the Vienna Convention on

¹ Denza, E. (2016). *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*. Oxford: Oxford University Press.

² Ibid.

³ Ibid.

⁴ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan on Measures to Improve the Legal Framework for the Activities of Foreign Diplomatic Missions and Consular Posts in the Republic of Uzbekistan, No. 473, 24 August 2019.

⁵ Ibid.

⁶ Ibid.

Diplomatic Relations of 1961. By protecting the inviolability of diplomatic premises, Uzbekistan is able to promote the proper functioning of diplomatic missions and to maintain good relations with other states.

It should be noted here that in the domestic and foreign legal literature the issue of the immunities of the means of transportation of diplomats has not been studied at the international level, although at present it is the issue of the inviolability of vehicles that is very relevant. Because in the Vienna Convention on Diplomatic Relations there is no direct indication that vehicles enjoy immunity (while correspondence, diplomatic mail and letters have it)⁷.

Prior to the adoption of the 1961 Convention, assertions about the inviolability of diplomatic vehicles were substantiated by the fact that the latter were considered as part of the residence of a diplomatic representative, as a kind of "moving house"⁸. After the adoption of the Convention, the inviolability of diplomatic vehicles is most often explained by the fact that they are the movable property of a diplomatic mission⁹.

Paragraph 3 of Article 22 of this Convention can be cited as indirect evidence of the immunity of vehicles. It states that the mission's vehicles are immune from search, requisition, seizure and execution. As can be seen from the text of the convention, there is no talk of the inviolability of the vehicles themselves in the direct text. Indirectly, this issue is regulated by paragraph 2 of Article 30, which states that the papers, correspondence and property of a diplomatic agent are equally inviolable, and vehicles are also understood as property¹⁰.

As an example of the importance of regulating the issue of immunity, one can cite an incident that occurred in the recent history of our country. The situation was observed in February 2022 during the conflict between the Russian Federation and Ukraine. In accordance with the message of the official representative of the Ministry of Foreign Affairs of the Republic of Uzbekistan from the Embassy of the Republic of Uzbekistan in Ukraine, it is reported that confirmation of information regarding the damage to the vehicles of the diplomatic mission in Kharkov has been received. According to the diplomatic mission, in the course of resolving operational issues related to ensuring the safety of our citizens, a parked minibus of the Embassy was damaged by shrapnel¹¹.

In the above situation, it is necessary to find out: firstly, what law (diplomatic or humanitarian) regulates the offense against the diplomatic mission of Uzbekistan; secondly, who is responsible for the damage to the means of warning of the diplomatic mission of Uzbekistan.

The inviolability of international organizations is also protected under international law. For example, the headquarters and other premises of international organizations are generally

⁷ Demin Yu.G. "The Problem of Diplomatic Vehicle Immunities". Moscow Journal of International Law. 1994; (4):99-107 // Дёмин Ю.Г. «Проблема иммунитетов дипломатических средств передвижения». Московский журнал международного права. 1994; (4):99-107.

⁸ Oppenheim JL International law. - Т. 1. Полутом 2. - М., 1949. - С. 332; Satow E. Guide to Diplomatic Practice. - OGPIZ, 1947. - С. 205; Levin D B . Diplomatic Immunity. - М. - Л., 1949. - С. 388-389. // Оппенгейм JL Международное право. - Т. 1. Полутом 2. - М., 1949. - С. 332; Сатое Э. Руководство по дипломатической практике. — ОГПИЗ, 1947. - С. 205; Левин Д Б . Дипломатический иммунитет. - М. — Л., 1949. - С. 388—389.

⁹ Hardy M. Modern diplomatic law. — N.Y., 1968. — P. 41, 50; Jecny D. Introduction into diplomatic practice. — Praha, 1968. - P. 46.

¹⁰ Yearbook of International Law Commission. - 1958. - Voi. 2. - P. 98.

¹¹ Message from the official representative of the Ministry of Foreign Affairs of the Republic of Uzbekistan from 28.02.2022. http://uzembassy.kz/ru/article/soobschenie-oficialnogo-predstavitelya-mid-respubliki-uzbekistan_12444

considered inviolable and immune from search, seizure, and other forms of interference by the host state or its authorities¹². Additionally, international organizations and their officials and representatives are often granted immunity from legal process, including criminal, civil, and administrative jurisdiction, for acts performed in the course of their official duties¹³.

The inviolability of international organizations is further reinforced by the fact that states are generally required to respect and protect the activities and premises of international organizations within their territory, as provided for in various international agreements and conventions¹⁴.

For instance, the Convention on the Privileges and Immunities of the United Nations (CPIUN) provides for the inviolability of the premises of the United Nations and its specialized agencies, as well as the immunity of their officials and representatives from legal process in the performance of their official duties¹⁵. Similarly, the Convention on the Privileges and Immunities of the Specialized Agencies provides for similar protections for the premises, officials, and representatives of various specialized agencies of the United Nations¹⁶.

Overall, the inviolability of international organizations is an important aspect of international law, and is necessary to ensure the effective functioning of these organizations and their ability to carry out their mandates.

There have been instances where the inviolability of international organizations has been violated. One prominent example is the 1983 bombing of the United States Marine barracks in Beirut, Lebanon, which also housed the headquarters of the Multinational Force in Lebanon, a peacekeeping mission authorized by the United Nations. The attack, which killed 241 U.S. military personnel and 58 French military personnel, was widely condemned as a violation of the inviolability of the UN mission's premises¹⁷.

Another example is the 2003 bombing of the United Nations headquarters in Baghdad, Iraq, which killed 22 people, including UN Special Representative Sergio Vieira de Mello. The attack, which was carried out by a suicide bomber, was also widely condemned as a violation of the inviolability of the UN's premises¹⁸.

In 2011, NATO forces in Libya bombed a compound in Tripoli that housed the offices of the International Criminal Court (ICC). The ICC condemned the attack as a violation of the

¹² See generally, Vienna Convention on Diplomatic Relations, Apr. 18, 1961, 500 U.N.T.S. 95, art. 22. Retrieved from https://www.un.org/ru/documents/decl_conv/conventions/dip_rel.shtml; Vienna Convention on Consular Relations, Apr. 24, 1963, 596 U.N.T.S. 261, art. 31. Retrieved from https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf; Convention on the Privileges and Immunities of the Specialized Agencies, Nov. 21, 1947, 33 U.N.T.S. 261, art. 5. Retrieved from https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=III-2&chapter=3&clang=en

¹³ See generally, Convention on the Privileges and Immunities of the United Nations, Feb. 13, 1946, 1 UNTS XVI, art. 2. Retrieved from <https://www.un.org/en/ethics/assets/pdfs/Convention%20of%20Privileges-Immunities%20of%20the%20UN.pdf>; Convention on the Privileges and Immunities of the Specialized Agencies, Nov. 21, 1947, 33 U.N.T.S. 261, art. 6. Retrieved from https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=III-2&chapter=3&clang=en

¹⁴ See generally, Convention on the Privileges and Immunities of the United Nations, Feb. 13, 1946, 1 UNTS XVI, art. 3; Convention on the Privileges and Immunities of the Specialized Agencies, Nov. 21, 1947, 33 U.N.T.S. 261, art. 7.

¹⁵ Convention on the Privileges and Immunities of the United Nations, Feb. 13, 1946, 1 UNTS XVI, art. 3.

¹⁶ Convention on the Privileges and Immunities of the Specialized Agencies, Nov. 21, 1947, 33 U.N.T.S. 261, art. 7.

¹⁷ United Nations Security Council, "Resolution 573," Oct. 4, 1985. Retrieved from <https://digitallibrary.un.org/record/101329?ln=en>

¹⁸ United Nations General Assembly, "Report of the Secretary-General on the Protection of Civilians in Armed Conflict," Aug. 22, 2003, <https://undocs.org/A/58/742>.

inviolability of its premises, stating that the bombing “seriously undermines the Court's efforts to pursue accountability for crimes against humanity and war crimes in Libya.”¹⁹

These examples demonstrate the importance of respecting the inviolability of international organizations and their premises, and the serious consequences that can result from their violation.

Despite the widespread acceptance of the inviolability of diplomatic premises, there have been instances where this principle has been violated or challenged by states or non-state actors²⁰. Such violations can give rise to diplomatic crises, international disputes, or even armed conflicts²¹. Additionally, concerns have been raised about the abuse of diplomatic inviolability for criminal activities or espionage²², leading to calls for reform or tighter oversight of diplomatic privileges and immunities²³.

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¹⁹ International Criminal Court, "ICC Condemns Attack on its Offices in Tripoli," June 15, 2011, <https://www.icc-cpi.int/libya>.

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²¹ Ibid.

²² Denza, E. (2016). Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations. Oxford: Oxford University Press.

²³ Berridge, G.R. (2010). Diplomacy: Theory and Practice. Basingstoke: Palgrave Macmillan.

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