

Abstract

Listed the subject of immunity of State officials from foreign criminal jurisdiction in the long-term program of work of the International Law Commission in the field of codification of the rules of international law and diplomacy, in the fifty-eighth session, based on a proposal prepared by the Special Rapporteur of the Commission (Roman Anato to Avic KOLODKIN), the Commission decided in fifty-ninth session of the to include the subject in the current work program. As the 2007 year Committee discussed in sessions held during the reports prepared by the Special Rapporteur, matters relating to the immunity of State officials from high-ranking and paid attention to the two types of personal immunity and objectivity.

Fiqh have disagreed about the status of a clear theory of the establishment of judicial and diplomatic immunities and privileges.

The criminal judicial immunity of the most important privileges enjoyed by the diplomatic agent in the receiving State, and attached to the International Law Commission for such immunity is more important than civil immunity. The immunity from the criminal justice prominent foreign elements that enjoyed by the head of state of legal status.

The recognition of the personal immunity of the prime minister and foreign minister from the standpoint of the International Law Commission is of the opinion that it is due to the fact that the functions of representative is recognized in accordance with international law as similar to the functions of the head of state, such as those recognized by the Prime Minister and Foreign Minister of the conclusion of treaties authority, as well as treatment on an equal footing in terms of international protection granted to them. The objective of immunity are otherwise personal immunity official

business only cover, any act that was issued by a State official in the context of the performance of its functions.

As well as to the family of the head of state and his entourage and diplomatic envoy immunity has been dealt searching with regard to housing and certain immunities.

Given that the state enjoys international legal personality, it is natural to enjoy the immunities and privileges, as it does not make sense to put the state immunities and privileges to be without juridical are enjoying it. Vhsana state is not subject to the jurisdiction of a foreign state courts of another State. Because states are equally sovereignty and independence, there is no other state courts have the right to trial without the consent of respect for the sovereignty and the inadmissibility of the subject to the sovereignty of another country.

And looked to the International Law Commission on procedural matters for which immunity protest and waiver, the State argues charge when you want to protect him from prosecution prior notice to state her jurisdiction.

As for the waiver, Vth official waive the immunity of its official, it may be implicitly waived if such envoy or diplomatic representative to foreign courts, without paying or protesting judicial immunity, or if it is initiated to raise a lawsuit against one of the receiving State Courts.

But the international conventions stipulates that waiver of judicial immunity must be explicit, whether in criminal or civil immunity. And the state is legally authorized to waive the immunity of its officials, it is recognized that the waiver of the immunity, whether personal or official immunity substantive immunity enjoyed by the state and not the administrator authority.