

DIPLOMATIC IMMUNITY IN CRIMINAL PROCEDURE AND ITS CHARACTERISTICS.

Ismatov Islom

Termez State University

Of the Faculty of Law

1st year student

prof **Jumanazar Kholmuminov**

Supervisor: Ph.D.

Annotation: The purpose of this article is to explain the concepts and differences between diplomatic and consular immunity, the circumstances under which diplomatic immunity arises, the privileges of employees of diplomatic missions and consular posts, and their liability in the event of a crime.

Keywords: diplomat, diplomatic immunity and privileges, the responsibility of the staff of the mission, consular post, diplomatic mission, the responsibility of the staff of the consular post.

Diplomacy is the official activity of states in the field of foreign policy, as well as the protection of their rights and interests abroad. The term "diplomacy" is derived from the Greek word meaning "two folded papers." In ancient Greece and Rome, envelopes were presented to ambassadors as a document certifying their credentials. The term was coined in Western Europe in the late 18th century. Diplomacy is one of the most important tools of state foreign policy, the goals and objectives of which determine the form and methods of diplomacy.

Therefore, as noted by the President of the Republic of Uzbekistan Shavkat Mirziyoyev Mirziyoyev.

Under international law, diplomats are prohibited from interfering in the internal affairs of the country in which they work. Privileges and immunities enjoyed by diplomatic missions, their heads and staff in the Republic of Uzbekistan include both bilateral agreements and multilateral conventions, in particular the Vienna Convention on Diplomatic Relations of April 18, 1961 and the Vienna Convention on Diplomatic Relations of April 4, 1963. The Vienna Convention on Consular Relations is also regulated by the Regulation of the Cabinet of Ministers of the Republic of Uzbekistan of May 8, 2001 "On Diplomatic Missions and Consular Offices of Foreign Countries in the Republic of Uzbekistan".

The main forms of diplomatic activity: diplomatic congresses, conferences or councils; note, memorandum, statement, etc. k. diplomatic correspondence in forms; preparation and signing of international agreements; representation of the state abroad through embassies and missions; participation in the activities of international organizations; dissolving the government's position on foreign policy issues in the press, and so on. Diplomatic missions and their officials enjoy diplomatic privileges and immunities.

Diplomatic immunity is a set of rights and privileges granted to foreign diplomatic representatives, special missions, representations of states in international intergovernmental organizations, their leaders and employees. Diplomatic immunity refers to the inviolability of foreign diplomats (ambassadors, embassy secretaries, attachés, etc.) and the buildings they occupy, the right not to be tried by a local court, the right to secret communication with their government, and so on. k. and consists of. It is inadmissible to detain a diplomatic representative through administrative or judicial means, or to insult him or her by citizens or

foreigners. The office building, its contents, the residence of the representatives, the property are inviolable, and the buildings in which they are located are under state protection. The diplomat also has the right to judicial immunity. Diplomatic representatives are not called to account for their illegal actions, but are summoned by the sending state in accordance with international diplomatic procedures. They are also exempt from taxes and have customs privileges. Individuals with diplomatic immunity are required to respect the laws of the country in which they reside, which can be declared unacceptable if they violate those laws. In addition, diplomats may not be involved in criminal investigations as suspects, may not be prosecuted in court, and have the right not to testify in investigations and trials. If the diplomatic staff agrees to testify, they have the right to refuse to appear before the authorities and give instructions at their convenience. The inviolability of the agents does not mean that they are completely exempt from criminal liability, they may be prosecuted by the sending State in the courts of national jurisdiction when they commit a crime in the receiving State. [2] Diplomatic immunity and privileges are a set of special rights and privileges granted to foreign diplomats. By granting such rights and privileges to foreign diplomats, states release them from their jurisdiction. In other words, foreign diplomats and diplomatic missions enjoy "absolute freedom." This principle is explained by the sovereignty of states and the fact that they are subjects of international law. The scope and nature of diplomatic immunity and privileges are fully reflected in the 1961 Vienna Convention on Diplomatic Relations. The Convention is currently an important international legal instrument, which addresses and regulates various issues arising in the process of relations between states. In addition, other agreements were reached, which are related to the regulation of international relations. These are the 1963 Vienna Convention on Consular Relations and the 1975 Vienna Convention on the Representation of States in Universal International Organizations. Diplomatic staff shall be issued a diplomatic passport by the sending State.

The diplomatic passport will indicate the diplomatic rank of the employee. In other words, the diplomatic career of these two employees is confirmed by a diplomatic passport issued by the sending state. Diplomatic immunities and privileges are granted not for personal gain, but for the diplomatic mission and its staff to perform their duties effectively. Diplomatic immunity is granted to a diplomat in person, privileges cannot be exchanged between individuals on the basis of an agreement. [3] This rule, the principle of granting diplomatic immunity by diplomats and diplomatic missions in order to carry out their duties effectively, is reflected in the work of former Chilean President General Augusto Pinochet. In 1998, former Chilean President Pinochet was arrested in London. Pinochet, a lifelong Chilean senator, had traveled to the UK for treatment. He had a diplomatic passport, but despite having such a document, Pinochet was arrested and subjected to a lengthy trial. According to the Vienna Convention, the diplomatic immunity of a person who arrives in the territory of another state with an official mission of his government and is officially accredited, as well as leaving to perform the duties of a diplomatic mission, is recognized as unconditional. It turned out that the Chilean government had not assigned any diplomatic mission to Pinochet in the UK, and in this case, there was no evidence that the British government would prevent Pinochet's arrest. Although the Chilean government had granted Pinochet diplomatic status and the British government had demanded his release, the Chilean government's demands were rejected because the general's condition did not meet the requirements of the Vienna Convention. [4] One of the most important preconditions for the normal functioning of diplomatic missions abroad is the inviolability of the territory and premises of the mission, the diplomatic immunity of the staff of the mission. These legal provisions are generally accepted in international law, and the violation of the inviolability of the mission building and diplomatic immunity is a gross

violation of international law and the sovereign right of states. Usually, states react very harshly to such violations. In the event of encroachment on the territory and premises of the mission and the diplomatic immunity of the mission staff, the sending State Government shall promptly notify the receiving State Government of the incident and demand that the perpetrators be found and punished. Failure to do so by the host country could result in the closure of the mission and the suspension of diplomatic relations between the two countries. Article 22 of the Vienna Convention on Diplomatic Relations states: Heads of state where the mission is located may enter the building only with the consent of the head of the mission. Article 29 of the Convention states: —The identity of a diplomatic agent is inviolable. Arresting him or her in this way is a violation of international law. It is necessary to prevent any disrespect to the person of the diplomatic agent of the state in which he works, and any circumstances that could damage his freedom and reputation. In addition, each diplomatic mission has the right to receive diplomatic mail that cannot be contacted or verified by a special type of encrypted communication with its government. [5] A consulate is a state body that conducts foreign affairs and is established in the territory of another state with the permission of that state to perform certain functions. The area of consular service and the location of the consulate shall be determined by agreement of both states. Consular immunity is a privilege granted to a consulate or consular officer to perform his or her duties. Consular immunity matters are governed by the domestic law of each State, international conventions and regulations. The 1963 Vienna Convention on Consular Relations is a codification of consular immunity. Consular officers have personal immunity. However, unlike those with diplomatic immunity, they may be convicted and arrested by a court of the host state, appear before a competent authority, and be questioned as witnesses in court if they have committed a serious crime. They enjoy criminal, administrative and civil privileges in their work. The state that appointed the consul shall provide him with a consular patent. The patent shall indicate the name, surname, rank, consular district and location of the consulate. The appointment of a consul, as well as the authorization of a foreign consul to begin his or her work, shall be governed by the domestic law of each State. The consul has a number of rights and privileges, personal inviolability; it is exempt from customs duties, taxes and other personal obligations.

References:

1. <https://qomus.info/encyclopedia/cat-d/diplomatiya-uz/>
2. <https://nuzhnaviza.ru/poleznye-materialy/diplomaticheskij-immunitet/>
3. Vienna Convention on Diplomatic Relations of 1961.
4. https://honoraryconsul.ru/index.php?an=what_is_dip_immunitet.
5. 5.Nazarova G.G., Azimov A.Ye., Adilova Z.D. International Diplomatic Relations, Textbook. - t., 2009.
6. Vienna Convention on Consular Relations of 1963