

Immunity by the Israeli Law – Adv. Rinat Bublil - Kadesh

On 2008, the state of Israel was legislated the Foreign States immunity law [The Immunity Law].

By this law, the foreign state itself does not enjoy its immunity in certain circumstances and causes which are nominated in Part Two of this law.

Nevertheless, the legislature did not ask to derogate or to diminish the personal immunities which are given and owned by the diplomat agents.

In the matter of diplomat agent incident, the specific statutory source is the Vienna Convention on Diplomatic relations since 1961.

By this convention, which was signed by the state of Israel on 1961 and approved on 1970, the diplomat agent and his or her first degree family have precisely the same rights and privileges and they cannot be forced to be judged by the Israeli law.

The Israeli court can have authority to judge diplomats by the Israeli Law only if their immunity was waived.

Only the Ministry of the Foreign Affairs [MFA] of the 'Sending state' can order to remove the personal immunity and it has to be specific and clear.

Usually the personal immunity does not taken, only on sever circumstances and usually it is related to criminal law such as, for example, in the case of the General Augusto Pinochet which was discussed by the House of Lords in United Kingdom.

Also there is a certain procedure regarding execution proceedings which excluded decisions and verdicts that related to criminal acts as well as in case of a commercial asset, an Israeli real estate or an assets which were given to the foreign state by present or by inheritance which are be handled differently.

With the act of legislate this law, the Israeli legislature asked to give a statutory approval of adoption the international law rules and habits which were settled on the norms and verdicts around the world and in Israel itself, such as the verdict in the case of Her Majesty the Right Queen of Canada which was given by the Israeli supreme court on 1994 and the case of Ambassador Basiuni on 1998.

On 2011, The District court of Tel Aviv was made a decision using this immunity law and ruled that the diplomat agent is protected from ruling against him personally, this is in certain circumstance as long as the deal itself is not private, inter alia, and therefor this personal immunity is being kept by clause no. 21 of this immunity law and clause no. 31 of the Vienna Convention.

In any case, the state of Israel is obligated to the international law and the treaties which was signed and approved by it and in case of a foreign party, both public and private international law will be taken into consideration and be examined by the certain case and circumstances.

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