

FRANCISZEK PRZETACZNIK

# Protection of Officials of Foreign States according to International Law

MARTINUS NIJHOFF PUBLISHERS

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## PREFACE

The object of this monograph is the special protection of the persons of officials of foreign States in the light of international law. The question of the special protection of the persons of officials of foreign States has assumed particular importance in recent times because of the development of a novel form of common crimes of international significance. Many incidents of kidnapping, murder, and other violent attacks against the lives of officials of foreign States are occurring in various parts of the world almost every day. It is an alarming situation that such criminal acts, which usually are conducted by individual persons or terroristic groups, have recently, i.e., in the Case Concerning United States Diplomatic and Consular Staff in Tehran, been committed with the full authorization, endorsement, approval and participation by the Government and other highest authorities of the receiving State.

It is an even more dangerous phenomenon in international relations that, for the first time in the history of humanity, instead of protecting the officials of foreign States, the Government of the receiving State has illegally held such officials for a period of 443 days in order to extort its political objectives. Kidnappings, murders and other crimes against officials of foreign States have become increasingly serious threats to the normal conduct of international relations, and as has been shown in the Case Concerning the United States Diplomatic and Consular Staff in Tehran, they may constitute a grave danger to international peace as well.

The above-mentioned case revealed to a full extent another alarming phenomenon, namely, the lack of knowledge of the exact norms concerning the protection of officials of foreign States. In connection with this case, the statesmen of various countries throughout the world, as well as politicians, lawyers, and diplomats themselves, made hundreds of declarations and statements, but all these declarations and statements, although essentially correct in principle, indicated a lack of knowledge of the precise norms concerning the protection of officials of foreign States. For these reasons, research on the special protection of the persons of officials of foreign States became not only topical, but also necessary.

This monograph encompasses the whole system of the special protection of the persons of officials of foreign States, under contemporary international law. How-

ever, it is strictly limited thereto. Therefore, this monograph does not deal with: (1) the protection of persons who are not officials of foreign States *stricto sensu*; (2) the protection of the premises of the permanent diplomatic missions or consular offices, as well as the private residences of such officials; (3) the protection of officials of foreign States in the third State during their travel to or from the receiving or host State; (4) the taking of hostages in general, as provided for in the 1979 U.N. Convention against the Taking of Hostages; and (5) the fight against terrorism in general. All these topics, although very important and highly interesting, lie outside the scope of this monograph.

The basic objective of the author in writing this monograph was to prepare a book dealing with all aspects of the protection of the persons of officials of foreign States which could serve as a basic practical handbook for the practitioners of international law, international criminal law, diplomatic and consular law, diplomacy, international relations and international organizations and as a reference book for professors, students, journalists and other persons involved professionally in those fields.

This monograph, which deals with all aspects of special protection of the persons of officials of foreign States, is the first scientific and systematic study on this subject in the world legal literature. It gives an analysis of the entire practice of States, official documents of international organizations, decisions of national and international tribunals, codification of international law and international legal doctrine relating to all aspects of the special protection of the persons of officials of foreign States.

The author trusts that this monograph will serve as a practical manual for such institutions of each country as: ministry of foreign affairs, embassies, consulates, ministry of foreign trade, ministry of justice, police agencies, law enforcement agencies, and courts dealing with foreign officials. It is also meant to serve as a reference book for universities and their law schools and political science faculties as well as for libraries and other institutions involved in international law and international relations.

Finally, as the Case Concerning the United States Diplomatic and Consular Staff in Tehran clearly manifested, on the one hand, the importance of the special protection of officials of foreign States and the necessity of this protection for the normal peaceful conduct of international relations between States, and on the other hand, the plain lack of knowledge of the exact norms concerning such protection. It is the author's strong belief that the best manner to enhance the importance of the special protection of the persons of the officials of foreign States will be the teaching in each country, in its best interest, as a separate subject either in the law schools or departments of political sciences the topic of the protection of the persons of officials of foreign States under international law.

New York, New York  
May 31, 1982

Franciszek Przetacznik

## Erratum

Protection of Officials of Foreign States  
according to International Law  
by Franciszek Przetacznik

On page 5 the final two paragraphs read as follows:

Accordingly, such inviolability obliges the receiving State not only to abstain from an offense or coercion towards officials of foreign States, but also to protect them against any offense on the part of private individuals, and to punish severely the offenders of such acts.<sup>23</sup> Several writers define the inviolability of such officials in the context of obligations derived from it for the receiving State. Thus, according to D. Antokoletz, F.I. Kozhevnikov, D.S. Planas Suarez and E. Reale, such inviolability imposes on the government of the receiving State the duty to refrain itself from any offense, injury or violence against the persons of such officials, and obliges that government to protect them against the offenses, injuries or violence by inhabitants of the receiving State.<sup>24</sup> In this definition, the wording “inhabitants of the receiving State” requires some clarification, since, according to its literal meaning, it may be construed as not covering the protection of officials of foreign States against the offenses, injuries or violence committed by the persons who are on the territory of the receiving State temporarily but have no residence there.

In this respect, the wording “particular persons either nationals of the receiving State or aliens” used by D.B. Levin in his definition of the inviolability of such officials, is more correct. According to him, “the right to personal inviolability ... is the right of diplomatic agents to increased protection on the part of the receiving State through special judicial and administrative means against any attacks, affronts or violence to which they might be subject on its territory by particular persons either nationals of the receiving State, or aliens”<sup>25</sup> This definition also narrows the notion of the personal inviolability of officials of foreign States by restricting it only to increased protection by the receiving State. All the above-discussed definitions are not elaborate and precise enough as regards the essence of the personal inviolability of officials of foreign States because they present only some aspects of this institution.

On pages 372 and 386 the word “Cypres”  
should be replaced by the word “Cyprus”.

## LIST OF ABBREVIATIONS

Aff.	-	Affairs
Am.	-	American
An.	-	Annual
An. Dig.	-	Annual Digest of Public International Law
Bluntschli's Draft Code	-	J.K. Bluntschli, Le droit international codifié
Bull.	-	Bulletin
Brit.	-	British
Cas.	-	Case
Colum.	-	Columbia
Comm'n	-	Commission
Comp.	-	Comparative
Crim.	-	Criminal
Dep't	-	Department
Dig.	-	Digest
FRG	-	Federal Republic of Germany
Fiore's Draft Code	-	P. Fiore, International Law Codified and its Legal Sanction or Legal Organization
Ga	-	Georgia
German International Law Association's Draft	-	The Draft Convention on the Responsibility of States for Injuries Caused in their Territory to Person or Property of Aliens, prepared by the Deutsche Gesellschaft für Völkerrecht
Guerrero's Report	-	Report of the Subcommittee of the League of Nations Committee on the Responsibility of States for Damage Done in their Territories to the Person or Property of Foreigners
Hague Recueil	-	Recueil des Cours de l'Académie du Droit International
Harv.	-	Harvard
HLSR	-	Harvard Law School Research in International Law
The 1929 Harvard Draft on the International Responsibility	-	The Law of Responsibility of States for Damage Done in Their Territory to the Person or Property of Foreigners, prepared by E.M. Borchard

- The 1961 Harvard Draft on the International Responsibility - Draft Convention on the International Responsibility of States for Injuries to Aliens, prepared by R.R. Baxter and L. Sohn
- ICJ - International Court of Justice
- ILC - International Law Commission
- Inform. - Information
- The Institute of International Law's Project on International Responsibility - Project on International Responsibility of States for Injuries on their Territory to the Person or Property of Foreigners, prepared by the Institute of International Law
- Int'l - International
- J. - Journal
- Kearney's Draft - Draft Articles concerning Crimes against Persons Entitled to Special Protection under International Law, Working Paper prepared by R.D. Kearney
- Kokusaiho-Gakkwai Draft - Draft Rules Concerning the Treatment of Aliens, their Admission and their Expulsion by a State, prepared by International Law Association of Japan
- L. - Law
- La chronique - La chronique des faits internationaux
- LRDCPI - Laws and Regulations Concerning Diplomatic and Consular Privileges and Immunities
- LNTS - League of Nations Treaty Series
- OAS - Organization of American States
- Off. - Official
- PCIJ - Permanent Court of International Justice
- Pessoa's Draft Code - E. Pessoa, Projecto de Codigo de Direito Internacional Publico
- Publ. - Public
- Q - Quarterly
- Rec. - Record
- Rep. - Reports
- Rev. - Review
- RGDIP - Revue Générale de Droit International Public
- Roth's Draft - Draft Convention on the Responsibility of States for International Wrongful Acts, prepared by A. Roth
- Sec. - Section
- Strupp's Draft - Draft Treaty Concerning the Responsibility of a State for Internationally Illegal Acts, prepared by K. Strupp
- The OAS Convention on Prevention and Punishment - The Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance



- The U.N. Convention on Prevention and Punishment - The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents
- The Vienna Consular Convention - The Vienna Convention on Consular Relations
- The Vienna Diplomatic Convention - The Vienna Convention on Diplomatic Relations
- The Vienna Convention on the Representation of States - The Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character
- The Rome Draft - A Working Paper on the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons
- Transnat'l - Transnational
- UN - United Nations
- UNCCR - United Nations Conference on Consular Relations
- UNCDD - United Nations Conference on Diplomatic Intercourse and Immunities
- UNJY - United Nations Juridical Yearbook
- UNRIAA - United Nations Reports of International Arbitral Awards
- UNTS - United Nations Treaties Series
- UN GAOR - United Nations, Official Records of the General Assembly
- UN SCOR - United Nations, Official Records of the Security Council
- Univ. - University
- Uruguayan Draft - Uruguay: A Working Paper on the Convention on the Prevention and Punishment of Crimes against Persons Entitled to Special Protection under International Law
- Va. - Virginia
- W - Western

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