

EVIDENCE AND BURDEN OF PROOF IN FOREIGN SOVEREIGN IMMUNITY LITIGATION

A Guide for International
Law Practitioners and
Government Counsel



DR. PIERRE F.
WALTER, ESQ.



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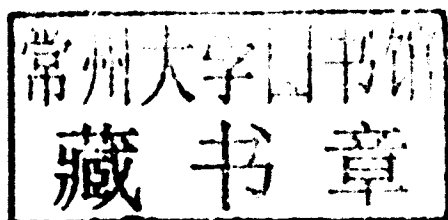
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About the Author

Pierre F. Walter is an international lawyer, researcher, author and lecturer. After finalizing his studies in German law and European integration with diplomas in both disciplines in 1982, he graduated in December 1987 at the law faculty of the University of Geneva as *Docteur en Droit* in international law. The doctorate was funded by scholarships from the *Swiss Institute of Comparative Law*, Lausanne, and from the *University of Geneva*, as well as a Fulbright Travel Grant for an assistantship with Professor Louis B. Sohn at UGA Law School Department of International Law, Athens, Georgia, USA, in 1985.

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Pierre F. Walter writes, lectures and teaches in English, German and French; he has written *more than ten thousand pages* embracing all literary genres, including *novels, short stories, film scripts, essays, selfhelp books, monographs* and *extended book reviews*. Also a pianist and composer, he has realized 40 CDs with jazz, newage and relaxation music.

Pierre F. Walter's professional publications span the domains *International Law, Criminal Law, Holistic Science, Psychology, Education, Shamanism, Ecology, Spirituality, Quantum Physics, Systems Research, Natural Healing, Peace Research, Personal Growth, Selfhelp* and *Consciousness Research*.

110 Book Reviews, thirty-eight audio books and more than hundred video lectures were realized in the years 2005-2010. Besides, Pierre F. Walter publishes a series 'Great Minds', which features scientists, artists and authors of genius from Leonardo to Fritjof Capra.

Pierre F. Walter publishes via his Delaware firm *Sirius-C Media Galaxy LLC* and the imprints *IPUBLICA* and *Sirius-C Media (SCM)*.

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OVERVIEW

Chapter-by-Chapter Overview

In the **Preface**, entitled *A Complex Problem*, I demonstrate why assessing the allocation of the burden of proof is not an easy endeavor in matters of foreign sovereign immunity litigation, wherever in the world. To be true, it is a highly complex subject and needs a thorough understanding of the rules of civil procedure and evidence rules. This is why it can be said that the subject of the study is a cross-border topic intersecting civil law, civil procedure law and international law.

In the **Introduction**, entitled *Restrictive Immunity and Burden of Proof*, I examine the criteria that essentially influence the allocation of the burden of proof in sovereign immunity litigation. I demonstrate that the question could not come up under the reign of the absolute doctrine of sovereign immunity; it was only from the moment the restrictive immunity doctrine was adopted and became the standard in matters of jurisdictional immunity, that the problem of the burden of proof came up.

Chapter One, entitled *Evidence and the Burden of Proof*, is an introduction into the law of evidence and the burden of proof in Anglo-American civil procedure. This chapter is not only important for Continental lawyers, as they normally do not enjoy any training in the very specific, and pragmatic, rules of evidence governing Anglo-American civil procedure, but there are also many British and American interna-