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**PËRFAQËSITË DIPLOMATIKE DHE KONSULLORE SIPAS
LIGJIT PËR SHËRBIMIN E JASHTËM TË REPUBLIKËS SË
MAQEDONISË SË VERIUT, SHQIPËRISË DHE KOSOVËS**

**ДИПЛОМАТСКИ И КОНЗУЛАРНИ ПРЕТСТАВНИШТВА
СПОРЕД ЗАКОНОТ ЗА НАДВОРЕШНИ РАБОТИ НА
РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА, АЛБАНИЈА
И КОСОВО**

**DIPLOMATIC AND CONSULAR MISSIONS ACCORDING TO
LAW FOR FOREIGN AFFAIRS OF THE REPUBLIC OF NORTH
MACEDONIA, ALBANIA AND KOSOVA**

Abstract

The issue of diplomatic and consular missions and its legal regulation, obviously belongs to international conventions and domestic laws of the states which more specifically regulate this matter. However, the mentioned laws provide detailed rules of the law order, starting from the establishment of diplomatic relations onwards.

Therefore, this paper aims to clarify the legal aspect of diplomatic and consular missions, i.e. its legal nature, based on international and domestic laws, such as the Law for Foreign Affairs of the Republic of North Macedonia, Albania and Kosova, which in their provisions include general rules that refer to diplomatic-consular missions.

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Finally, the states are which with their domestic laws provide changes that affect this field of study, but a such thing initially should be on the ability of the states in order to establish diplomatic relations with other states or international organisations.

Keywords: *Ambassador, Convention, Law, Mission, State.*

Introduction

In theory and international practice is accepted that every state that is recognized and independent, enjoys the right of legation, which means the right to send and receive diplomatic representatives. Therefore, it also represents the ability of the state to enter into diplomatic relations with other states, as one of the main elements of the state as a subject of international law. On the other hand, international law, thus international conventions for this purpose do not obligate the states to necessarily establish diplomatic relations with other states, but this is left mainly to them to decide for itself.

However, the right of legation is an exclusive right of the states to establish diplomatic relations with other states or international organizations, but for the establishment and functioning of diplomatic and consular missions except to international conventions, it is also regulated with domestic laws, respectively, with the law for foreign affairs i.e. Law for foreign affairs of the Republic of North Macedonia, Albania and Kosova. Thus, through these laws it is intended to clarify the object of this paper, namely, the legal nature of diplomatic and consular missions.

Every state that wants to establish diplomatic relations with another state, the first step is to address that state for an agreement to establish its mission namely, to establish diplomatic relations. Therefore, for the establishment of diplomatic and consular missions, are provided rules that regulate this matter and at the same time such a thing is done through the comparative method by comparing the provisions of the already mentioned laws.

The paper as a whole is divided into two parts, the part which refers to the general overview of diplomatic and consular missions, including the right of legation as a very important rule in international law and practice and the part which pays attention to the normative aspect of diplomatic and consular missions, including international conventions as well as the specific laws of the states mentioned in the title of this paper.

General overview on diplomatic and consular missions

Every sovereign independent state possesses the “right of legation,” opening of diplomatic relations between states is a matter of agreement between the governments concerned.³ Thus, the entry into an agreement to establish diplomatic relations is an act of political discretion which rests in the hands of the two executives concerned.⁴ Of course, this action is defined as the ability of the state to enter into diplomatic relations with other states, as an important element of the state apart from other elements that create a state. Such case has also been provided in article 2 of the Vienna Convention on Diplomatic Relations, which provides: “The establishment of diplomatic relations between states, and of permanent diplomatic missions, takes place by mutual consent”.⁵

Even though a state may be fully sovereign and recognised by other states, it is very likely that all states will not be in a position to have diplomatic relations with it. In recent years with the increasing number of newly independent sovereign states in the community of nations, the problem of maintenance of diplomatic relations by the establishment of permanent missions is becoming more and more acute, and the smaller nations find it impossible to maintain such missions at too many capitals due to lack of trained personnel and difficulties of having sufficient foreign exchange at their disposal.⁶ Thus, the sending state may, after it has given due notification to the receiving states concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one state, unless there is express objection by any of the receiving states.⁷ Accreditation of the same person as envoy to two or more states has helped to solve the problem to some extent, but even this solution is not possible in all cases. The proposal of having one person to act as the envoy of two or more states, adopted by the Vienna Conference 1961, will no doubt help in relieving the burden of representation, but it is yet to be seen as to how far this is followed by states in practice in view of certain obvious practical difficulties.⁸

Unwillingness on the part of a state to open permanent diplomatic missions in some cases may give rise to dissatisfaction, especially when

³ Sen. B. A. (1965). *Diplomat's Hand Book of International Law and Practice*, The Hague, p. 15.

⁴ Hardy, M. (1968). *Modern Diplomatic Law*, Manchester, p. 13.

⁵ Vienna Convention on Diplomatic Relations, 1961, article 2.

⁶ Sen. B. A. (1965). *Diplomat's Hand Book of International Law and Practice*, The Hague, p. 15.

⁷ Vienna Convention on Diplomatic Relations, 1961, article 5.

⁸ Sen. B. A. (1965). *Diplomat's Hand Book of International Law and Practice*, The Hague, p. 15.

the other state is keen on establishing such relations. It is, therefore, of the utmost importance to bear in mind that the non-establishment of permanent mission by one state in another is in no way derogatory to the latter, nor does it have any effect on the recognition of that state as a sovereign independent member of the Family of Nations.⁹

Regarding to definition of diplomatic relations, respectively to the right of the legation, Grotius stated that the “*ius legationis*” was an attribute of sovereignty. Later writers on diplomatic law, such as Genet and more recently Salmon, discuss in detail which entities possessed it, with reference to unusual or disputed cases such as the Holy See, deposed sovereigns, members of the British Commonwealth, and national liberation movements.¹⁰ Today it is generally known and accepted that when a state need to establish diplomatic relations it should be recognized as a sovereign state.

In the international practice, related to the establishment of diplomatic relations, namely for the right of legation, there are different cases, even this right as we mentioned above depend by the will of the states, for this purpose. Such cases are mentioned by the author, Eileen Denza in her book *Diplomatic Law-Commentary on the Vienna Convention on Diplomatic Relations*. In this case it is worth to mention the creation of Armen state as an independent state, based on the Treaty of Sèvres (articles 88 to 93) which was not ratified, and accordingly the accused could not invoke diplomatic status as the representatives of that state.

The case that has to do with the withdrawal of the Russian ambassador to Iceland in protest against to Icelan decision to recognize Lithuania and to establish diplomatic relations with it at a time when Lithuania’s unilateral declaration of independence was not accepted under Soviet constitutional procedures. All this action was against the principle of non-interference in the internal affairs of states.

Also, the case related to the Treaty between France and Monaco concluded on 24 October 2002 which established a new basis for their relations expressly endorsed the right of Monaco to conduct diplomatic relations and to send and receive ambassadors or the case with Palestina which was recognized as a state by Iraq which maintained an embassy in Baghdad entitled to inviolability there, and in 1997 it was reported by opposition sources to *The Jerusalem Post* that the building was being used

⁹ Ibid, p. 16.

¹⁰ Denza, E. (2016). *Diplomatic Law-Commentary on the Vienna Convention on Diplomatic Relations*, Oxford, p. 19.

for storage of documents relating to Iraq's build-up of chemical and nuclear weapons which were thereby beyond the reach of UN weapons inspectors.¹¹ From this case, also follows the violation of immunity related to the premises of the diplomatic mission, which are obviously in contradiction with the provisions of the Vienna Convention on Diplomatic Relations. Otherwise, the mentioned convention provides: "The premises of the mission shall be inviolable. The agents of the receiving state may not enter them, except with the consent of the head of the mission".¹²

However, whenever a state desires to open diplomatic relations with another, the first step it has to take is to approach that state for agreement to establish its mission. Such occasions may arise in the case of two existing states which had not until then opened diplomatic relations, but find it necessary or possible to do so either due to the increase in the interests that require to be protected, or the availability of personnel or funds the lack of which had stood in the way of establishment of such relations earlier.

Occasions for establishment of diplomatic relations arise more frequently, perhaps when a new state is admitted into the community of nations as a fully sovereign state. A revolutionary change in the government of an existing state may also in certain circumstances necessitate the establishment of fresh diplomatic relations. In all such cases the government of the country which desires the establishment of diplomatic relations must make the first approach. In the case of newly independent states, the request should normally be made direct on a government to government level, etc.¹³

Legal aspects on diplomatic and consular missions of the Republic of North Macedonia, Albania and Kosova

According to the domestic law of the Republic of North Macedonia, the establishment of new diplomatic and consular missions and other missions is carried out by the decision of the Government, respectively with the proposal of the Ministry.¹⁴

¹¹ See also Denza, E. Diplomatic Law-Commentary on the Vienna Convention on Diplomatic Relations, p. 19-20.

¹² Vienna Convention on Diplomatic Relations, 1961, article 22, paragraph 1.

¹³ Sen. B. A. (1965). Diplomat's Hand Book of International Law and Practice, The Hague, p. 16.

¹⁴ Law for Foreign Affairs of the Republic of North Macedonia, No. 103/2015, article 31. The notion "Ministry", means the Ministry of Foreign Affairs of the Republic of North Macedonia.

According to the Constitution of the Republic of North Macedonia, the President of the Republic of North Macedonia appoints and dismisses by decree ambassadors and other diplomatic representatives of the Republic of North Macedonia abroad.¹⁵

In the territory of the receiving state in which no consular missions of the Republic of North Macedonia have been established, consular work is performed by the consular unit at the embassy of the same in the receiving state, and it guarantees and protects the interests of citizens and legal entities in the receiving state. If in any receiving state exist only a General Consul or the Consul of the Republic of North Macedonia, in addition to consular work, with the special authorization of the Minister performs other functions entrusted to them and which are in accordance with international conventions on diplomatic and consular relations.¹⁶

The Government, upon the proposal of the Ministry, adopts a decision for the protection of the interests of the Republic of North Macedonia, its citizens and legal entities from another state or in states in which our state has no diplomatic or consular mission. Also, the Government, on the proposal of the Ministry, adopts a decision to protect the interests of the other state, its citizens and legal entities in which the other state has no diplomatic or consular mission. The procedure in question is led by the Ministry, in accordance with law and international law.¹⁷

In this regard, it is worth to mention that the Republic of North Macedonia has in total 43 diplomatic missions (embassies) and 9 General Consuls abroad. Whereas, consular offices are not foreseen, as was previously the Office for Consular, Economic and Commercial Affairs in the Republic of Greece-Thessaloniki, which, according to the Regulation of 2021 was appointed to the Consulate General Consulate in Greece-Thessaloniki.¹⁸

The missions of the Republic of North Macedonia abroad perform the following tasks: (a) represent the state abroad; (b) implementation of foreign policy goals and priorities; (c) developing general relations

¹⁵ Constitution of the Republic of North Macedonia, article 84, paragraph 2.

¹⁶ Law for Foreign Affairs of the Republic of North Macedonia, No. 103/2015, article 32.

¹⁷ Article 33.

¹⁸ Regulation for internal organization of the Ministry of Foreign Affairs of the Republic of North Macedonia, No. 01-26719/1, 2016, article 7; Regulation for internal organization of the Ministry of Foreign Affairs of the Republic of North Macedonia, 2018, article 5 and Regulation for amending and supplementing of the Regulation for internal organization of the Ministry of Foreign Affairs of the Republic of North Macedonia, 2021, article 18.

with other states and international organizations; (d) protection of the interests of the Republic of North Macedonia and the rights and interests of its citizens and legal entities; (e) participation in negotiations for the conclusion of international agreements; (f) information on current topics and the situation of interest of the Republic of North Macedonia; (g) performs other tasks in accordance with international agreements and diplomatic and consular practice, as well as other tasks as directed by the Ministry.

The Embassy of the Republic of North Macedonia abroad is organized to carry out the following tasks: (a) represents the Republic of North Macedonia in the receiving state; (b) realizes the goals and priorities of foreign policy in the receiving state; (c) follows the positions of the Republic of North Macedonia and informs about them; (d) monitors and informs about the situation and attitudes in the receiving state which are in the interest of the Republic of North Macedonia; (e) take care for the protection of the interests of the Republic of North Macedonia as well as the rights and interests of its citizens and legal entities; (f) develops and promotes consular, economic, trade, cultural-educational, scientific-technical and other relations with the receiving state; (g) monitors the implementation of bilateral agreements and proposes the improvement of agreements; (h) affirms cooperation with the diaspora; (i) performs other tasks in accordance with international agreements and diplomatic and consular practice, as well as other tasks according as directed by the Ministry.¹⁹

Whereas, according to the Law on Foreign Affairs of the Republic of Albania, the diplomatic mission and consular post of the Republic of Albania are established and terminate by a decision of the Council of Ministers, based on the proposal of the Minister for Foreign Affairs. The structure of the diplomatic mission and consular post are approved by the order of the Minister for Foreign Affairs. The number of staff of the diplomatic mission and consular post is determined by agreement with the receiving state.²⁰ In contrast, according to the Law on Foreign Affairs of the Republic of Kosova, the diplomatic missions are established, reorganized and terminate by the decision of the President, after consultation with the Prime Minister. Diplomatic missions operate under the supervision and in accordance with the directive of the Ministry

¹⁹ Regulation for internal organization of the Ministry of Foreign Affairs of the Republic of North Macedonia, 2018, article 5.

²⁰ Law for Foreign Affairs of the Republic of Albania, No. 85/2015, article 21, paragraph 1, and 2.

of Foreign Affairs. Related to the mode of operation, structure and number of staff of diplomatic missions is determined by the Minister for Foreign Affairs.²¹

Regarding the number of members of the mission, the Vienna Convention on Diplomatic Relations provides that in the absence of specific agreement as to the size of the mission, the receiving state may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving state and to the needs of the particular mission.²² Also, the receiving state may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.²³

For this purpose, the author, Eileen Denza emphasised that “Article 11 created new international law. In the seventeenth century in particular when the prestige of an embassy was determined by the numbers and magnificence of the ambassador’s suite a number of receiving states suffered difficulties from the presence on their territory of inordinately large numbers of staff belonging to certain diplomatic missions who on occasion abused their privileges and immunities. Measures to control the problem in earlier times, usually took the form of reducing the privileges and immunities given to subordinate staff. Even when preparation of the Vienna Convention began it was apparent that large numbers were again causing problems in some capitals. The Rapporteur’s draft was the first attempt to address the problem by giving the receiving state a power to control the size of a mission. The power has been used more frequently in recent years to address concerns over terrorism and other forms of abuse of immunity”.²⁴

Also, according to the Law for Foreign Affairs of the Republic Albania, the Diplomatic Mission of the Republic of Albania is a structure of the Foreign Service, which operates permanently in the receiving state or at one or several international organizations.²⁵ The diplomatic mission performs these functions²⁶: (a) represents the Republic of Albania and maintains official relations with the receiving state and international organizations; (b) protect the rights and legitimate

²¹ Law for Foreign Affairs of the Republic of Kosova, No. 03/L-122, article 9, paragraph 1, 2 and 3.

²² Vienna Convention on Diplomatic Relations 1961, article 11, paragraph 1.

²³ Article 11, paragraph 2.

²⁴ Denza, E. (2016). *Diplomatic Law-Commentary on the Vienna Convention on Diplomatic Relations*, Oxford, p. 79.

²⁵ Law for Foreign Affairs of the Republic of Albania, No. 85/2015, article 18, paragraph 1.

²⁶ Article 18, paragraph 2.

interests of the Republic Albania, its citizens and legal entities; (c) implements the tasks in the field of foreign policy of the Republic of Albania, in accordance with the legislation of the receiving state; (d) promotes cooperation relations of mutual interest in all fields between the Republic of Albania and the receiving state or international organization (e) promotes the cooperation of the Republic of Albania with the receiving state in the service of security and peace; (f) cooperates with the delegations of the Republic of Albania in negotiations that take place in the receiving state or international organization, participates in negotiations with the government of the receiving state or international organization, as well as in international activities and conferences; (g) receives, collects and transmits, through legal measures, to the Ministry of Foreign Affairs information on the political and economic situation of the foreign state; (h) Presents the internal political, economic, social situation, as well as promoting the recognition of culture, tradition and promotes the image of the Republic of Albania.

According to the domestic law of the Republic of Albania, the establishment and termination of diplomatic relations with other states are made by a decision of the Council of Ministers, on the proposal of the Minister of Foreign Affairs.²⁷ On the other hand, according to the Constitution of the Republic of Albania, the President on the proposal of the Prime Minister, he appoints and withdraws plenipotentiary representatives of the Republic of Albania to other states and international organizations.²⁸ Otherwise, the Republic of Albania has in total 37 embassies, 6 general consuls and 6 diplomatic missions abroad.²⁹

The diplomatic mission may perform consular functions in the receiving state. If there is a consular post of the Republic of Albania in the same state, the mission performs consular functions in that part of the territory that is not included in the consular district of this post. The consular functions are exercised by diplomats in charge of consular activity.³⁰

The Diplomatic Mission and Consular Post of the Republic of Albania are established and terminated by a decision of the Council of Ministers, on the proposal of the Minister for Foreign Affairs. The structure of the diplomatic mission and consular post is approved by order of the Minister for Foreign Affairs. The number of the staff of the

²⁷ Article 11.

²⁸ Constitution of the Republic of Albania, article 92.

²⁹ <https://ambasadaime.gov.al/> (15.08.2022).

³⁰ Law for Foreign Affairs of the Republic of Albania, No. 85/2015, article 18, paragraph 3.

diplomatic mission and consular post is determined by agreement with the receiving state.³¹

The special mission is the temporary mission, which represents the Republic of Albania in another state or international organization, with their consent, to negotiate or to perform special tasks. The manner of establishment, composition and functions of the special mission is determined by a decision of the Council of Ministers, on the proposal of the Minister for Foreign Affairs.³²

A joint mission is a diplomatic mission or consular post established under an agreement with one or more other states, accredited in the third state or to an international organization. The manner of establishment, composition and functions of the joint mission is determined by a decision of the Council of Ministers, on the proposal of the Minister for Foreign Affairs.³³

Also, according to the law in question, the Council of Ministers may enter into agreements with the government of another state to represent and protect the interests of the state and the citizens of the Republic of Albania in a third state, where the Republic of Albania has no diplomatic mission. The agreements are subject to ratification by the Albanian Parliament. The Council of Ministers may enter into agreements with the government of another state to open an office of interest at the diplomatic mission of the latter. The Council of Ministers may enter into agreements with the government of another state to represent the diplomatic interests of the state party to the agreement or even the interests of its citizens.³⁴

Regarding to the Head of the diplomatic mission, the diplomatic mission is headed by the ambassador or the *chargé d'affaires*. He is appointed and dismissed by the President of the Republic, no later than 30 days after the proposal of the Prime Minister. The Minister for Foreign Affairs submits to the Prime Minister the proposal for the appointment and dismissal of the ambassador.³⁵

Prior to the appointment of the ambassador by the President of the Republic, the Foreign Policy Committee organizes a hearing session with the candidate to be appointed ambassador and forwards the opinion on the proposed candidacy to the President of the Republic.³⁶

³¹ Article 21, paragraph 1 and 2.

³² Article 22, paragraph 1 and 2.

³³ Article 23, paragraph 1 and 2.

³⁴ Article 25, paragraph 1, 2 and 3.

³⁵ Article 26, paragraph 1, 2 and 3.

³⁶ Article 26, paragraph 4.

The function of the head of the diplomatic mission is, as a rule is three years. The head of the diplomatic mission, in case the diplomatic representation is at the level of the permanent *chargé d'affaires*, is appointed by the Prime Minister, on the proposal of the Minister for Foreign Affairs. In case of the temporary absence of the head of mission, the direction of the diplomatic mission and the functions of the *chargé d'affaires* shall, as a rule, be transferred to the diplomat of the highest rank, unless otherwise decided by the Minister for Foreign Affairs.³⁷

In relation to the functions of the head of the diplomatic mission, according to the Law on Foreign Affairs of the Republic of Albania, the head of the diplomatic mission exercises the following main functions: (a) represents the Republic of Albania and acts on its behalf in the receiving state or international organizations; (b) negotiates and signs diplomatic instruments with the approval of the Minister for Foreign Affairs; (c) gives statements and holds positions on behalf of the Republic of Albania, directed by the Ministry of Foreign Affairs; (d) performs any other function, defined by the Vienna Convention on Diplomatic Relations, 1961.³⁸ The head of the diplomatic mission performs other functions and activities, for which he is authorized by the Minister for Foreign Affairs in accordance with the legislation in force. The head of the diplomatic mission has authority over all civilian and military personnel, which is part of the structure of the diplomatic mission. He directs, controls and evaluates all official activity of the diplomatic mission staff. The head of the diplomatic mission holds direct disciplinary responsibility for non-compliance of the directions addressed by the relevant superior bodies of the Ministry of Foreign Affairs. Also, the diplomatic staff of a mission holds disciplinary responsibility for non-compliance of the directions addressed by the head of this mission. The head of the diplomatic mission coordinates and supervises the activity of the consular posts of the Republic of Albania in the receiving state.³⁹

As the Vienna Convention on Diplomatic Relations foresee the possibility of the sending state to accredit the head of mission to more than one state⁴⁰, also the head of the diplomatic mission of the Republic of Albania may be accredited in one or several other states, except the state in which he is resident. The head of the diplomatic mission may

³⁷ Article 26, paragraph 5-7.

³⁸ Article 28, paragraph 1.

³⁹ Article 28, paragraph 2-5.

⁴⁰ Vienna Convention on Diplomatic Relations 1961, article 5, paragraph 1.

be accredited to one or more international organizations, which have their headquarters in the state of accreditation.⁴¹

In states where the Republic of Albania does not have a diplomatic mission, non-resident ambassadors, career diplomats with high ranks, who have their residence in the capital of the Republic of Albania can be accredited. The procedure of appointed and their finance payments are regulated by this law and bylaws.⁴²

The staff of diplomatic missions consists of diplomats and administrative, technical and service staff. The staff of diplomatic missions may include officials appointed by the Minister for Foreign Affairs, in accordance with an agreement with other institutions, in order to perform tasks in the fields of economy, law, culture, science, defence, security and in any field another, for a definite time. During their service in the diplomatic mission, these officials enjoy the same status as diplomats and, upon completion of this service, return to their previous position or to a position equivalent to it. The procedures for their appointment and financial treatment is regulated by a decision of the Council of Ministers. The expenses for this category of officials are covered by the sending institution.⁴³

The Minister for Foreign Affairs may appoint to diplomatic missions and consular posts, in special cases, experts from outside the Foreign Service, who possess knowledge and expertise, according to the specifics of the appointed position. These employees enjoy the status of diplomats in diplomatic missions as long as they work in these missions. The appointed persons must meet the conditions for recruitment in the Foreign Service.⁴⁴

Members of the diplomatic and consular staff, accredited in the diplomatic missions and consular posts of the Republic of Albania, as well as their family members enjoy the immunities and privileges guaranteed by international law acts or by bilateral agreements concluded with the receiving state.⁴⁵

The law in question also provides for the possibility of recruiting local staff. Thus, with the approval of the Secretary General, when deemed appropriate, the diplomatic missions and consular posts of the

⁴¹ Law for Foreign Affairs of the Republic of Albania, No. 85/2015, article 29, paragraph 1-2.

⁴² Article 29, paragraph 3 and 4.

⁴³ Article 31, paragraph 1 and 2.

⁴⁴ Article 31, paragraph 3 dhe 4.

⁴⁵ Article 32.

Republic of Albania employ local personnel to perform certain tasks of a technical, administrative and service nature, within the total number of Foreign Service personnel. Domestic personnel may consist of nationals of the Republic of Albania, of the receiving state or of a third state. The manner of employment of local staff, financial treatment and the functions they are allowed to perform are determined by a decision of the Council of Ministers.⁴⁶

On the other hand, according to the Law on Foreign Affairs of the Republic of Kosova, with the notion “Diplomatic Mission” is the embassy or any other office which represents the Republic of Kosova in another state or in an international organization within the meaning of the Vienna Convention on Relations Diplomatic Relations, 1961 or the Vienna Convention on Consular Relations 1963, or which represents the Republic of Kosova as part of a mission of two or more states, and which office has been granted all the privileges and immunities that, according to the law enjoy diplomatic missions under the Vienna Convention on Diplomatic Relations.⁴⁷

According to the Constitution of the Republic of Kosova, the President of the Republic of Kosova decides on the establishment of diplomatic and consular missions of the Republic of Kosova, based on consultation with the Prime Minister.⁴⁸ Also, the President appoints and dismisses the heads of diplomatic missions of the Republic of Kosova, upon the proposal of the Government.⁴⁹ Otherwise, the Republic of Kosova has in total 33 embassies and 32 consuls general abroad.⁵⁰

The missions of the Republic of Kosova abroad are: (a) diplomatic missions; (b) consular missions. Diplomatic missions include embassies and permanent missions in international organizations. While in consular missions include consulates general consulates, consulates, sub-consulates and consular offices.⁵¹

Also, according to the Law for Foreign Affairs of the Republic of Kosova, the diplomatic missions are established, reorganized and terminated by decision of the President, after consultation with the Prime Minister. They operate under the supervision and in accordance with the directive of the Ministry of Foreign Affairs. The mode of operation,

⁴⁶ Article 33, paragraph 1-3.

⁴⁷ Law for Foreign Affairs of the Republic of Albania, No. 85/2015, article 2.

⁴⁸ Constitution of the Republic of Kosova, article 84, paragraph 24.

⁴⁹ Article 84, paragraph 25.

⁵⁰ www.mfa-ks.net (16.08.2022).

⁵¹ Law for Foreign Affairs of the Republic of Kosova, No. 03/L-122, article 8, paragraph 1, 2 and 3.

structure and number of staff of diplomatic missions is determined by the Minister for Foreign Affairs.⁵²

Regarding to the functions of the diplomatic mission, the diplomatic mission of the Republic of Kosova exercises its functions in accordance with the Vienna Convention on Diplomatic Relations 1961, with the Law for the Ministry of Foreign Affairs and the Diplomatic Service, and other bylaws in its implementation. The diplomatic mission exercises the following main functions: (a) represents the Republic of Kosova in the receiving state or in international organizations; (b) protects in the receiving state the interests of the Republic of Kosova and its citizens or legal entities, in accordance with international law and the legislation in force in the receiving state; (c) promotes and strengthens the development of political, economic, cultural, educational, scientific, technological, information, diplomatic-consular relations and in any other field between the Republic of Kosova and the receiving state or international organization, in a friendly spirit of cooperation; (d) inform the Ministry of Foreign Affairs on the economic, political and social developments of the receiving state and on the activities of the international organizations to which it is accredited, in cases where the interest of the Republic of Kosova is affected; (e) cooperates with the delegations of the Republic of Kosova in negotiations that take place in the receiving state and participates in negotiations with the government of the receiving state in the preparation for the signing of bilateral and multilateral agreements as well as in the activity of international conferences; (f) promote regional and international peace and security; (g) promote, protect and strengthen the security and international status of the Republic of Kosova; (h) contribute to the protection of universally recognized human rights and fundamental freedoms; (i) protects the human rights and fundamental freedoms of the citizens of the Republic of Kosova within its competences; (j) protects the sovereignty and territorial integrity, and other interests of the Republic of Kosova; (k) promotes the activity of public organizations, centres or institutes of the Republic of Kosova abroad.⁵³

As for the special mission, it is a temporary mission, which represents the Republic of Kosova in another state or international organization, with their consent, with an aim to negotiate or perform special tasks, which are in the interest of the Republic of Kosova. The establishment, composition and functions of the special mission are

⁵² Article 9, paragraph 1, 2 and 3.

⁵³ Article 10, paragraph 1 and 2.

determined by a decision of the President, after consultation with the Prime Minister.⁵⁴ In terms of staff, it consists of diplomatic staff, administrative and technical staff, and service staff.⁵⁵

The Head of Diplomatic Mission of the Republic of Kosova, in accordance with the Vienna Convention on Diplomatic Relations 1961, exercises the following main functions: (a) represents and acts on behalf of the Republic of Kosova in the receiving state or international organizations; (b) initiate and sign diplomatic instruments; (c) give statements and take positions on behalf of the Republic of Kosova.⁵⁶

Conclusion

Diplomatic missions as an ancient institution, including diplomatic representatives exist from ancient periods, first as representatives and then their transition from *ad hoc* institution to a permanent institution without leaving their immunities and the privileges that enjoy.

It is worth to mention the situation that is essential and that concerns the establishment of diplomatic and consular relations and especially the participation of state bodies in their appointment, without leaving aside the executive body, namely, the government and ministry and the importance of the head of state in the appointment procedure for appointment and the dismissal of ambassadors. In this regard, it is important to mention that the procedure for establishing and termination of diplomatic and consular missions differs in terms of authorizations of the state bodies. Thus, in the Republic of North Macedonia, this right belongs to the Government, while in the Republic of Albania the Council of Ministers, an executive body, but with a different name than that of the Republic of North Macedonia.

However, the situation is slightly different in the Republic of Kosova, which means that diplomatic missions are established, reorganized and terminated by decision of the President, after consultation with the Prime Minister. However, in addition to the institutional importance of diplomatic missions, they should still have political importance, which reflects to the ability of the state to establish diplomatic relations with other countries, and finally the role of embassies, respectively diplomatic representatives, should be performed strictly in

⁵⁴ Article 11, paragraph 1 and 2.

⁵⁵ Article 12, paragraph 1.

⁵⁶ Article 14, paragraph 1.

the representation of the state in all, without interfering with the consular affairs in this case.

Reviewers:

Prof. Dr. Bujar Ahmedi

Prof. Dr. Arbër Ademi

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