

## 3. Diplomatic Immunity

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The term 'immunity' in the broadest sense covers both inviolability and immunity from jurisdiction. Inviolability means that the Latvian Government may not take any such measures as an arrest and remand of individuals, forced access to and seizure of buildings, and seizure of goods. Immunity from jurisdiction means that Latvian courts are not competent to hear disputes where the defendant enjoys immunity from criminal or civil jurisdiction.

Without prejudice to their privileges and immunities, all accredited staff members of diplomatic missions and consular posts along with members of their families are expected to fully respect the laws and regulations of the Republic of Latvia and not to interfere in its internal affairs according to Article 41, section 1 of the Vienna Convention 1961.

The immunities enjoyed under the Vienna Conventions, in their full possible amount, are applied to accredited Head and staff members of diplomatic missions, consular posts, international organisations and representations thereof along with members of their family forming part of their household. It must be noted, that immunities and privileges enjoyed by family members of accredited staff members do not extend to profitable activities in Latvia and they do not enjoy immunity in connection with such activities.

### 3.1. Persons Enjoying Diplomatic Immunity

Under the provisions of the Vienna Convention 1961, the following persons enjoy varied degrees of immunity:

- diplomatic agents and members of their families forming part of their households;
- members of the administrative and technical staff and members of their families forming part of their households;
- members of the service staff in respect of acts performed in the course of their duties;

Persons enjoying diplomatic immunity cannot be arrested or withheld by the police and cannot be fined or punished otherwise (1961 Vienna Convention on Diplomatic Relations, Article 31). Only the sending state can waive a person's diplomatic immunity.

If a person enjoying diplomatic immunity commits an offence, the police will forward its report to the State Protocol at the Ministry of Foreign Affairs. In serious matters, or in case of repeated offences, the State Protocol will notify the Mission involved.

### 3.2. Immunity from Civil Jurisdiction

A diplomatic mission, consular post, diplomatic agent, consular officer or member of administrative or technical staff may receive court summons in a civil case. If a privileged person is summoned to appear in a Latvian court of law, he should not await developments but should engage an attorney immediately. The Ministry will be willing, upon request, to give informal advice to diplomatic missions on how to deal with these matters.

### 3.3. Immunity from Criminal Jurisdiction



Members of diplomatic missions along with members of their families forming part of their household, enjoy immunity from criminal jurisdiction. If there are suspicions that a privileged person has committed an offence, the relevant legal institutions will request the Ministry of Foreign Affairs to establish whether the suspect enjoys such immunity. In the case of serious criminal offences, the Ministry may request Sending State to waive a privileged person's diplomatic immunity.

In more serious cases the person concerned will be declared a *persona non grata* and asked to leave the state.

### 3.4. Traffic Offences



If a person who enjoys diplomatic or consular privileges commits a traffic offence, he or she is liable to be fined like any other citizen of Latvia. Although privileged persons enjoy immunities, which preclude prosecution under administrative or criminal law, the host country is confident that the privileged person respects its law and thus will agree to pay the imposed fines in the event of a violation.

Whenever accredited staff members of diplomatic missions have to deal with the Police, a valid diplomatic ID card issued by the State Protocol of the MFA should be produced immediately and without Police Officer's request so that the Police can treat them with the respect to which they are entitled by virtue of their position. It has to be noted that having the aforementioned ID card does not relieve the bearer of the obligation to produce other documents (e.g. driving licenses, vehicle registration documents) upon request.

### 3.5. Driving Under Influence and Police Powers



Thus, if the Police have reasonable grounds to assume that a privileged person is driving under the influence of alcohol, drugs or certain medicines, they may take preventive measures to ensure that the driver does not endanger himself or others. In the interests of public safety, the Police have the right to act against the violator to eliminate his or her further participation in the road traffic, using measures that do not contradict the Vienna Conventions.

The Police have the right to flag down a privileged person and request to identify himself or herself. If stopped by the Police, the privileged person must show to the Police Authorities his or her diplomatic ID card along with a personal identification document issued by the sending state and, if asked to do so, hand it over for verification. The Police does not have the power to confiscate ID cards or any other documents. They must return them to the privileged person once they have checked his or her identity.

The Police may also use testing equipment such as breathalysers. The breathalyser test shows whether a driver has exceeded the statutory limit. This is currently a blood alcohol level of 0.5 per mille % per litre of exhaled air (if holding a Drivers' Licence for more than two years) and 0.2, if less than two years have passed since the Drivers' Licence was obtained.

Privileged persons are requested not to refuse these tests as they provide a simple way of determining whether a driver is in fact driving under the influence of alcohol. At the same time they cannot be compelled to do so. In controversial situations, the privileged person may request the presence of an Embassy representative.

The Ministry highly appreciates those Embassies and diplomatic agents who demonstrate a responsible attitude and respect for the laws and regulations of the receiving state, setting a positive example of diplomats as persons of high ethical standards and culture. At the same time, the Ministry and the respective authorities would like to request them to assess the given situation self-critically, and to cooperate with Latvian law enforcement institutions.

### 3.6. Arrest and Testing



A privileged person who enjoys immunity from criminal jurisdiction may not be arrested or compelled by the police to take a breath, blood or urine test. Here too, however, the Ministry would request privileged persons to cooperate.

If the Police has concluded that a privileged person has been driving under influence, the Police will draw-up an official report and shall notify the State Protocol of the MFA, which will in turn inform the Head of the Embassy or Consulate concerned.

If a privileged person has caused grievous injury to a third party while under influence the sending state may be requested to recall the person concerned. In addition, in cases where a privileged person has not caused serious injury, but has twice been stopped while driving under the influence, the sending state will be immediately requested to recall him or her.

If necessary, Latvian authorities may request the sending state to waive the immunity of a privileged person, so that criminal proceedings can be carried out and any sentence passed can be enforced. Failing such cooperation, the sending state may be requested to recall the person concerned.

In case of serious violations of law, the involved privileged person may be declared *apersona non grata* (Article 9, Vienna Convention 1961).