

### **III. JURISPRUDENCE FROM THE STATES NOVEDADES JURISPRUDENCIALES DE LOS ESTADOS NOUVEAUTÉS JURISPRUDENTIELLES DES ÉTATS**

#### **Colombia / Colombia / Colombie**

- *Corte Suprema de Justicia. Sala de Casación Laboral*

Reference: STL847-2016. *Radicación* n°. 42300

Date: 27/01/2016

Topics: Immunity. United Nations.

- *Corte Suprema de Justicia. Sala de Casación Laboral*

Reference: ATL2582-2016. *Radicación* n. 42300. *Acta* n. 13

Date: 20/04/2016

Topics: Immunity. United Nations.

#### **Dominican Republic / República Dominicana / République dominicaine**

- *Tribunal Constitucional.*

Reference: Sentencia TC/0050/16. *Expediente núm.* TC-05-2013-0157.

Date: 25/02/2016

Source: <https://www.tribunalconstitucional.gob.do/content/sentencia-tc005016>

Topics: Immunity. International organizations

#### **France / Francia / France**

- *Tribunal de Grande Instance de Paris*

Reference: 15/00323

Date: 28/04/2016

Source: <http://www.italaw.com/sites/default/files/case-documents/italaw7614.pdf>

Topics: Immunity from jurisdiction. Immunity from execution.

- *Cour de cassation. Chambre civile 2*

Reference: N. de pourvoi: 14-11576 / N. d'arrêt: 14-11576

Date: *Audience publique du* 2/06/2016

Sources:

<https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000032635976>

<http://www.juricaf.org/arret/FRANCE-COURDECASSATION-20160602-1411576>

Topics: Immunity from jurisdiction.

- *Cour de cassation. Chambre civile 1*

Reference: N. de pourvoi: 15-18646

Date: *Audience publique du* 25/05/2016

Source:

<https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000032599097>

Topics: Immunity from execution. International organizations.

## Hungary / Hungría / L'Hongrie

- *Kúria (Curia of Hungary)*

Reference: Kúria (Curia of Hungary) Pfv.IV.21.583/2015/18.

Court of appeal: Fővárosi Ítéltábla (Budapest-Capital Regional Court of Appeal)  
7.Pf.21.290/2014/6.

Court of first instance: Fővárosi Törvényszék (Budapest Capital Regional Court )  
28.P.26.093/2012/56.

Date: 27 April 2016

Keywords: Goodwill of diplomats, diplomat as plaintiff, diplomatic passports of family members

**Comment of Ádány Tamás:** *A former foreign diplomat's became the victim of libel and he asked for judicial remedies in Hungary, as the former host state. Jurisdiction was not discussed in the details, but apparently it was observed to exist. Among others, he claimed the possession of a diplomatic passport issued to his son and withheld by the respondent former wife. The Curia of Hungary reviewed the case as part of an extraordinary remedy procedure, and maintained the position taken throughout the case. The respondent was obliged to give back the passport.*

## South Africa / Sud Africa / Afrique du Sud

- *Supreme Court of Appeal of South Africa. Judgment.*

Reference: Case n. 867/15. *The Minister of Justice and Constitutional Development v. The Southern African Litigation Centre*

Date: 15/03/2016

Source:

<http://www.ejiltalk.org/wp-content/uploads/2016/03/Bashir-South-Africa-Supreme-Court.pdf>

Topics: Immunity. South Africa's obligations to arrest and surrender person against whom the International Criminal Court.

## Spain / España / l'Espagne

- *Tribunal Supremo. Sala de lo Penal*

Reference: ATS. *Recurso n. 20440/2016*

Date: 11/07/2016

Topics: Immunity. Advocate General. European Union.

- *Tribunal Supremo. Sala de lo Penal*

Reference: ATS. *Recurso n. 20440/2016*

Date: 19/09/2016

Topics: Immunity. Advocate General. Statute of the Court of Justice of the European Union.

- *Tribunal Supremo. Sentencia. Sala de lo Contencioso. Sección 3*

Reference: STS 3735/2016. *Recurso n. 3839/2015. Resolución n. 1893/2016*

Date: 20/07/2016

Topics: Rejection of visa. Fraudulent marriage.

- *Tribunal Supremo. Sentencia. Sala de lo Contencioso. Sección 3*

Reference: STS 4679/2016. *Recurso* n. 4019/2014. *Resolución* n. 2320/2016

Date: 26/10/2016

Topics: Visa. Judicial recognition.

- *Tribunal Supremo. Sentencia. Sala de lo Contencioso. Sección 3*

Reference: STS 1058/2016. *Recurso* n. 2080/2015

Date: 14/03/2016

Topics: Visa. Family reunification. Judicial recognition.

- *Tribunal Superior de Justicia de Madrid. Sala de lo Civil y Penal, Sección Primera*

Reference: *Auto* n. 11/2016

Date: 28/09/2016

Topics: Immunity of the State. Arbitral Award.

## **United Kingdom / Reino Unido / Royaume-Uni**

- *England and Wales High Court (Family Division)*

Reference: *Estrada vs. Al-Juffali* (Rev 1) [2016] EWHC 213 (Fam)

Date: 08/02/2016

Source: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/213.html>

Topics: Immunity. Family Law.

- *England and Wales High Court (Queen's Bench Division). Judgment.*

Reference: *Al Attiya vs. Al Thani* [2016] EWHC 212 (QB)

Date: 15/02/2016

Source: <http://www.bailii.org/ew/cases/EWHC/QB/2016/212.html>

Topics: the Diplomatic Privileges Act 1964. No jurisdiction to hear this case.

## **The United States / Estados Unidos / États-Unis**

Prepared by Cory Morano, Student Fellow, Center for International and Comparative Law;  
under supervision of Margaret E. McGuinness

St. John's University School of Law. Prepared March 20, 2017

Total Number: 15

Sources: WestLaw, Lexis Nexis

- *Appellate Court of Illinois, Second District*

Reference: *In re Miroslava P*, 52 N.E.3d 470 (Ill. App. Ct. 2016)

Date: March 30th, 2016

Topics: Bulgarian consulate. Consular notification under the Vienna Convention on Consular Relations, article 36(1)(b).

- *United States Court of Appeals, Fifth Circuit*

Reference: *Cardenas v. Stephens*, 820 F.3d 197 (5th Cir. 2016)

Date: April 14, 2016

Topics: Habeas petition. Rights under the Vienna Convention on Consular Relations.

- *United States District Court, District of Columbia.*

Reference: *US v. Al Sharaf*, 183 F. Supp. 3d (D.D.C. 2016)

Date: May 2, 2016

Topics: Residual diplomatic immunity applied. Vienna Convention on Diplomatic Relations, article 39 (2).

- *Supreme Court of Arizona*

Reference: *State v. Escalante-Orzoco*, 386 P.3d 798 (Ariz. 2016)

(Relying on *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006))

Date: January 12, 2017

Topics: The Vienna Convention on Consular Relations, article 36.

- *United States District Court, Central District of California*

Reference: *Dogan v. Barak*, No. 2:15-cv-08130-ODW, 2016 WL 6024416. C.D. Cal. Oct. 13, 2016

Date: October 13, 2016

Topics: Foreign immunity. Diplomatic immunity invoked by defendant.

- *United States District Court, Eastern District of Virginia*

Reference: *Hogan v. Hogan*, No. 1:16cv1538, 2017 WL 106021 (E.D. Va. Jan. 10, 2016)

Date: January 10, 2017

Topics: Hague Convention on the Civil Aspects of International Child Abduction. Diplomatic Vienna Convention on Diplomatic Relations, article 39.

- *United States District Court, Southern District of Florida*

Reference: *Ali v. District Director*, No. 15-cv-61820, 2016 WL 4827343 (S.D. Fl. Sept. 14, 2016)

Date: September 14, 2016.

Topics: Former attaché to the Syrian embassy. Diplomatic immunity. U.S. citizenship.

- *United States District Court, Southern District of New York*

Reference: *Koumoin v. Ki-Moon*, No. 16-cv-2111, 2016 WL 7243551 (S.D.N.Y. Dec. 14, 2016)

Date: December, 14, 2016

Topics: Immunity of the UN Secretary General. The Convention on Privileges and Immunities of the UN. The Vienna Convention on Diplomatic Relations.

- *United States Court of Appeals, Fifth Circuit*

Reference: *Ramos v. Davis*, 653 F. App'x 359 (5th Cir. 2016)

Date: June 30, 2016.

Topic: A Mexican national of the *Avena and Other Mexican Nationals Case (Mexico v. United States of America)*. Convention of Vienna on Consular Relations.

- *United States Court of Appeals, Second Circuit*

Reference: *Harrison v. Sudan*, 838 F.3d 86 (2d Cir. 2016)

Date: September 22, 2016

Topics: Protection of diplomat's immunity. Vienna Convention of Diplomatic Relations (articles 22 and 31).

- *United States District Court, Southern District of New York*

Reference: *Hilt Constr. & Mgmt. Corp. v. Permanent Mission of Chad to the U.N. in N.Y.*, No. 15-CV-8693, 2016 WL 3351180 (S.D.N.Y. June 15, 2016)

Date: June 15, 2016

Topics: Breach of contract. Vienna Convention on Diplomatic Relations (article 3).  
Foreign Sovereign Immunity Act (FSIA). Commercial activity exceptions.

- *United States District Court for the Western District of Arkansas, Fayetteville Division*

Reference: *US v. Diaz*, No. 5:14–CR-50033, 2016 U.S. Dist. LEXIS 80568 (W.D. Ark. June 21, 2016)

Date: June 21, 2016

Topics: Vienna Convention on Consular Relations (article 36). Individually rights.

- *United States Court of Appeals, Tenth Circuit*

Reference: *Gandy v. Barber*, 641 F. App'x 835 (10th Cir. 2016)

Date: February 14, 2016.

Topics: Rights of prisoner under the Vienna Convention on Consular Relations (article 35).  
Declined to term "freedom of communication".

- *United States District Court for the Southern District of Texas, Houston Division*

Reference: *Chuong Duong Tong v. Davis*, No. 4:10–2355, 2016 U.S. Dist. LEXIS 135415 (S.D. Tex. Sept. 30, 2016)

Date: September 30, 2016

Topics: The Vienna Convention on Consular Relations (article 36).

- *United States District Court for the District of South Carolina, Charleston Division*

Reference: *Fanan v. Boulal*, No. 2:15–4413, 2016 U.S. Dist. LEXIS 137087 (D.S.C. July 12, 2016)

Date: July 12, 2016.

Topics: Vienna Convention on Diplomatic Relations (article 31). The Foreign Sovereign Immunity Act (FSIA).