



Copyright © 2023 International Journal of Cyber Criminology – ISSN: 0974-2891
July – December 2023. Vol. 17(2): 147–176. DOI: 10.5281/zenodo.4766710
Publisher & Editor-in-Chief – K. Jaishankar / Open Access (Authors / Readers No Pay Journal).

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Administrative Obligations for Diplomatic Missions in the Context of International and National Law: Implications and Challenges for Cybercrime

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Abstract

The objective of this study is to demonstrate that individuals affiliated with diplomatic missions, including diplomats and administrators, are not immune to the jurisdiction of their home country's legal system. Consequently, individuals in diplomatic positions may be held responsible for any mistakes attributed to them in accordance with the provisions outlined in the Civil Service Law and relevant administrative regulations.

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This accountability remains applicable even if they are exempt from the jurisdiction of the host country's laws, as per the established principles of diplomatic judicial immunity. This study also examines the challenges and implications of cybercrime, specifically within the context of diplomatic missions. To achieve this objective, the present study has employed a methodological framework rooted in the field of jurisprudence. This involved gathering data from a variety of primary and secondary sources. The study employed a combination of descriptive and comparative analytical methodologies to examine the legislation of several Arab countries as well as the French legal system. The findings of this study indicate that national legislation establishes committees and entities that are specifically responsible for oversight, discipline, and the enforcement of penalties. These mechanisms operate in accordance with the principle of gradualism, which governs the legal framework for administrative accountability within diplomatic and consular missions. Consequently, competent authorities are obligated to refrain from engaging in any actions that could be construed as an abuse of authority or a departure from established procedures. Simultaneously, due consideration was given to the distinctive characteristics of these works within the realm of diplomatic service. Furthermore, it is worth noting that the host countries possess the authority to initiate legal proceedings against diplomatic agents in cases involving cybercrimes in accordance with their respective domestic legislation. The study concluded by providing a definition of the administrative work conducted by diplomatic missions, which are under the jurisdiction of the administrative judiciary. This control is implemented to ensure the effective execution of administrative functions and responsibilities within the host nation. This study presents various recommendations, highlighting the importance of granting immediate powers to the administrative judiciary in order to achieve favourable results.

Keywords: Diplomatic Mission; Administrative Responsibility; Administrative Judiciary; Vienna Convention; Cybercrimes

1. Introduction

The advancement of international relations has led most nations to adopt diplomatic representation in various forms as a means of expressing shared interests and facilitating effective communication among countries. The diplomatic representative serves as a symbolic embodiment of the "bilateral relationship" between two nations or states. (Ahmad, 2020)

The inherent characteristics of the duties associated with diplomatic representation, as well as the complexity and implications of the work arising from these duties, necessitate the establishment of a dedicated headquarters for each diplomatic mission within the territory of the host country. This headquarters serves as the operational base where the mission carries out its assigned tasks and functions. Further, the organisation retains possession of its official records and designates itself as a focal point for its interactions with the host nation's government. Additionally, the diplomatic mission serves as a central hub for facilitating the exchange of viewpoints between governments of nations that are actively striving to foster cooperation and address the challenges arising from the intricate and

interconnected nature of international relations in the contemporary era. In contrast, the diplomatic mission, comprising both tangible and intangible components, is granted immunities and privileges that shield it from any form of aggression or intervention by the domestic authorities of the receiving state. This is due to the fact that the diplomatic mission serves as the representative entity of the sending country within the host nation. (Sin,2019)

In contrast, the diplomatic personnel employed within a diplomatic mission are akin to civil servants, albeit with distinct obligations stemming from international conventions and norms. These obligations necessitate the assumption of specific responsibilities and duties. In order to ensure compatibility with the nature of the assigned tasks, it is necessary to make certain adjustments.

However, it is important to recognise that employment in the foreign service sector should not be perceived as unrelated to any of the various positions within the public civil service. Moreover, this occupation pertains to the exercise of state sovereignty and is governed by legal regulations concerning public servants, including matters such as promotions, disciplinary actions, bonuses, advancements, retirements, and assignments, among others. Hence, when a diplomatic public servant violates the functional responsibilities bestowed upon them, it is unavoidable that they become liable to the disciplinary sanctions outlined in their country's Diplomatic Corps and Civil Service Law due to their infringement of diplomatic and administrative obligations entrusted to them. Given the inherent overlap and interconnectedness between diplomatic and administrative roles, it is evident that both positions are closely aligned to serve the best interests of a nation and its citizens, regardless of their geographical location. (Sin,2019)

Therefore, the implementation of job discipline among both internal and external civil servants served as a reliable mechanism to ensure that employees fulfilled all of their job responsibilities. Hence, the Vienna Convention on Diplomatic Relations (VCDR), established in 1961, holds significant significance in governing diplomatic missions and bestowing essential immunities upon affiliated diplomats. (Ahmad, 2020)

Furthermore, it is incumbent upon the host nations to safeguard the diplomatic agents' administrative privileges in accordance with international legal norms.

If a diplomatic civil servant fails to fulfil their assigned functional duties, they will inevitably be subjected to disciplinary penalties as outlined in the Diplomatic Corps and Civil Service Law of their respective country. These penalties are imposed due to their violation of the diplomatic and administrative responsibilities entrusted to them. Given the inherent overlap and interconnectedness between the roles of diplomacy and administration, it is evident that both positions share a common objective: to advance the interests of one's nation and its citizens, regardless of their geographical location. Therefore, the implementation of job discipline for both internal and external service employees proved to be a reliable measure in ensuring that employees fulfil their assigned job responsibilities. Hence, within the contemporary era of advanced technology, diverse forms of digital media are employed to execute diplomatic endeavours, consequently leading to heightened vulnerabilities pertaining to cybercrimes. (Sin,2019)

This presents a potential avenue for host nations to enact significant cybersecurity measures to combat cybercrime.

The research problem is succinctly outlined by emphasising the responsibilities undertaken by diplomatic missions in the execution of their diplomatic or administrative duties. It is argued that while diplomatic immunity is granted to ensure unimpeded execution of these functions, it should not be regarded as a justification for contravening local laws in the host country. In this discussion, we have addressed various inquiries pertaining to the extent of legal obligations that diplomatic missions must adhere to in relation to their administrative activities. Specifically, we have examined situations where such actions may contravene the laws of the host country and breach the duties imposed on the mission by international agreements and customary international law. Hence, it became imperative to undertake the requisite measures to curb such transgressions, while ensuring that this does not serve as a pretext for infringing upon the diplomatic immunity accorded to said missions. It is imperative to identify cybercrimes that occur within the framework of diplomatic missions.

This study seeks to investigate the administrative accountability pertaining to diplomatic missions within the framework of international law and national law. The primary focus of this research is to examine the various cybersecurity challenges encountered in this context. The significance of this research lies in examining the accountability of diplomatic and consular missions for administrative actions, considering the unique characteristics of the legal framework governing this accountability. This framework encompasses both overarching principles of international law pertaining to state sovereignty and procedural regulations established by domestic legislation. This necessitates conducting research on the provisions of national laws pertaining to the obligations of diplomatic and consular missions, specifically with regard to the functional and disciplinary responsibilities imposed on all personnel and assistants.

Such an examination enables the implementation of procedures outlined in national legislation to ascertain the administrative liability of those responsible. This study has the potential to effectively incentivize governments in both home and host countries to formulate and execute significant policies aimed at mitigating cybercrime within the framework of diplomatic missions.

2. Literature Review

The research holds theoretical significance in examining the framework of accountability within diplomatic missions for their administrative actions. This statement emphasises the characteristics of actions that can lead to the formation of administrative accountability, which manifests in activities primarily focused on administrative duties and functional responsibilities. Hence, the exclusions from these provisions pertain solely to acts of a sovereign nature, which are subject to a distinct legal framework wherein accountability for their execution lies with the executive or legislative branches. Consequently, such acts fall outside the purview of the administrative judiciary.

2.1 Diplomatic Missions

Diplomatic missions are the link between the sending country and the host country. States aim to ensure that their missions operating in foreign countries are

staffed with competent diplomatic, administrative, and technical personnel who have received appropriate training to effectively carry out their assigned responsibilities, taking into consideration their abilities as well as the scale and nature of the relationships they maintain with the host nation. Hence, it was necessary to have the material and human apparatus, which is the main component of the diplomatic mission, in line with the relevant international conventions and norms, to ensure that these missions perform their tasks to the fullest. Based on the preceding information, this study is structured into two components. The first component focuses on elucidating the concept of diplomatic missions, while the second component examines the magnitude of diplomatic missions.

2.2 Concept of the Diplomatic Mission

Diplomatic missions serve as an intermediary connection between the country of origin and the receiving country. States strive to ensure that their diplomatic, administrative, and technical personnel assigned to foreign missions possess the necessary competence and have undergone suitable training to effectively fulfil their designated responsibilities. This consideration takes into account the individuals' abilities as well as the scope and characteristics of the relationships they maintain with the host nation. Therefore, it was imperative to possess the necessary material and human resources, which constitute the primary elements of a diplomatic mission, in accordance with the applicable international conventions and norms. This ensures that these missions are able to effectively carry out their duties to the maximum extent possible.

Based on the aforementioned information, this study is organised into two distinct components. The initial component of this study aims to provide a comprehensive understanding of diplomatic missions, delving into their conceptual framework. The subsequent component of this research investigates the extent and significance of diplomatic missions. (Sin,2019)

Diplomatic representation can be categorised into two main forms: positive diplomatic representation and negative diplomatic representation. Positive diplomatic representation refers to the practice of a sovereign state sending and receiving diplomatic missions to and from other countries. (Al-Shami, 2011)

On the other hand, negative diplomatic representation pertains to the situation where a non-sovereign state accepts diplomatic missions from other countries without possessing the authority to send its own the primary objective of a diplomatic mission is to accomplish a nation's strategic objectives and enhance its bilateral relations with the host country across multiple domains, including political, economic, cultural, and scientific spheres.

Therefore, the staff of the self-contained unit is distinct from the human body and serves as a means through which tasks are executed. Therefore, it can be understood as an entity associated with a specific individual under public international law (the state) that operates continuously on behalf of another international entity. The Vienna Convention establishes a clear differentiation between diplomatic missions and their personnel, as evidenced by various rules outlined in the Convention.

1- Documents and archives of diplomatic missions is issued in the name of the

mission not in the name of the members of the mission.

- 2- The existence of diplomatic missions has nothing to do with the existence or absence of its members or any changes that occur to it.
- 3- The diplomatic immunities and privileges granted to the mission have nothing to do with the diplomatic immunities and privileges granted to its members.
- 4- The reasons that lead to the demise or termination of the functions of diplomatic missions are not related to the reasons that lead to the termination of the work of the diplomatic representative.
- 5- The establishment and formation of diplomatic missions is a totally different procedure from what is followed in the appointment of diplomatic staff. (Abdel Hamid, 2015)

Based on the preceding analysis, the authors ascertain that the immunity enjoyed by the headquarters of a diplomatic mission is derived from the sending country, as it serves as the central hub for the mission's activities. This immunity is distinct from the immunity derived from the head of the diplomatic mission and the diplomats operating within it. Hence, the primary objective of diplomatic law is to safeguard diplomatic immunity, a legal privilege derived from the relevant provisions of state law.

However, it is worth mentioning that countries employ two distinct forms of diplomatic missions in their diplomatic interactions, each of which signifies a specific degree of diplomatic representation and its significance among nations. Hence, embassies represent the most elevated manifestation of diplomatic missions, wherein the conduct of their affairs is assumed by an ambassador of distinguished standing, duly authorised by a head of state to engage with the leader of another sovereign state.

A diplomat with the rank of minister plenipotentiary leads a second-degree diplomatic mission by the term "commission." A head of state bestows this rank on the representative of one state to another. However, it is important to note that the minister plenipotentiary holds a lower rank and degree of precedence but possesses all the powers and authority vested in an ambassador. (the Preamble of the Vienna convention of 1961) Historically, up until the conclusion of the first half of the twentieth century, embassies primarily functioned as mere commissions.

However, it is within acceptable boundaries for the management of diplomatic missions to be entrusted to an individual serving as an acting or acting chargé d'affaires. The justifications underlying the need for such a procedure are contingent upon the unique circumstances prevailing in each respective country. The presence of economic and financial factors, as well as the scarcity of qualified diplomatic personnel suitable for the role of ambassador, contribute to this phenomenon. There exists a direct correlation between the hierarchical position of leadership within diplomatic missions and the level of representation in terms of precedence, such that a lower level of leadership corresponds to a lower level of representation.

There exists a fundamental distinction between the individual assuming the role of d'affaires within the diplomatic category and the individual belonging to the

administrative or technical staff who is responsible for overseeing administrative matters during the event. The initial position is commonly referred to as "the charge d'affaires of the state" in most instances, while the subsequent role is known as "the charge d'affaires of the embassy's administrative affairs." With regards to the Vatican City, the authors have observed that the application of diplomatic missions to countries, as outlined in Articles 14 and 16 of the Vienna Convention on Diplomatic Relations 1961, also extends to the Holy See in terms of the degree of diplomatic missions. (Al-Shami, 2011)

Based on the preceding analysis, the authors reach the conclusion that the establishment of diplomatic missions primarily entails the creation of agreements between nations, which are predicated on mutual consent and manifest in various forms. Each form of diplomatic exchange represents a distinct level of engagement between countries. Therefore, it is the responsibility of the state to autonomously ascertain the extent and classification of diplomatic missions while ensuring adherence to the principle of equality among nations, which emerged as a prevailing tenet following the conclusion of the Second World War. Therefore, there are individuals. (Rousseau, 1987)

who hold the belief that the act of dispatching or receiving diplomatic missions should not be considered a right but rather a privilege granted to those who possess international legal personality.

However, in specific situations, certain nations permit national liberation movements to establish permanent offices and send representatives (such as the Algerian National Liberation Front before independence, the African National Congress before the end of the apartheid regime in South Africa, and the Palestine Liberation Organisation until now), granting them diplomatic immunities and privileges. Notably, this practice has been observed in cases such as the Algerian National Liberation Front prior to independence, the African National Congress before the abolition of apartheid in South Africa, and the ongoing presence of the Palestine Liberation Organisation. However, it is important to note.

Given that these offices do not fall under the conventional definition of diplomatic missions and their personnel do not meet the criteria for diplomats as outlined in the Vienna Conventions, Consequently, in the event that the host country decides to withdraw the aforementioned courtesy and withhold immunities and privileges from these offices and their personnel, it absolves itself from any international obligations or responsibilities. However, granting permission for these companies to establish permanent offices merely serves as a symbolic gesture of empathy and endorsement for the causes championed by these movements.

2.3 The Size of the Diplomatic Mission and Cybercrimes

Typically, nations purposefully coordinate their diplomatic endeavours in accordance with their strategic objectives and their financial and technological capacities. Major powers are distinguished by the presence of diverse and extensive diplomatic apparatus and personnel, in line with the principle of division of labour and specialised expertise. This enables them to effectively fulfil their functions and pursue their national interests. Consequently, it necessitates the establishment of numerous departments, branches, and a significant workforce. Regarding the small

diplomatic missions, they are comprised of a restricted number of personnel and units (no more than three employees in some missions), with certain missions having no more than three employees, responsible for executing all tasks and fulfilling the functions associated with the mission.

Small countries often face challenges in sending diplomatic missions to a large number of countries due to limited financial and human resources. However, they may prioritise sending missions to countries that hold significant importance for the small country. (Al-Shami, 2011)

Despite the lack of attention given to this matter during the convention, it allowed countries a certain degree of autonomy in organising the operations of their diplomatic missions based on their own interests, capacities, and the level of relations established with the host country. Nevertheless, diplomatic conventions and protocols dictate that the establishment and scale of diplomatic missions ought to correspond to the magnitude, status, and significance of the bilateral relations between the two nations. However, with regard to Article 3 of the convention, the unrestricted job system has been implemented.

The term "missions" can encompass multiple meanings in the context of diplomatic activities, regardless of the provisions outlined in international agreements or diplomatic norms. Moreover, the field of international relations has become increasingly intricate due to the complex dynamics imposed by the global landscape. This has resulted in a growing number of individuals working in foreign service with diverse technical and professional backgrounds serving in diplomatic missions. Consequently, these developments have had a significant impact on inter-country relations, leading to differences and an augmented burden, particularly for smaller nations. This is exacerbated, especially when considering the fact that employees within diplomatic missions across all categories are granted various immunities and diplomatic privileges, which exempt them from being subject to the laws and regulations enforced by the host country and its official authorities. Cybercrimes exert an influence on various diplomatic missions, thereby yielding unfavourable consequences. The adverse effects of cybercrimes on international relations have been duly noted, resulting in significant ramifications. Despite the existence of international legal frameworks, both the sending and host countries bear legal responsibilities with regard to cybercrimes. The year 2007 witnessed an attack on Estonia, which can be attributed to the inadequacy of its cybersecurity measures. This incident had a detrimental impact on the country's communication network, particularly within the public sector domain. (See also Gharaibeh, 2017)

Consequently, the notion of establishing data embassies was subsequently introduced. In 2017, "the Republic of Estonia and the Grand Duchy of Luxembourg signed an Agreement on the hosting of data and information systems." These embassies were also provided the required immunities.

Therefore, in order to adhere to the principle of mutual consent among states in the establishment of diplomatic missions, a legal manoeuvre was deemed necessary. This manoeuvre is outlined in the initial paragraph of Article 11 of the convention.

Consequently, in the event of an absence of a formal agreement pertaining to the quantity of individuals comprising the mission, "the host country may insist that this number be limited to what it deems reasonable and natural, according to the requirements of the circumstances and conditions prevailing in the host country and the needs of the mission concerned."

Nevertheless, Paragraph B of the aforementioned Article asserts that "it is also permissible for the host country, within the same limits and without discrimination, to refuse hosting employees of a certain category." Upon analysing the aforementioned text, the authors ascertain that it conferred upon the host country, in the absence of a formal agreement, the authority to ascertain the quantity of personnel involved in the mission and to decline specific classifications of employees that were not explicitly specified, encompassing diplomatic, administrative, technical, or other designations.

However, it is important to note that the host country, in accordance with the principles outlined in the preceding article, may not necessarily make reference to the sending country and should only consider what is appropriate given its specific circumstances and the current level of relations between the two countries, within reasonable and logical boundaries. In this particular context, significant efforts are also implemented to mitigate the occurrence of cybercrimes. It is noteworthy to mention that the aforementioned procedure had not been previously addressed in the established conventions pertaining to diplomatic relations, such as the Havana Convention on Diplomatic Relations of 1928 and the Vienna Conference on the Rank of Diplomatic Representatives in 1815, as well as in the broader framework of diplomatic norms. While it is not criticised for a host country to independently and unilaterally implement such a measure, certain conditions must be met. These conditions include non-discrimination and the presence of subsidiary and supportive justifications that warrant the implementation of such a measure in the host country, considering the prevailing conditions. (Al-Shami, 2011)

In addition, it is imperative for the host country to refrain from impeding the diplomatic missions in their complete execution of their duties. This is particularly crucial considering that the aforementioned measure is unilateral and potentially motivated by personal factors. Such circumstances create a significant risk of abuse and unwarranted actions that could negatively impact bilateral relations between the two states. Consequently, the sending state may resort to the principle of reciprocity in response.

However, the authors observe that the host state's discretionary power in implementing unilateral measures may not align with the logic and beliefs of the sending state. Particularly when considering the contemporary diplomatic landscape, it becomes evident that diplomatic endeavours in the twenty-first century extend beyond the provisions outlined in the Vienna Conventions of 1961 and 1963, as well as other diplomatic accords and established practices. Furthermore, the obligations associated with diplomatic endeavours encompass a multitude of confidential matters and intelligence pertaining to state security and the imperative of safeguarding it. This necessitates the execution and implementation of actions falling solely within the discretionary authority of the sending state while simultaneously

upholding the laws of the host state and adhering to prevailing diplomatic conventions.

2.4 Vienna Conventions and Diplomatic Relations

It is noteworthy to mention that the Vienna Convention on Diplomatic Relations does not establish a specific limit on the number of members in a diplomatic mission, nor does it require numerical equality between missions of different countries. Instead, the convention allows for a reasonable and customary number of members within the mission. In light of the mission's requirements and responsibilities and in the absence of a bilateral agreement to establish the staffing level of the mission. (Abdel Hamid, 2015)

The Vienna Convention on Diplomatic Relations (VCDR) encompasses the widely recognised international legal framework pertaining to diplomacy. Within the framework of this convention, the functions of diplomatic agents are classified into six distinct categories. These categories include “(a) representing the sending state; (b) protecting the sending state’s nationals within the receiving state; (c) negotiating with the receiving state; (d) notifying the sending state of conditions and developments within the receiving state; (e) promoting friendly relations between the two states; and (f) developing economic, cultural, and scientific relations between the two states.” (Abdel Hamid, 2015)

Regarding the human aspect of the diplomatic mission, the convention, as stipulated in Article 1, made the determination to classify the personnel within diplomatic missions into multiple categories. And individuals who belong to the diplomatic category. Within diplomatic missions, there exists a distinct group of non-diplomatic personnel, including administrators and technicians. Additionally, there is a separate category comprising the family members of diplomatic staff. However, it is worth mentioning that the convention failed to provide a precise distinction between the roles of diplomatic personnel and administrative or technical staff. This lack of clarity pertains to both the specialisation and the specific duties assigned to each category, as they all fall under the purview of the public office of the sending state. However, the authors observe that the convention duly considered the provisions regarding the terms of appointment and acceptance, as well as the criteria for bestowing immunities and diplomatic privileges, within its textual framework. The inquiry at hand pertains to whether it is plausible to assert that the duties carried out by a diplomatic staff member do not encompass any of the administrative and technical responsibilities delegated to other administrators and technicians. In their analysis, the authors observe that the Convention lacks sufficient consideration in defining the categories of diplomatic missions, particularly in relation to determining the functions of such missions and the immunities and privileges accorded to both the missions and their personnel. In the interim, the Convention has demonstrated notable focus on delineating the differentiation between the immunities and privileges bestowed upon diplomatic envoys and those accorded to other personnel.

This statement is in line with the Convention's ongoing work to limit the spread of immunity and privileges to the level needed for diplomatic and non-diplomatic envoys to do their jobs without any problems from the host country's authorities, without any ulterior motives. Given the consistent upward trend in the establishment of diplomatic missions in recent years and the subsequent rise in diplomatic interactions between nations, particularly following their attainment of independence, it is pertinent to examine the adverse effects of the immunities and privileges associated with diplomatic status on the security and economy of the host country.

In contrast, the authors have observed that the Vienna Convention, specifically in Article 1, delineates various terms and definitions pertaining to individuals employed within diplomatic missions. However, it is worth noting that this particular article does not explicitly address certain job categories, such as individuals responsible for consular duties in the absence of a consular mission, as well as military, cultural, labour, commercial, and tourist attachés, and those responsible for handling diplomatic bags. It is acknowledged, however, that the roles of these attachés have been referenced within the scope of diplomatic missions, including but not limited to, as it falls under the purview of the diplomatic mission to foster various forms of amicable relations between the sending nation and the host nation. (Sierzputowski, 2019)

However, the classification and inclusion of individuals in these job categories remain a subject of inquiry. Does it fall under the purview of the diplomatic, administrative, or technical classifications, or does it pertain to a distinct category unrelated to the aforementioned classifications? Certain scholars argue that there is a need to classify the classification of military attaches, as outlined in Article 7 of the convention, as a distinct category. Their rationale for this proposition stems from the convention's stipulation that the sending country must provide the names of these attaches in advance in order to obtain approval for their accreditation and acceptance in the host country, despite their diplomatic status.

In addition to the classification of military attachés, there is a cohort of officers who provide support to the aforementioned personnel. These officers are integral components of the diplomatic members associated with the diplomatic mission. (Al-Wafa, 1996). The aforementioned provision extends to diplomatic couriers as outlined in Article 27 of the convention, as they are included among the individuals who are granted diplomatic immunity during the course of their duties. In both instances, we successfully circumvented the amalgamation or integration with other categories, be they of a diplomatic or administrative nature.

Regarding the employee who is involved in consular affairs in the absence of a consular mission, it is worth noting that the Vienna Convention on Consular Relations of 1963 addresses this particular category of employees. According to the Convention, these employees are explicitly recognised as retaining their diplomatic status, thereby entitling them to diplomatic immunities and privileges. This recognition is in

accordance with Article 7 of the Convention on Consular Relations (VCCR) of 1963, which stipulates that such employees are subject to the provisions outlined in the Vienna Convention on Diplomatic Relations of 1961.

Further, the advent of the digital revolution in various nations has led to the incorporation of the notion of e-diplomacy within the legal frameworks of diverse jurisdictions. Nevertheless, numerous have also raised concerns regarding the effectiveness of conventional diplomatic measures outlined in the Vienna Convention on Consular Relations (VCCR) and the Vienna Convention on Diplomatic Relations (VCDR) in addressing the challenges posed by cybercrime. The utilisation of online media by diplomatic agents for communication purposes has been noted, rendering them susceptible to cyber threats. Hence, it is imperative to implement significant measures in order to mitigate any potential complications.

In addition to the classification of military attachés, there is a cohort of officers who provide support to the aforementioned personnel. These officers are integral members of the diplomatic mission, contributing to its overall diplomatic endeavours. The aforementioned provision extends to diplomatic couriers as stipulated in Article 27 of the convention. (Abdel Hamid, 2015) As they are among the individuals entitled to diplomatic immunity during the execution of their duties. In both instances, we successfully circumvented the amalgamation or fusion with other categories, be they of a diplomatic or administrative nature.

Regarding the employee who is involved in consular affairs in the absence of a consular mission, it is important to consider the provisions outlined in the Vienna Convention on Consular Relations of 1963. This international agreement includes provisions that encompass this specific category of employees, ensuring that they retain their diplomatic status. Consequently, these employees are entitled to diplomatic immunities and privileges, which are subject to the regulations outlined in the Vienna Convention on Diplomatic Relations of 1961. This is explicitly stated in Article 70 of the Convention on Consular Relations (VCCR) of 1963. (Al-Shami, 2011)

3. Method

The primary objective of this study is to examine the administrative accountability pertaining to diplomatic missions, specifically in the context of the interaction between international law and national law. This examination encompasses both diplomats and administrators involved in such missions. Hence, to fulfil this objective, the research study incorporated the interpretivism philosophy, given its exploratory nature. Furthermore, the researchers employed an inductive approach. In this study, the researchers considered the judicial approach as it pertains to its legal characteristics. In order to fulfil the objective, the researcher gathered secondary qualitative data from various primary and secondary sources. The secondary sources comprised various materials such as books, journals, literature, and other relevant sources. The primary sources encompassed a range of legal materials, such as laws, regulations, and related legal documents. The research incorporated a combination of descriptive and comparative analytical methodologies to examine the legislation of several Arab countries as well as French law.

4. Findings and Discussion

4.1 Diplomatic Missions' Responsibility for Administrative Work

The functional and disciplinary aspects of diplomatic and consular missions' administrative duties set them apart. Without regard to matters pertaining to their appointment or professional interests, the personnel of these missions are subject to the domestic law of the sending state's public office system. Nevertheless, it is within the purview of competent disciplinary bodies to ensure that professionals are held responsible for any violations they may commit while carrying out their duties and obligations in accordance with the mission's framework. However, it is important to note that this overarching principle is applicable to all administrative and financial duties carried out by diplomatic and consular missions overseas. This is due to the fact that the administrative responsibilities of these missions do not fall under the purview of sovereign acts or governmental actions. Consequently, these individuals are bound by the regulations of administrative accountability and are subject to the supervision of an administrative judge based on precise criteria.

4.2 Limits of applying the Theory of Sovereignty Acts to the Administrative Responsibility of Diplomatic and Consular Missions

The executive authority's actions can be categorised into two distinct types. The first type involves its role as a public administration, where administrative decisions are utilised to advance the public interest and facilitate the implementation and management of public services. The second type pertains to its function as a political authority, wherein it exercises the system of government and carries out actions that are characteristic of sovereignty. These actions pertain to the realm of politics, wherein alternative decision-making processes are employed to attain the utmost national interests and guarantee the country's security and stability. However, the decisions made in this context are interconnected with internal political dynamics involving other governing bodies as well as diplomatic, consular, and international relations with global organisations and foreign nations.

The field of jurisprudence and administrative judiciary, as exemplified by the French Council of State's ruling in the Napoleon case, has established a precedent of exempting politically motivated actions carried out by the executive authority from administrative liability. This exemption effectively shields such actions from scrutiny by the administrative judiciary. This practise is based on specific criteria and conditions outlined in the theory of acts of sovereignty, which encompasses all de The exercise of executive authority in sovereign and political domains is inherently distinct from the administrative decisions made in the realm of management and routine conduct within public facilities. (Abdel Hamid, 2015)

However, in order to prevent certain administrative decisions from being overlooked, it was necessary to establish a clear distinction between acts of sovereignty and purely administrative acts. This distinction is important because acts of sovereignty, despite being issued within the framework of executive and political

authority and taking the form of decrees, presidential orders, or ministerial decisions, do not differ in terms of their form, external appearance, or competence from ordinary administrative decisions. The aforementioned characteristics are derived from the supervision of the administrative judge and, consequently, from the stipulations pertaining to administrative responsibility.

The concept of sovereignty has been delineated in French jurisprudence as well as in other comparative legal systems such as those in Egypt, Jordan, Tunisia, and Iraq. These systems have established criteria for determining acts of sovereignty, which include both structural and objective material considerations. The structural criterion focuses on the authority responsible for making the decision, while the objective and material criterion examines the nature of the action undertaken by the executive authority. This encompasses political, sovereign, administrative, and utilitarian factors that drive the decision-making process. The French Council of State and other administrative courts have evolved their approach to administrative jurisprudence, resulting in a departure from the traditional demarcation between government and administration as well as between the administrative and political actions carried out by the executive authority.

As a result, the exercise of sovereignty has diminished and now encompasses only a limited set of actions, which are primarily manifested in certain decisions made by the executive authority in its interactions with the legislative authority or vice versa. The inclusion of cases pertaining to war and peace within the jurisdiction of administrative courts in a foreign country is a significant development. It has been established that acts of sovereignty in the administrative judiciary encompass crucial political actions, including matters related to war, foreign relations, and the government's interaction with the legislative authority. The Administrative Court in Tunisia, for instance, has addressed this issue in the notable case of *Pierre Falcon*. (Administrative Court, Tunisia, Case No. 35 dated April 14, 1981, *Pierre*)

In the realm of governance, decisions pertaining to the interaction between the executive authority and parliament are classified as acts of sovereignty. These decisions signify the executive authority's involvement in the legislative process, encompassing actions such as the presentation, refusal, or withdrawal of bills. (Administrative Court, Tunisia, Case No. 35 dated April 14, 1981, *Pierre Falkoun v. Minister of Agriculture*, Administrative Court Decisions Collection of 1981, p. 110.) as well as the endorsement of laws. (Conseil d'Etat, Section, 3 November 1933, *Desreumeaux*) Additionally, decisions concerning constitutional powers, such as the invocation of a state of exception and the issuance of orders to preserve The focus of this discourse pertains to the subject matter of the referendum and appointment decisions made by the Constitutional Council. (Conseil d'Etat, Assemblée, 2 March 1962, *Rubin de Servens*, G.A.J.A., 87)

In contrast, the second category of acts of sovereignty, as determined by the French Council of State and other administrative courts, encompasses decisions pertaining to the government's interactions with a foreign nation or international organisation.

This includes decisions related to safeguarding the well-being of the state's citizens and their assets abroad, (Conseil d'Etat, Section 28 June 1967, Société des transports en commun de la région de Hanoi) .as well as the signing, publication, and suspension of international treaties. (Conseil d'Etat, 4 November 1970, De Malglaive)Additionally, decisions to suspend technical cooperation. (Conseil d'Etat, 23 September 1992, G.I.S.T.I.)

The third category of acts of sovereignty pertains to decisions concerning the conduct of war operations or those directly arising from war events or armed conflicts. It is important to note that not all of these decisions are strictly considered acts of sovereignty, but rather they may be categorised under the theory of exceptional circumstances. This theory does not imply complete immunity from judicial oversight for such administrative actions, but rather acknowledges a departure from ordinary legality and the application of exceptional legal measures. (Conseil d'Etat, 28 February 1919, Dames Dol et Laurent.)

However, the administrative judiciary has previously utilised the theory of sovereign acts to dismiss claims seeking compensation for harm resulting from military forces' actions, particularly in cases related to war operations. Examples include the joint French-British military operations undertaken in response to Egypt's nationalisation of the Suez Canal,(Conseil d'Etat, 30 March 1966, Guyot.) as well as security and peacekeeping operations preceding Algeria's independence. (Conseil d'Etat, 30 March 1966, Ignazio Messina)

A progressive reduction in sovereign actions and the restriction of the immunity associated with these actions are typical characteristics of judicial policy in the administrative field. This approach is in contrast to the overall trajectory of administrative judiciary development, which aims to broaden the scope of oversight over diverse administrative actions and enforce administrative accountability on a wide range of decisions. (Jenieh, 2007)

The executive authority grants administrative authority in a wide range of activities that historically were considered to be sovereign acts. However, numerous judicial decisions have addressed this issue, including the stance taken by the Administrative Court in Tunisia. The court opined that "the scope of sovereign acts acknowledged within this capacity is progressively diminishing within the framework of administrative jurisprudence and legal precedents." (Administrative Court, Tunisia, Case No. 35 dated April 14, 1981, Pierre Falkoun v. Minister of Agriculture, Administrative Court Decisions Collection of 1981)

This policy entailed the delineation of certain actions, previously regarded as exercises of sovereignty, and their incorporation into the realm of administrative responsibility. It is important to note that this policy does not constitute undue interference in governmental affairs or encroach upon its political and sovereign prerogatives.

Within the realm of international relations, it is widely acknowledged that the administrative judge has significantly broadened their scope in implementing business theory independently from acts of sovereignty. This is evident in their acceptance of various factors, such as the legitimacy of government decisions to deny extradition requests for criminals to foreign nations. These decisions are now considered to fall within the purview of ordinary administrative decisions, subject to the oversight.(Conseil d'Etat, Assemblée, 15 October 1993, Royaume-Uni de Grande Bretagne et d'Irlande du Nord et gouverneur de Hong Kong.)

The administrative tasks carried out by diplomatic and consular missions in relation to their nationals or to establish administrative and operational procedures within the missions and embassies are primarily functional and service-oriented. These tasks are subject to the jurisdiction of the administrative judiciary and governed by the principles of administrative responsibility. However, there may be exceptional circumstances where these activities are purely of a sovereign and political nature, exempting them from the aforementioned rules. The inclusion of such tasks falls within the functional and disciplinary obligations of the personnel associated with the missions and is subject to the sovereign competencies of the executive authority.

4.3 Functional and Disciplinary Responsibility for the Administrative Work of Diplomatic and Consular Missions

The diplomatic mission and consulate are regarded as public establishments of the state, wherein the individuals comprising the diplomatic mission are part of the state's corps of public servants. They collaborate with their assistants to safeguard and prioritise the state's interests. The organisational and structural form of missions abroad is not standardised, as each country has the autonomy to determine its own administrative structure.

However, the Ministry of Foreign Affairs exercises oversight over the system, ensuring compliance with regulations regarding the number of representations and employees, budgetary considerations, and financial allocations. (Conseil d'Etat, 30 March 1966, Guyot.)

The Vienna Convention for Diplomatic and Consular Relations does not encompass matters related to regulation and control, as these aspects fall under the purview of each country's internal organisation and autonomous management. This includes decisions regarding the number of approved designations within diplomatic and consular plans and ranks, as well as the allocation of specific roles and responsibilities. The legal framework within each nation establishes the regulations governing the organisation of these structural elements that have been established. The employees attached to diplomatic and consular missions abroad are under the direct supervision of the executive authority, with the Ministry of Foreign Affairs

playing a significant role. This ministry exercises presidential authority over these employees. (Al-Bakri, 1986)

The individual in charge of the mission assumes the responsibility for overseeing and carrying out the diplomatic and consular mission. This role is held by the head of the mission, who serves as the primary representative of the sending state in foreign territory. Additionally, the head of the mission exercises authority over the interests of the sending state in their capacity as a public official. Furthermore, a fundamental aspect of contemporary International Law is the principle of diplomatic immunity afforded to Ambassadors. The functional theory is considered when determining the granting of immunities to the agents involved.

In relation to administrative tasks and functions, they bear resemblance to the duties carried out by heads of administrative departments within the public administrative sector and across diverse ministries. The diplomatic mission possesses unique and additional powers that surpass those of administrative departments within the central ministry due to its distinct status and presence outside the state's territory.

However, the most prominent special jobs held by heads of diplomatic and consular missions abroad are discussed as follows:

- The implementation of regulations regarding the official working hours in diplomatic and consular missions, taking into account the prevailing working hours in the host country. The chief representative of the diplomatic delegation notifies the central governing body of the Ministry of Foreign Affairs regarding the relevant schedules and seeks its authorization for execution.
- Appointment of local employees in diplomatic and consular missions is contingent upon compliance with the local laws of the host country and the directives issued by the Ministry of Foreign Affairs. Irrespective of the nature of the positions and ranks assigned, all such appointments require prior approval from the Ministry.
- The responsibilities associated with managing a diplomatic mission include overseeing the operations of its personnel, ensuring effective communication and uninterrupted functioning, and accomplishing mutually agreed-upon objectives in collaboration with the Ministry of Foreign Affairs.
- Supervising the maintenance of records, administrative files, and all official and job documents, organizing them, managing them properly, keeping them in the archives, and reporting them to the Ministry of Foreign Affairs upon request.
- An ongoing exchange of information with the Ministry of Foreign Affairs, the regular compilation of reports detailing the mission's status and activities, their subsequent transmission to the central department, adherence to instructions and directives issued by the said department, and the provision of all necessary data for the effective representation of the state's interests in foreign territories.

Responsibility for overseeing and guaranteeing the regular transportation of the diplomatic and consular bags to the administrative divisions of the sending nation and receiving it from them. (Jaber, 2001)

However, in order to effectively fulfil these diverse obligations, the chief of the

diplomatic and consular mission must possess the authority to manage the financial resources assigned to the mission within the overall state budget and the budget of the Ministry of Foreign Affairs. Hence, the individual in charge of the mission assumes a range of financial duties and obligations alongside their administrative and organisational roles. Among these, the most significant ones include:

- The individual in charge of the mission assumes the responsibility of managing the financial aspects of the mission. This includes the collection of consular fees, their deposit into local banks, and their subsequent transfer to the Ministry of Finance of the sending country. Additionally, the head of the mission oversees the work of the financial officer, who is responsible for collecting the consular fees. This supervision involves the joint participation of the accountant in signing official financial documents and papers. It is important to note that any deficiency in the mission's financial fund resulting from acts, omissions, embezzlement, or theft is directly attributed to the head of the mission.
- The heads of missions are granted permanent budget advances for expenses and overheads, which are deposited in a local bank in the host country. These funds are exclusively utilised to cover the mission's expenses, including administrative costs, staff salaries, and equipment and maintenance expenditures, in accordance with the allocated budget appropriations. The mission and its employees are explicitly prohibited from utilising these funds and financial revenues for personal aspirations and aims.
- The mission's chief officer is responsible for formulating the preliminary budget of the mission, as per the request of the financial department within the Ministry of Foreign Affairs. This task is accomplished in collaboration with the official accountant who is accredited to the mission. Additionally, the chief officer conducts an internal assessment to ensure the budget's accuracy and validity before submitting it to the ministry for approval and subsequent disbursement.

The responsibility of signing the minutes of receiving and handing over, disclosing and closing accounts lies with the head of the mission upon completion of their duties. It is incumbent upon them to meticulously organise the minutes of receipt and handover, and subsequently transfer all the mission's tangible and movable assets, along with all the requisite official and financial documents, to their successor in order to substantiate the transfer. (Jaber, 2001)

The domestic administrative law of the state specifies the rules of administrative responsibility that apply to the performance of administrative and financial duties. Due to the fact that diplomatic mission members are considered public officials and are subject to both general laws governing public office and rules specific to the diplomatic and consular corps they are a part of, these regulations are distinct from those of international law.

It is worth noting that many countries have established a legal framework for members of diplomatic and consular missions, which encompasses the rules of administrative responsibility applicable to them in addition to the general employment system that applies to all public servants in the sending country. The

provisions pertaining to administrative responsibility vary and are numerous across different countries, but they exhibit similarities in terms of the categories of employment associated with administrative responsibility, the potential penalties that may be imposed, and the public entities responsible for enforcing these provisions in relation to employees and agents of diplomatic and consular missions. (Muhareb, 2004)

4.3.1 French Law and Diplomatic Relations

Two notable examples include the French Civil Service Law No. 2294, enacted in October 1946, and the French Law No. 634, passed on July 13, 1983. These laws encompass a range of disciplinary measures and penalties applicable to employees, including those serving in diplomatic and consular missions. The French Administrative Responsibility Law, along with similar laws in other jurisdictions, adheres to the overarching principle that administrative authorities, particularly the Ministry of Foreign Affairs, assume the responsibility of enforcing disciplinary measures under the authority of the presidency over the heads and staff members of diplomatic and consular missions. This authority is vested with the power to impose penalties, such as warnings or reprimands, autonomously. Hence, it is imperative for the presidential authority to engage in consultation prior to affixing their signature to a designated entity known as the Joint Administrative Committee or the Disciplinary Board, as delineated by relevant legal cases.

The Egyptian legislator has adopted a similar approach in the amended State Employees Law No. 210 of 1951. This law outlines the responsibilities and obligations of employees, as well as the actions that are prohibited. Article 83 of this law states that employees who fail to fulfil their duties as outlined in the law will face disciplinary punishment. This same principle is also evident in Law No. 45 of 1982, which pertains to the organisation of the diplomatic and consular corps. Article 60 of this law specifies the penalties that will be imposed on members of the diplomatic and consular corps if they violate their professional duties and obligations. In Iraq, the legislative body enacted Law No. 41 in 1929 to establish regulations pertaining to employee discipline and the delineation of their responsibilities. This law specifically governs the mechanisms for holding employees accountable as well as the procedures for implementing disciplinary actions. In accordance with this law, the legislator created a quasi-judicial body specialised in examining appeals against disciplinary decisions related to the imposition of disciplinary penalties, which is the Council general discipline.

In instances where a diplomatic or consular employee, acting in their capacity as a public servant, fails to fulfil their job responsibilities, the Iraqi legislature enforces a series of penalties as outlined in Law No. 14 of 1991, which has been subsequently amended and remains in effect. According to Foreign Service Law No. 45 of 2008, individuals employed in the foreign service are required to adhere to all regulations outlined in the Disciplinary Law for State and Public Sector Employees No. 14 of 1991. This includes compliance with disciplinary procedures and the prescribed range of penalties.

In the context of the Jordanian Diplomatic Corps, it is important to note the regulations that govern the personnel affairs of its employees. Specifically, Article 54 of Regulation No. 62 of 2008, along with Regulation No. 68 of 1993, provide clarification on the applicability of civil service and other relevant legislation to the responsibilities of diplomatic and consular corps personnel. These regulations serve to address matters that are not explicitly covered in the aforementioned special regulation. The Jordanian Diplomatic Corps System No. 68 indicated in Article 19, paragraph (e), that “if an employee of the diplomatic corps is referred to the judiciary or to the disciplinary council, his promotion shall not be considered except after the issuance of a judicial or disciplinary decision against him and his acquisition of executive power, provided that one of the ranks is left vacant in order to be promoted to it if the decision is issued to acquit him of the criminal or disciplinary charge that has been attributed to him, and his promotion in this case is considered from the date of promotion of the employee who is equal to him in the right to promotion and was promoted before the issuance of the judicial or disciplinary decision”.

The employee laws and regulations in Jordan have adopted a quasi-judicial administrative approach to discipline and the enforcement of the approved administrative responsibility system. The exercise of the disciplinary function by the presidential authorities, in conjunction with the disciplinary councils, is primarily administrative in nature. However, it is important to note that these entities do not possess the characteristics of fully-fledged judicial structures, as is commonly observed in many comparative legal systems. Furthermore, the judicial framework extensively integrates information technology and other advanced technologies, thereby fostering the emergence of cybercrimes that necessitate attention within the realm of diplomatic relations.

4.4 Penalties for Diplomatic Agents

Regarding the categorization of penalties, their severity is contingent upon the specific nature of the transgression and the transgressions themselves. These penalties primarily encompass disciplinary measures and can be organised in the following manner, drawing from the prevailing classification methods employed in numerous comparative legal systems that share similarities in their: approved classifications and the manner in which they are graded. (Al-Shammari,2009)

Moral penalties: These penalties serve the purpose of notifying diplomatic and consular employees about their errors and violations, with the intention of preventing their recurrence in the future. They manifest in the following forms:

- Notice: the least severe penalty is a precautionary measure that is implemented for any action that contravenes the operational law and is applicable to minor infractions that do not significantly impede the advancement of work within the diplomatic and consular mission.
- Reminding the system refers to a specific form of punishment that is employed when an individual draws attention to the professional errors committed by a public official. In the context of French law, it is expected that members of the

House of Representatives adhere to the established norms governing plenary sessions and work ethics within the parliamentary setting.

- Blame is carried out by the governing body of direct administrative oversight and surpasses the mere provision of a warning. Its purpose is to apprise the employee of their transgression's gravity.

Reprimand, also known as a disciplinary action or presidential admonishment, is a formal notification issued by an authoritative body to an employee who has engaged in misconduct or been accused of wrongdoing. The procedure has the potential to be disclosed to the public in order to enhance its deterrent effect. The reprimand is regarded as a disciplinary measure that serves as a precursor to imposing severe administrative sanctions, potentially resulting in the dismissal of a public official from their responsibilities within a diplomatic or consular mission. (Al-Shammari,2009)

Financial penalties: The following penalties pertain to the fiscal circumstances of a diplomatic corps member. Sanctions are imposed when there are substantial or grave breaches of professional obligations. The aforementioned circumstances are regarded as having financial implications, as they have a direct impact on the financial status of the employee affiliated with the diplomatic and consular mission. The degrees of the violations committed vary in accordance with their severity, and are denoted by:

- Deletion from the promotion schedule refers to the removal of an employee's entitlement to financial benefits linked to professional advancement and progression within the job schedule.
- Diminishment of seniority within the job grade results in the exclusion of the employee's tenure in the diplomatic mission, consulate, and Ministry of Foreign Affairs from consideration for advancement to a higher professional grade.
- Truncation of the salary scale stages results in the employee being deprived of the incremental salary increase that would typically be granted based on seniority and advancement within the career and professional hierarchy.
- Process of transferring an employee in a diplomatic and consular mission to another department within the Ministry of Foreign Affairs can be initiated through an administrative decision made by the executive authority. This decision may involve relocating the employee to either the ministry's headquarters in the home country or to a mission in a foreign country.
- the presidential authority refrains from isolating an employee on a mission for committing serious mistakes, a more severe punishment may be imposed, namely relegation to a lower level in the career ladder.

Functional penalties: The penalties associated with the continuation or termination of a member of the diplomatic corps in their duties are imposed when they commit significant functional errors that jeopardise their state's interests or are inconsistent with the administrative and financial management regulations of diplomatic and consular missions, as per the domestic legislation. These penalties include the following:

- Temporary exclusion is implemented as a precautionary measure prior to the

conclusion of an investigation, in order to determine the severity of the acts committed and assess their impact on the functioning of the diplomatic and consular mission.

- Individual will be subject to a temporary cessation of their duties for a duration of no more than six months, which will persist until the research project has been concluded.
- Concept of pension referral pertains to a disciplinary measure imposed for significant errors committed by an employee. This measure takes into account the employee's seniority in the mission and their prior contributions to the sending country, aiming to alleviate the consequences of immediate termination.
- Dismissal with the suspension of pension rights is considered the most severe form of punishment, reserved for instances of grave errors classified as first-degree offenses. This penalty is imposed when the committed acts result in significant and irreparable consequences. The implementation of such a form of disciplinary action effectively results in the complete expulsion of the employee from the diplomatic corps, thereby rendering them devoid of any affiliation with the Ministry of Foreign Affairs and diplomatic and consular missions. Depending on the degree of seriousness of the violations committed, the competent disciplinary bodies can take a decision to dismiss, but while preserving the employee's right to a pension.

The French administrative judiciary exercises its oversight over the disciplinary authority responsible for imposing penalties on public employees, including those belonging to the diplomatic and consular corps. Furthermore, the consulate should also be considered. The aforementioned principle is also applicable to Egyptian Law No. 45 of 1982, which pertains to the regulation of the Egyptian diplomatic and consular corps. Article 60 of this law outlines the disciplinary sanctions that can be imposed on members of the diplomatic corps. Additionally, the penalties specified in Laws No. 46 of 1964, No. 58 of 1971, and No. 47 are included. In 1978, a unification occurred in Egyptian law, resulting in the subjection of disciplinary procedures and the proportionality of punishments to judicial control. This control ensures the integrity of the procedures followed and the appropriateness of the imposed penalties in relation to the severity of the committed acts.

Regarding the legislation in Jordan, there exists a legal framework that establishes a system of judicial supervision over disciplinary penalties enforced on personnel working within diplomatic and consular missions. Therefore, as per the provisions outlined in Article 52, Paragraph B of the Diplomatic Corps Regulation No. 69 of 1993, along with its subsequent amendments in 2008, it is explicitly forbidden for a diplomatic staff member to engage in certain activities, with the consequence of potential disciplinary consequences, to “do any kind of work that offends the diplomatic service and the national interest by exploiting the position to serve special goals, disclosing data or information or publishing articles or opinions in a magazine without obtaining prior approval”.

In contrast, the Iraqi legislator has delineated the potential penalties that may be levied upon diplomatic and consular personnel in accordance with a progressive scale outlined in Law No. 14 of 1991, which pertains to the regulation of state and public

sector employees. Specifically, Chapter 3 of Article Eight stipulates the nature of these penalties, their consequences, and the protocols governing their imposition upon the employee.

However, the Ministry of Foreign Affairs in Iraq sought guidance from the State Shura Council (Decision No. 144/2008) concerning the potential reinstatement of an employee who had been dismissed due to a procedural flaw in the investigation committee formed for this purpose. The department deemed it necessary to seek an advisory opinion on this matter. The Ministry of Foreign Affairs has officially confirmed that the investigative committee failed to consider the legal aspects pertaining to the conditions outlined in the law for its establishment. The Shura Council, in its deliberations, determined that the establishment of the committee in question is contingent upon compliance with Law No. 14 pertaining to the regulation of state and public sector personnel, as well as Law No. 45 concerning the diplomatic corps. It was concluded that the investigative committee was duly constituted and adhered to the requisite legal prerequisites, thereby necessitating the denial of reinstatement for the dismissed employee within the diplomatic and consular ranks subsequent to the issuance of the disciplinary decision in this matter. (Republic of Iraq, 2008)

The diverse array of administrative courts serves the purpose of preventing administrative authorities from exceeding their powers and competencies when determining that a mission employee has engaged in actions that fall within the realm of administrative responsibility. The principle of proportionality between the penalty imposed and the severity of the violation committed is a well-established principle in the administrative judiciary. This principle is consistently applied in accordance with established jurisprudence. It serves as a fundamental principle of general law that the administrative judiciary relies on when exercising its oversight over the discretionary power of the administration. (Al-Bartaji, 2022)

4.5 Cybercrimes and Diplomatic Relations

In light of digital advancements, various diplomatic entities and embassies have embraced the use of social media and other digital platforms for communication and legal matters. However, it is important to acknowledge that these activities are susceptible to the impact of cybercrime.

Various nations have developed virtual embassies as a means of facilitating diplomatic relations. The virtual embassy of the United States was rendered inaccessible by Iran as a result of its involvement in cybercrimes and other legal matters. Consequently, the United States has rendered its own instrument ineffective and declared:

"This website is not a formal diplomatic mission, nor does it represent or describe a real U. S. Embassy accredited to the Iranian Government. But, in the absence of direct contact, we hope it can serve as a bridge between the American and Iranian people."

(Dominelli, 2021)

Twitter and Second Life are frequently employed as platforms for diplomatic communications. However, the management of virtual diplomatic communications predominantly lies within the jurisdiction of the recipient nation, affording it the capability to exercise control over private websites as well. Hence, it is not feasible to employ these websites for diplomatic endeavours. In addition, the employment of digital platforms in diplomatic endeavours frequently leads to the disclosure of sensitive information and other related cybercrimes, thereby exerting a detrimental influence on global diplomatic relations. (Dominelli, 2021) Still, there remains a lack of lucidity regarding cybercrimes committed within diplomatic missions in accordance with international law, as these offences frequently intersect with the domestic legislation of the host countries.

5. Conclusion

Individuals who are affiliated with diplomatic and consular missions are considered part of the public office and civil service framework of the sending state. As a result, these organizations frequently have to abide by the laws set forth in domestic legislation when performing tasks and duties in foreign countries that serve the public good and protect larger national interests. International conventions, such as the Vienna Convention on Diplomatic and Consular Relations, refrain from intervening in the regulation of accountability for errors and infractions committed by diplomatic mission personnel. Instead, they defer to national laws for the establishment of legislative and regulatory jurisdiction in order to uphold the sovereignty of individual states. The primary emphasis of the Vienna Conventions lies in the realm of conventional diplomatic communications. Numerous political leaders have expressed criticism regarding the employment of digital media for diplomatic communications, citing concerns over susceptibility to various cybercrimes.

Based on this premise, diplomatic and consular missions are assigned a specific set of responsibilities and duties. The mission's leader assumes the responsibility of assigning these tasks and ensuring their execution, maintaining regular and direct communication with the executive authority and the Ministry of Foreign Affairs of the sending country. The sending country exercises its presidential authority over the mission members, overseeing the nature of the assigned tasks and providing the required administrative and financial resources for their successful completion. The employment opportunities in question encompass administrative and utility services rendered by diplomatic missions to their respective citizens. These roles may have some connection to political functions, but they fall outside the purview of the missions' administrative responsibilities.

Examples of such tasks include commercial, economic, and technical cooperation with the host country. These responsibilities are retained by the government and the Ministry of Foreign Affairs, which have co Nevertheless, the majority of these occupations are carried out using digital platforms, rendering diplomatic agents increasingly susceptible to cyber threats. The principle of sovereignty is generally exempt from judicial scrutiny unless the acts in question possess an administrative or functional nature that supersedes their governmental and sovereign attributes.

Therefore, in light of the escalating prevalence of cybercrimes within diplomatic missions, it is imperative for both sending and host countries to implement necessary measures in order to effectively address these challenges.

However, the administrative responsibilities of members of diplomatic and consular missions are characterised by their functional and disciplinary nature. These responsibilities pertain solely to the proper execution of administrative functions and tasks within the host country. They are subject to quasi-judicial procedures under the jurisdiction of the presidential authority in the missions and in the central administration accredited to the Ministry of Foreign Affairs in the sending country. National laws establish committees and specialised bodies to oversee, enforce discipline, and impose penalties in accordance with the principle of gradualism that governs the legal system of administrative responsibility for diplomatic and consular missions. This principle requires competent bodies to avoid any abuse of authority or deviation from established procedures.

Therefore, the administrative judiciary maintains oversight over the imposed penalties and ensures the adherence to proper procedures and the protection of the rights afforded by the laws to mission members, including the right to publicity and the right to a fair defence. Nevertheless, due to the intermingling of administrative and political elements in the operations of diplomatic and consular missions, as well as the alignment between administrative decisions and exercises of sovereignty, the administrative judiciary typically limits itself to externally scrutinising decisions made within its jurisdiction and procedures. It only sporadically and exceptionally intervenes in legally characterising the nature of actions and their alignment, so as to avoid direct interference in the functions and responsibilities of diplomatic and consular missions.

6. Recommendations

In order to uphold the legality of administrative penalties imposed on members of missions and to uphold procedural and legal safeguards, as well as to prevent the imposition of multiple disciplinary measures that could have adverse effects on the country's international reputation and the effectiveness of its diplomatic and consular activities with foreign nations and international organisations, the following procedures are suggested:

1. Efforts should be made to establish internal committees associated with the executive authority and the Ministry of Foreign Affairs. These committees would be responsible for regularly monitoring professional errors committed by members of diplomatic missions, which may result in administrative liability. The objective of such committees would be to minimise the need for disciplinary actions and instead promote internal and mutually agreed-upon administrative resolutions. This approach aims to maintain the effectiveness of diplomatic and consular operations conducted abroad.
2. It is imperative that the aforementioned committees possess an autonomous legal entity and a proficient administrative workforce with substantial expertise in administrative tasks, particularly those carried out by diplomatic missions. The effectiveness of a legal framework that integrates laws and policies related to cybercrime will have significant implications in this context.

3. This proposal suggests the implementation of mediation procedures and amicable solutions to address potential issues that may arise during the provision of administrative services and transactions to citizens of the sending country. The aim is to minimise disputes and the need for judicial intervention, thereby mitigating the administrative and disciplinary liability faced by members of missions.
4. One proposed measure involves granting the administrative judiciary additional powers to prioritise and address requests made by members of diplomatic missions pertaining to sanctions imposed upon them, as well as to halt the implementation of said sanctions. Nevertheless, it is imperative to promptly address their demands while taking into account the underlying cause of the conflict. This approach can also prove to be efficacious in addressing various concerns related to cybercrime.
5. The necessity of informing members of diplomatic and consular missions about their duty to adhere to the national laws of the host country, alongside the laws of their sending country, is crucial to prevent them from engaging in actions that could result in civil or criminal liability. Such liability may require the removal of their diplomatic immunity, enabling litigation proceedings to take place in the appropriate courts.
6. The governments of the associated countries should prioritise the implementation of laws and policies related to cybercrime within diplomatic missions, both at the international and national levels, in order to achieve favourable results.

7. Research Implications

The present study has successfully emphasised the integration of cybercrimes within the framework of diplomatic relations. This approach has the potential to effectively incentivize governments and other international entities to prioritise the incorporation of anti-cybercrime legislation into their diplomatic legal systems, thereby enhancing international relations. This study has also highlighted the significance of e-diplomacy in the context of diplomatic missions. Nevertheless, the Vienna conventions primarily centre their attention on conventional diplomatic missions, thereby imposing certain constraints on the extent of e-Diplomacy. The aforementioned study also brings attention to this gap, urging relevant legal entities to implement significant measures in order to address this limitation.

8. Limitations and Future Research

This section identifies various limitations inherent in the present study. The present study was limited in its examination of the concept of e-Diplomacy, as a result of constraints in the available literature. This limitation has had an impact on the overall efficacy of the study. Furthermore, the present study failed to provide a comprehensive legal framework for addressing cybercrimes specifically within the context of diplomatic missions, primarily due to inherent research bias.

Therefore, in order to tackle these concerns, forthcoming research endeavours may concentrate on conducting a comprehensive examination of the implementation of e-Diplomacy across various nations. Moreover, it is suggested that future research endeavours should focus on establishing a comprehensive legal framework to

effectively address cybercrimes within diplomatic missions. This would contribute to the advancement of knowledge in this field and bring a fresh perspective to future research endeavours.

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