

## **November 1976**

# **Draft of reply to Jørgen Junior's query no. 86 regarding the Vienna Convention on the Law of Treaties and its principles on diplomatic immunity**

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### **Summary:**

The Minister of Foreign Affairs explained that changing the laws about diplomatic immunity would be difficult because of the Vienna Convention on the Law of Treatise.

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### **Contents:**

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Udkast til svar på Jørgen Juniors forespørgsel nr. 86 vedrørende Wienerkonventionens regler om diplomatisk immunitet.

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Wienerkonventionen af 18. april 1961 om diplomatiske forbindelser er ratificeret af Danmark i 1968 og er nu tiltrådt af mere end 110 stater.

De i konventionens indeholdte regler var allerede før konventionens vedtagelse fast indarbejdet i mellemfolkelig praksis og er med den meget store tilslutning, som konventionen i de forløbne 15 år har fået, blevet yderligere cementeret i det internationale samkvem.

De rettigheder, som konventionen indrømmer diplomater, søger nu om dage deres praktiske begrundelse i hensynet til at sikre de pågældende uafhængighed af modtagerstatens myndigheder. Disse myndigheder må ikke gennempression, indgriben eller repressalier kunne hindre de diplomatiske repræsentanter i deres arbejde for deres eget land.

Samtidig er diplomatiske repræsentanter udtrykkeligt - det står i konventionens art. 41 - forpligtet til at overholde modtagerstatens love og bestemmelser.

Bestemmelsen i konventionens artikel 9, hvorefter modtagerstaten til enhver tid og uden begrundelse kan meddele udsenderstaten, at repræsentationschefen eller et hvilket som helst medlem af det diplomatiske personale

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er personal non grata har i praksis vist sit at være tilstrækkeligt værn i tilfælde af misbrug af de diplomatiske rettigheder. I sådanne tilfælde er udsenderstaten forpligtet til at bringe deres tjeneste ved repræsentationen til ophør.

Mod denne baggrund må det i dag anses for udelukket at opnå den tilstrækkelige støtte til en ændring af reglerne i konventionen. Under senere konferencer, hvor omfanget af diplomatisk immunitet og rettigheder har været drøftet - senest på en konference i Wien i 1975 om stateres repræsentation ved internationale organisationer - har det vist sig, at et meget betydeligt flertal af lande under ingen omstændigheder ønsker rettighedsniveauet begrænset.

Et initiativ til ændring af konventionens regler om immunitet ville efter min opfattelse være til skade for Danmarks forhold til alle de stater, vi har diplomatisk forbindelse med, og som efterlever konventionens bestemmelser.

Et initiativ som foreslået ville således ikke være i dansk udenrigspolitisk interesse, og jeg kan besvare det fremsatte spørgsmål med et nej.

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The Vienna Convention of April 18th 1961 regarding diplomatic relations was ratified by Denmark and is now signed by more than 110 states. Its basic principles however, has served as the basis for intergovernmental relations for a long time. Over the treaty's first 15 years of existence, it has been widely endorsed and adopted, and its principles are now further cemented as the basis for international relations.

The practical rationale for the rights granted to diplomats is to ensure the diplomats' independence from the authorities of the host country. These countries must not, by means of coercion, interference or other sanctions, be able to prevent diplomatic representatives from promoting the interests of their own country.

Diplomatic representatives are also - as expressed in the Convention's Article 41 - obligated to follow the laws and regulations of the host state.

As stipulated in Article 9 of the Convention, the host state can at any time, and without reason, inform the sender state that the head of the mission or any other diplomatic personnel has committed acts constituting misuse of diplomatic rights. In such instances, the sender state is obligated to terminate the mission.

On these grounds, it is not realistic to gain the sufficient international support required to change the rules of the convention. In later conventions - the latest being the convention of 1975 - it has been apparent that a significant majority of countries under no circumstances want to see diplomatic rights curtailed.

In my opinion, any initiative by Denmark to change the laws of the treaty would be damaging to Denmark's relations with all those countries with whom we have diplomatic relations, who follow the laws of the convention.

An initiative as the one suggested would not be beneficial to Danish foreign policy, and I will answer the question with a no.