

RECIPROCITY IN THE APPLICATION OF THE
VIENNA CONVENTIONS ON DIPLOMATIC AND
CONSULAR RELATIONS

Public international law requires that every state grant certain privileges and immunities to the diplomatic and consular institutions and personnel that it has allowed to carry out specific duties on its territory (for example, inviolability of persons and institutions, immunity from jurisdiction, exemption from direct taxes in the accrediting state, etc.). This requirement has long existed in customary international law, and the details have been codified in two general multilateral conventions: The Vienna Convention on Diplomatic Relations, passed on April 18, 1961 and ratified by Canada on May 26, 1966, and the Vienna Convention on Consular Relations, passed on April 24, 1963 and adhered to by Canada on July 18, 1974.

The right to send and receive diplomatic and consular representatives is an attribute of the sovereignty of states, according to international public law. The obligation to grant these representatives the privileges and immunities described in international law is concomitant with the right of legation.

Canada was able to become a party to the Conventions on Diplomatic and Consular Relations without having to pass any particular legislation beforehand, since Canada's obligations under these conventions were almost a mirror image of the pre-existing principles of customary international law, which were already a part of Canadian Common Law. Not until 1977 did Canada pass the Act respecting Diplomatic and Consular Privileges and Immunities in Canada, which received Royal Assent on June 29, 1977 and was amended by the Act to amend the Act respecting Diplomatic and Consular Privileges and Immunities, assented to on July 10, 1981.

The immunities enjoyed by diplomatic and consular personnel from the administrative and judicial systems of the accrediting state reflect the fact that they are sent and received as representatives of their government, and a state will not normally seek to subject the diplomatic and consular representatives of another state to its legal proceedings. Similarly the privileges, which are in effect exemption from certain forms of taxation, reflect the fact that one state will not normally tax another, at least in so far as its government activities, as distinguished from commercial activities, are concerned.