

Lecture 1

Subject: The Establishment of Diplomatic Relations

KEYWORDS:

Diplomatic Relations | Vienna Convention 1961 | Conduction of Diplomatic Relations | State | Mutual Consent | Sovereignty | Recognition | International Legal Personality | Lateran Treaty | plenipotentiary and Extraordinary Ambassador | Letter of Credence

Questions to be addressed:

1. What is meant by Establishing Diplomatic Relations?
2. How diplomatic relations can be established between two states?
3. Why states seek to carry out diplomatic relations?
4. When Vienna Convention on Diplomatic Relations issued?
5. What are the main stages of Establishing Diplomatic Relations?
6. What fundamental Conditions should be available to Establish Diplomatic Relations between two States?

According to Article 2, Vienna Convention on Diplomatic Relations 1961:

'The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent'.

How diplomatic relations can be established in states?

Independent and sovereign states 'as the main actor in the international community' have the right to establish and conduct diplomatic relations.

Therefore, Diplomatic relations between states may be established by friendly contacts of any form between their governments; but permanent diplomatic relations are considered to exist only with the establishment of a diplomatic mission, or preferably with the exchange of diplomatic missions. These are established by mutual consent and on the basis of a mutual understanding of the functions that will be undertaken by the mission.

What are the Required Conditions of Establishing Diplomatic Relations between two States?

1. International legal personality:

In order to establish diplomatic relations, states should enjoy international legal personality. International Legal personality is a right granted to state. If states did not enjoy this right, they are not entitled and authorized to conduct diplomatic relations.

2. The Recognition:

The issue of recognition is a political matter. In which through it states recognizes and accept political entities (state) of each other as a member of international community. Accordingly, there is a common understanding, that mentions if two states recognize each other as an independent political entity they have to establish diplomatic relations. As a result, it is not possible to establish diplomatic relations between two states if they don't recognize each other in advance both legally and officially.

3. Common Consent:

In principle, mutual consent or agreement of the two parties is the most significant condition with regard to carrying out diplomatic relations when both sides have common interest and desire. especially, if there is tendency between two states to conduct diplomatic relations. This right is granted to the states whether to agree or disagree regarding the establishment of diplomatic relations. Therefore, in the

According to the Public International Law, who can establish diplomatic relations? What are the Actors who can establish Diplomatic relations?

1. The State:

From international law point of view, States as the main international actor are able to carry out diplomatic relations and open permanent diplomatic representation in such states. For this, the state needs to be a Sovereign states. But it is not a problem if such state did not enjoy absolute sovereignty if the states in under the rule of colonial power and this considers a De-Facto. What is very crucial is to be an independent state from Law Point of view. if it is a Confederal State, the founder states would be able to conduct and tie Diplomatic Relations.

2. Vatican:

The Vatican Pope, Head of the Catholic church has the right to conduct Diplomatic Relations. In accordance with Lateran Treaty or pact of 1929 signed between Vatican and Italy, permitted the right to Conduct full Diplomatic Relations and Representation. Therefore, the pope of Vatican state enjoy full diplomatic position.

Lateran Treaty "Lateran Pact" of 1929

Treaty (effective June 7, 1929, to June 3, 1985) between Italy and the Vatican. It was signed by Benito Mussolini for the Italian government and by cardinal secretary of state Pietro Gasparri for the papacy and confirmed by the Italian constitution of 1948.

Upon ratification of the Lateran Treaty, the papacy recognized the state of Italy, with Rome as its capital. Italy in return recognized papal sovereignty over the Vatican City, secured full independence for the pope. A number of additional measures were agreed upon. Article 1, for example, gave the city of Rome a special character as the "centre of the Catholic world and place of pilgrimage.

3. The International Organizations:

According to the public international law, international organizations granted the right to conduct diplomatic relations and open diplomatic representation worldwide. As these international organization are found by states that enjoy:

1. International Legal Personality
2. They are recognized internationally based on their charter or constitution.
3. International organizations are key actors in the international community. Such as United Nations, European Union.
4. IOs Staff have Diplomatic Immunities and Privileges based on the organization establishment treaty. However, their immunities and rights are different from those of states such as Permanent Diplomatic Representations.

Steps towards Opening Diplomatic Representation

After sharing mutual interest and desire between two states to the Establishing Diplomatic Relations between 2 states, in the next Step, opening Diplomatic Representation will be the following steps;

1. Selecting title of the head of the Diplomatic Mission.
2. Receiving the approval and Acceptance of the host state related to the head of the mission.
3. Selecting Head of the Mission.
4. Submitting letter of Credence or Known as diplomatic credentials.

Example: Credence Letter related to the position of Ambassador:

To [full name and title of head of state]

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Diplomatic & Consular Relations; Foundations & Principles
2nd Year, 2nd Semester | 2020 - 2021

Excellency:

I have appointed X.Y.Z., a distinguished citizen of [name of sending state], to represent me before your Government as Ambassador

Extraordinary and He is well aware of the mutual interests of our two countries and shares my sincere desire to preserve and enhance the long

friendship between us. My faith in his high character and ability gives me entire confidence that he will carry out his duties in a manner fully accept

able to you.

Accordingly, I entrust him to your confidence. I ask that you receive him favourably, and give full credence to what he shall say on the part of [name of sending state] as well as to the assurances which he bears of my best wishes for the prosperity of (name of receiving state).

Yours very truly

[Signature of Head of State]

By the head of state

[Signature of Minister for Foreign Affairs]

[Place]

[Date]



Ambassador Eugène-Richard Gasana of Rwanda presents his credentials to Russian President Vladimir Putin, attended by Russian Foreign Minister Sergey Lavrov.