

Lecture | 8

Consular Functions

KEYWORDS:

Consular Functions | SS | RS or HS | commercial | economic | cultural | scientific relations | Notary |
bodies corporate | Interests of minor persons | tribunals | Vessel | Voyage |

Questions to be addressed:

- what are the differences between Diplomatic Relations and Consular Relations?
 - Are there any differences between DRs and CRs?
 - Compare between Diplomatic Relations and Consular Relations?
 - What are the Consular Functions based on Vienna Convention on Consular relations of 1963?
 - Which article from VCCR of 1963 defines the Consular Functions?
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Differentiation and Comparison between Diplomatic function and Consular function

Despite the fact that there is a similarity to some extent and relatively between both diplomatic and Consular functions. However, there are differences between them from law and representation status. Below are the main differences:

1. At Appointment level: head of diplomatic missions are appointed by the head of state (President) as HoM is representing the state and its president in the receiving state and he submits his credence letter to the president of the receiving state. But Consul are appointed by the Minister of Foreign affairs and he can't perform his functions until he receives the exequatur from the host state.
2. At Political Representation Level: In principle, Consul officers don't enjoy political representation status. Even when S/he practice diplomatic function or has negotiator status. However, there is an exception when the consul officer appointed to represent his/her state at an international organization S/he can ONLY enjoy diplomatic status as State

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representative. But When Diplomatic staff practices consular function despite his/her Diplomatic status S/he accorded consular status.

3. At Immunities and Privileges Level: Consular staff is not granted diplomatic immunities and privileges when they practice diplomatic functions. But when consul staff appoints to represent the state at an international organization such as (UN) in this case S/he will be accorded Immunities and Privileges related to State representation based on the Vienna Convention for state representatives at international Organization of 1975.

Consular Functions

In accordance with '**Vienna Convention on Consular Relations of 1963**' Consular functions consist in:

1. Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law.
2. Furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention.
3. Ascertaining and observing by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested.
4. Issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State.
5. Helping and assisting nationals, both individuals and bodies corporate, of the sending State.
6. Acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State.
7. Safeguarding the interests of nationals, both individuals and bodies corporate, of the sending States in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State.
8. Safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons.

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9. Subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interest of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests.

10. Transmitting judicial and extrajudicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State.

11. Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews.

12. Extending assistance to vessels and aircraft mentioned in subparagraph (k) of this article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen insofar as this may be authorized by the laws and regulations of the sending State.

13. Performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.