

# Appendix III: Diplomatic and Consular Privileges and Immunities from Criminal and Civil Jurisdiction

We analyzed key sections of international conventions, acts, and agreements on immunity to describe in general terms the different levels of immunity and the protections accorded under each one, specifically as they relate to investigations of alleged abuse of household workers by foreign diplomats. We also consulted with the Department of State on our analysis, which is summarized in table 3. This table represents only a general description of these privileges and immunities and, as indicated in the notes following the table, exceptions may apply for each general category.

**Table 3: Diplomatic and Consular Privileges and Immunities from Criminal and Civil Jurisdiction**

Category	May be arrested or detained	Residence may be entered subject to law enforcement procedures generally applicable to U.S. residences	May be prosecuted	Immunity from civil jurisdiction	Recognized family member
<b>Diplomatic agent<sup>a</sup></b> (e.g., ambassadors and other diplomatic officers)	No <sup>b</sup>	No	No	Yes <sup>c</sup>	Same as sponsor (full immunity and inviolability).
<b>Member of administrative and technical staff<sup>e</sup></b> (e.g., secretaries, certain clerical managers, office managers, and certain security personnel)	No <sup>b</sup>	No	No	Yes, for acts performed in the course of their official duties. Otherwise, no.	Same as sponsor. Since family members have no official duties to perform, they enjoy no immunity from civil jurisdiction.
<b>Service staff<sup>d</sup></b> (e.g., drivers, cleaners, and building and maintenance workers)	Yes	Yes	No, for official acts. Otherwise yes.	Yes, for acts performed in course of their duties. Otherwise, no.	No immunity or inviolability.
<b>Career consular officers<sup>a,d</sup></b>	No, except for a felony and pursuant to a warrant.	Yes <sup>e</sup>	No, for official acts. Otherwise, yes.	Yes, for acts performed in the exercise of consular functions. <sup>f</sup> Otherwise, no.	No immunity or inviolability.
<b>Honorary consular officers</b> (e.g., American citizens or permanent resident aliens who perform consular services on a part-time basis.)	Yes	Yes	No, for official acts. Otherwise, yes.	Yes, for acts performed in the exercise of consular functions. <sup>f</sup> Otherwise, no.	No immunity or inviolability.

**Appendix III: Diplomatic and Consular Privileges and Immunities from Criminal and Civil Jurisdiction**

<b>Category</b>	<b>May be arrested or detained</b>	<b>Residence may be entered subject to law enforcement procedures generally applicable to U.S. residences</b>	<b>May be prosecuted</b>	<b>Immunity from civil jurisdiction</b>	<b>Recognized family member</b>
<b>Consular employees<sup>d</sup></b> (e.g., those who perform the administrative and technical support services for the consular post)	Yes	Yes	No, for official acts. Otherwise, yes.	Yes, for acts performed in the exercise of consular functions. <sup>f</sup> Otherwise, no.	No immunity or inviolability.
International organizations staff <sup>g</sup>	Yes <sup>g</sup>	Yes <sup>g</sup>	No, for official acts. Otherwise, yes. <sup>g</sup>	Yes, for acts performed in the exercise of their official duties. Otherwise, no. <sup>g</sup>	No immunity or inviolability. <sup>g</sup>
Diplomatic-level staff of missions to international organizations	No <sup>b</sup>	No	No	Yes <sup>c</sup>	Same as sponsor (full immunity and inviolability).
Support staff of missions to international organizations	Yes	Yes	No, for official acts. Otherwise, yes.	Yes, for acts performed in the exercise of their official duties. Otherwise, no.	No immunity or inviolability.

Source: GAO.

<sup>a</sup>The Department of State, as a matter of policy, does not normally accept as bilateral diplomatic agents or as career consular officers U.S. nationals or legal permanent residents of the United States. Family members of diplomatic agents enjoy no privileges and immunities if they are U.S. nationals. Members of the administrative and technical staff (including their families) and members of the service staff enjoy no privileges and immunities if they are U.S. nationals, legal permanent residents, or foreign nationals permanently residing in the United States.

<sup>b</sup>Reasonable constraints, however, may be applied in emergency circumstances, e.g., self-defense, public safety, or the prevention of serious, violent criminal acts.

<sup>c</sup>Certain exceptions apply under Article 31 of the Vienna Convention on Diplomatic Relations. Immunity from civil and administrative jurisdiction does not apply in the following circumstances: (1) a real action relating to private immovable property situated in the territory of the receiving state unless the diplomatic agent holds it on behalf of the sending state for the purpose of the mission; (2) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir, or legatee as a private person and not on behalf of the sending state; (3) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving state outside his official functions.

<sup>d</sup>This table presents general rules. Employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

<sup>e</sup>Note that consular residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry unless a bilateral agreement provides additional protection for consular residences.

<sup>f</sup>This immunity does not apply in respect of a civil action either (1) arising out of a contract concluded by a consular officer or employee in which he did not contract expressly or impliedly as an agent of the sending state; or (2) by a third party for damage arising from an accident in the receiving state caused by a vehicle, vessel, or aircraft. See Article 43 of the Vienna Convention on Consular Relations.

<sup>g</sup>A small number of senior officers are entitled to be treated identically to "diplomatic agents."