



International Law Commission**Seventy-fifth session**

Geneva, 29 April–31 May and 1 July–2 August 2024

Immunity of State officials from foreign criminal jurisdiction**Texts and titles of draft articles 1, 3, 4 and 5 [6] as provisionally adopted by the Drafting Committee on 9 to 22 July 2024***

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Draft article 1**Scope of the present draft articles**

1. The present draft articles apply to the immunity of State officials from the criminal jurisdiction of another State.
2. The present draft articles are without prejudice to special rules of international law on immunity from criminal jurisdiction enjoyed in particular by persons connected with diplomatic missions, consular posts, special missions, international organizations and armed forces of a State.
3. The present draft articles do not affect the rights and obligations of States under international agreements establishing or relating to the operation of international criminal courts and tribunals as between the parties to those agreements.

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Draft article 3**Persons enjoying immunity *ratione personae***

Heads of State, Heads of Government and Ministers for Foreign Affairs enjoy immunity *ratione personae* from the exercise of foreign criminal jurisdiction.

Draft article 4**Scope of immunity *ratione personae***

1. Heads of State, Heads of Government and Ministers for Foreign Affairs enjoy immunity *ratione personae* only during their period of office.
2. Such immunity *ratione personae* covers all acts performed, whether in a private or official capacity, by Heads of State, Heads of Government and Ministers for Foreign Affairs during or prior to their period of office.
3. The cessation of immunity *ratione personae* is without prejudice to the rules of international law on immunity *ratione materiae*.

* The numbers appearing in square brackets refer to the numbers of the draft articles as adopted by the Commission on first reading (see [A/77/10](#), chap. VI).



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Draft article 5 [6]

Scope of immunity *ratione materiae*

1. State officials enjoy immunity *ratione materiae* from the exercise of foreign criminal jurisdiction with respect to acts performed in an official capacity.
2. Immunity *ratione materiae* with respect to acts performed in an official capacity continues to subsist after the individuals concerned have ceased to be State officials.
3. Individuals who enjoyed immunity *ratione personae* in accordance with draft article 4, whose period of office has come to an end, continue to enjoy immunity with respect to acts performed in an official capacity during such period of office.
