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Immunity of State officials from foreign criminal jurisdiction

Texts and titles of draft articles 7, 8 and 9 as provisionally adopted by the Drafting Committee on 12 May 2025

Draft article 7

Crimes under international law in respect of which immunity *ratione materiae* shall not apply

Immunity *ratione materiae* from the exercise of foreign criminal jurisdiction shall not apply in respect of the following crimes under international law, as defined according to the applicable rules of international law:

- (a) crime of genocide;
- (b) crimes against humanity;
- (c) war crimes;
- (d) crime of *apartheid*;
- (e) torture;
- (f) enforced disappearance;
- (g) crime of aggression;
- (h) slavery;
- (i) slave trade.

...¹

Draft article 8

Application of Part Four

1. The procedural provisions and safeguards in the present Part shall apply in any situation that may involve the exercise of criminal jurisdiction by the forum State over an official of another State.
2. The present Part is applicable to the draft articles contained in Part Two and Part Three of the present draft articles, including to the determination of whether immunity applies or does not apply under any of the present draft articles.

¹ The Drafting Committee has not yet considered the titles of parts on second reading.



Draft article 9

Examination of immunity by the forum State

1. When the competent authorities of the forum State become aware that an official of another State may be affected by the exercise of its criminal jurisdiction, they shall examine the question of immunity without delay.
 2. Without prejudice to paragraph 1, the competent authorities of the forum State shall always examine the question of immunity:
 - (a) before initiating criminal proceedings against an official of another State;
 - (b) before taking coercive measures that may affect an official of another State, including those that may affect any inviolability that the official may enjoy under international law.
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