

Diplomacy and diplomatic functions

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Abstract: Through the main lines of this study we try to introduce specific approaches of diplomacy, diplomatic mission, diplomatic visits and diplomatic functions. Functions of diplomacy: representation, negotiation, information, diplomatic protection, international cooperation, consular function have been developed and analyzed more in depth.

Key words: Diplomacy, diplomatic functions, diplomatic mission, diplomatic visits

1. Characterization of official, work and other types of State visits

Due to development of contemporary means of communication, chiefs of State and of Governments, as well as international affairs ministries added to their contacts and began involving in activities that were once linked to diplomats' skills exclusively; at the same time, these practices rob Governments and chiefs of State of the precious cover constituted by diplomats who work in secret, with greater spirit liberty and who can be oriented and disavowed when conclusions do not meet everyone's views.

Diplomacy in the 20th century introduces new principles and methods. Diplomatic activity widened its range considerably and it grew in the political field, especially through the introduction of new components. Aside from intense bilateral negotiations, multilateral negotiations become highly important in international conferences and organizations. Community diplomacy will also gain a significant place.

Diplomacy ceased to be clerical or belong to international organizations only. Diplomacy with a top secret, confidential character, with verbal notes and artful writing, with excessive importance shown to

protocol ceased to exist. The new type of diplomacy required true understanding of economic and financial data, besides a clear vision on political issues. This new diplomacy estranged from the old one owing to the idea of equality and to faith in diplomacy through conferences and experts.

After World War II, new conditions and new diplomatic practices came into sight, while the role of chiefs of State and Governments increased. Fading sovereign subjectivity and diminishing secrecy brought diplomacy closer to real problems of peoples, but didn't deplete it of its specific features. Along with public debate of treaties, discrete and small negotiations still take place, thus defending secrecy of discussions and of highly important information.

Various problems that emerge in the sphere of international relations cannot be totally solved by the chief of State or by international affairs ministries, since they can't approach nor directly treat international political, economical or juridical matters between States. Meetings at congresses or bilateral contacts between chiefs of State assure the approach of a limited number of problems and under no circumstances can they replace constant activity, claimed by maintaining and developing relations between States. In addition, the element of continuity in relations between States must be assured, required by the fact that establishing and intensifying collaboration and friendship relations are the result of an ongoing activity.

Hereby, the necessity to institute and maintain State representations abroad, whose task is to negotiate and act in the name of their State and help solve numerous and intricate mundane problems. At first, these

trustees were generically called diplomatic agents and later diplomatic representations or missions.

Accordingly, the diplomatic mission is a State organ, belonging to the sending State. One of the most significant contributions of the Vienna Convention as regards diplomatic relations is the importance given to the diplomatic mission institution, considering it an independent entity. Enjoying immunities and distinctive privileges, the mission offers cohesion and organic unity in the actions of its members.

The diplomatic mission constitutes the main instrument in founding and maintaining diplomatic relations and as such it contributes overtly and directly to collaboration between States. Wishing to establish relations with other countries, all States independently of their size, economic power or political regime institute a greater or a smaller number of diplomatic missions¹.

The diplomatic mission performs functions corresponding to its goals, contributing to mutual understanding and close relations between two States, as well as to promoting friendly multilateral cooperation between them. The sending State must give its diplomatic mission instructions that do not exceed its functions, otherwise diplomats risk to be declared as undesirable. Also, the sending State must show due respect to diplomatic representatives' activities, related to their functions².

¹Alexandru Burian, "Introduction in Diplomatic Practice and International Procedure", Cartier juridic Publishing House, Chisinau, 2000, p. 14.

²Gheorghe Iacob, "Introduction in Diplomacy, Foundation Axis Publishing House, Iasi, 1997, p. 344.

According to article 3 of the 1961 Vienna Convention³, the functions of a diplomatic mission are as follows:

- 1) Representing the sending State in the receiving State;
- 2) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
- 3) Negotiating with the Government of the receiving State;
- 4) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
- 5) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

The second paragraph of article 3 in the Vienna Convention also shows the right of a diplomatic mission to perform consular functions⁴.

Showing States' practices and dominant opinions in their doctrines, the depiction of the diplomatic mission's functions crystallizes, in the field of positive law, the process of progressive development of diplomatic institutions nowadays. Consequently, an essential function of any diplomatic mission is promoting friendly relations and collaboration between the two States at economical, cultural and scientific levels.

³The Vienna Convention on diplomatic relations, adopted on April, 18th 1961 and ratified by Romania according to Decree no. 556 from July, 4th 1968, published in the Official Bulletin, part I, no. 89/1968.

⁴Idem, part I, no. 89.

Functions of diplomacy are organically interlinked and segregation could lead to a distorted image of the diplomatic institution⁵.

1) Representation – it is the function which permanent missions performed more visibly since their establishment as organs of external relations of States. The representation function means that diplomatic agents participate to events in public life, standing for the sending State, i.e. the approval attitude which it assumes with respect to significant moments in the public life of the country of residence. The diplomatic mission doesn't represent the chief of State nor the Government, but the sending State as subject of international law. This is why it is necessary to make a clear distinction between the function of representation of a diplomatic mission and the juridical act of representation in international law. International representation of States is a juridical rapport on whose ground a State grants another State the right to fulfill juridical actions towards a third State. Subsequently, in the case of international representation we can identify three subjects of international law. It is not the case of diplomatic mission, which is not a subject of international law, but an organ that helps maintaining and developing relations between two States as subjects of the diplomatic rapport.

2) Negotiation – similar to representation, it is one of the functions that permanent diplomatic missions performed since their establishment. Negotiation means examining a problem of common interest in order to solve it.

⁵Gheorghe Iacob, "Introduction in Diplomacy", Foundation Axis Publishing House, Iasi, 1997, p. 344.

From this point of view, negotiation cannot be limited to discussions in the process of sealing international accords. Currently, they represent an important field in the activity of a diplomatic mission, performing the negotiation function when conducting discussions with competent organs of the receiving State on problems of mutual concern: defending the interests of the sending State's citizens on the territory of the receiving State, solving litigations, obtaining advantages and preventing any political and economical measures that would handicap one State or the other etc.⁶

Negotiations can be official (initiated formally in the name of two States) or officious (probe contacts that do not commit the States in any way). Official negotiations are direct (between the chief of the diplomatic mission and the chief of State) or indirect (between the chief of the diplomatic mission and the international affairs ministry or the subordinates of the latter).

Negotiation is often considered a mixture of scientific and artistic methods, since the diplomat must have knowledge, experience and talent to be a good negotiator. Study of history, in general, and history of diplomatic relations, in particular, are very useful in developing the mastery of negotiation.⁷

3) Information. Promoting friendly relations, neighborliness and cooperation between States depends on mutual understanding of States' economical, social and political realities.

Hereby the information and observation function. By performing this function, the diplomatic mission provides the sending State data obtained by lawful means, regarding domestic life and international politics in the country of residence. The diplomatic mission must perform its functions using official and officious contacts, mass media and local journals, literary and scientific publications. Concerning this aspect, under section (d) from article 3, the 1961 Vienna Convention stresses the lawful character that any information source used by the diplomatic mission must have.

4) Diplomatic protection. There is a close connection between representation, negotiation and protection functions. By performing the latter, the diplomatic mission achieves protection of interests that the sending State and the personnel under its authority might have in the country of residence. Actually, when the diplomatic mission represents its State and negotiates with authorities in the receiving State, then it acts in the name of specific interests, in order to accredit and promote these interests.

The defense function as recognized by international law allows the diplomatic mission to offer diplomatic protection to citizens of the sending State, who are or live in the receiving State. Interventions at a diplomatic level can eliminate prejudicial pursuit, repair prejudice suffered by these citizens and try by lawful means to defend them against unlawfulness they could be subjected to⁸.

⁶Dumitru Mazilu, "Treaty Regarding Negotiation Theory and Practice", Lumina Lex Publishing House, Bucharest, 2002, p. 460.

⁷Idem, p. 460.

⁸Gheorghe Iacob, "Introduction in Diplomacy", Foundation Axis Publishing House, Iasi, 1997, p. 345.

5) International cooperation. The aim of the diplomatic mission is expressed by a central function that polarizes the attitude of all other functions in the direction of the other goal: promoting friendly relations and cooperation between the sending State and the receiving State. Hence, diplomatic missions fulfill an essential role when investing in the bilateral relation virtues that transform it in the primary positive element in the process of placing international relations on moral, fairness and lawful principles.

If we imagine international relations as an immense network, the bilateral relation constitutes the basic rapport of this structure, while the dominating climate of this bilateral rapport, cultivated according to requests of neighborliness, friendship, cooperation, mutual understanding and respect between peoples, can be disseminated in the whole structure of international relations causing their positive development. In the economic field, the diplomatic mission can negotiate

cooperation agreements in various domains, can take measures to perform them or intensify by various means material and spiritual changes between the respective peoples.

6) Consular functions. Performing consular attributions by the diplomatic mission is a recent date practice. It developed as the role of consular institution became more important, thanks to growth in commercial relations and tourism. The Vienna Convention stipulates in the second paragraph of article 3 the following: "Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission". In doctrine, this stipulation can mean that the sending State may establish an embassy, a consular division, without permission of the receiving State. This conclusion is drawn from the principle of States' sovereignty and mutual consent – fundamental principle of diplomatic and consular relations .

REFERENCES:

1. **Anghel, Ion M.** *Diplomatic and Consular Law*, Lumina Lex Publishing House, Bucharest, 1996.
2. **Anghel, Ion M.** *Diplomatic and Consular Law*, Lumina Lex Publishing House, Vol. I and II, Bucharest, 2002.
3. **Bonciog, Aurel.** *Diplomatic Law*, Foundation "România de Măine" Publishing House, Bucharest, 2000.
4. **Burian, Alexandru.** *Introduction in Diplomatic Practice and International Procedure*, Cartier juridic Publishing House, Chisinau, 2000.
5. **Felthman, R.G.** *Introduction in Diplomacy Law and Practice*, All Publishing House, Bucharest.
6. **Iacob, Gheorghe.** *Introduction in Diplomacy (Introduction a la Diplomacy)*, Foundation Axis Publishing House, Iasi, 1997.
7. **Klebes, Heinrich.** *Parliamentary Diplomacy*, 1998, Bucharest, The Romanian Institute for International Studies N. Titulescu.
8. **Kissinger, Henry.** *Diplomacy*, All Publishing House, Bucharest, 2003.
9. **Malița, Mircea.** *Diplomacy. Schools and Institutions*, Didactic and Pedagogic Publishing House, Bucharest, 1975.
10. **Mazilu, Dumitru.** *Diplomacy. Diplomatic and Consular Law*, Lumina Lex Publishing House, Bucharest, 2003.

11. **Miga-Besteliu Raluca.** *International Law. Introduction in Public International Law*, All Publishing House, 1996.
12. **Nicolson, Harold.** *Diplomatic Art*, Politic Publishing House, Bucharest, 1966.
13. **Tănăsie Petre, George Marin, Dumitrescu Dan.** *Diplomatic and Protocol Uses*, Economic Independence Publishing House, Pitesti, 2000.

