

The Judicial Approaches of States' Executive Immunity and Some Examples of Its

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Abstract

Executive immunity means that the criminal court sentence (decision) against a natural person as representative of foreign government resident, is no longer applicable in the another country. This type of immunity other than that in terms of government power in run is faced with different approaches is accepted by public and philosophy of its existence is good performance of diplomatic missions and compliance with the general principle of the sovereignty of states, based on which no government should be tried by another state or another state's laws applied to him. The most important judicial approaches include the approach based on pure state immunity and its property, the approach based on accepting limit of executive immunity of foreign government, assimilation-based approach of competency and execution stages. By examining judgmental procedure of juridical courts of countries such as Turkey, Italy, Switzerland, Belgium and Iran, we conclude that most of the juridical immunity of states has been respected and immunity isn't limited to acts of state and does not include the tenure acts and immunity is not related to business operations. In some cases, a double dealing with the issue of immunity from government and independent international organizations is seen.

Keywords: executive immunity, judicial approach, Iran, Belgium, Switzerland, Italy, Turkey

1. Executive Immunity

In public international law in order to good performance of diplomatic and consular duties, some prerogative has been granted to foreign state and its diplomatic and consular representatives so-called immunity that has two faces, whereby one of the two faces, the respect of state's legal person as well as representatives, political positions and political correspondence are inviolable. Under the other face, the above mentioned areas are outside of the prosecution and executive chase of host country. In simpler terms, the juridical immunity means that foreign political representatives can't be summoned to the Criminal Court or invited to court of law and executive immunity means that the criminal court sentence against a natural person as representative of foreign government who is resident in the other country is no longer applicable. The same sentence applies to foreign government property and assets of a natural person as representative of foreign government is also true. In other words, under the theory of immunity the property, lives and dignity of representatives of a foreign state does not under the rule of the host state and in the case of violation in their home (respective) country, are tried and punished. This type of immunity other than that in terms of government power in run is faced with different approaches is accepted by public and philosophy of its existence is good performance of diplomatic missions and compliance with the general principle of the sovereignty of states, based on which no government should be tried by another state or another state's laws applied to him.¹

2. Judicial Approaches to the Problem of Immunity

For execution of judgments issued against a foreign state and its property, many obstacles can be placed that in terms of law (legally) the referring (citation) of foreign state to its immunity and its property of the host government's voluntary decisions and actions can be noted. Foreign governments referring principles such as equality of States and international and legal accepted certainties which sometimes wearing law dress and sometimes have credibility in the form of international conventions and charters, intent to refuse to accept legal responsibility for some of their own business behaviors. Courts against this claim (that is a stone in the direction

¹ Sadr, J., diplomatic and consular law, published by the Center for International Studies, March 1975, p. 105.

of private equity) adopt one of the following approaches that following some of the decisions and principles are referred:

1) The judicial approaches based on absolute immunity of the State and its property

Certainly, the expansion of international trade without the confidence of a fair process in case of a dispute is not imaginable. Development and evolution of human societies gradually involve more value in economic and political management circle that the most important of these concepts is justice. Perhaps this justice seeking is a factor to adopt broad decisions at the global level to minimize the amount of commercial discrimination. Part of this discrimination was controlled and limited using international agreements controlling trade tariffs, some others have been modified with commercial Insurance and in juridical area also with attempt to unify the position of great legal entities alongside private legal entities inequalities are on the decline. Undoubtedly absolute immunity of foreign governments is unfair and can even cause distrust in the private sector and in the long-term severely shaken the economic foundations of the state, because trust and security is a key element in business. Therefore, finding idea that involves a legal belief on the applicability of immunity gradually gets harder and somehow in all of these ideas, by providing reasons such as non-establishment of breach of immunity by the guest government, devoting the property of subject of vote to governance affairs and so on makes government immunity executer. This approach somehow suggests that implicitly even in cases where immunity has been accepted, still relying on the argument basis of proponents of immunity limitation, decide on lift the ban on state property, halt executive operations against the government, or even decide on Judicial disqualification is taken.

This approach, especially in cases with legal authority is often seen in the socialist countries and South America. In Latin American countries such as Venezuela, there are even specific approaches for a ban on the adoption of an arbitration clause that clearly indicates the authoritarian look at government at the political and legal level in these communities. One result of this approach, therefore is considering non-manipulation of states' property and their immunity from punishment by the host governments. However, in developed countries and modernized legal systems in some of the votes, unwavering court trying for denial of permission to run voting against the property of foreign government can be observed that in some cases debates with the other votes of the same legal system and hamper the implementation of vote derived from heart a proceeding agreed by parties. For example, during the long trial of disputed oil case between the Libyan government and American companies LIAMCO², despite the American party proved the commerciality of one of bank accounts of the Libyan government in Swiss banks and the Libyan government's did no defense in this case, however, Court of federal Swiss states that the only connection of this case to Switzerland, is the place of arbitration (Geneva) and it is not enough to enter operations in Switzerland and the properties of mentioned is immune from prosecution and arrest in Switzerland (whereas the mechanism of integration of performance and competency stage, which will be subsequently referred, are taken from decisions of Swiss courts and its aim is to prevent the escape of those violate rights of their victims [effected] partners).

2) The judicial approach based on the acceptance of foreign government restrictions on executive immunity

Contrary to the deteriorating situation of absolute reflection of sovereign immunity, today the courts actually step under pressure and guidance of aforementioned conventions as well as legislation within the countries and finally legal principles of civilized nations and the need for more generous justice in line with accepting limited government immunity. However, unlike courts which in the previous categories are mentioned - were looking for an excuse to exercise sovereign immunity - these tribunals are looking for an excuse to cancel the immunity of foreign states and seek recognition and enforcement of arbitral votes and might judicial decisions, such as blocking property and in other words, the implementation of the votes to end legal disputes.

The reasoning and practical basis of all the courts in these countries are not the same. In many cases, non-parallel court judgments in one country had differences, but overall approach of judicial system can be clearly considered based on conditioned government immunity on very special occasions.

Some courts in their arguments are focused more on how the foreign state departure from its immunity and are looking to identify the state's withdrawal from its immunity in different ways and at different levels. In other words, this category of courts and the legal system believe the main condition to destroy the immunity is withdraw of disputed government of its right and deference to the arbitration process and mechanisms for resolving disputes arising from it. Some judicial systems, consider a written and clear withdraw as the only

² Damages in International Investment Law. British Institute of International and Comparative Law, 2008. Case Summary. Libyan American Oil Company (LIAMCO) v. The Libyan Arab Republic Arbitration Award 1977

realized permit to execute of the votes against foreign governments, while others believe that the signing of the contract in which the condition of recourse to arbitration and specification of accepting judgment process in some manner indicates the will to abolition of immunity and noteworthy others have even gone so far as to believe mere signing the contract in which the arbitration clause is a sufficient sign of tacit derogation (departure) of immunity. This approach can be derived from Intentions of Europe Convention on State Immunity adopted in 1972³. In this Convention and of course the legal systems affected by it, the principle is prohibition of confiscation and encroaching on foreign government's assets unless a clear statement indicating pass up the immunity is to be delivered by the foreign government.

Of course, this is not the only argument for the abolition of immunity and some votes can be found in which judicial system has built on the criterion of applicability of the votes and confiscation of property of foreign governments on other principles such as nature of the property and property. In other words, according to the followers of this path, those activities and assets related to administration and governance affairs of foreign state is immune from arrest and being subject of votes implementation. An example of this view (approach) can be found in several acts, including the State immunity act 1978 (SIA) of Great Britain, which has been the source of many ideas in this area. According to this act (law) the entry permit to implementation stage can be issued only when those property or activities had been specific to possessive business or in the course of the dispute had been dedicated to this type of activities.

Of course, with the total of these criteria as well as adding new criteria to permit the abolition of the executive immunity of the government reiterated away. For example, in the UN Convention on State and their property Immunity of 2004, such an approach can be seen. In this Convention (and consequently the votes derived from it) three conditions for the abolition of State immunity have been expressed in this way firstly the immunity derogated by expression of the will, the property of requested subject should be associated with the observed difference and finally the property are specific to non-governance administrative or non-administrative activities. The aim of adopting these modern approaches is further support of global trade process and business growth in a fair manner. Undoubtedly if a special judicial system, minimize the possibility of justice resulting from a foreign government's actions in its territory, will be faced with two major problems:

1) Reluctance to enter the lucrative activities with the government violating the covenant

Undoubtedly if a foreign government in defense of the breach of its contractual obligations, consistently in the different courts invoke its immunity from prosecution and protection from detention and implementation - even given that the host Supreme accept these arguments- gradually will lose the possibility of trade and turned into a state of isolation and risk to investment with this country will be considered very high, as a result of such a government is forced to accept contractual terms is much more difficult in the future to does not lose the international trade possibility entirely. For example, perhaps this government in the have to accept that articles in future contracts that decrease the amount of profit or guarantee the accuracy of its performance and this is exactly the situation in which the government normally doesn't forced to accept, but now that known as a rebel and covenant violated government which should compensate the risk for trade with potential international partners and that in the long term, will strengthen more benefits for profiteer state caused by unnecessary and excessive use of executive immunity.

2) Distrust of the host country for profitable investments

Another example of this issue can be seen in the seizure of assets of foreign entities that are led this that states traditionally want to confiscate the property of aliens, to conclude commercial contracts in their territory, should grant infinite guarantees to investor guest as an incentive for their participation, which itself led to the destruction of more interests of host government in the long-term. As a result, if the host government to ensure the interests of foreign investors, considers the immunity from arrest and execute against it in the form of continuing, even nationals of the host government gradually will lose their incentive to enter the business process with the foreign investor guests, because find themselves alone in face of great terror of a non-accountable legal entity and according to the wisdom prefer enter business with people who are aligned to them.

All of these reasons suggest that the smart legal systems minimize the possibility of invoking immunity by foreigners - except in very critical situations - firstly in order to close the paths to escape from justice and secondly, prevent fear and reluctance to enter into beneficial business transactions with foreign investors.

3) Judicial approach based on integration and performance and qualification stage

³ August reinisch- European court practice concerning state immunity from enforcement measures- Euppean journal of international Law - 2006 - P803

Another course which sometimes has been presented by doctrine and many consider it as a direct and rationally result is that basically the assumption of separation of exercise of jurisdiction stage over foreign government and the stage of implementation of a hypothetical Vote is futile because in the point of view of criminal justice and as well as fairness, it is inconceivable that trial (proceedings) for a unenforceable and imaginary result is taken place. It also can't be agreed with the proceedings of a trial which its outcome applicable only when the benefit of one of the parties. These questions are rooted in justice and judgment meetings (hearings) that with spending much cost, expertise and time, finally with a simple invoked immunity had been void.

The most important conclusion that can be awarded to believe this view is that accepting the jurisdiction of foreign courts on their own means accepting the implementation of vote as well. As a result, governments that have participated in the process of judicial review or judgment beforehand have expressed their compliance with that court's implementation of vote as well.

The view (approach) that have many proponents among independent jurists make its way to the judgmental procedure of the European states⁴, for example, the Federal Court of Switzerland (as the highest judicial organ of the country) issuing a judicial precedent states that the implementation of vote, is the corollary of the jurisdiction of the court and after accepting the possibility of drawing the proceedings, the possibility of invoking immunity does not exist except in one case at a time when the seized property have government application that in such a case, however, there is no possibility to executive actions.

3. Overview of General Case Law of the States on Executive Immunity

1) Turkey

Courts in Turkey broadly refuse to recognize immunity to foreign governments. In the most recent votes related to subject in Turkish proceedings Courts, have permitted the confiscation of property of foreign government and enforcement actions in the field and have voted it. In one case in 1993⁵ during an appeal hearing on side the United States, Turkey Court of Appeals stated that: Foreign government can't simply arguing that Turkey's laws merely rules on property related to the Turkish nation, benefits executive immunity and their property can be confiscated in Turkey.

In addition, in an address on the side of the government of Azerbaijan in 2001⁶, the Turkey Court of enforcement states that all property of foreign governments, whether movable or immovable property in Turkey can be banned.

It may be assumed apparently that the Turkish courts view is on complete abortion of immunity, but according to proven commercial spirit of disputed subjects in these claims, the main argument has been emerged regarding the possibility of entering the implementation stage with relevant assets and property of an independent state and it should be noted that the general judicial approach of Turkey isn't far away from provisions of the European Convention on State Immunity adopted in 1972, and being non-sovereign of property subjected to confiscate, is conditioning.

2) Italy

In the Italian legal system in an interesting way, traditionally the possibility of entering the states to capital arbitration and subsequent seizure of foreign sate's property had been recognized and is still based on the same base.

The argument basis in the Italian courts' rulings on permission for revoking the immunity of foreign state and its property has been formed with an emphasis on the nature of the activities and assets related to foreign government. In Italy possessive actions and property related to non-government activities of states and offices related to them, are excluded from the circle of immunity and it that scope, the State treated as a typical legal person.

In 1887, following a dispute between the Tunisian government and a natural person, an appeal court in Italy argued that the offender government to implement contractual that has profit aspect can't evoke to its credit and cash assets immunity that have been associated with these activities, as a result all the credits of Tunisian government in Italy in accordance with implementation of the arbitration award is to be banned.

⁴ *Royaume de Grece v. banque Julius bar & Cie, Tribunal federal Suisse, 6 june 1956*: "As soon as one admits that in certain cases a foreign state may be a party before swiss courts to an action designed to determine its rights and obligations under a legal relationship in which it had become concerned, one must admit also, that foreign state may in Switzerland be subjected to measures intended to ensure the forced execution of a judgment against it. if that were not so, the judgment would lack its most essential attribute, namely, that it will be executed even against the will of the party against which it is delivered":

⁵ *Societe X v. etats unis d' amerique*, cour de cassation, 11 june 1993

⁶ *Societe v. La republique Azerbaijan, tribunal d' execution, 21 feb. 2001*

A similar decision in the Court of appeal of the Kingdom of Italy in 1926⁷, about dispute between the Romanian government and a natural person was adopted. In the section related to the topic of the discussion on this vote (view) is as follows: there is no doubt that except real estate devoted to administration and diplomatic management of foreign government, other assets of the Romanian government in Italy can be banned and executive immunity in this regard does not exist.

The two above-mentioned judicial decisions have been on the basis of legal justice, jurisprudence, international obligations and domestic law in the matter of course in Italy. The Act No. 1621 of Italy approved in 1925⁸ has been of the main provisions of the country in order to organize immunity of foreign states' property in Italy indicating the commercial nature of the action as the main condition for waiving immunity. This legislation, however, in 1926 with little interval was turned, as the Act No. 1263 and added a very other important element to the credibility provisions to cancel immunity of foreign states and it is the intention and will. In other words, the foreign government's intention to submit to arbitration and the abolition of immunity must be established. Another limit of new law is required agreement by the Minister of Justice in particular.

One another case about the limited executive immunity of foreign government in Italy backs to question that in 1963 was asked about one of the Venice court decisions (issued in 1959)⁹ from Court of the constitution, and as if still some doubts about the legality of restrictions on the right of foreign state immunity in the implementation stage has been exist. In this question it was asked whether the rejection of the immunity of foreign states in some cases, as well as the seizure of its assets is considered contrary to Article 10 of the Italian constitution or not and ultimately whether Act approved in 1926 is contrary to the constitution or not. Noteworthy in the article tenth of constitution of Italy noted that Italian judicial system has committed itself to fulfill the obligations and accepting international conventions and imperatives of international law as its internal rules and Italian Government approach dealing with foreigners will be derived from international rules and bilateral or multilateral treaties.

The constitution court with the issuing decision in July 1963 stated that limiting immunity in accordance with is in act of 1926, nowise shall be considered as violation of the constitution and the seizure of commercial assets of states that has no role to perform their management and diplomatic duties is proper and the immunity assumption of state is for implementation of affairs related to political rule not non-sovereignty.

As a result, the Italian judicial system is considered as one of the leaders to seize state assets and the abolition of their immunity (though in a systematic way).

3) Switzerland

Looking at the votes issued by the Swiss courts can be found that the general and specific legal procedure in this country is also widely allows to vote enforcement against foreign government and seize its assets. In Switzerland, following the international trend, the seizure of foreign governments' assets is depended on establishment of non-government description of those property and activities.

Federal Court of Switzerland, in March 1918, proceeding the dispute between the Ministry of Finance of the Kingdom of Austria and a legal person¹⁰, argued that part of the banking assets of Swiss which has been banned (seized) is also accounted for possessive activities, as a result the possibility of enforcement against the Austrian government is permitted. Of course, this does not end and current Swiss Federal Justice in a question-like comment announced that the red line and the amount of foreign government's assets seizure. This organization objected to the fact that considering the seized account is used to perform governmental affairs and to maintain friendly relations with foreign governments, and based on international norms, the implementation of guilty verdict against a foreign state and its property should be ignored. This organization stated that a government shouldn't be treated like a person and seizure of property a foreign state is an inappropriate behavior. Following this comment, Swiss National Executive Committee in July the same year (1918) following the events related to World War with the aim of protecting the country issued¹¹ an order and banned enforcement actions against foreign government and seizure its assets.

In 1923, again in an explanatory statement it was announced that no foreign government's property may be seized and can't be the subject of implementing the vote by a court in another country.

⁷ *state of Romania v. trutta* (AJIL 1932) supp p. 711f/ enforcement of civil judgments and orders in italy 2000

⁸ *Raccoltaufficiale delle leggi e deidecreti del regno d' Italia*, 1925 VIII, p.8109

⁹ *sentnze e ordinanzedellacortecostituzionale II* (1963)

¹⁰ *Austrian Minister of Finance v Dreyfus* Swiss Federal Tribunal (13 March 1918)

¹¹ *official collection of federal acts and ordinances of the Swiss confederation (AS)* vol. 34 , p. 775 ; Gmur, *ZurFrage der Gerichtlichen Immunitat fremder staaten und staats unternehmungen*, schweizerisches jahrbuch für internationals Recht, VII

This absolute and pure approach to foreign state immunity did not find much more continue and finally receding crises emerged from World War I, was canceled in 1926 with Swiss national executive committee order and situation returned back to before 1918. Signs of this return can be observed not in decision, but on the Swiss Federal Court comment in 1930 following the action discussed between a natural person and the Government of the Hellenic Republic¹². This Court stated that, despite the lack of land relationship between the property of requested subject and the Swiss government (which leads to a lack of order to seizure), it is important to note that principally there is no limit (restriction) for confiscation of assets related to foreign government possessive actions. In addition, the Supreme Court of Zurich in 1937¹³ ordered the seizure of bank accounts of Romanian government and has announced that according to this court there is no binding provision (regulation) to ban seizure of commercial property of Romanian government and resulting enforcement actions in this regard are allowed.

With the coming of World War II and re-emergence of serious political problems, the regulation approved in 1918 by national executive committee in Switzerland prohibiting the seizure of assets of foreign governments revived and in 1948 followed the end of harmful effects of the economic burden of the Second World War, the limitation of aliens immunity was restarted and regulation 1918 was abolished again.

During the proceedings the alleged executive immunity of a trade dispute between the Government of the United Arab Emirates and a natural person in 1960¹⁴, the Federal Court of Switzerland announced that the assets of seized subject in the period in which they have been banned, does not devoted to pure sovereignty activity and some business activities are done with this account. As a result, the seizure of such an account is okay because has no executive immunity. Since the issuance of these votes to date, the basis of executive immunity of foreigners in Switzerland is limited immunity, however, as followed by this course and continues today, always the courts of Switzerland, as possible have tried to not limiting the assets of foreign states private entities. Switzerland in 1928¹⁵ responding to a question from the League of Nations stated that: "being absolute or limited isn't the original immunity with consensus in the international community" and the popularity of Swiss banks between foreign wealthy and leaders and kings who sometimes their own personal finance on these banks is more than their respected nation, resulted by such a legal approach, an approach that is somewhat seems different from similar course of objection to immunity in other countries.

4) Belgium

Belgium's justice system also following the modern trend of moderated executive immunity of states, seeks the passage of absolute thinking time in the state executive immunity and its property area. Of course, in view of the interesting and modern argument that had been taken in these votes new, it can be said a part of the reasonable process of promoting immunity departure, is due to an issue that can be observed in two specific addressing:

In the first addressing between the Government of Zaire and independent legal person in 1995¹⁶, it can be observed that the Court of Brussels declares that what is important is whether the property requested its suppression (seizure), by the government of Zaire has been dedicated to business or not. This Court demanded from Zaire government documents to reach the court a scientific and moral convince that pointed account (which belongs to the embassy) is devoted to activities of state sovereignty rather than commercial actions. Following the Zaire government lawyers inability to prove the non-commercial accounts of embassy, the court ordered the confiscation of account and the de facto executive immunity of Zaire government dies. The exquisite point of Belgian judicial system show itself in stage to appeal this decision (vote). The Court of Appeal of Brussels without questioning the principle of limited immunity notes that called (defendant) state is not required to prove commercial or government based of its property and accounts, and this responsibility for demander (plaintiff) to prove the state property that has offered their arrest request to the court has a commercial nature or has been dedicated to commercial activities. This vote gave a clear stance of Belgium against immunity and also introduces the arrest (seizure) request, an approach which is repeated several times during the proceedings, including the following:

In the second proceeding conducted by this thought philosophy and we intend to refer to is a similar

¹² Hellenic republic v. walder(BGE 56-1930)

¹³ Decision of 30 sep 1937 (AD) no. 60

¹⁴ United arab republic v. Mrs. X judgment of 10 feb 1960

¹⁵ Opinion of 29 April 1928 – repertoire Suisse, loc. Cit., p. 403 , 400

¹⁶ Republique du Zaire v. d' hoop et crts, cour d'Appel, brussels, 8 oct. 1996 (1997) JT 100. III By virtue of the principles of sovereignty and immunity , a foreign state cannot be forced to prove the nature of attached funds

disagreement between the Iraqi government and a legal person. In 2003¹⁷, the Civil Court of First Instance in Brussels voted to seizure of state assets (that essentially are belonged to accounts of the embassy) arguing that the government refused offering any evidence, which represents the commercial accounts of the embassy, resulting the governance-based of the account is doubtful. During the investigation (proceeding) of this case at the appeal stage, Iraqi lawyers with knowledge of the decision issued by the former, in defense stated that the burden of proof of banned commercial accounts is with demander (plaintiff). In fact, they used Brussels Court of Appeal arguments in the previous vote (decision). The Court of Appeal of Brussels again, of course, this time more clearly stated that since the principle is on the executive immunity of foreign government and limiting immunity to the condition of the occurrence of some exceptions has been accepted, therefore the burden of proving commercial accounts should be by pretender of contrary of principle. As a result, the government doesn't need to present a reason evoking the immunity and this is the applicant of the implementation of vote that should prove the contingency of contrary of principle. This situation can be called "immunity assumption". Investigating these two votes and other similar decisions, it brings to mind that in Belgium the executive immunity of the states as a principle has been accepted by the court, but if demander (plaintiff) doesn't have the ability to prove the commerciality of some assets of foreign state, can by them, determine breach of obligation and its own intended damages.

5) Iran

The Iranian government as a member of the United Nations and as part of the international community has respected the jurisdictional immunity of states and has been identified. Single Article of "Law of competence (jurisdiction) of Courts of Justice of Islamic Republic of Iran to address civil claims against foreign governments" represents implicit belief of Iranian legislator regarding the immunity of foreign states from jurisdiction of Iran courts and the convention ratification law in 2004 of the United Nations on the juridical immunity of governments and their property clearly indicates acceptance of judicial immunity of states and their property from government of Iran.

According to civil law, "regulations and treaties concluded in accordance with the constitution between Iran and other countries is the rule of law."¹⁸ In law, this means that such law is binding.

Juridical and executive immunity is one of the effects of rule of law and will prevail until we maintain in the rule of law. As a result, until the law has rule, there is also immunity, but upon exiting from domination of law and the entering to sovereignty will, the immunity will be shaken. Granting immunity means in accordance with the framework of the existing laws governing on community, as a result, if following insurgency or by agreement (private contract), it is supposed to these coordinated set of rules are not enforced, immunity becomes meaningless. For example, in the case of United States of America Embassy staff hostage in Tehran, the International Court of Justice accepting that the Iranian government itself has not done anything against America embassy staff, only evoking if the next government's action is responsible for binding, established the violation of the 1961 and 1963 Vienna Convention on political and consular relations and Iran was condemned to pay compensation. According to the Court, the Iranian government had not done anything against the US embassy staff, and at the time of embassy occupation because of the public uprising against embassy, couldn't be able to prevent embassy occupation and therefore up to this point the relevant conventions had not been violated. According to the Court, the Iranian government after the occupation of the embassy could help to release of hostages, but failed to fulfill this obligation, and therefore blamed the Iranian government in this respect.

4. Conclusion

Executive immunity means that the criminal court sentence (decision) against a natural person as representative of foreign government resident, is no longer applicable in the another country. This type of immunity other than that in terms of government power in run is faced with different approaches is accepted by public and philosophy of its existence is good performance of diplomatic missions and compliance with the general principle of the sovereignty of states, based on which no government should be tried by another state or another state's laws applied to him.

The most important judicial approaches to the problem (objection) of impunity include the following;

- 1) The judicial approaches based on absolute immunity of the State and its property
- 2) The judicial approach based on the acceptance of foreign government restrictions on executive immunity

¹⁷ Irak v. SA Dumez, tribunal civil, Brussels, 27 feb 1995

¹⁸ Article 9 of the Iran Civil Code.

3) Judicial approach based on integration and performance and qualification stage

Courts in Turkey broadly refuse to recognize immunity to foreign governments. In the most recent votes related to subject in Turkish proceedings Courts, have permitted the confiscation of property of foreign government and enforcement actions in the field and have voted it. But it should be noted that the general judicial approach of Turkey isn't far away from provisions of the European Convention on State Immunity.

In the Italian legal system in an interesting way, traditionally the possibility of entering the states to capital arbitration and subsequent seizure of foreign state's property had been recognized and is still based on the same base and Italian judicial system is considered as one of the leaders to seize state assets and the abolition of their immunity (though in a systematic way). Swiss juridical courts also widely give permission to run enforcement votes against foreign government and its assets seizure. In Switzerland, following the international trend, seizure of assets of foreign governments is conditional on obtaining (authentication) of non-governance description of those property and activities. . Since the issuance of these votes to date, the basis of executive immunity of foreigners in Switzerland is limited immunity, however, as followed by this course and continues today, always the courts of Switzerland, as possible have tried to not limiting the assets of foreign states private entities. Belgium's justice system also following the modern trend of moderated executive immunity of states, seeks the passage of absolute thinking time in the state executive immunity and its property area, So in Belgium the executive immunity of the states as a principle has been accepted by the court, but if demander (plaintiff) doesn't have the ability to prove the commerciality of some assets of foreign state, can by them, determine breach of obligation and its own intended damages. The Iranian government has respected the jurisdictional immunity of states and has been identified. Single Article of "Law of competence (jurisdiction) of Courts of Justice of Islamic Republic of Iran to address civil claims against foreign governments" represents implicit belief of Iranian legislator regarding the immunity of foreign states from jurisdiction of Iran courts and the convention ratification law in 2004 of the United Nations on the juridical immunity of governments and their property clearly indicates acceptance of judicial immunity of states and their property from government of Iran.

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United Arab Republic v. Mrs. X judgment of 10 Feb 1960.

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