Court of Cassation Decides on the Scope of Diplomatic Immunity under the League of Arab States Framework

Shahd Mahmoud

Arab League & Diplomatic and consular relations & International organizations | Feb 28, 2011

Appeal No. 35476 of Judicial Year 77

Court of cassation

Judgment of 28 February 2011

On 28 February 2011, the Court of Cassation **held that diplomatic immunity under Article 14 of the Charter of the League of Arab States (LAS) and the Internal Regulation of the General Secretariat is limited to employees falling within the designated categories, namely senior and middle management.** This decision was delivered in the context of reviewing a criminal case where the appellant, in his capacity as Director of the Arab Fund for Youth and Sports Activities affiliated with LAS was convicted for embezzlement, forgery of official documents, use of forged documents, unlawful gain, and misappropriation of funds and movable property belonging to his employer(LAS).

The Giza Criminal Court convicted the appellant, in his capacity as a public official being the Director of the Arab Fund for Youth and Sports Activities affiliated with LAS —one of the entities to which the Egypt contributes financially, with embezzling funds belonging to his employer between 2002 and 2005. The offences were facilitated by **forging official documents and using them before both his employer and banking institutions** to obtain the unlawfully appropriated amounts. He was further convicted with misappropriating employer-owned property and documents, **abusing his position for personal gain**, and committing additional acts of forgery in official correspondence related to salaries and bonuses.

The appellant lodged an appeal before the Court of Cassation, contending, *inter alia*, that the aforementioned judgment has erred in law in rejecting his plea that the Public Prosecution's investigation and referral procedures were null and void for having been conducted without prior authorization from the Secretary-General of LAS, on the ground that he allegedly enjoyed diplomatic immunity.

The Court of Cassation **rejected this argument** and held that **Article 14 of the Charter of the League of Arab States** provides that members of the Council of the League, members of its

committees, and employees specified in the Internal Regulations shall enjoy privileges and diplomatic immunity while performing their duties.It further stated that **Article 4 of Chapter two of the Internal Regulations of the General Secretariat of the League of Arab States** classifies the Secretariat's positions into five categories: (1) senior management, (2) middle management, (3) executive management, (4) supporting executive management, and (5) auxiliary services.The Court also referred to **Article 17 of Chapter Four of the same regulations,** which provides that only employees of the first and second categories shall enjoy diplomatic privileges and immunities under Article 14 of the Charter, in accordance with the Agreement on the Privileges and Immunities of the League and the Headquarters Agreement. It further provides that **the Secretary-General shall periodically notify the Ministry of Foreign Affairs of the host State of the names and positions of such employees.**

Therefore, the Court decided that, **as the appellant did not fall within the first or second category, and did not contend that his name had been notified to the Ministry of Foreign Affairs of Egypt as the host State, he did not enjoy any diplomatic privileges or immunities.** Accordingly, it rejected the argument that prior authorization from the Secretary-General of the League of Arab States was required for the validity of measures taken against the appellant and upheld the appealed judgment in that respect.

Printed from EGYPIL.com