# Court of Cassation upholds the Non-Enjoyment of Immunities by the Spouse of First Secretary of the Arab League

**Youssef Edwar**
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Appeal No. 1104 of judicial year 45

Court of Cassation

26 October 1975

On 26 October 1975, the Egyptian Court of Cassation upheld the non-enjoyment of diplomatic immunities by the spouse of the First Secretary of the Arab League, thereby affirming her conviction for smuggling gold bullion in violation of Egyptian customs and import regulations. The case traced back to 29 April 1970, when the defendant was apprehended at Cairo International Airport upon arriving from Beirut. A search revealed 23 gold bars, each weighing 1 kilogram, concealed within her luggage and beneath her clothing. She had not declared these items on her customs declaration and had instead attempted to bypass inspection altogether by invoking her husband's diplomatic passport.

On the basis of these findings, three charges were brought against her: illegal importation, for bringing in restricted goods without the required license from the Ministry of Economy; importation for commercial purposes, since trading in such goods was a privilege reserved by law to public sector companies; and attempted customs smuggling, for seeking to bring the goods into the country through illicit means so as to evade customs duties and taxes.

The Cairo Summary Court for Financial and Commercial Crimes found her guilty, imposing a fine of 200 Egyptian Pounds, ordering compensation of 27,600 Egyptian Pounds to the Public Treasury, and confiscating the seized gold. She then appealed to the Cairo Primary Court, Appellate Division, which accepted the appeal in form but went on to void the original judgment, replacing it with a fine of 100 Egyptian Pounds, alongside 27,600 Egyptian Pounds to be paid to the Customs Authority and the gold's confiscation.

It was against this backdrop that the defendant raised her central defence, arguing that the entire proceedings, including the search that led to her arrest, were invalid on grounds of diplomatic immunity under international law. She maintained that, as the wife of the First Secretary of the Arab

League, she was entitled to the same judicial immunities and privileges afforded to accredited diplomatic envoys. She contended that customs officials were not permitted to search her bags without the accredited of a representative from the Ministry of Foreign Affairs.

The Court rejected this argument stating that:

> **“The judicial privileges and immunities established under international conventions and in accordance with international customary law for diplomatic envoys are granted to them by virtue of their capacity as political representatives of a foreign state that is not subject to the judicial jurisdiction of the state to which they are sent.** Accordingly, they and members of their families enjoy judicial immunity under those international conventions and in accordance with international custom.
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> This being so, and given that these privileges and immunities are confined to diplomatic envoys in the aforementioned sense, and are not enjoyed by others — such as secretaries-general and officials of international organizations — except by virtue of agreements and laws that specifically provide for that; and **given that the Appellant does not dispute that she is the wife of a First Secretary at the League of Arab States, which is merely a regional Arab organization headquartered in Cairo and does not have the capacity of political representation of a foreign state; nor does she dispute the accuracy of what the appealed judgment cited from the Ministry of Foreign Affairs' statement — that the Egyptian Government had made a reservation to what was provided in Article 22 of the Convention on the Privileges and Immunities of the League of Arab States, namely that senior officials of that organization, together with their wives and minor children, should enjoy the privileges and immunities granted to diplomatic envoys — the effect of which is that Egypt is not bound by it**.
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> **It follows that what governs the Appellant's status in the particular matter under consideration — as the appealed judgment rightly held — is the text of Article 20 of the Charter of the League of Arab States**, which reads as follows: "Officials of the General Secretariat of the League of Arab States shall enjoy, irrespective of their nationality, judicial immunity in respect of acts performed by them in their official capacity." The implication of this is that persons other than these officials — namely their spouses and children — do not enjoy that immunity**.
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> ...It therefore follows that the customs officers' search of the Appellant's luggage, conducted in the absence of a representative from the Ministry of Foreign Affairs, after the grounds justifying such a search had been established in accordance with their statutory authority under Articles 26 to 30 of the Customs Law No. 66 of 1963, was a procedure free of any defect.”

** ***Note: The judgment refers to Article 20 of the "Charter of League of Arab States", but the correct treaty is the*** **Convention on the Privileges and Immunities of the League of Arab States**.

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