



DIPLOMATIC IMMUNITIES AND PRIVILEGES (DIAP) CIRCULAR NO 5 OF 2022

The Department of International Relations and Cooperation (DIRCO) of the Republic of South Africa presents its compliments to Diplomatic Missions and International Organisations accredited to the Republic of South Africa and has the honour to remind all Foreign Missions of the adherence to the South African Labour Relations Act, 1995 (Act No 66 of 1995), the National Minimum Wages Act of 2018 (Act 9 of 2018), and all regulations made under it with regard to locally recruited personnel (LRP).

Diplomatic Missions, consular posts, international organisations and persons conferred with immunity are obliged to respect the laws and regulations of the Republic of South Africa as receiving State provided for in the Diplomatic Immunities and Privileges Act (DIPA), No 37 of 2001 which incorporates the Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963, as well as the United Nations Conventions regulating immunities and privileges. Personnel employed locally by missions, consular posts, international organisations as well as persons conferred with immunity, who are involved in disputes in terms of the Labour Relations Act, 1995 (Act 66 of 1995) with the accredited diplomatic and international communities in South Africa could make use of the Department's assistance through the CCMA (Commission for Conciliation, Mediation and Arbitration) at the Department of Labour, to pursue such labour disputes.

The Department is concerned about an increased number of cases referred to the CCMA by the local staff of Foreign Missions and the reluctance of Foreign Missions to attend the CCMA mediation meetings. Affected missions are encouraged to provide responses to the CCMA through DIRCO whenever there are such requests and to adhere to the CCMA processes to find amicable resolutions to these labour matters.

The attendance of meetings does not infringe on the inviolability of the Foreign Missions nor the immunities of the accredited diplomat attending the meetings as it is not a court hearing where immunities would have to be waived.

In order to apply a predictable process to manage labour disputes lodged by locally recruited personnel (LRP) against foreign states and/or accredited international organisations represented in the Republic of South Africa, the Department and the CCMA have established guidelines for addressing such disputes as described in the Policy on the Management of Diplomatic Immunities and Privileges in the Republic of South Africa. The Policy can be downloaded at:

http://www.dirco.gov.za/protocol/policy_dip_immun_privilege_2011a.pdf

The Department of International Relations and Cooperation of the Republic of South Africa avails itself of this opportunity to renew to Diplomatic Missions and International Organisations accredited to the Republic of South Africa the assurances of its highest consideration.



PRETORIA
15 November 2022

Diplomatic Missions and International Organisations
accredited to the Republic of South Africa
PRETORIA