



Inter-Parliamentary Union
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135th IPU ASSEMBLY AND RELATED MEETINGS

Geneva, 23 – 27.10.2016

Assembly
Item 2

A/135/2-P.8
23 October 2016

Consideration of requests for the inclusion of an emergency item in the Assembly agenda

Request for the inclusion of an emergency item in the agenda of the 135th Assembly of the Inter-Parliamentary Union submitted by the delegations of the Parliaments of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates)

On 23 October 2016, the President of the IPU received from the delegations of the Parliaments of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) a request and accompanying documents for the inclusion in the agenda of the 135th Assembly of an emergency item entitled:

"The role of parliamentarians in protecting the principles of State sovereignty and State immunity from prosecution in the national courts of another State, and in preventing the adoption of unilateral legislation undermining these principles, which constitutes a violation of international law, international treaties and the Charter of the United Nations."

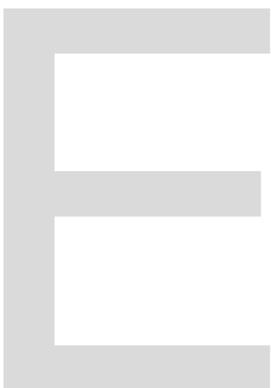
Delegates to the 135th Assembly will find attached the text of the communication submitting the request ([Annex I](#)), as well as an explanatory memorandum ([Annex II](#)) and a draft resolution ([Annex III](#)) in support thereof.

The 135th Assembly will be required to take a decision on the request of the delegations of the Parliaments of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) on Monday, 24 October 2016.

Under the terms of Assembly Rule 11.1, any Member of the IPU may request the inclusion of an emergency item in the Assembly agenda. Such a request must be accompanied by a brief explanatory memorandum and a draft resolution which clearly define the scope of the subject covered by the request. The Secretariat shall communicate the request and any such documents immediately to all Members.

Furthermore, Assembly Rule 11.2 stipulates that:

- (a) A request for the inclusion of an emergency item must relate to a major event of international concern on which it appears necessary for the IPU to express its opinion. Such a request must receive a two-thirds majority of the votes cast in order to be accepted;
- (b) The Assembly may place only one emergency item on its agenda. Should several requests obtain the requisite majority, the one having received the largest number of positive votes shall be accepted;
- (c) The authors of two or more requests for the inclusion of an emergency item may combine their proposals to present a joint one, provided that each of the original proposals relates to the same subject;
- (d) The subject of a proposal that has been withdrawn by its authors or rejected by the Assembly cannot be included in the draft resolution submitted on the emergency item, unless it is clearly referred to in the request and title of the subject adopted by the Assembly.



#IPU135

**COMMUNICATION ADDRESSED TO THE PRESIDENT OF THE IPU BY
THE VICE-SPEAKER OF THE MAJLIS ASH-SHURA OF SAUDI ARABIA**

23 October 2016

Dear Mr. President,

The Majlis Ash-Shura of the Kingdom of Saudi Arabia would like to submit on behalf of the countries of the Cooperation Council for the Arab States of the Gulf (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) a request for the inclusion of an emergency item in the agenda of the IPU 135th Assembly of the Inter-Parliamentary Union, to be held in Geneva from 23 to 27 October 2016, entitled:

“The role of parliamentarians in protecting the principles of State sovereignty and State immunity from prosecution in the national courts of another State, and in preventing the adoption of unilateral legislation undermining these principles, which constitutes a violation of international law, international treaties and the Charter of the United Nations.”

Please find attached an explanatory memorandum and a draft resolution defining the scope of the subject covered by the request.

Yours sincerely,

(Signed) Dr. Mohammed Amin Ahmad AL JEFRI
Vice-Speaker of the Majlis Ash-Shura
Kingdom of Saudi Arabia

THE ROLE OF PARLIAMENTARIANS IN PROTECTING THE PRINCIPLES OF STATE SOVEREIGNTY AND STATE IMMUNITY FROM PROSECUTION IN THE NATIONAL COURTS OF ANOTHER STATE, AND IN PREVENTING THE ADOPTION OF UNILATERAL LEGISLATION UNDERMINING THESE PRINCIPLES, WHICH CONSTITUTES A VIOLATION OF INTERNATIONAL LAW, INTERNATIONAL TREATIES AND THE CHARTER OF THE UNITED NATIONS.

Explanatory memorandum submitted by the delegations of the PARLIAMENTS OF THE GULF COOPERATION COUNCIL (BAHRAIN, KUWAIT, OMAN, QATAR, SAUDI ARABIA AND THE UNITED ARAB EMIRATES)

State sovereign immunity is one of the most important principles of the 1648 Peace of Westphalia. Even today, such immunity is the legal basis of the nation State, which can also be known as a *homeland*. These terms denote that all States have the right to conduct their internal affairs and manage their foreign relations without interference from other States. Thus, a State's immunity from the jurisdiction of the courts of another State constitutes one of the most fundamental pillars of the principle of State sovereignty. This is because such immunity wholly embodies that principle, which in itself represents the essential basis for the stability of international relations.

Additionally, the principle of State sovereign immunity is a basic legal principle that has contributed to the establishment of the international order. It is one of the binding existential principles of international law and of the Charter of the United Nations. One of the established principles of international relations is that a State's immunity is granted to its representatives, as they are the physical embodiment of their State.

All UN agreements recognize that sovereign immunity of a State and its property is generally accepted as a principle of customary international law. The Charter of the United Nations sets out that: "The Organization is based on the principle of the sovereign equality of all its Members." Therefore, no Member State has jurisdiction over another Member State of the United Nations. The failure to respect State sovereign immunity constitutes a blatant violation of the fundamental principles of international law and sets a precedent that paves the way for a new era of international legal chaos.

Furthermore, any violation of State sovereign immunity conflicts with the basic principles of a world order, which is essential to the stability of international relations, and in which the reason for States to cooperate is limited to tackling global challenges and risks that require joint efforts to ensure success.

There is no doubt that the approval of national laws that abolished State sovereign immunity would encourage other States to adopt similar measures according to the principle of reciprocity. In turn, that would result not only in repercussions and complexities, but also in increased mistrust, both between nations in their bilateral relations and within international relations more broadly. Respect for State sovereign immunity would therefore be undermined, making international relations vulnerable and fragile, and complicating bilateral relations between States.

Lastly, such laws would have significant negative financial and economic consequences, as increased mistrust and insecurity would have a negative impact on the global economy, including by: limiting the movement of capital and trade in assets between countries; restricting direct and indirect investment flows, and constraining international trade and market access.

THE ROLE OF PARLIAMENTARIANS IN PROTECTING THE PRINCIPLES OF STATE SOVEREIGNTY AND STATE IMMUNITY FROM PROSECUTION IN THE NATIONAL COURTS OF ANOTHER STATE, AND IN PREVENTING THE ADOPTION OF UNILATERAL LEGISLATION UNDERMINING THESE PRINCIPLES, WHICH CONSTITUTES A VIOLATION OF INTERNATIONAL LAW, INTERNATIONAL TREATIES AND THE CHARTER OF THE UNITED NATIONS

Draft resolution submitted by the delegations of the Parliaments of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates)

The 135th Assembly of the Inter-Parliamentary Union,

- (1) *Considering* that the possible adoption and implementation of a national law which undermines State sovereign immunity would contradict the fundamental principles of international law,
 - (2) *Recalling* the Inter-Parliamentary Union initiative calling for strong action to protect the right of all nations to conduct their internal affairs in accordance with the principle of non-interference from other countries, namely, the immunity of a State from the jurisdiction of the courts of another State,
 - (3) *Emphasizing* the commitment to protect the principle of State sovereign immunity, which is the basic legal principle that has contributed to the establishment of the international order,
 - (4) *Recalling* that the adoption of such laws by States would encourage other States to adopt similar measures in accordance with the principle of reciprocity, resulting not only in repercussions and complications, but also in increased mistrust between nations,
 - (5) *Affirming* commitment to the principles of the United Nations, especially those related to agreements which recognize that sovereign immunity of a State and its property is generally accepted as a principle of customary international law. The Charter of the United Nations stipulates that "the Organization is based on the principle of the sovereign equality of all its Members". No Member State therefore has jurisdiction over another Member State of the United Nations,
1. *Calls upon* the international community to protect the principle of State sovereign immunity, the disrespect for which constitutes a blatant violation of international law and sets a precedent that paves the way for a new era of international legal chaos. The adoption of any such law would have a significant negative impact, affecting international relations and limiting the movement of capital, investment and trade, all of which would be detrimental to global peace and the economy.