

IMMUNITY OF STATE OFFICIALS FROM FOREIGN CRIMINAL JURISDICTION

The Commission has requested that States provide information on the practice of their institutions, and in particular on judicial decisions, with reference to the meaning given to the phrase “official acts” and “acts performed in an official capacity” in the context of the immunity of State officials from foreign criminal jurisdiction. There are very few cases in which the issue of the immunity of foreign officials who do not enjoy immunity under treaty has been considered by United States appellate courts in reported opinions in criminal cases, and these opinions shed only limited light on the issue framed by the Commission. The United States is nevertheless pleased to provide the following citations in cases in which the opinions touched on the issue:

- *United States v. Noriega*, 117 F.3d 1206 (11th Cir. 1997) (discussed in context of the scope of immunity *ratione personae* in the Report of the ILC (65th session), A/68/10 at 64 n.285)
- *In re Doe*, 860 F.2d 40 (2d Cir. 1988) (discussed in the context of waiver in Kolodkin, Third report on immunity of State officials from foreign criminal jurisdiction, A/CN.4/646 at 20 n.69)
- *Jimenez v. Aristeguieta*, 311 F.2d 547 (5th Cir. 1962)

The Commission may find this information useful in its consideration of this topic.