

RESUMÉ

SURGOŠ, T. The Legal Fiction of Exterritoriality of the Premises of the Mission as an Obsolete Theory of the International Law. State Doctoral Examination Thesis. Charles University in Prague, Faculty of Law, Department of International Law, 2009, 125 p.

This State Doctoral Examination Thesis confronts the Supreme Court of the Slovak Republic decision of December 12, 2006, case No. 5Obdo/41/2004, which adopted the legal fiction of exterritoriality of embassy premises through the sources of International Law. By means of critical examination of the international custom, the international treaties, the international legal doctrine and the decisions of the International Court of Justice, the author finds that, contrary to popular opinion, the premises of the mission *de lege lata* form part of the territory of the receiving state and, accordingly, are subject to the legislation of the very same state. However, that same premises are *ex conventione* exempt from the execution of the local executive or judicial power therein as far as any legitimate performance of the diplomatic functions is concerned, unless agreed otherwise by the sending state. Also, the thesis deals with the characteristics of the premises of the mission, as well as of the exterritorial fiction *per se*, including the possible cause of popularity and the consequences of strict application of the latter. Based on analysis of the case law of the sixteen states, the author concludes that having considered the fiction of exterritoriality to be obsolete the absolute majority of courts world-wide decided parallel cases indentially, however, diametrically opposed to the decision rendered by the Slovak Supreme Court.

Keywords: Exterritoriality; Inviolability; Premises of the Mission