



**PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS
MISSION PERMANENTE DE L'AUTRICHE AUPRES DES NATIONS UNIES**

No. RECHT_0074_2010

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the Secretary-General's Note LA/COD/4 of 26 July 2010 in the context of General Assembly resolution 63/126, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives", has the honour to inform the Secretary-General on the following:

„With regard to the incident concerning the vehicle belonging to the Embassy of the Republic of Belarus in Austria reported by Belarus to the United Nations with note verbale of 17 June 2010 Austria would like to submit the following clarifications.

Austria rejects any allegations that it has violated Article 29 of the Vienna Convention on Diplomatic Relations and hindered the Belarusian ambassador from the performance of his duties.

The facts of the case are as follows:

On 8 April 2010 at approximately 5:35 p.m. Austrian police officers have stopped the vehicle belonging to the Embassy of the Republic of Belarus with the number plate WD-854 because the vehicle was driving in violation of several provisions of the Austrian law on road traffic (StVO, Federal Law Gazette No. 159/1960). The vehicle was not only illegally using the bus lane but it was driving recklessly with excessive speed and thereby seriously endangering cyclists driving legitimately on the bus lane. In addition, the driver had not fastened his seat belt.

When asking for the driver's driving licence and the car's certificate of approval the Belarusian ambassador travelling in the rear of the car was threatening the police officers that they would lose their jobs if they did not let the vehicle go. Since there were obvious signs that the driver was drunk, he was requested to submit to a breathalyzer test

which he refused to do. Thus in accordance with the StVO and in order to avoid putting other road users at risk, the police officers decided to hinder the driver to continue driving. Subsequently, the Belarusian ambassador volunteered to drive the vehicle himself, to which no objection was made by the police.

Austria would like to emphasize that the conduct of its police officers was fully in compliance with the provisions of the Vienna Convention on Diplomatic Relations including Article 29 of the Convention. Austrian officers did detain neither the ambassador nor his driver and did never show a willingness or even threaten to use force. On the contrary, the officers treated both the ambassador and his driver with due respect and dignity acting fully in accordance with internal instructions and within their authority.

In a note verbale to the Embassy of the Republic of Belarus in Vienna dated 12 August 2010 Austria has submitted detailed clarifications of the case and also emphasized that according to Article 41 of the Vienna Convention on Diplomatic Relations all persons enjoying privileges and immunities have to respect the laws and regulations of the receiving State including laws on road traffic. The Embassy was also informed by the same note verbale that the administrative proceeding for violation of the Austrian road traffic law had been discontinued with regard to the privileges and immunities enjoyed by the accused.

Finally, Austria would like to refer to OP 6 of A/RES/63/126, which urges States to take all appropriate measures, in accordance with international law, at the national and the international levels, to prevent any abuse of diplomatic or consular privileges and immunities. Similarly, the preamble to the Vienna Convention on Diplomatic Relations states that the purpose of privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions of representing States. In this context, Austria is of the firm opinion, that it is compatible with Article 29 of the Vienna Convention on Diplomatic Relations to hinder a person enjoying privileges and immunities from driving, when such a person, as in the present case, is seriously endangering the life and health of other road users."

The Permanent Mission of Austria to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration. /

New York, 16 September 2010



To the
Secretary-General of the United Nations
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