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## THE DIPLOMACY: ART AND LAW

Diplomacy plays an important role in all domains. Diplomats are representatives of states. States can communicate with each other only through them. Such communication takes place primarily through the diplomatic system – a worldwide network of embassies and allied agreements. However, in order to establish communication between any two states, they must agree to establish "diplomatic relations". Therefore, the concept of diplomatic relations is the key to opening the way to normal communication between states. As such, it is an essential element of the entire international agreement. Art and legal aspect are necessary tools for diplomats to make their work satisfactory and efficient for states.

**Keywords:** diplomacy, negotiations, protocol, policy, international relations.

### 1. INTRODUCTION

Diplomacy is the main, but not the only instrument of foreign policy that is determined by leaders of states. Unlike foreign policy, which is proclaimed publicly, diplomatic activities have been carried out and are mostly confidential or secret. The political leaders of sovereign states, who define foreign policy, pursue what they consider to be a national interest, adapting national policy to changes in external conditions. Author of the article explains why diplomacy played so important role in the past and why its mission is still valuable today.

### 2. DEFINITIONS AND ROLE OF DIPLOMACY

The term diplomacy comes from the ancient Greek word for diplomacy, consisting of „dipol”, which means “folded in half” and suffix „ma”, which means “object”. This term was taken over by the next Romans – “diploma” – is a document half-folded, giving title or privilege, and sometimes a travel permit, issued by the „ruler” or the relevant authorities. Later, this term was used for all solemn documents issued by chancelleries, especially those that concluded agreements between sovereigns. The term “diplomacy” was later included in “international relations” and the direct link with the documents expired (only “diplomacy”, i.e. learning about old official documents, remained). In the 18<sup>th</sup> century in France, the term “diplomat” referred only to a person authorised to negotiate on behalf of a state (Kopaliński, 1989; Sutor, 2012) (<https://www.britannica.com/topic/diplomacum>).

At the same time, Edmund Burke, a philosopher and politician, defined the term “diplomacy” as prostitutes by means of which states maintained mutual relations. In the nineteenth century, “diplomacy” was also considered to be the institutions and offices that

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performed these functions and their staff – the staff of the diplomatic foreign service, who were required to be highly qualified: cunning, dexterity, stackability, prudence and secrecy. Such advantages were also useful in other areas of the growing state administration and those created since the mid-19<sup>th</sup> century in international organizations, and even in everyday life. In the twentieth and twenty-first centuries, negotiations in many areas of foreign and domestic policy were already referred to as “diplomacy”; it even found its way into the common language, mainly English, which constantly created new terms or gave new meaning to old expressions (Szczepanik, 2012).

### **3. DIPLOMACY AND INTERNATIONAL RELATIONS**

Despite the similarity of the background, diplomacy and international law have always been full of complicated relationships – sometimes competitive and sometimes complementary. They are similar also because the emergence of non-state actors (seeking at least partial recognition of them as participants in diplomacy) and actors of international law, has diverted the list and complicated the rules. It seems that these two basic ways of functioning of international society will continue to evolve, as they have done in their history (Clinton, 2016).

Therefore, the concept of diplomatic relations is the key to opening the way to normal communication between states. As such, it is an essential element of the entire international agreement (James, 2016).

The practice of meeting political leaders dates back to ancient times, but until the 19<sup>th</sup> century it was rare for rulers to meet in person. The situation changed only in the XX/XXI century, when such “summit meetings” were often organised and replaced many traditional forms and methods of diplomacy. Such summits are sometimes already institutionalized, such as the G 8, i.e. meetings of the world’s most wicked countries. Their organization and course depend to a large extent on the results of earlier preparations and diplomatic talks (Dunin, Pullan, 2016).

### **4. TOOLS OF DIPLOMACY**

Negotiations are an essential means of diplomacy; their role is, among other things, to prevent and resolve conflicts between states (and other parties) and to initiate cooperation. Since the end of the Cold War (which some date back to 1989), negotiations have intensified considerably, but sometimes they are unable to prevent armed clashes. Negotiations function within the framework of an unspeakable ethos of equality and are characterised by the concepts of equal status, equal treatment, reciprocity and justice. Wilfried Bolewski, a German diplomat, stresses the importance of international diplomatic culture (Bolewski, 2007). Although the parties are never equal, a sense of equality is helpful in productive negotiations (Miłosz, 2010; Zartman, 2016) There are three important challenges facing diplomatic me-diagnosis in theory and practice: (1) resistance to negotiation and mediation; (2) the search for time; and (3) setting the right objective for negotiations (Aggestam, 2016).

The purpose of diplomacy is to strengthen the state, nation or organisation it serves. It aims for maximum benefit without the risks and costs of using force, and preferably without causing an injury. Diplomacy builds and nurtures coalitions that stop or wage war, disrupt enemy alliances and maintain the passivity of potentially hostile states. During a war, it seeks to end it, and then after the conflict, it creates, strengthens and sustains peace, and in the long run, it seeks to build an international order conducive to the peaceful resolution of

disputes and the expansion of cooperation between states. But some countries diplomacy has used and applied various economic and military threats and promises of help and support in negotiations. This combination of coercion (sticks) and diplomacy (carrots) is as old as diplomatic praxis and is usually used when actors want to resolve war- threatening crises and conflicts without resorting to full-scale war. However, the use of “forced” diplomacy cannot solve all crises and conflicts (Jakobsen, 2016).

In the late 1990s, UN Secretary General Boutros-Ghali put forward the concept of “preventive diplomacy”, which was supposed to use confidence-building measures to prevent conflicts and defend peace. Many non-governmental circles and bodies were involved in this activity. Diplomats are the main – but not the only – practices of diplomacy. They are specialists in negotiating and resolving disputes between states and nations. They are defended by words, supported by the power of the state or organisation they represent. Diplomats help leaders understand the attitudes and actions of foreign states and develop strategies and tactics that can shape the behaviour of foreign governments. The sensible use of diplomats is often the key to a successful foreign policy. Silent and secret diplomacy is more than just discretion: it is the conscious desire to leave actions in the shadows, or to hide certain forms of engagement from control. Secrets acquired by diplomats can be an asset in complex negotiations, especially with undisclosed actors such as terrorist groups. However, secret diplomacy is now increasingly being questioned by the media and by some diplomats (Maley, 2016).

Diplomatic language analyses signals, codes, and conventions built up over time by diplomats in order to streamline and calm down the process of communication between states and organisations created by states in the international political sphere. Diplomatic language is intended to enable diplomats to shape and maintain relations with those who manage international relations. Diplomats seek to strike a balance between ambiguity and precision in the drafting of diplomatic documents and, at the same time, must be sensitive to how foreign diplomats conduct dialogue (Oglesby, 2016).

Alongside classic diplomatic offices, various types of agencies are being established, often of great importance (Adler, 2016). Still, however, embassies are of great value in our globalised world – if only the foreign ministries use them as key factors in bilateral diplomatic dialogue. Equally important are permanent missions, accredited by international or regional or local governments (Rana, 2016).

For diplomacy to function properly, communication is essential; it is both verbal and non-verbal, and includes not only words and deeds, but also silence and inactivity. Diplomats send messages that are decoded and interpreted. More importantly, a common language develops in terms of symbols and references and the interpretation of words and deeds (<https://www.britannica.com/topic/diplomacy>). Non-verbal signalling covers a wide range of means: from personal gestures, through the logistics of meetings and travel, to the manipulation of military forces. The tension between the need for clarity and the encouragement of constructive ambiguity forces diplomats to devote much time and effort to formulating and interpreting signals. The speed of diplomatic communication has changed with the timescale. The revolution in information and communication technology in the 21<sup>st</sup> century has weakened the position of diplomats in this respect and, moreover, threatened its flexibility and post-confidentiality (Jónsson, 2016).

The power delegated by sovereignty to diplomatic representation theoretically protects diplomats from responsibility and even ethical scruples, but the indirect exercise of power by them clearly turns them into morally responsible subordinates. The normative basis for

the ethical judgment of diplomats' actions in the past revolved around the principle of loyalty, first to the ruling authority, then to the state, and more recently to society. Such a situation gives rise to ethical challenges, often difficult or even incompatible with the principle of loyalty. Diplomats are mostly people with the ability to combine practice with theory (Bjola, 2016).

The diplomats themselves are also observed - from personal inspections, through reporting and espionage, to remote sensing and satellite information systems. Despite this, a dozen or so years ago the U.S. Department of State saw a huge data leak, thanks to a computer scientist employed there; from here on, diplomacy has been talking about the era before and after WikiLeaks.

As the economy grew and societies became more active, various types of national and international organisations were formed. Individual countries sent politicians and experts to the latter as their official representatives or unofficial ambassadors. Another extension of the foreign activities of the countries was the creation of so-called military diplomacy; military attachés were part of the staff of the legations and embassies. After the industrial revolution, with the formation of modern nation states in Europe, the consular network grew rapidly. From the mid-nineteenth century onwards, individual states took over these foreign representations and thus were able to extend the care of their citizens. In fact, however, consulates were a miniature of national administration and consuls depended on diplomatic representatives (Pasarfin, 2016).

After the Second World War, the enormous progress of science and technology, symbolised by atomic weapons, became not only the main factor influencing international politics, but was also a major problem for diplomacy at the time, so in addition to military, political and economic matters, which used to be traditional subjects of diplomacy, a new field appeared on the scene, whose medium is science and technology, as an important subject of negotiation. In this new field, which can be called – the borderline of diplomacy – (because a nuclear war may result in the extermination of humanity), a new form of international cooperation is needed. In today's times, when the world has entered the “second industrial revolution” thanks to large-scale technological innovation, efforts are being made on the one hand to pursue the rapid development of science and technology and on the other hand to halt the reckless progress of technology. Thanks to international cooperation at the UN, it has been possible, among other things, to implement the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and to move away, at least in this area, from “diplomacy”.

Scientific diplomacy is an extremely important but insufficiently used international policy tool. Since the end of the Cold War, scientific diplomacy, as well as international cooperation in the field of science, technology and innovation, has been marginalised and replaced by government preferences for strengthening the armed forces. The militarisation of international politics and the preference for military action have proved to be costly; moreover, military solutions to complex international problems threaten our planet. Scientific diplomacy offers a better way, especially if it regains its former position as a tool of “soft power” (Bolewski, 2007).

Since the mid-nineteenth century, governments of some countries, especially the powers, have been interested in the development of means of communication and transport. Since airplanes became one of the most powerful weapons in the 20<sup>th</sup> century, air transport has been subject to military and political criteria to a much greater extent than railways and seagoing ships. In 1927 Colonel Yérôme de Lespinois used the term “air diplomacy” for

the first time in his interview for the New York Times (Air Diplomacy) – treating it as an entity acting for the benefit of the foreign policy of the state; the term “air transport diplomacy” has also been created (Diplomacy of Air Transport) (<https://www.foreignaffairs.com/global-commons/dipl>; <https://airuniversity-af-edu/Portals/10/ASP>).

The German “canoness diplomacy”, which almost caused the outbreak of World War I 10 years before it finally began, found its followers in later years, when the role of canonesses was taken over by military planes. In the armies the term “Aviation diplomacy” was also used (Philips, 1978). With regard to civil airlines, the situation was somewhat different, for example, despite the hostility between the U.S. and the USSR, both sides agreed to open direct air transport; on July 15, 1968 New York and Moscow were joined by an airline with Pan American planes. The term “airlines diplomacy” was then created (<https://airwaimag.com/best-of-airways>). Since airplanes became one of the most powerful weapons in the 20th century, air transport has been subject to military and political criteria to a much greater extent than railways and seagoing ships. Therefore, in the twentieth century, “aviation diplomacy” became a new actor in the field of state foreign policy (“air transport diplomacy”). Some competencies in the field of military and “state” aviation have been left to the States, while civil aviation has been transferred to a specialised international inter-state organisation, ICAO (International Civil Aviation Organization), which has made civil aviation an important part of the global economy in the 21<sup>st</sup> century, while remaining under UN control. The other type of diplomacy is “space diplomacy” which is responsible for maintaining “peaceful uses of outer space” and arms control. Weaponization and militarization of space are still important and sensitive policy issues for states. Defense of space and space for defense are issues recently discussed between diplomats worldwide. This specific new role of diplomats should be taken into account as well. Moreover diplomatic talks are currently underway between the United States and the European Union on a global agreement to reduce gas emissions from aircraft, and a new term has been created – shuttle diplomacy (<https://www.eco-business.com>).

## 5. CONCLUSION

Diplomacy is an area of specialty in International Relations that focuses on international relations among nations. This discipline evolved. Now there are some types of diplomacy depending on the historical need and aim. Diplomats are representatives of the states. They play an essential role for them. This role should be respected. They bring peace into states relations and learn how, using many diplomatic tools, to make a dialogue and harmony between parties (even in very difficult circumstances and political environment). Thanks to diplomacy channels diplomats are able to negotiate all kind of issues: from cultural, trade, political or technological and others. They can help in finding consensus in conflict situations. Finally diplomacy facilitates communications and sharing of knowledge between states.

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