PART FIVE

CRIMINAL RESPONSIBILITY IN INTERNATIONAL LAW
THE IMMUNITY OF HEADS OF STATE AND GOVERNMENT IN INTERNATIONAL CRIMINAL LAW

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INTRODUCTION

A. Definition and types

When we discuss the issue of immunity of Heads of State and government, we mean naturally immunity from jurisdiction. The concept of immunity from jurisdiction exists in both national and international criminal laws. We will concentrate on the latter. In this respect, immunity is defined as ‘the exemption of certain persons from civil, criminal or administrative jurisdiction, by virtue of international legal norms, originally from custom, practice, doctrine, jurisprudence and, more recently, treaty law’.

In international law, immunities are of two types. Immunities are functional, personal or both. Functional immunity is related to an individual or organ of a State acting in the normal exercise of his/its functions and on behalf of that State. It is granted to people who perform certain functions of State. This immunity is *ratione materiae* and covers every State agent (Head of State or government, government official, policeman, etc.) and is valid even after the term of office of the concerned person.

However, personal or diplomatic immunity is related to certain categories of individuals or organs of State for the exercise of their functions abroad, in order to ensure the free exercise of their official duties. It is granted to certain officials because of the office they hold, rather than in relation to their actions. This immunity is *ratione personae* and covers all actions accomplished during the terms of office of those

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