

SPECIFICS OF THE HONORARY CONSUL INSTITUTION IN UZBEKISTAN

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Abstract: *The article analyzes current problems in the development of the institution of honorary consuls, both in a general theoretical context and in the context of the Republic of Uzbekistan. The author substantiates the thesis that the development of the institute of honorary consuls should follow a path of legal specification at the international level, particularly by introducing separate rules into the Vienna Convention on Consular Relations of 1963. These additions allow honorary consuls to have more social and legal protection and interest in carrying out their activities without being tied to any material or other problems.*

Keywords: *consul, consular protection, consular functions, consular activity, consular law, consular service, honorary consul, consular institute, consular immunity, consular offices.*

Introduction

The relevance of studying the development of the institution of honorary consuls is evident, as honorary consuls represent a type of auxiliary social official whose work is often not bound by specific material constraints (and is frequently unpaid from any official budget), and is instead determined by socio-cultural factors. Accordingly, the role of honorary consuls is in high demand and essential in countries where financial or other limitations hinder the establishment of a full-fledged consular staff.

Today, states are interconnected by shared territorial, economic, and socio-legal interests, and establishing communication systems between them is a strategically important task. The role of honorary consuls in intergovernmental dialogue is highly valuable; however, the number of academic studies analyzing both the specific features of their functioning and current issues in the development of the honorary consulate institution remains limited.

In Uzbekistan, in particular, such research is even scarcer, underscoring the need to address this gap.

The study aims to analyze current issues in the development of the institution of honorary consuls in the Republic of Uzbekistan and to identify theoretical and legal approaches to their understanding and resolution.



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The academic development of the topic is represented by a limited number of scholarly works that only partially address the prerequisites for the development of consular institutions and consular activities, including those related to the functions and legal status of honorary consuls. In particular, the scholarly works and publications of authors such as B.B. Alekseeva, Ya. Zelmenis, G.V. Bobylev, N.G. Zubkov, I.P. Blishchenko, G. Fokin, V.S. Ivanenko, E.A. Paveleva, T.Yu. Sidorova, L.T. Lee, J. Quigley, and others can be highlighted.

Scope of research

This study is among the first comprehensive academic works explicitly devoted to the institution of honorary consuls, examined both at the international-legal and national levels. In Uzbekistan, scholarly attention to this subject remains limited, and a similar lack of systematic research is observed across the CIS, where existing studies are largely fragmented and address only certain aspects of honorary consuls' activities.

The article proposes a holistic conceptual framework for understanding the institution of honorary consuls by integrating economic, political, cultural, and social dimensions of their work. Particular emphasis is placed on their role in shaping the state's international image. A comparative legal analysis of the status of honorary consuls across different legal systems further enhances the study's originality, enabling the identification of optimal models for their regulation in Uzbekistan.

More broadly, the novelty of this research lies in its comprehensive approach: it examines both the theoretical and legal foundations of the institution and the current trends in the evolution of international consular relations. Consequently, the findings presented here may be regarded as original and relevant to contemporary challenges in the development of international and consular law.

Materials and Methods of Research

The role of honorary consuls in consular activities is multifaceted and significant. Despite the lack of comprehensive international regulation regarding their status, honorary consuls enable states to provide consular services in regions or countries where maintaining an embassy or consulate general is not feasible. This is particularly important for countries with limited resources or those seeking to expand their presence in remote areas.

An honorary consul is a private individual who is not part of the diplomatic or consular service of their appointing state¹, but is appointed

by that state to carry out a specific range of consular functions in the receiving country. Such appointments are made with the consent of the receiving state, of which the honorary consul is typically a citizen.

Literature Review

Researchers emphasize that “a non-staff consul is a person appointed by a state, who is not necessarily a citizen of that state or a government official, to act as its representative on the territory of another state—where the person usually resides permanently and often engages in private entrepreneurial activity—to perform consular functions. As a result, the receiving state grants this person privileges and immunities within the limits dictated by their role as a representative of a foreign state”². As early as the 18th century, E. de Vattel, and later R. Phillimore in the 19th century, stressed the importance of appointing honorary consuls from among the citizens of the sending state, arguing that otherwise, a loyal and responsible fulfillment of consular duties could not be expected.³

According to the interpretation of G.V. Bobylev, “an honorary (non-staff) consul is a person who is not a government official but performs certain consular functions on behalf of the sending state and with the explicit consent of the receiving state”.⁴ The presence of an honorary consul institution significantly enhances the accessibility of consular services for citizens living in remote areas or regions with limited infrastructure. It also helps strengthen ties between states, fostering friendly relations and cooperation across various fields. Unlike career consuls, honorary consuls do not possess full diplomatic immunity. Their functions, powers, and responsibilities are regulated by both international law and the domestic legislation of the sending and receiving states. They do not receive a salary from the state, and their activities are generally non-commercial or partially funded by consular fees.

The scope of the immunities and privileges of honorary consuls was established by the 1963 Vienna Convention as a result of a compromise between representatives of the Scandinavian countries, Belgium, and the Netherlands—nations with a vast network of honorary consuls who sought to grant them the broadest possible immunities and privileges—and representatives of Afro-Asian countries, who demanded tighter control by the receiving state over the activities of honorary consuls, particularly their commercial activities unrelated to consular functions⁵. As a result, the Convention included the following provision: “The receiving State shall accord to an honorary consular officer the protection required by reason of his official position.”

Research Results

Modern trends in the development of intergovernmental relations reflect a new scholarly perspective on the evolution of the institution of honorary consuls.⁶ Today, an honorary consul is not merely a distinguished individual among other consuls who has earned the position through special merits to the state and society, but, above all, a socially responsible and financially disinterested public servant.

It is no secret that there is a growing global trend toward the specialization of honorary consuls in specific sectors of the economy or particular types of activity (such as trade, tourism, or investment). This undoubtedly enhances the effectiveness of their work, enabling them to better meet the state's needs. In parallel, honorary consuls are increasingly utilizing digital tools to perform their functions, such as online appointment booking, electronic consular services, and video conferencing. These innovations enhance the accessibility of consular services and improve the overall efficiency of consular institutions.

Honorary consuls are playing an increasingly important role in promoting the culture, language, and image of their home country abroad, thereby strengthening its international reputation. States are therefore seeking closer cooperation between honorary consuls and other governmental bodies, such as embassies and ministries. In light of this, there is a growing trend toward raising the qualifications and professional experience required of honorary consuls. Knowledge of foreign languages, international law, and business administration is becoming increasingly important. Despite these positive trends, issues of legal uncertainty, resource support, and potential conflicts of interest remain relevant in the field of diplomatic and consular law.

Core Issue and Analysis of Research Results

Research into current trends in the development of interstate relations, as well as other aspects of the evolution of the institution of honorary consuls, highlights the following pressing issues:

The first issue is that the Vienna Convention on Consular Relations of 1963 does not adequately address honorary consuls, leading to ambiguity in their legal status and varying practices in their application across countries. According to the meaning of Chapter III of the 1963 Vienna Convention, it is clear that an honorary consul may operate within a separate consulate (which is also subject to guarantees of inviolability, protection of archival materials, and premises). However, at the same time, the 1963 Vienna Convention pays little attention to matters such as the definition of an honorary consul, the substantive

legal basis of their activities, issues of social protection, and ensuring their security in countries experiencing severe political instability or war. The second pressing issue is the relatively low level of immunity granted to honorary consuls, which poses risks to their activities and may hinder the adequate performance of their functions. They are subject to the legal regime applicable to honorary consular officers and the consular establishments headed by such officers. Unlike career consuls, family members of honorary consuls are not afforded the same privileges and immunities under the 1963 Vienna Convention. This is understandable, as honorary consuls are, in most cases, non-staff personnel in consulates, and sometimes operate without a formally established consulate⁷ at all. Aside from this, honorary consuls are generally exempt from taxes and customs duties just like career consuls.⁸

However, the provision of only minimal guarantees to honorary consuls and the absence of provisions in the 1963 Vienna Convention regarding their financial remuneration or safeguards to ensure their material disinterest (which would reduce the risk of corruption or conflicts of interest) may devalue the institution of the honorary consul as a whole. Such circumstances could lead to a decline in interest from both states and individuals whose candidacies would otherwise be suitable for this position in engaging with or organizing the work of honorary consuls. It should also be noted that the academic understanding of the honorary consul is limited chiefly to defining them as "non-staff personnel in a consulate"⁹, with little attention given to this role as a distinct type of socially responsible position serving the interests of society and the state.

The third issue in the development of the institution of honorary consuls is equally relevant. Jurisdictional challenges may arise in disputes involving honorary consuls. Laws across countries regulating the activities of honorary consuls differ, leading to ambiguities and complications in international cooperation. In some countries, honorary consuls are paid employees of consulates (e.g., France and some other European states). In contrast, in others (such as Russia, Uzbekistan, and several CIS countries), honorary consuls receive no financial compensation for their services. As a result, defining the honorary consul's role as a voluntary position may not only devalue the institution's significance but also contribute to the emergence of corrupt practices. From this perspective, the status of an honorary consul can, in a sense, be compared to that of a high-level volunteer.

It is essential to recognize that the lack of funding and insufficient personnel to support the work of honorary consuls is a significant organizational challenge. Furthermore, this issue can lead to potential conflicts of interest between the consul's private affairs and their consular duties. Overall, the effectiveness of honorary consuls is often

limited by their restricted powers and scarce resources. This ambiguous approach to regulating their activities is based mainly on optional provisions, as reflected in the text of the 1963 Vienna Convention.

The fourth pressing issue is particularly relevant in Uzbekistan. Specifically, there is ambiguity in the formulation of the honorary consul's status in Part 2 of Article 40 of the Consular Charter of the Republic of Uzbekistan. Considering that an honorary consul may be either a citizen of Uzbekistan or a foreign national, there exists the possibility that an honorary consul may promote the interests of a foreign state while simultaneously representing the interests of Uzbekistan. This situation is not unique to Uzbekistan and can also be found in many other CIS countries. Defining the status of an honorary consul without linking it to the citizenship of the country they potentially represent may, in the future, lead to conflicts of interest between the two interacting states.

The foreign policy strategies and priorities of states, their political cultures, and the nature of their interactions with other countries significantly influence how the legal status and functions of honorary consuls are defined. In addition, a country's internal political environment, the degree of bureaucratization, and the effectiveness of its public administration also affect the legal regulation of honorary consuls.

Overall, honorary consuls are a crucial component of the consular services of many states; however, understanding their role and significance in consular activities requires ongoing analysis and clarification, given the lack of universal, unambiguous international regulations. Their work expands the possibilities for consular protection and cooperation between states.

Executive Summary

The research conducted allowed us to identify the following key issues related to the topic and the pressing problems associated with it:

- The lack of in the 1963 Vienna Convention regarding the funding or any other form of material support for the activities of honorary consuls has led to inconsistent approaches to legal regulation across various countries. In some states, the work of an honorary consul is considered "socially useful" and "unpaid." In contrast, in others, the structure of an honorary consul's position is nearly identical to that of a career consul.
- The absence of a clear concept and legal definition of the status of honorary consuls within the text of the 1963 Vienna Convention.

A certain advantage of the rules concerning honorary consuls in the 1963 Vienna Convention is the recognition of their status as "optional consular

officers." However, Chapter 3 of the Vienna Convention also leaves "free space" for legislative creativity on the part of member states in determining the legal status, organizational-legal framework, and financial framework for honorary consuls. Thus, the institution of honorary consuls today can be seen as a hybrid legal institution, regulated partly by international law and partly by national law, with neither one having clear dominance over the other. However, there is currently a trend toward strengthening national legal regulation, with the 1963 Vienna Convention serving more as a model for developing national legal norms.

To address the highlighted pressing issues, a comprehensive legal approach and appropriate theoretical rethinking are required. First and foremost, amendments to the 1963 Vienna Convention are necessary. It is proposed to supplement Article 59 of the Convention with a second part, worded as follows:

1. "The activities of an honorary consul shall be carried out based on the principles of voluntariness and non-profit orientation.
2. Expenses related to the performance of the consular functions by the honorary consul may be covered from the following sources:
 - a) personal funds of the honorary consul;
 - b) voluntary donations and sponsorship assistance;
 - c) financial support from the sending state;
 - d) other lawful sources."

The inclusion of this provision in the aforementioned international document would help avoid problems in choosing legal approaches to regulating the funding of honorary consuls' activities—especially at the national level.

To address specific issues related to the development of the institution of honorary consul in Uzbekistan, we consider it necessary to amend the content of Part 2 of Article 40 of the Consular Charter of the Republic of Uzbekistan, with the following revised wording: "An honorary consul may be a citizen of the Republic of Uzbekistan, selected from among individuals who hold a respected public status in the host country of the consular institution, who possess the necessary personal qualities, and who have the capacity to fulfill the consular duties assigned to them properly."

It is essential to establish a link between the position of an honorary consul and the citizenship of the country that they are potentially going to represent in the course of their duties.

Bibliography:

1. Zelmenis Ya. The Institution of Honorary Consuls. – Moscow Journal of International Law. 2018. No. 2. pp. 91–101.
2. Bobylev G.V., Zubkov N.G. *Fundamentals of Consular Service*. Moscow: International Relations, 1986. – p. 247.
3. Lee L.T., Quigley J. *Consular Law and Practice*. 3rd ed. Oxford: Oxford University Press. 2008. – p. 515.
4. Bobylev G.V. *Consular Law: A Textbook*. Moscow: Informyurlit, 2010. – p. 146.
5. Blishchenko I.P. *Diplomatic Law: A Textbook*. Moscow: Higher School, 1972. – p. 155.
6. Alekseeva B.B. *Trends in the Development of the Institution of Consular Privileges and Immunities*. PhD thesis in Law. 2006. // Source: <https://www.dissercat.com/content/tendentsii-razvitiya-instituta-konsulskikh-privilegii-i-immunitetov>
7. Fokin G. Honorary Consul: Yesterday, Today, and Always. *Konsul*. No. 4 (27), 2011. p. 25.
8. Ivanenko V.S. The Institution of Honorary Consuls of Foreign States in the Legal System of Russia // *Legal Studies*. 2002. No. 3 (242). pp. 186–200.
9. Paveleva E.A., Sidorova T.Yu. The Use of the Institution of Honorary Consuls to Deepen Integration Processes in Relations Between States // *Siberian Legal Bulletin*. 2015. No. 1. URL: <https://cyberleninka.ru/article/n/ispolzovanie-instituta-pochetnyh-konsulov-dlya-uglubleniya-integratsionnyh-protsessov-v-otnosheniyah-mezhdu-gosudarstvami> (accessed: 23.12.2024).

¹ Zelmenis Ya. *The Institution of Honorary Consuls*. – Moscow Journal of International Law. 2018. No. 2. pp. 91–101.

² Bobylev G.V., Zubkov N.G. *Fundamentals of Consular Service*. Moscow: International Relations, 1986. – p. 247.

³ Lee L.T., Quigley J. *Consular Law and Practice*. 3rd ed. Oxford: Oxford University Press. 2008. – p. 515

⁴ Bobylev G.V. *Consular Law: A Textbook*. Moscow: Informyurlit, 2010. – p. 146.

⁵ Blishchenko I.P. *Diplomatic Law: A Textbook*. Moscow: Higher School, 1972. – p. 155.

⁶ Alekseeva B.B. *Trends in the Development of the Institution of Consular Privileges and Immunities*. PhD thesis in Law. 2006. // Source: <https://www.dissercat.com/content/tendentsii-razvitiya-instituta-konsulskikh-privilegii-i-immunitetov>

⁷ Fokin G. *Honorary Consul: Yesterday, Today, and Always*. *Konsul*. No. 4 (27), 2011.p.25.

⁸ Ivanenko V.S. *The Institution of Honorary Consuls of Foreign States in the Legal System of Russia* // *Legal Studies*. 2002. No. 3 (242). pp. 186–200

⁹ Paveleva E.A., Sidorova T.Yu. *The Use of the Institution of Honorary Consuls to Deepen Integration Processes in Relations Between States* // *Siberian Legal Bulletin*. 2015. No. 1. URL: <https://cyberleninka.ru/article/n/ispolzovanie-instituta-pochetnyh-konsulov-dlya-uglubleniya-integratsionnyh-protsessov-v-otnosheniyah-mezhdu-gosudarstvami> (accessed: 23.12.2024).