

CONSULS AND CONSULAR LAW – PAST, PRESENT, AND FUTURE

Summary

The article examines the development of the institution of consuls and consular law, tracing its origins from the forerunners of consuls in the time of the first states to the present day. Following an overview of its historical development, the article compares contemporary consuls with their predecessors from earlier periods, as well as with diplomatic representatives. It then provides a concise analysis of the concept and historical development of consular law. Particular attention is devoted to the potential developments that may shape the future of the institution of consuls and consular law in the relatively near future. The author believes that the institution of consuls may disappear more rapidly than is commonly assumed. This development may result from a combination of factors, including the gradual erosion of state sovereignty, changes within the international community, the disappearance of certain functions currently performed by consuls, the transfer of some consular responsibilities to other bodies (including diplomatic agents and domestic state authorities), and the growing use of artificial intelligence, robots, and other technical innovations. In the meantime, any substantial changes in the role and status of consuls will necessarily entail the adoption of a new universal codification of consular law.

Keywords: Consuls, Consular Law, International Law, International Relations, Legal History.

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KONZULI I KONZULARNO PRAVO – JUČE, DANAS, SUTRA

Sažetak

Rad se bavi razvojem ustanove konzula i konzularnog prava, počev od preteča konzula u vreme prvih država pa do naših dana. Nakon pregleda istorijskog razvoja, dato je poređenje savremenih konzula sa onima iz prethodnih epoha i diplomatskim predstavnicima, a zatim su ukratko obrađeni pojam i istorijski razvoj konzularnog prava. Posebno interesantan je osvrt na ono što nas možda čeka u relativno bliskoj budućnosti. Autor smatra da će konzuli nestati brže nego što mislimo. To će biti posledica dejstva raznih faktora kao što su: slabljenje suvereniteta država i promene u međunarodnoj zajednici, nestanak određenih poslova kojima se danas bave konzuli, prenošenje dela konzularnih funkcija na druge organe (diplomatske agente, ali i unutrašnje organe država), sve veće korišćenja veštačke inteligencije, robota i drugih tehničkih novotarija i dr. U međuvremenu, sve dok postoje konzuli, bilo kakve ozbiljne promene njihove uloge i statusa nužno će zahtevati suštinske promene u univerzalnom međunarodnom pravu, a možda i novu kodifikaciju konzularnog prava na globalnom nivou.

Ključne reči: konzuli, konzularno pravo, međunarodno pravo, međunarodni odnosi, pravna istorija.

1. Introduction

Consuls are among the oldest institutions of international law. They, or rather their predecessors, emerged in antiquity and developed independently of diplomatic representatives. Even today, consuls have retained their distinctive functions and continue to occupy a specific position within the international legal order, governed by a framework of universal, regional, and bilateral agreements.¹

As has been rightly observed, among the many institutions of modern society few are as widespread or well known as the consular institution, yet few have been as neglected outside their own professional circles. Consuls have traditionally been

¹ Almost a century ago, the League of Nations experts rightly noted that the consular institution, which predates embassies, has undergone various stages in its historical development, while its original purpose – the protection of nationals in a foreign country – has remained unchanged (Guerrero & Mastny, 1928, p. 105).

regarded as the ‘poor cousins’ of ambassadors and ministers. However, since consular offices were established long before diplomatic services, the history of consuls cannot be reduced to the history of diplomats alone (Leira & Neumann, 2011, p. 223).

Much has been written about consuls and consular law. Comprehensive accounts of the origins and development of consular institution can be found in numerous works devoted to the history of international law, the history of international relations, and political history in general. Moreover, the study of international consular law, together with at least a brief overview of the genesis of the consular institution, constitutes an integral component of virtually every systematic treatment of international law. Accordingly, while the continued examination of contemporary issues in consular law is readily understandable, the question arises as to whether it is justified to revisit the origins and historical development of the consular institution.

First, it should be noted that the topic continues to be addressed in monographs and scholarly works by authors from various parts of the world, which in itself suggests that the subject has not yet been exhaustively examined. It may further be observed that the doctrinal literature often contains imprecise and even contradictory positions, as well as divergent opinions, particularly regarding the emergence of consuls, the precise role of the institutions that preceded their appearance, and related issues. In a certain sense, this is understandable, given that both the predecessors of consuls and consuls themselves manifested in numerous forms throughout history, varying in structure and content across different periods, experiencing fluctuations in significance, and having developed unevenly across regions.

Bearing all this in mind, this article seeks to address the origins and development of consuls and consular law in as original a manner as possible, highlighting certain aspects that appear to be insufficiently addressed in the literature and offering the author’s own conclusions and assessments.

2. The Concept of Consul

The term ‘consul’ (Latin *consul*, derived from *consulere*, meaning to consult, deliberate, or consider) denotes ‘counsellor’ or ‘councilor.’ However, consuls were never mere advisers. The title first appeared within the domestic legal systems of states and only later emerged, in a distinct function and with a different legal status, in the sphere of international relations and international law.

Originally, the term ‘consul’ referred to the highest executive authorities of the state, namely heads of state. In Ancient Rome during the Republic (509–27 BC), the highest state officials (supreme magistrates) were designated as consuls, a term

most likely derived from the notion of a 'counsellor of the Senate.' The Centurion Assembly elected two consuls who, during their one-year term in office, governed the state in conjunction with the Senate. The office of consul persisted into the imperial period, although it gradually became an honorific position rather than one of real power, which was concentrated in the hands of the emperors.

Subsequently, for a time, the term was adopted by various European rulers, and from the 10th century it designated the elected elders of many Italian and French cities, i.e., members of collective bodies governing the city (city councils). These officials soon acquired different titles, while the term 'consul' became associated with other institutions. Nevertheless, even in later periods, the title was occasionally used to denote high state officials. Notably, in 1799–1804, France was governed by the Consulate as a collective head of state, composed of three elected consuls. Within this system, executive authority was concentrated in the First Consul (Napoleon Bonaparte, who controlled the military), while the other two consuls played largely advisory roles.

In addition to the aforementioned and other possible meanings, the term 'consul' has also been used to designate individuals who were not the highest state officials. At certain historical stages, it referred to persons responsible for resolving maritime and commercial disputes in ports, as well as those who adjudicated contentious issues within merchant colonies in foreign territories. Over time, the term became firmly associated with modern consuls, who constitute a category of external state representatives in international relations.

In contemporary international law, consuls constitute a distinct category of state representatives. In the simplest terms, the term denotes those state officials who are authorized to exercise consular functions in a foreign country within clearly defined frameworks and who, for the performance of these functions, are accorded specific privileges and immunities. This is a working definition, intended solely for the purposes of the present analysis and without any claim to being exhaustive or definitive.

Understood in this way, consuls developed in response to the needs of international trade, with their functions varying across different historical periods. It has been rightly noted that consular missions have a longer and more diverse history than diplomatic missions and that, over time, they have performed a wide range of functions – diplomatic, political, commercial, judicial, and maritime – all of which have left their imprint on the activities of the modern consul (Lee & Quigley, 2008, p. 3).

3. The Development of the Consular Institution and Consular Law

3.1. The Forerunners of Consuls

The origins of consuls, understood from the perspective of international law, should be traced back to the slave-owning era and the period of the earliest state formations, when two mutually opposing phenomena emerged and at a certain point came into conflict.

On the one hand, at that time a generally hostile attitude towards foreigners prevailed in most regions. Foreigners were regarded with repulsion, contempt, mistrust, and even hostility (Стояновъ, 1875, pp. 41-61; Bartoš & Nikolajević, 1951, pp. 19-29; Krivokapić, 2004, pp. 49-63). The reasons for this varied, including beliefs in different deities, fears that foreigners would introduce harmful customs and practices to the local population, suspicions that they may act as spies seeking to identify weaknesses in a country's defenses, and the awareness that such individuals could later become enemies on the battlefield, among others.

On the other hand, the development of international relations and transnational traffic, particularly in the maritime sphere, as well as the expansion of international trade, both facilitated and necessitated the growing presence of foreigners and, consequently, the improvement of their legal and practical status. Accordingly, over time, a need emerged for specific institutions capable of providing foreigners with support and assistance and, where necessary, a degree of protection. Such institutions consequently came into existence.

They emerged under various names and institutional forms already in the earliest state formations. For example, in Mesopotamia, such arrangements are attested as early as the 20th–18th centuries BC. In certain locations, special trading posts, streets, and even separate districts situated just outside city walls – known as *karum* (from the Akkadian *kārum* – meaning port or trading district) – were established, where foreign merchants resided under a degree of protection. Similarly, Phoenician merchants are known to have enjoyed certain privileges in Memphis, the ancient capital of Egypt, as early as the 13th century BC, among other examples.

The protection of foreign traders was, at least indirectly, subject to legal regulation. This was achieved through domestic regulations which, in cases of robbery or theft, prescribed severe punishments and an obligation to compensate damages (e.g. the Code of Hammurabi, c. 1750 BC),² as well as through international treaties. Some

² Articles 22-24 provided that, in cases where a merchant was robbed and the perpetrator was not apprehended, the local authorities or community were obliged to compensate the victim for the loss. This established a system in which the state assumed responsibility for the security of trade, including international commerce, and for the protection of foreign merchants.

treaties in the ancient Near East, in particular, provided for the responsibility of the territorial state (and its ruler) for the safety of foreign merchants and their property.

However, in these and similar cases, the primary concern was the protection of the life, health, and property of foreign merchants, rather than a more detailed regulation of their legal status. In particular, no special bodies for the protection of foreigners were envisaged. Such bodies nevertheless emerged somewhat later. Frequently, especially in city-states, these functions were performed by citizens of a given city who were specially authorized to represent and protect foreigners. It appears that, in some regions, foreigners themselves could select one of their own members to act on their behalf as a form of non-state, quasi-representative before the authorities of the territorial state, while also serving as an internal elder responsible for the orderly functioning of their community.

Various institutions for the protection of foreigners were particularly characteristic of Ancient Greece, which consisted of numerous Hellenic city-states³ sharing a common culture, broadly similar historical traditions, a common language, and shared religious beliefs, as well as participation in common artistic and sports competitions. At the same time, these city-states were persistent rivals, frequently engaged in disputes and recurrent warfare. Within this context of enduring rivalry and intermittent hostility, a form of regional international law, with its own rules and institutions, developed. Some of these institutions were specifically related to the legal and social position of foreigners.

3.1.1. Ancient Greece

Ancient Greek city-states were characterized by xenophobia and hostility towards foreigners, to the extent that the terms 'foreigner' and 'enemy' were initially used interchangeably (Пероговский, 1859, p. 25, cited in Гетьман-Павлова, 2023, fn. 21, p. 17).

In Sparta, there also existed a specific institution known as *xenelasia*, which is traditionally attributed to the legendary lawgiver Lycurgus (c. 820–730 BC). It comprised the authority to exclude or expel foreigners, meaning that their presence in Sparta was permitted only with the express authorization of the Spartan state. The rationale for this practice was primarily practical in nature. On the one hand, it reflected an effort to protect local culture and lineage from perceived 'harmful' external influences; on the other hand, it was grounded in military considerations,

³ It is generally believed that, from approximately 650 to 325 BC, there were around 1,500 city-states scattered throughout the Hellenic world, from southern Spain to the Caucasus and from the Crimea to Libya. A more precise figure of 1,035 identified *poleis* is sometimes cited, although it is regarded as incomplete (Hansen & Nielsen, 2004, pp. 53-54).

namely the concern that foreigners should not be allowed to ascertain the exact number of Spartan citizens (and thus warriors). However, in the case of demonstrably friendly relations with Sparta, the strict application of this rule was relaxed, and hospitality extended to such individuals.

Even in Athens, where foreigners were treated more favorably than in other Greek city-states, their legal and social position remained relatively disadvantaged. Nevertheless, over time, particularly from the late 6th and early 5th centuries BC, the status of foreigners gradually improved.

With regard to the position of foreigners, Athens is of particular interest, as the largest and most developed Greek city of the period, with an unusually large number of foreigners residing there, and considering that its practice in this area is the most extensively documented. In other *poleis*, by contrast, there were few, or in some cases virtually no resident foreigners (as in Sparta or Crete). Exceptions include Corinth, Syracuse, Thessaly, Delos, Kos, Megara, and several other *poleis*, where, as in Athens, there was a relatively high proportion of resident foreigners. However, the elements of their legal position have not been sufficiently studied due to the limited availability of surviving material evidence. Taken together, these factors make Athenian practice not only the most interesting but also the most extensively studied and best known.

Four categories of foreigners were distinguished in Athens. The first two (the so-called ‘native foreigners’)⁴ consisted of *isopolities*⁵ and *metics*, while the remaining two (‘true foreigners’) comprised non-resident foreigners in Attica⁶ and barbarians.⁷

⁴ Some authors (e.g. Stuart, 1936, p. 23) prefer to use the term ‘domiciled aliens,’ which, it may be acknowledged, is more precise.

⁵ Foreigners who were granted rights equal to those of citizens (from Ancient Greek: *ισοπολιτεία* – ‘equal citizenship’). This status could arise either through an international agreement on *isopolity* – a treaty whereby all citizens of one city acquired civil rights in another city without losing their original citizenship or acquiring a new one – or through domestic regulation in the form of an individual privilege. Such persons were entitled to acquire property, conclude legal transactions, and participate in judicial proceedings before public courts. They were also exempted from taxes imposed on foreigners and enjoyed other benefits typically reserved for citizens of the host city.

⁶ They occupied a less favorable position not only in relation to the *metics*, but also did not enjoy many of the rights associated with them.

⁷ Those born outside the boundaries of Hellenic civilization and differing from the Greeks in origin, appearance, language, customs, and religion. In principle, they were deprived of any rights or protection and exposed to contempt. Greek authors such as Isocrates and Aristotle, among other, compared them to animals, and generally regarded them as natural enemies and persons by nature destined for slavery (Стояновъ, 1875, 57). Nevertheless, due to the growing need to develop commercial exchange and strengthen other international ties, their position gradually improved over time.

In relation to the forerunners of consuls in the Hellenic world, the most interesting are the *metics*⁸ – free foreigners originating from other Greek *poleis* who permanently settled in Athens (i.e., who remained there for more than one month). Freed slaves also had the status of a *metic*.

Namely, in the context of prevailing hostility towards foreigners and under the pressure of the need to develop trade and other non-political relations between Greek *poleis*, *proxenia* emerged in Athens in the late 6th century BC as an institution reflecting a form of hospitality and favorable treatment of foreign citizens. Initially, this hospitality was limited, and it was extended only occasionally and primarily to high-ranking figures, such as foreign statesmen and parliamentarians. With the strengthening of economic and other ties, it gradually expanded to other foreigners and acquired a more permanent character. In this regard, the term *metic* itself gradually lost its meaning from the 4th century BC, alongside the increasing recognition of certain rights for that category of the Athenian population previously reserved for citizens, including the right to marry Athenian women and the right to appear in court directly without a patron, among others.

As long as they existed as a distinct social and legal category, the *metics* occupied a special status that was considerably more favorable than that of ordinary foreigners or barbarians, but which could not be equated with that of full citizens. They enjoyed personal freedom and certain civil rights; however, they were in the position, albeit conditionally, of a form of second-class citizens, as they were not granted the full rights, while, on the other hand, being subject to specific obligations. The *metics* also held a lower social status for cultural reasons, i.e., due to their foreign origin. Even when born in Athens and among its wealthiest residents, this did not alter their legal position. Despite the fact that their families may have lived in Athens for several generations, a *metic* did not acquire the citizen status. Citizenship could be granted only exceptionally, as a form of honor in recognition for special merit, and even then only rarely.

They enjoyed freedom of movement and the right to work; they could own slaves and chattels, but not land; and they had procedural capacity before the courts, i.e., they could appear as plaintiffs or defendants. This should be understood in light of the fact that the arrival of a large number of foreigners in Athens, who were essential to the functioning of its economy, intellectual life, and culture, would have been undermined if such individuals had not been afforded legal protection in commercial and other disputes.

On the other hand, *metics* did not have the right to marry Athenian citizens. They were required to pay a special tax imposed on foreigners, known as *metoikion*

⁸ Ancient Greek μέτοικοι (from μετα, 'change,' and οἶκος, 'home'); meaning migrants or settlers.

(Ancient Greek: μετοίκιον), amounting to 12 drachmas annually, as well as a small tax for the right to engage in trade. They were also subject to higher direct levies, known as *eisphora* (Ancient Greek. εισφορά), than citizens. Furthermore, *metics* were excluded from political life; they could neither participate in the Assembly nor vote, and they were ineligible to serve as judges or priests). They could initiate legal proceedings against both fellow *metics* and citizens, and could be sued; however, access to the courts required representation by a patron (representative). In addition, they could be subjected to judicial torture, and the penalties imposed on them were generally more severe than those applicable to citizens, while the punishment for killing a *metic* was less severe than that prescribed for killing a citizen. Moreover, *metics* were subject to military service and, in times of war, often served in the front ranks, i.e., in the most dangerous positions. They could also be reduced to slavery as a consequence of certain offences (Стояновъ, 1875, pp. 52-54; Bartoš & Nikolajević, 1951, pp. 21-23).

The number of *metics* increased over time, and in different periods of the 4th century BC they made up one-third, and at times even one-half, of the free population. A census conducted by Demetrius of Phaleron between 312 and 305 BC reportedly recorded approximately 21,000 citizens, 10,000 foreigners (*metics*), and 400,000 slaves residing in Athens. It is further estimated that during certain periods of the 4th century BC, the number of *metics* living in Athens may have reached as many as 25,000 (Доватуп, 1980, p. 29).

Many of them were engaged in trade, while others came to Athens because it was the cultural center of Ancient Greece and offered opportunities for individuals possessing specialized knowledge and skills, including philosophers, scholars, physicians, sailors, craftsmen, actors, and musicians.

The presence of a substantial foreign population in Athens necessitated the establishment of mechanisms for their representation and protection. To this end, the institution of *prostates* and *proxenia* emerged.

1. *Prostates*. If they remained in Athens for more than one month, *metics* were required to register at the local administrative unit in which they resided, known as *deme* (δῆμος), and to appoint a *prostates*⁹ (a representative, protector, or patron who acted as an intermediary between them and the city authorities) from among Athenian citizens. Failure to comply with this requirement could result in criminal liability and expose the *metic* to the confiscation of property and even enslavement.

In principle, *prostates* bore certain similarities to the earliest consuls who, during the Middle Ages, were elected by members of merchant colonies established in foreign territories. For this reason, some authors regard them as precursors of

⁹ Ancient Greek *prostates* (προστάτης) – 'one who stands in front,' meaning a leader, representative, or protector.

the modern consular institution. Nevertheless, the differences between the two are substantial. *Prostates* were chosen by individuals to represent their personal interests, they were citizens of the host state, and their functions differed in many respects from those traditionally associated with consuls.

2. Proxenia (proxeny). In the simplest terms, what the *prostates* were to individual foreigners, the *proxenos* (plural: *proxenoi*) was to a foreign city-state (Stuart, 1936, p. 23). The *proxenos* was a particular type of patron, or protector, of a foreign *polis* and its citizens.¹⁰

The earliest known reference to a *proxenos* appears in an inscription discovered on the island of Corcyra (modern Corfu), dating from approximately 625–600 BC. The inscription, found on the tombstone of Menekrates, son of Tlasias, who perished at sea, contains the phrase: “*proxenos*, friend of the people, was he.” Nevertheless, it is generally accepted that *proxenoi* began to emerge during the 6th century BC and that by 460 BC, *proxenia* had become a widely recognized and firmly established institution throughout the Hellenic world (Wallace, 1970, p. 189). Lists of *proxenoi* recognized by individual Greek states have even been preserved. One such document, compiled around 350 BC, records the names of all 86 *proxenoi* recognized by Karthaia (Carthaea or Cartaya), one of the four city-states on the island of Kea (also known as Tzia) in the Cyclades, an archipelago in the southern Aegean Sea (Mack, 2022, p. 3).

Proxenoi were appointed from among the citizens of the host *polis* to represent the interests of another *polis* and its citizens. The appointment of a *proxenos* gave rise to a form of a contract between the *proxenos* and the sending state, under which the former was entrusted with certain authority and assumed the obligation to act as the official protector of the interests of the state that had conferred the appointment.

The position of *proxenos* was often transferred from generation to generation, and, in practice, frequently became a hereditary office within certain families. *Proxenoi* were regarded as ‘public friends’ of a foreign *polis* and enjoyed clearly defined duties and privileges, including personal inviolability, exemption from certain taxes, and the enjoyment of rights comparable to those of citizens in the city-state they represented (Guerrero & Mastny, 1928, p. 105). They hosted foreign visitors and settled disputes between foreign merchants. The office of *proxenos* was generally honorary and performed without remuneration (Guerrero & Mastny, 1928, p. 105).

The principal duties of the *proxenoi* were to promote the development of trade and economic relations between their own *polis* and the *polis* whose interests they represented, as well as to gather relevant information. In order to perform these functions effectively, they were endowed with a range of powers and obligations. They

¹⁰ Ancient Greek *proxenos* (πρόξενο) – acting on behalf a foreigner, in favor of a foreigner, in place of a foreigner.

received foreign visitors, ensured the protection of their rights and acted as intermediaries between them and the local authorities. They could represent foreigners before local assemblies, attest to wills, and assist in the regulation of the inheritance of deceased foreigners. In addition, they provided assistance to envoys of the represented *polis*, facilitated their introduction before the local assembly, and secured their access to public spaces such as temples or theaters, among other facilities. At times, *proxenoi* also performed additional political, diplomatic, and judicial functions. They promoted amicable relations between their own *polis* and the *polis* they represented, contributed to the drafting of treaties between the two communities, and assisted in the prevention or peaceful resolution of disputes, often acting in an arbitral capacity. They could also participate in the settlement of conflicts between their own *polis* and the *polis* they represented. Although *proxenoi* sought, by virtue of their social position and influence, to prevent armed conflict between the two *poleis*, in the event that war did occur, their established reputation and networks within the foreign community often enabled them to participate in peace negotiations. In such circumstances, they acted as intermediaries striving to reconcile the positions of both sides, thereby functioning as mediators acceptable to each party.

A *proxenos* held an official status vis-à-vis the government of the *polis* he represented and typically received certain rights and privileges from it (including, in some cases, the right to participate in the Assembly and to own land). However, in principle, he did not hold a special public position in his own *polis*, since he was not regarded as performing an official state function (Guerrero & Mastny, 1928, p. 105; Stuart, 1936, p. 23). In his home *polis*, he remained essentially an ordinary citizen (a private individual), although his actual standing depended in practice on the relationship between his *polis* and the foreign *polis* he represented. In some cases, *proxenoi* paid for their position with their lives, such as the Athenian *proxenos* in the *polis* of Ioulis on Keos, who was killed in 363 BC during a local uprising against Athens, aimed at withdrawing from its alliance (Шарнина, 2014, p. 136).

However, some authors argue that *proxenoi* enjoyed certain privileges in their home *polis*, such as the right to display the emblem of the *polis* they represented on the door of their residence and to use a special seal bearing that emblem, among others. It has also been suggested that they later acquired certain immunities. If this interpretation is correct, it would bring the institution of *proxenia* closer to that of honorary consuls.

The *proxenoi* were typically selected from among respectable and wealthy individuals. Thus, for example, the renowned lyric poet Pindar (6th–5th century BC) acted as a *proxenos* Athens in Thebes, while, conversely, the eminent Athenian orator and statesman Demosthenes (4th century BC) served as a *proxenos* of Thebes in Athens. Many other well-known figures also held the office of *proxenos*,

including the historian Thucydides (5th century BC), the statesmen and military leaders Alcibiades (5th century BC) and Callias III (5th–4th century BC), and the philosopher Aristocreon (3rd–2nd century BC), among others.

Cimon, the Athenian general and statesman from the 5th century BC, is remembered as one of the most prominent *proxenoi* and a leading opponent of Persia. He served as a *proxenos* of Sparta and Thessaly and was so closely associated with these states that he named two of his sons after them, one, Lacedaemonius, after Lacedaemon – the official Ancient Greek name for Sparta, and the other, Thessalus, after Thessaly (Hazel, 2002, pp. 56-57).

The institution of *proxenia* was recognized by at least 78 ancient Greek states, cities, or confederations (Stuart, 1936, p. 25).

The similarity between *proxenoi* and *prostates* lay in the fact that both institutions served to promote trade and other connections between *poleis* and protect the rights and interests of foreigners. However, unlike *prostates*, who acted as representatives of individual foreigners, *proxenoi* protected the rights and interests of the citizens of the *polis* that appointed them, including the *polis* itself. Accordingly, although both institutions performed a broadly comparable protective function in relation to foreigners, they differed significantly in their legal nature: *proxenoi* were appointed by city-states rather than by individuals, and they enjoyed broader powers, as well as greater rights and privileges.

A tentative parallel may be drawn between *proxenoi* and the modern honorary consuls. This is especially because the primary functions of *proxenoi* consisted in taking care of the development of trade between the two cities and protecting the rights of the state that appointed them before the local authorities, as well as because not only were they not part of the state apparatus of the city they represented, but they were elected exclusively from among the citizens of the city in which they lived and performed their functions without remuneration.

3.1.2. Other Countries

The solutions developed in the Hellenic world were not entirely new and unique. Various factors, particularly the unstoppable development of international trade, led to comparable arrangements being adopted in other regions of the ancient world.

It has been claimed that in Egypt, as early as 726 BC, the Greeks enjoyed the right to appoint magistrates who adjudicated their mutual disputes in accordance with their laws (Guerrero & Mastny, 1928, p. 105). However, the accuracy of this assertion is open to question, particularly in light of sources indicating that Naucratis was the first established Greek settlement in Egypt, founded only in the 7th century BC.

It is generally accepted that the last great Egyptian pharaoh, Amasis II (Ahmose II), around 570 BC, officially designated the city of Naucratis as the sole authorized Greek trading colony in Egypt, granting Greek settlers the right to elect their own magistrates – also referred to as *prostates* – who ensured the application of Greek law to members of the Greek community. Around the same period, comparable practices involving the appointment of separate judges for foreigners are also reported to have existed in China and in certain regions of India (Zourek, 1957, p. 73; Đorđević & Mitić, 2000, pp. 161-162).

In Ancient Rome, foreigners were initially disenfranchised and exposed to violence. However, their position later improved significantly, which was facilitated, among other factors, by the emergence of *hospitium* and patronage (*clientela*). These institutions, although characterized by distinct features, were primarily concerned with the personal status of individual foreigners rather than with the status of foreign citizens as such.

Hospitium (hospitality) referred to two distinct yet interconnected phenomena. First, it denoted a standardized contract concluded between a foreigner and a Roman citizen. Second, the same term was used to describe the relationship established by such an agreement, the essence of which lay in the Roman citizen's obligation to receive the foreigner, provide protection and care in case of illness, and, in particular, defend their interests before Roman courts. Unless terminated by mutual agreement, the contract was inheritable and remained in force even during periods of war between Rome and a foreign state. In later developments, the Roman state itself admitted certain distinguished foreigners into *hospitium*, recognizing their merits towards Rome. Moreover, through international treaties, it extended *hospitium publicum*, or public hospitality, to all citizens of a foreign state (Phillipson, 2011, I, pp. 217-227; Bartoš & Nikolajević, 1951, pp. 23-24).

Similar, yet sufficiently distinct, was the institution of patronage (Latin, *clientela*). *Patronatus* referred both to a specific contractual arrangement and to the relationship it established between a foreigner (client) and a Roman citizen (patron). The client was expected to show deference to the patron and to provide certain services or benefits, such as contributing to dowries to his daughters. In return, the patron assumed the obligation to assist the client in various matters, including instruction in Roman law and representing him before the courts. In effect, the client relinquished his former citizenship and became a form of Roman protégé, a status that became even more pronounced with the emergence of public patronage. Under this system, certain aristocratic families were entrusted with entire cities and provinces (e.g. Sicily, Cyprus, Spain), thereby acting as their representatives and protectors before the Roman Senate, while the clients acquired a quasi-civic status approaching Roman citizenship (Стояновъ, 1875, p. 62; Bartoš & Nikolajević, 1951, pp. 24-25).

Although there is a substantial difference between *hospitium* and patronage on the one hand, and consular institution on the other, a certain resemblance to the institution of honorary consuls cannot be denied.

Similar solutions, by the logic of circumstances, must have existed in other states of the period, as economic and other considerations necessitated the presence of foreigners, and someone had to safeguard their rights and interests.

3.2. First Consuls

The development of consular functions is sometimes divided into several stages: (1) the initial phase in which consuls primarily acted as judges, (2) a second phase in which they functioned as representatives of states, and (3) a third phase in which their role focused on the protection of commercial and shipping interests (Zourek, 1957, pp. 74-76). However, for a better overview and understanding of this matter, it is preferable to adopt an alternative periodization.

3.2.1. Consuls of Merchants, Consuls-Judges, Consuls of the Sea

Some authors maintain that the institution of the consul, or a comparable magistrate under a different designation, may be traced to the early Middle Ages or early feudal period (5th to 11th centuries). According to this view, such institutions emerged in eighth-century China and in ninth-century India and the Arab world, i.e., “wherever international trade arose” (Zourek, 1957, p. 74).

Nevertheless, for several reasons, and particularly from the perspective of the development of international law, events in Europe and the Mediterranean remain of particular importance.

The collapse of the Western Roman Empire and the invasions of barbarian groups in the 5th and 6th centuries led to a decline in urban life and a reversion to an agricultural economy. Foreign trade experienced a significant downturn, surviving primarily through the *emporia*¹¹ – trading settlements in northwestern Europe that emerged in the 6th and 7th centuries and disappeared in the 9th century.

However, from the 8th century onwards, international trade began to recover gradually. This revival was driven, among other factors, by the emergence of a large number of new states on the ruins of the Western Roman Empire, the construction of new cities and the reconstruction of previously abandoned cities. It was further facilitated by the shift of major trade routes from the Mediterranean towards the North Sea and Baltic Sea regions, as well as by an overall increase in the supply

¹¹ Latin: *emporium*, derived from the Ancient Greek *émporos* (ἐμπορος), meaning traveler or merchant.

of goods. Trade encompassed a wide range of commodities, including raw wool, textiles (including fine finished cloth), silk, fur, grain, spices (such as salt, pepper, ginger, nutmeg, and cinnamon), aromatic substances (notably, frankincense and myrrh), wine, porcelain, timber, iron, weapons, precious metals, gemstones, pearls, and animals.

Although land and river trade still retained its importance, the development of maritime navigation – particularly the introduction of larger and more robustly constructed ships, equipped with better sails, more comfortable conditions for the crew, and greater cargo capacity – led to a significant expansion of maritime trade. As a result, seaports, which had always held considerable importance, increasingly became, in the true sense of the term, centers of international trade.

Under the influence of the rapid expansion of maritime trade in the 9th and 10th centuries, specialized institutions emerged in the coastal cities of southern Europe. These bodies developed rapidly and gained wide acceptance. They appear under various names and in different local contexts, although predominantly in port cities. Their primary function was the supervision of international trade and the resolution of disputes between foreigners (including seafarers, cargo carriers, and merchants) and local merchants. Accordingly, they were commonly referred to as ‘consuls of merchants’ (*consules mercatorum*), ‘consuls-judges’ (*juges consules*), ‘consuls of the sea’ (*consules maris*), among other designations. At this time, consuls thus functioned as judges in maritime and commercial disputes, while their offices – the buildings or premises in which they performed their functions – were known as consulates.

In adjudicating disputes, these judges were in a position to interpret and more closely define customary and other applicable rules governing a range of issues, including compensation for damages arising from non-performance of contracts, and the apportionment of losses incurred when a shipowner, during a storm, jettisoned part of the cargo to save the ship and the remainder of the shipment. Given that such adjudication also included rules concerning the right to stop and inspect vessels, as well as the conditions for the seizure of the ship and cargo, it exerted a significant influence on the development of international law of the sea (Rivijer, 1897, p. 555; Rivijer, 1898, pp. 246-247).

Maritime consuls (French, *consuls de mer*)¹² were originally magistrates founded in the early 12th century by Guilhem V de Montpellier. Their function was to protect the interests of Montpellier in foreign trade, as well as to oversee diplomatic relations and the maintenance of waterways and port facilities in Lattes, an area south of Montpellier. There were four such officials, elected annually on 31

¹² It is believed that this designation stems from the fact that, at the time, rules governing consulates and consuls formed part of maritime law (Đorđević & Mitić, 2000, p. 162).

December for a one-year term, typically from among the nobility. Subsequently, other magistrates were created to further support the development of the city's international trade: sea consuls (*consuls sur mer*), responsible for protecting the interests of Montpellier at sea, and overseas consuls (*consuls d'outre-mer*), tasked with protecting its commercial interests in trading posts in other Mediterranean cities.

Similar institutions were established in other trading cities across the Mediterranean. For example, in Dubrovnik, there existed a consul for civil cases (*console delle cause civili*) and a consulate for maritime disputes (*consolatus maris*) (Mitić, 2006, pp. 30-32).

In this way, the earliest consuls were heads of merchant groups (typically reputable traders), functioning as magistrates in the ports of their respective countries – primarily in Italy, France, and Spain – charged with resolving maritime and commercial disputes as a distinct category of judges (*consules iudices*). In doing so, they applied the prevailing maritime and commercial law of the relevant region. The applicable legal norms were often drawn from or codified in sources such as the Byzantine Maritime Code, also known as Rhodian Sea Law (7th–8th century AD), the Amalfian Laws (12th century), and the *Book of the Consulate of the Sea* (c. 1330), among others. In certain cases, such consuls accompanied caravans or ships and exercised their authority over traveling merchants.

These institutes emerged in response to the need to ensure the regulation of international trade and the protection of foreign merchants, seafarers, and other foreigners at a time when such matters were not adequately addressed by states.

3.2.2. Byzantium

Following the fall of the Western Roman Empire in 476, the center of international trade, diplomatic and other relations gradually shifted to the Eastern Roman Empire – Byzantium. It engaged in intensive trade with the East, Italy, and the Frankish kingdoms, as well as, in the 9th and 10th centuries, with the Slavic world, especially Moravia, Bulgaria, and Kievan Rus' (Zourek, 1957, p. 73).

Attracted by the prospect of trading not only with Byzantium itself but also with distant regions of the world – since goods arrived from many directions and found buyers from various countries – numerous foreign merchants settled in Constantinople and other Byzantine cities, particularly in major ports. Merchants originating from the same city or state naturally connected, residing in the same districts, cities or quarters, and establishing their own independent communities, including brotherhoods and trading colonies. These communities built and maintained their own houses, shops, warehouses, administrative offices, churches, and

other institutions (Zourek, 1957, p. 73). Owing to differences in language and customs, as well as lack of knowledge of each other's legal regulations, these communities were granted a degree of autonomy. Among other privileges, they enjoyed the right to appoint their own leaders (magistrates, later known as consuls), who were authorized to adjudicate civil disputes and criminal matters arising between their compatriots.

Thus, as early as 945, Byzantium agreed, in a treaty with Kievan Rus', that Russian merchants would enjoy the protection of their chief, who was empowered to resolve disputes among them. A similar privilege – the right to appoint magistrates with jurisdiction over civil and criminal matters involving their compatriots – was granted by Byzantium also to the Venetians in 1060. Subsequently, in 1190, by means of a Golden Bull, the Byzantine authorities authorized Venetian elders to adjudicate disputes between Venetians and local (Byzantine) citizens. Comparable rights were soon extended to the trading colonies of other cities, including Genoa (1204), Montpellier (1243), and Narbonne (1340) (Zourek, 1957, pp. 73-74; Lee, 1961, pp. 4-5; Đorđević & Mitić, 2000, p. 161).

Byzantium is highlighted here because of its particularly important role in international trade during this period, but even more because consulates and consuls first emerged in Europe within the Byzantine Empire as mechanisms for regulating relations between Byzantium and the rest of Europe. From there, these institutions gradually spread to other regions.

3.2.3. Overseas Consuls

In pursuit of profit, wealth, and influence, merchants throughout the Mediterranean were often willing to relocate from one commercial center to another and to reside for extended periods, sometimes for years, in foreign trading hubs. Consequently, most major commercial centers hosted a significant number of foreign merchants who had settled abroad in the course of expanding international trade. Thus, Italian cities were home to a large number of merchants from the Levant. Nevertheless, large-scale merchant migrations was even more pronounced in the opposite direction, from the ports of southern and western Europe towards the East (Koehler, 2014, p. 187).

This practice became particularly widespread during the time of the Crusades (11th–13th centuries), when many European trading cities established commercial settlements in the Middle East and North Africa. The Italian city of Amalfi founded their commercial settlements in Acre (1110), Tyre (1123), the Kingdom of Jerusalem (1157), and Antioch and Tripoli (1170). Likewise, Marseilles obtained permission to appoint consuls in its colonies at Tyre and Beirut (1223), while Montpellier acquired

similar rights in Antioch and Tripoli (1243) (Zourek, 1957, pp. 73-74). Indeed, it may be said that during and after the Crusading period many Italian, French, Spanish, and other European commercial cities maintained overseas trading colonies in the Middle East and North Africa, and subsequently in other regions. Among the most prominent were Venice, Genoa, Naples, Florence, Amalfi, Pisa, Bari, Ancona, Savona, Marseille, Montpellier, Narbonne, Valencia, Barcelona, and Ragusa (Dubrovnik).

One author goes so far as to argue that the institution of the consul originated during the Crusades, stating that: "The crusaders took with them a multitude of merchants, who boldly settled in the Levant and remained there among the Muslims, who again have become masters of the land. In this way, in the larger ports of the East, some kind of Christian colonies were formed, which sought the protection of the great trading cities of the Mediterranean Sea. There were, for example, colonies of Venetian merchants, colonies of Genoese, colonies of the corporation of Montpellier or Barcelona, etc. These Christian groups, competing with each other and lost in the midst of the hostile population, soon felt the need to group themselves in quarters and to create an autonomous organization for themselves. In order to use the prestige of the Roman consuls, the heads of these groups took the name of consul, as a symbol of the sovereign heads of ancient Rome" (Moa, 1025, p. 234).

Some scholars likewise contend that consular institutions emerged in the aftermath of the Crusades, when Italian, French, and Spanish merchants settled permanently in the cities and ports of the Levant. According to this interpretation, the distinctive nature of Islamic law made the application of Sharia law to these foreign communities problematic. At the same time, Muslim rulers, seeking to encourage and maintain commercial activity, granted foreign merchants various privileges, including exemption from the jurisdiction of local Islamic courts. Under such circumstances, the members of the trading colonies elected consuls who exercised extensive jurisdiction over their compatriots in civil and criminal matters (Degan, 2011, p. 322).

While there is no reason to denying that such developments occurred, it is doubtful that this account provides a fully accurate picture of the origins of the consular institution. First, the Crusades took place between the late eleventh and the late 13th centuries (1095-1291), whereas the earliest foreign trading communities with their own elected leaders (whether magistrates or consuls) had already appeared much earlier, during the 8th to 10th centuries, and in some cases even before that. Moreover, simple logic suggests that mere organization of European merchants into self-governing groups would not, in itself, have guaranteed their survival, if their protection and freedom had not been guaranteed by local rulers.

Historical evidence confirms that Western merchant colonies were established and survived only where local authorities permitted their presence and afforded them protection and specific privileges necessary for life and business. A notable example is provided by Harun al-Rashid, the most renowned Abbasid caliph, who as early as the 9th century granted certain guarantees and privileges to merchants from Western Europe, including subjects of the Frankish king Charlemagne.

What is particularly important in this context is that European merchants residing in overseas trading colonies began to elect consuls-judges, following a model already familiar in European port cities. Over time, however, these officials gradually transcended their original judicial function, acquired additional powers, and came to serve as the leaders of all persons belonging to the respective colony.

Indeed, foreign merchant settlements, which were concentrated primarily in port cities, succeeded in obtaining a degree of autonomy from the territorial authorities. Local rulers, particularly in Muslim countries, had a strong interest in securing the inflow of certain Western goods, including timber, iron, high-quality armor, salt, wool, furs, and various food products. They also sought to promote trade with other regions through foreign merchants. At the same time, however, they recognized that foreign traders would be unwilling to settle and conduct business without adequate security guarantees and the granting of specific privileges. Moreover, this period was characterized by the prevalence of the principle of the personality of the law, according to which individuals were subject to the legal system of the state to which they owed allegiance rather than that of the territory in which they resided. On this basis, foreign merchant communities succeeded in securing the right to have civil disputes among their members, and in some cases even criminal matters, adjudicated by their own elected elders. Initially, these were known as magistrates, but later came to be referred as 'overseas consuls' (*consules ultramarini*). Over time, the designation was shortened to simply 'consuls.'

This development is widely regarded as the origin of modern consular institution (МаптеHC, 1996, p. 45).

These elected elders performed a dual function. On the one hand, they exercised administrative and judicial powers, and were responsible for ensuring compliance with maritime and commercial laws and customs, as well as for adjudicating civil and commercial disputes among members of the respective communities. On the other hand, they fulfilled a representative function by acting on behalf of their fellow merchants from the same colony before local authorities and at trade fairs.

Such 'consuls abroad' were already present in the 12th-13th centuries in the principal ports and cities of the Western Mediterranean, and subsequently appeared along the Atlantic, North Sea, Baltic, and Black Sea trade routes. Their presence was not limited to seaports, but also extended to inland commercial centers.

Thus, for example:

- The Italian city-states appointed consuls not only in other Italian cities but also in France, Spain, London, the Netherlands, and elsewhere. As early as the 13th century, they were granted the right to maintain their own consuls in Spain, endowed with extensive powers. In some cases, these consuls were authorized to adjudicate not only disputes among members of their own merchant colony but also disputes between those merchants and Spanish subjects. In 1251, the Spanish king Ferdinand III recognized such rights, together with other privileges, for Genoese merchants and their consuls (Đorđević & Mitić, 2000, p. 162);
- Venice maintained its consuls in more than 30 foreign cities;
- During the same period, the Hanseatic and Flemish cities established a large number of trading posts along the Atlantic and the Mediterranean coasts. These were headed by elected elders bearing various titles – alderman, conservator, praetor, and consul (Rivijer, 1897, p. 556; Đorđević & Mitić, 2000, p. 162);
- other states likewise maintained their own merchant colonies and appointed consuls to lead them. For example, England had consuls in the Netherlands, Sweden, Denmark, Norway, and in Pisa, Italy, who for a certain period exercised both civil and criminal jurisdiction over merchants of English nationality (Oppenheim, 1920, p. 589);
- Owing to the presence of its merchant communities in the interior of the Balkan Peninsula, Dubrovnik appointed its first consuls in the non-coastal Balkan states as early as the 13th century. By the end of the 14th century, it maintained 15 consuls in the region. By the 16th century, Dubrovnik had as many as 81 consular representatives in various countries: 50 consuls and consuls general, and 31 vice consuls. Of these, 23 were stationed in Italian and 23 in Ottoman ports, 19 in Spanish ports, five in French ports, five in North African ports, and one each on the Venetian islands of Zante and Corfu, as well as in Portugal, in Odesa, Malta and in Rijeka (Mitić, 2006, 35, pp. 39-40).

3.3. Further Development

Since the 16th century, the institution of consuls developed along divergent lines in relations among Western European states and in their interactions with the so-called non-Christian nations.

2.3.1. Consuls in Western Europe

As already noted, in Western Europe until the 12th and 13th centuries, consuls-judges were known to resolve disputes among members of merchant colonies

in foreign territories (Kreća, 2012, p. 140). This aspect is typically foregrounded in the literature and rightly so.

Moreover, at a time when powerful centralized states with effectively absolute jurisdiction over their territories had not yet emerged, and when a network of permanent diplomatic missions had not yet developed, consuls exercised a broad range of powers and responsibilities, which varied according to time and place. Among other functions, they:

- performed occasionally diplomatic functions, ensuring the consistent implementation of agreements concluded between their home state and the country in which they perform their functions, and in some cases acting as diplomats or political representatives of their state;
- exercised also a range of powers over their compatriots abroad, including the protection of their rights and safeguarding them against insults or abuses committed by local authorities or residents; ensuring compliance by their compatriots with both the laws of their state of origin and the regulations of the host territory; exercising a form of supervisory authority over their nationals abroad; compiling birth and death certificates; and conducting probate proceedings following the death of their nationals;
- they also dealt with maritime matters, including supervising the payment of maritime dues and taxes, maintaining order on their country's merchant ships in port, participating in investigations in cases of a shipwrecks involving their country's ships, and taking measures to ensure the rescue of both crew and cargo;
- performed certain commercial functions, such as authenticating trade contracts, acting as witnesses to their conclusion, and performing related activities (Кожевников, 1968, p. 76).

Along with the consolidation of states and the strengthening of their sovereignty, territorial jurisdiction gradually supplants personal jurisdiction, as states increasingly extend their authority over all persons and objects within their territory. As a result, consuls cease to exercise criminal and civil jurisdiction, which is transferred to the exclusive competence of the courts of the territorial state.

At the same time, during the 17th and 18th centuries, modern permanent diplomatic missions emerged. Consequently, consuls gradually lost their former diplomatic functions and the associated diplomatic status, as well as many of their privileges and immunities.

Although consuls ceased to function as independent heads of merchant colonies in a foreign ports and as adjudicators in disputes among members of those community (Bartoš, 1956, p. 537), they did not disappear but instead acquired new functions and a transformed role. In terms of status, they evolved from elected

elders of autonomous merchant communities into state officials, endowed with corresponding powers, privileges, and immunities.

The changes also extended the functions of consuls. In the period marked by the rapid development of shipping and transport more broadly, and particularly by the expansion of international trade, the role of the consul came increasingly to be defined by the protection of the interests of the designating country and its citizens and legal entities, especially in the fields of trade, navigation, and industry, as well as by assistance to national ships and their crews, among other duties. In this way, consular activity gradually assumed the contours of the functions performed by consuls in the modern era.

3.3.2. *European Consuls in Non-Christian Countries*

Regardless of the institutional changes that took place in Europe, in the countries of the East, Africa, and later Asia (the so-called 'non-Christian countries'), European consuls retained – and in many cases even strengthened – their earlier role, along with their special powers and privileged status (Rivijer, 1897, pp. 577-592; Moa, 1925, p. 236; Le Fir, 1934, pp. 282-283; Novaković, 1938, pp. 66-72; Bartoš, 1956, p. 537). This status had already been legally recognized from the 12th-13th centuries onward and became increasingly formalized in later periods.

The agreements known as capitulations, which European powers imposed on the territorial states, established a special international legal framework (the so-called capitulatory regime).¹³ Its essential features included the exemption of subjects of Christian countries from the authority and laws of the territorial state; their exemption from local taxation; the right to reside in a designated city district enjoying inviolability and extraterritorial status; and their freedom of movement, trade, crafts, and related activities.

An integral component of that regime consisted of the special rights and privileges granted to consuls of Christian countries, including diplomatic immunity; the right to exercise the so-called consular jurisdiction (i.e., the right to adjudicate civil and commercial disputes among their nationals, between them and other foreigners, and, in some cases, even between their nationals and subjects of the territorial state, as well as, on occasion, criminal cases); the right to exercise certain administrative and police functions; the right to grant the so-called consular asylum

¹³ It is believed (e.g. Moa, 1925, p. 240) that the term for these agreements derives from their division into chapters (Latin *capitulum*, meaning a chapter of a book, document, or contract). Another explanation is that the term originates from the fact that these were often unequal agreements, typically imposed after the military defeat of the one party (i.e., its capitulation) or, at minimum, under military pressure.

(refuge within the consular premises); and the right to receive free of charge from the territorial state an armed guard for the continuous protection of the consulate and an armed escort for the consul personally, among other privileges (Thayer, 1923, pp. 207-233; Lopičić & Lopičić Jančić, 2013, pp. 24-27).

Privileges of this type were obtained by Genoa in Antioch (1098); Venice (1123), and Marseilles (1136) in Jerusalem; Pisa in Morocco (1133) and Egypt (1173); Montpellier (1267) and Narbonne (1377) in Alexandria; and then subsequently by other countries in other regions, including Beirut, Tripoli, Rhodes, and Cyprus (Zourek, 1957, p. 73). Similar arrangements also existed in the Ottoman Empire (Thayer, 1923, pp. 207-233; Sousa, 1933), as well as in Egypt, Abyssinia (modern Ethiopia), Persia, Lebanon, Tunisia, Syria, Libya, Algeria, Morocco, China, Japan, Siam (modern Thailand), and Korea.

When Muslim countries regained control over territories in which colonies of Western traders were already established (for example, the Arab states following the expulsion of the Crusaders, and the Ottoman Empire after the conquest of Constantinople in 1453), they found it advantageous to continue granting certain privileges, as such concessions were essential to ensure the continued presence of foreign merchants. Accordingly, the Ottoman Empire concluded a series of special treaties with Genoa (as early as 1453), Venice (1454), France (1535), England (1583), and the Netherlands (1612), among others, which exempted foreigners from local jurisdiction, while simultaneously recognizing the civil, criminal, and administrative (police) jurisdiction of foreign consuls. Thus, for example, the Franco-Ottoman treaty of 1535 expressly provided that only the French consul was competent to adjudicate civil and criminal disputes arising between merchants and other subjects of the French king (Ильин, 1969, pp. 8-9). Once established, this regime was subsequently renewed through successive treaties, whereby the rights of Western countries were generally confirmed and, in some cases, even expanded (Đorđević & Mitić, 2000, pp. 162-164; De Groot, 2003, pp. 575-604; Cassano, 2021, pp. 171-199; Krivokapić, 2023, pp. 158, 718).

In highlighting the exceptionally privileged position of Christian consuls, Novaković cites Ribeiro dos Santos and Barrett, although he provides only the authors' names without identifying the work from which the quotation is taken. According to this account: "Consuls can live wherever they want. They have complete freedom of religion; they may establish places of worship in their homes and invite their countrymen to attend worship. They may appoint whomever they wish to travel on official business by land and sea without hindrance. Nothing may be taken from them or withheld. They may leave the country whenever they wish. They have the right to list the property of their countrymen who die without heirs in their territory. They, their officials, and their servants are exempt from duties

and taxes. They are the natural judges of their countrymen. Not even the slightest insult may be inflicted upon them, whether by actions, gestures, or words. They may take under their protection any ship or any other person upon request. If a person under their protection is arrested, they may demand his release, vouching for him. Their houses are safe havens. They are exempt from customs duties on goods intended for their personal use, as well as from other similar charges. They may neither be arrested, nor tried; if they commit abuses, they would be returned to their own governments. They are provided with Janissary guards or other soldiers, for whom they are required to pay nothing..." (Novaković, 1938, p. 70). From the reference to Janissary guards, it may reasonably be interred that the privileges described in this passage relate to the position of consuls in the Ottoman Empire during the relevant period.

This practice subsequently expanded, particularly during the 19th century, when Western powers secured through treaty arrangements a privileged legal status for their nationals and consuls in many Asian countries.

One author described this situation in the following terms: "In certain non-Christian states of Asia and Africa, consuls were entrusted with much greater functions and enjoyed much greater privileges than was normally the case in relations among modern civilized states... The differences between European states and those countries in terms of culture, state organization, and the understanding of morality in public and private law led European states to maintain commercial and political relations with the aforementioned states of the East and the Far East only under certain conditions, and among these conditions was the requirement that the subjects of European states be exempt from the jurisdiction of the local authorities and be placed under to the judicial and police authority of their own state. The European state entrusted this exceptional power to its consul, and, in addition, sought full diplomatic privileges for him. However contrary this arrangement may have been to the state's independence and its right to exercise exclusive police and judicial powers within its territory, the non-Christian states accepted this limitation of their sovereignty because it was the only means by which regular economic relations with European states could be maintained." (Novaković, 1938, p. 66).

Without questioning the sincerity of the author's convictions, we believe that his description of the relationship between Christian and non-Christian states, particularly their legal inequality, is broadly accurate. However, serious reservations must be expressed regarding some of the assumptions and arguments used to explain the establishment of the capitulatory regime. In effect, the author appears to accuse, even if inadvertently, non-Christian countries of being uncultured and immoral. Similarly, the argument implies that the European states were conferring a benefit upon the countries of Asia and Africa by maintaining economic relations

with them. Such an interpretation is difficult to reconcile with the broader historical record, which generally portrays European expansion as closely connected with colonial domination and the imposition of political, economic, and legal arrangements favorable to European powers. Indeed, the capitulatory regime in China was established through a series of unequal treaties following the country's defeat in the First (1839-1842) and Second (1856-1960) Opium Wars.

Over time, the circle of privileged countries expanded to include not only the European powers but also the United States and Japan. The last treaty establishing this regime was concluded between Austria-Hungary and Korea in 1893 (Omčikus, 1934, p. 5).

The capitulatory regime, including the privileged status of consuls and the exercise of consular jurisdiction, constituted one of the legal manifestations of colonial domination. Consequently, its decline followed the broader retreat of colonial system, which began to be dismantled in the early 20th century and disappeared entirely after the Second World War. More specifically, the Ottoman Empire abolished the capitulatory regime in 1923, Thailand in 1925, Iran in 1928, Egypt in 1937, China in 1943, Morocco and Tunisia in 1956 (Zourek, 1957, p. 76).

3.3.3. Consuls as Public Officials

As an institution with a long and fascinating history, the consuls evolved from a judge in maritime and commercial disputes in seaports, to an elected representative and elder chosen by the members of merchant community abroad (Latine, *consules electi*, from *electus*, meaning 'chosen'), and ultimately to a public official, a distinct category of state emissary. Beginning in the 16th and 17th centuries¹⁴ consuls increasingly came to be appointed by states as their official organs. Accordingly, they became known as sent consuls (Latine, *consules missi*, from *missus*, meaning 'sent', derived from *mittere*, 'to send').

During the era of absolutist monarchies, as the central government of states became increasingly consolidated, the countries from which merchant communities originated, or whose nationality their members possessed, gradually established greater control and supervision over those communities and their members. At the same time, they extended their protection to them. As a result, consuls evolved into public officials of the state, systematically dispatched abroad with the special task of safeguarding national interests, particularly by promoting international shipping and trade, protecting the state's nationals, and regulating relations among them.

¹⁴ There are, however, views that certain cities, such as Marseille, had already begun by the 13th century to dispatch their own consuls as state officials to other countries for the purpose of protecting the interests of their citizens (Moa, 1925, p. 234).

At the same time, the territorial states, i.e., receiving states, whose central government had likewise become stronger, were increasingly unwilling to permit any entity other than their own authorities to exercise administrative or judicial powers within their territory. Consequently, these functions were gradually excluded from the sphere of consular activity. One reason for this development was that, although the powers exercise by elected consuls within foreign merchant communities could previously be understood as a form of autonomy, such an interpretation lost its basis once consuls became officials of foreign states. The exercise of administrative or judicial authority by foreign state organs would have constituted an infringement of the sovereignty of the territorial state.

Although known since the 13th century, honorary consuls came into increasingly frequent use from the 18th century onward (Ernst, 2011, para. 7). Unlike career consuls – public officials for whom consular service is a profession and who are, as a rule, nationals of the sending state – honorary consuls are most often appointed from among prominent citizens of the receiving state. They perform consular functions on an incidental basis, alongside their principal occupation, and without remuneration. Their motivation for accepting such appointments is usually a degree of affinity for the sending state, although it is also evident that the position confers certain benefits, including social prestige and enhanced opportunities for establishing and maintaining important professional and diplomatic contacts.

On the other hand, the interests of the sending state are evident; the use of honorary consuls results in considerable cost savings, as it eliminates the need to dispatch career officials and bear the associated expenses. At the same time, owing to their personal reputation and networks, honorary consuls may enhance the representational capacity of the sending state and facilitate access to influential circles in the host country. Although their international legal status is, in principle, comparable to that of career consuls – subject to certain differences in the scope of privileges and immunities – in practice their functions are generally more limited than those of career consuls, since states typically entrust them with only selected consular functions rather than the full range of consular responsibilities. In subsequent centuries, the institution of honorary consuls became increasingly widespread.¹⁵

The further development of international cooperation, particularly in trade but also in transport, tourism, and sports, led to the rapid expansion of consular relations and consular law. This development, together with the continuous

¹⁵ It is estimated that there are approximately 20,000 honorary consuls worldwide today, of which around 1,200 are located in the United States alone. At the same time, the United States has not appointed honorary consuls since 1924. (Diplo, Honorary Consuls, www.diplomacy.edu/topics/honorary-consuls/, 3. 7. 2026)

emergence of new states, contributed to the steady increase in the number of consular missions and consular officials, a trend that continues to the present day.

Today, it is practically impossible to determine the total number of consulates and consular officials worldwide. This is due, first, to the increased number of states (now approximately 200), and second, to the fact that a state may maintain more than one consular post in a single foreign country. In addition, such mission may employ several consular officers, while consular representation includes both career and honorary consuls. Moreover, consular functions are often performed by members of diplomatic missions serving in the consular sections of embassies.

Nevertheless, it is useful to present at least some available data in order to obtain a general impression. According to certain statistics referring only to separate consular missions, and excluding consular officers within diplomatic mission who also perform consular functions, in 2023 the number of consular posts was as follows: Turkey – 93, China – 91, United States – 83, Italy – 74, Russia – 74, France – 72, Mexico – 71, Japan – 66, Spain – 65, South Korea – 60, Germany – 56, Argentina – 54, United Kingdom – 51, and India – 50, among others.¹⁶

4. Characteristics of Modern Consuls

Compared with the relatively recent past, the role and status of consuls in the contemporary period have undergone substantial transformation. It is, therefore, unsurprising that many authors refer to ‘modern consuls’ and ‘modern consular relations’ or contemporary international consular law, thereby emphasizing that consuls, consular relations, and consular law have undergone a series of transformations (Торшина, 2009, pp. 263-282; Haynal *et al.*, 2013; Green Hofstadter, 2020; Milisavljević, 2021, pp. 121-136; Naskou-Perraki, 2025, pp. 71-89, 103-124, 141-152). In order to obtain a clearer picture, it is useful to compare modern consuls both with their historical predecessors and, on the other hand, with diplomatic representatives.

4.1. Comparison with Earlier Consuls

In the course of its evolution, the institution of consuls has undergone numerous fluctuations, which immediately raises the question of which of their predecessors – belonging to which period and which region – should be used as a basis for comparison with modern consuls.

¹⁶ Diplomacy Index 2021, Overall, Lowy Institute, https://globaldiplomacyindex.lowyinstitute.org/country_ranking, 26. 3. 2026.

Recognizing that this approach involves a certain degree of simplification, we will compare contemporary consuls with the earliest consular forms, namely those who emerged in Europe, as well as with consuls who, under the capitulatory regime, continued to operate in certain regions of the world until the end of the Second World War. The differences concern several fundamental aspects, which will be outlined only briefly below.

1. Method of selection or appointment. Unlike consuls in earlier periods, who were elected from among the members of merchant colonies abroad, contemporary consuls are appointed by the state they represent.

2. Functions. The functions of consuls have changed considerably over time, eventually being reduced to those defined by the Vienna Convention on Consular Relations (VCCR, 1963), which codified consular relations at the universal (global) level.

3. Powers. As a consequence of these functional changes, consular powers have also evolved. The most striking difference is that contemporary consuls are, in principle, not authorized to perform diplomatic functions and, in particular, do not exercise judicial powers within the territory of the receiving state.

4. Privileges and immunities. In certain stages of their historical development and in specific regions, consuls enjoyed privileges and immunities that were recognized alongside those of diplomatic representatives and, in some respects, even exceeded those granted to diplomatic agents in the modern era. Today, however, their privileges and immunities are generally of a lower level than those accorded to diplomats and, in certain respects, are more limited than those enjoyed by the administrative, technical, and even service staff of diplomatic missions.¹⁷ In the contemporary period, consuls may exceptionally enjoy diplomatic privileges and immunities only where this is expressly stipulated by a bilateral or other international agreement.

¹⁷ Unlike diplomatic agents and the administrative and technical staff of diplomatic missions, consular officers do not enjoy general immunity from the jurisdiction of the courts of the receiving state, except in respect of acts performed in the exercise of consular duties. In cases serious offences, and pursuant to a decision of the competent judicial authority, a consul may be liable to arrest or detention pending trial. Consuls are exempted from the obligation to give evidence only with regard to matters related to the performance of their official duties (Arts. 40-44 of the Vienna Convention on Consular Relations (VCCR, 1963). Moreover, the VCCR does not guarantee consular officers, including heads of consulates, the inviolability of their private residence. In this regard, it has long been argued that the continuation of the traditional hierarchy of immunities may warrant reconsideration, particularly in light of the paradox that greater immunities may, in some cases, be afforded to certain categories of embassy staff such as cooks, chauffeurs or other service personnel, than to consular officers (Lee, 1961, p. 224).

4.2. Comparison with Diplomatic Representatives

In certain historical periods, in some regions, consuls bore a close resemblance to diplomatic representatives. In the contemporary era, however, a clear distinction is generally drawn between these two forms of external representation of the state.

4.2.1. Differences

Although consuls continue to have many similarities with diplomatic representatives, in the contemporary era, they differ from them in several fundamental respects: (1) their distinct historical origins and patterns of development; (2) the scope of their territorial jurisdiction; (3) the authorities of the receiving state with which they communicate; (4) their subject-matter jurisdiction, i.e., the functions they perform; and 5) the scope of the privileges and immunities accorded to them.

1. Different origins and historical development. The emergence of diplomatic representatives and consuls was driven by different historical needs. Diplomatic representatives – initially within special missions and later within permanent diplomatic missions – have traditionally served as representatives of their sovereign. By contrast, the consul's role was, in principle, more modest and reduced to addressing far less glamorous, albeit important, practical matters. Given their distinct original functions, the historical development of the institution of diplomatic representation and consular representation followed different trajectories. This distinction remains evident today. At the universal (global) level, diplomatic law and consular law are codified in separate international instruments: the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963), respectively.

2. Territorial jurisdiction. Unlike a diplomatic mission, which performs its functions throughout the entire territory of the receiving country, a consul exercises its functions in a more limited and clearly defined territory - a port, a city, a region, or another designated area.¹⁸ This territory is known as a consular district. Its boundaries are determined on the basis of practical considerations, and it often includes a port regularly visited by ships of the sending state, an area in which a significant number of migrant workers from the sending state reside, or a region inhabited by members of a national minority whose kin-state in the sending state.

¹⁸ However, there are exceptions to this rule. In exceptional circumstances, and with the consent of the receiving state, consuls may perform their functions outside their consular district. In addition, where the appointing state maintains only a single consular post, or only one consular section within its diplomatic mission, in the receiving state, the consular district may encompass the entire territory of the receiving state.

In those parts of the receiving state's territory that do not fall within the jurisdiction of a particular consular district, consular functions are generally performed by the consular section of the diplomatic mission of the sending state.

3. Communication primarily with local authorities. Given that their territorial jurisdiction is limited to a specific consular district, consuls, in principle, deal primarily with the competent local authorities within that district rather than with the central authorities of the receiving state. This reflects the nature of their functions, which are generally limited to practical and non-political matters.

This constitutes a significant difference from diplomatic representatives, who, as the political representatives of their sending state, communicate directly with the highest authorities of the receiving state, including the head of state, the prime minister, the minister of foreign affairs, and other senior government officials.

4. Subject-matter jurisdiction. Unlike diplomatic representatives, who act as political representatives of the sending state before the highest authorities of the receiving state, and are therefore concerned with major foreign-policy issues, consuls perform more specialized and practical functions. Their role is generally limited to taking concrete measures, in cooperation with the competent authorities within the consular district, primarily to protect the rights and interests of the sending state and its nationals, as well as its legal entities. Although the functions performed by consuls are of considerable importance in everyday life, they are, strictly speaking, non-political in nature.

The functions of consuls are set out in Article 5 of the Vienna Convention on Consular Relations (1963). They include, *inter alia*:

- protecting in the receiving state the interests of the sending state and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- furthering the development of commercial, economic, cultural, and scientific relations between the sending state and the receiving state, and otherwise promoting friendly relations between them in accordance with the provisions of the Vienna Convention on Consular Relations;
- ascertaining, by all lawful means, conditions and developments in the commercial, economic, cultural, and scientific life of the receiving state, reporting thereon to the government of the sending state, and providing relevant information to persons interested;
- issuing passports and travel documents to nationals of the sending state, and visas or other appropriate documents to persons wishing to travel to the sending state;
- helping and assisting nationals, both individuals and bodies corporate, of the sending state;

- acting as a notary and civil registrar, and in capacities of a similar nature, and performing certain functions of an administrative nature, provided that such activities are not contrary to the laws and regulations of the receiving state;
- safeguarding the interests of nationals, both individuals and bodies corporate, of the sending state in cases of succession *mortis causa* in the territory of the receiving state, in accordance with the laws and regulations of that state;
- safeguarding, within the limits imposed by the laws and regulations of the receiving state, the interests of minors and other persons lacking full capacity who are nationals of the sending state, particularly where any guardianship or trusteeship is required with respect to such persons;
- subject to the practices and procedures of the receiving state, representing nationals of the sending state, or arranging for their appropriate representation, before the tribunals and other authorities of the receiving state, for the purpose of obtaining, in accordance with the laws and regulations of that state, provisional measures necessary to preserve the rights and interests of these nationals, where, owing to absence or any other reason, they are unable to assume the defense of their rights and interests in a timely manner;
- transmitting judicial and extrajudicial documents, or executing letters rogatory or commissions to take evidence for the courts of the sending state, in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving state;
- exercising rights of supervision and inspection provided for in the laws and regulations of the sending state in respect of vessels having the nationality of the sending state, and of aircraft registered in that state, and in respect of their crews;
- extending assistance to vessels and aircraft having the nationality of the sending state, and to their crews; etc.

The Convention (Article 5(m)) expressly provides that consular functions also include any other functions entrusted to a consular post by the sending state, provided that such functions are not prohibited by the laws and regulations of the receiving state, are not objected to by the receiving state, or are not referred to in the international agreements in force between the sending state and the receiving state (on consular functions, see: Sen, 1965, pp. 227-244; Đorđević & Mitić, 2000, 188-213; Lopičić, 1992, 45-56; Haynal *et al.*, 2013).

From this provision it is evident that consular functions in the contemporary period are not only clearly distinct from diplomatic functions, but also, in their essential structure, correspond broadly to the functions that emerged in Europe several centuries earlier.

5. Privileges and immunities. As non-political representatives, consuls enjoy, under general international law, a significantly lower degree of privileges and immunities than that accorded to diplomatic agents. Similarly, consular officers and consular staff benefit from a lower level of protection and privileges than that granted to the administrative, technical, and service personnel of diplomatic missions. Finally, consular premises enjoy a lesser degree of inviolability than the premises of diplomatic missions.

6. Different classes. While there is a clear hierarchy among the diplomatic staff of a diplomatic mission (i.e., those members who possess diplomatic capacity), there is no comparable system of multiple ranked missions, since the receiving state may host only one permanent diplomatic mission (an embassy) of the sending state, headed by a single chief of mission.

By contrast, since a sending state may maintain several consular posts in the same foreign state, consular establishments may be differentiated according to rank. In such cases, the consulate-general occupies the highest rank, followed by the consulate, the vice-consulate, and the consular agency. Accordingly, heads of consular posts are, in contemporary practice, classified into four categories: (1) consuls general, (2) consuls, (3) vice-consuls, and (4) consular agents.¹⁹

7. Other distinctions. There are also other, important yet less immediately visible differences, which are particularly apparent to practitioners in diplomatic and consular services. These relate, *inter alia*, to the nature of interactions, i.e., who visits a diplomatic or consular mission, and whom diplomats or consuls themselves visit.

Thus, for example, it has been rightly observed: “In addition to senior officials of the receiving country, senior political and economic delegations of the sending country usually visit diplomatic missions, while consulates are usually (albeit not always) approached by individuals in need of assistance, most often from the lowest social ladder of the sending state’s nationals. These are often persons affected by measures taken by the authorities of the receiving state, such as imprisonment, expulsion, denial of certain rights, or various accidents, or by difficulties such as loss of money or travel documents, etc.)” (Đorđević & Mitić, 2000, p. 160).

A further, and in practice, quite clear, distinction also exists in the reverse direction, i.e., with regard to those whom diplomatic agents and consuls respectively visit. In this regard, it has been observed: “The daily work of a diplomat consists in visiting the Ministry of Foreign Affairs and other high institutions of the receiving state, and attending various receptions and official gatherings, whereas a consul, in most cases, visits prisons, police stations, morgues, hospitals, courts, and many other places where his fellow nationals may find themselves in distress

¹⁹ Article 9(1) of the Vienna Convention on Consular Relations (1963).

or in a particularly difficult circumstances. The State Department, in a popular brochure on consular functions – functions which are so broad and difficult to exhaust – begins its information by listing those matters with which consulates do not deal, and in which citizens cannot expect consular assistance and service.” (Đorđević & Mitić, 2000, p. 160).

4.2.2. Cumulation of Diplomatic and Consular Functions

As has been shown, consuls and diplomatic agents emerged and developed independently, and even today they remain, in principle, distinct categories. Nevertheless, in the contemporary period, the gap between them has gradually become less pronounced.

In the past, diplomatic and consular functions, as well as the officials performing them, were clearly separated. Although this distinction formally persists, in modern practice, both diplomatic and consular functions are often performed by officials permanently employed within the Ministry of Foreign Affairs of the respective state. Moreover, it is not uncommon for the same officials to serve abroad at different times, sometimes in a diplomatic capacity and other times in a consular capacity.

Furthermore, consular functions may be performed not only by consular posts but also by consular sections of diplomatic missions.²⁰ Indeed, it is a common practice for consular affairs to be entrusted to members of a diplomatic mission who, in such cases, retain their diplomatic privileges and immunities and are not removed from the diplomatic list. This practice is referred to as the cumulation of diplomatic and consular functions.

On the other hand, consuls may, in exceptional circumstances, perform certain diplomatic functions on behalf of their state. Thus, in a state where the sending state has no diplomatic mission and is not represented by a diplomatic mission of a third state, a consular officer may, with the consent of the receiving state and without prejudice to his consular status, be authorized to perform diplomatic functions. The performance of such functions by a consular officer does not, however, confer upon him any entitlement to claim diplomatic privileges and immunities. A consular officer may also, after notification to the receiving state, act as the representative of the sending state to any intergovernmental organization having its seat in the territory of the receiving state. In such cases, the officer is entitled to enjoy

²⁰ This practice was confirmed in the Vienna Convention on Diplomatic Relations (1961), which in Article 3(2) provides that nothing in the Convention shall be construed as preventing a diplomatic mission from performing consular functions, and in the Vienna Convention on Consular Relations (1963), which (Article 3) establishes that consular functions may also be performed by diplomatic missions.

any privileges and immunities accorded to such representatives under customary international law or applicable international agreements. However, in respect of the performance of consular functions, the officer would not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the Vienna Convention on Consular Relations.²¹

5. Consular Law Throughout History

5.1. The Concept of Consular Law

In the most general sense, consular law may be defined as a body of legal rules governing the appointment, activities (functions), and legal position (rights, duties, privileges, and immunities) of consular officials (consuls) and consular posts (consulates), as well as other related matters.

This formulation is, of course, not without limitations. It lacks precision insofar as it is closely tied to the institution of the consul itself. Accordingly, a full understanding of it presupposes a prior definition of the consul. In addition, it does not explicitly address the social relations regulated by consular law, nor does it refer to its sources. Nevertheless, it remains as a broad introductory definition encompassing the entire range of legal norms concerning consular relations, which have varied significantly throughout history.

5.2. Development of Consular Law

The position, role, and powers of consuls have evolved considerably over time and across different regions. Owing to the nature of consular relations, these and others related matters – including the procedures for the appointment of consuls, as well as their privileges and immunities – have consistently been regulated by both international law and domestic law of states. In this regard, it may be noted that, as with many other legal matters, domestic (national) law initially played a particularly prominent role.²² At the same time, international law has always been of significant importance and, over the course of time, has increasingly assumed a predominant position. Many scholars contend that by the 20th century, consular law had become established as a separate branch of international law. Although closely related to diplomatic law, it remains clearly distinct from it, just as consuls are differentiated from diplomats.

²¹ Article 17 of the Vienna Convention on Consular Relations (1963).

²² Various bulls, charters, orders, and other sovereign acts, and similar legal instruments.

Upon closer examination, it becomes evident that even the earliest consuls, known as consul-judges, operated within established legal frameworks determined primarily by domestic regulations. At the same time, they applied maritime and commercial codes that, in essence, constituted an early form of codification of customary law, including elements of international public law, international economic law, and international private law at the local and regional levels.

Subsequently, during the 16th to 18th centuries, as consuls increasingly became integrated into the state apparatus, national regulations governing the organization and functioning of consular services on a uniform basis throughout the state became progressively more common. The first provisions concerning the consular service were contained in the French decree *Ordonnance de la Marine* (1681), whose significance lies in the fact that it served as a model for the organization of consular services in other countries. Thereafter, additional regulations were enacted in France (1778, 1781, and 1833), while the United States (1792), Prussia (1796), Sardinia (1815), Russia (1820), Great Britain (1825), and the Netherlands (1838), among others, adopted their first legislation governing consular services (Đorđević & Mitić, 2000, p. 164). Although such instruments generally lack broader significance at the international level, they continue to constitute an important category of legal sources within individual states. Even today, the legal framework governing consular services in each country is largely determined by relevant provisions of domestic legislation, including consular statutes, consular rules of procedure, laws on consular services, and consular regulations.

In addition to regulating their own consular services, states have historically addressed certain issues concerning foreign consuls. Such matters were typically regulated by the local ruler, who guaranteed the special position and protection of foreign consuls through edicts, firmans, or similar legal instruments.

Nevertheless, the rules governing consular relations have always been contained primarily in the principal sources of international law, namely international customs and international treaties. Over time, the importance of these sources steadily increased.

For a considerable period, customary international law constituted a very important source of rules governing consular relations. However, its reliance on custom gave rise to several significant limitations. First, the number of established customary rules in this field was relatively limited. Second, like customary law, in general, such rules often lacked precision as their content was not formally codified and was therefore subject to differing interpretations. Third, and perhaps most importantly, these rules lacked uniformity, with different regions often adhering to divergent practices and legal solutions as the appointment of consuls, the scope of their functions, and their legal status.

However, states with interest in developing and regulating consular relations soon began to conclude international agreements. Moreover, some authors argue that consular law was initially governed by bilateral agreements and only subsequently evolved into a body of customary international law (Angelet, 2023, para. 1).

In states operating under the capitulatory regime, the status of consuls was regulated through bilateral agreements concluded between the respective Christian and non-Christian states. These agreements defined the special legal status and exceptionally broad powers of consuls representing Christian states, while also granting substantial privileges to European merchants. Among the earliest examples of such treaties were those concluded between Pisa and Morocco (1133), Venice and Egypt (1238), and Aragon and Tunisia (1285), among others. Notwithstanding their numerous shortcomings, these agreements represented a significant step forward at least from a formal perspective, as they regulated consular matters through international instruments negotiated between the states concerned. Bilateral treaties continue to constitute an important source of consular law today.

A particular curiosity lies in the fact that, in some cases, certain issues were regulated not by agreements between the sending and receiving states, but rather by agreements concluded exclusively among sending states, without the participation of the receiving state. This primarily concerns the order of precedence among foreign consuls. It was not uncommon for the receiving state – particularly in the case of smaller countries – in order to avoid disputes with more powerful foreign states, to refrain from regulating this matter directly, thereby allowing foreign consuls or their respective states to determine the order of precedence among themselves.

In practice, such arrangements frequently gave rise to disputes, as illustrated by the case in Belgrade in 1875 involving the German Consul General, Georg Rosen. Departing from the practice established by an agreement between foreign representatives in Belgrade in 1867, according to which precedence within the consular corps was accorded to those who, in addition to the rank of consul general, also held the status of diplomatic agent – Rosen demanded that foreign consuls be presented to the Serbian prince strictly according to the dates of presentation of their credentials. The Serbian Minister of Foreign Affairs rejected this claim, arguing that he was not competent to determine the rank of foreign representatives in Serbia and that such matters fell within the competence of the consuls themselves. At that, the German ambassador in Constantinople (Serbia at the time being an autonomous principality within the Ottoman Empire) issued a forceful demarche, demanding that the Porte instruct its vassal state, Serbia, on the appropriate conduct toward the representative of the major power such as Germany. Through the mediation of Russia and Austria, this incident, which threatened to have major diplomatic and political implications, was successfully resolved (Popov, 2006, pp. 455-468).

Further progress was observed in Europe as responsibility for the appointment and reception of consuls became fully assumed by the states, thereby giving rise to consular relations in their modern form. This trend gradually spread around the world and ultimately became the prevailing global model. The first international agreements that regulated, in a relatively modern manner, the reciprocal exchange of consuls between contracting states emerged in the second half of the 18th century. Notable examples include agreements concluded by France with Spain (1769), England (1787), Russia (1787), and the United States (1787), among others (Bartoš, 1956, p. 537).

The institution of the consul, in its modern form, and consular law more broadly, developed rapidly during the 19th century, when a wide network of bilateral consular conventions was concluded among a large number of states. Examples include agreements between France and the United States (1853), France and Venezuela (1856), the United Kingdom and the Netherlands (1856), France and Spain (1862), and France and Austria (1866) among others (Angelet, 2023, para. 2). Such agreements were concluded not only by major powers but also by smaller states.²³ Many of the rules and principles that remain in force today were established during this period.

This development was facilitated by the transition from the earlier system of elected consuls, who, as heads of expatriate merchant colonies, enjoyed a degree of autonomy in respect to the receiving state and performed their functions primarily in relation to members of their own community, to the modern institution of consuls, which constitute a distinct category of state officials, specialized in maintaining consular relations between states.

Consular relations constitute a specific form of relationship between two states (and thus between two sovereign entities), established through the conclusion of a relevant international agreement, such as a convention on the opening of a consulate on the basis of which each party permits the establishment of consular representation of the other party within its territory, subject to the limits defined by the agreement. In contemporary international law, this entails: (1) a clear recognition of consular relations; (2) their character as a specific type of official interstate relations; (3) their mutual establishment through treaty between two interested states; (4) their distinctness from diplomatic relations; and (5) the fact that their establishment and maintenance are not contingent upon the existence of diplomatic relations between the two states.

²³ Thus, after gaining full independence in 1878, Serbia concluded consular conventions with a number of states within a relatively short period. These included agreements with Italy (1879), Austria-Hungary (1881), the United State (1881), the Netherlands (1881), Germany (1883), France (1883), and the Ottoman Empire (initially on a provisional basis in 1886, and subsequently on a permanent basis in 1896), among others (Lopičić & Lopičić Jančić, 2013, pp. 33-47).

This leads to the concept of modern consular law. It may be defined as a body of norms, institutions, and principles governing consular relations between states, in particular the establishment and conduct of such relations, the procedures for the appointment and admission of consuls, consular functions, and consular facilities, privileges and immunities, among other matters.

In a narrower sense, consular law comprises treaty-based and customary international legal norms from this sphere of social relations. In a broader sense, it also encompasses relevant state legislation, which, within the limits established by international law, provides more detailed regulation of certain aspects essential to the functioning of consular services.²⁴ Accordingly, the sources of consular law are predominantly international in character, although they are supplemented by internal state regulations.

Alongside certain customary legal rules, which were not always sufficient and were at times ambiguous or even contradictory,²⁵ international treaties, particularly consular conventions, emerged in the 19th century as key sources of modern international law in this field. Consular conventions, understood as interstate agreements governing matters essential to the proper conduct of consular relations and the functioning of consular missions and their personnel, addressed issues such as the establishment of consular relations, consular functions, facilities, privileges, and immunities, among others.

As already noted, the earliest international agreements concerning consuls took the form of bilateral treaties concluded between the states concerned. This practice remains widespread today, with states frequently regulating their consular relations through bilateral consular conventions.²⁶ In addition to these, various other bilateral agreements between states, such as legal aid agreements, immigration agreements, and the like, also constitute relevant sources of consular law.

In addition to the bilateral instruments, consular matters are likewise regulated by certain regional agreements. Among the most notable in the American

²⁴ Thus, for example, the general arrangement of French consulates was first established by the *Ordonnance de la Marine* (1681) (Rivijer, 1897, p. 556).

²⁵ At the beginning of the 19th century, customary international law contained only a limited number of rules governing consular relations, privileges, and immunities. This gave rise to frequent misunderstandings and disputes, and in order to address these difficulties, states gradually developed a broad network of bilateral and, to a lesser degree, regional consular conventions, culminating in instruments such as the Havana Convention (1928) (Satou, 2013, p. 251).

²⁶ It has rightly been noted that, although consular law has been universally codified by the Vienna Convention on Consular Relations (1963), bilateral consular conventions concluded prior to its adoption remain in force. Moreover, states continue to conclude such treaties, which often address most of the issues regulated by the Convention, thereby reflecting the evolving needs of international cooperation (Angelet, 2023, para. 1).

context are the Agreement on Consular Functions (1911) and the Havana Convention on Consular Representatives (1928), while in Europe relevant examples include the European Convention on Consular Functions (1967).

The Consular Agreement between Bolivia, Colombia, Ecuador, Peru, and Venezuela, commonly referred to as the 1911 Agreement, was signed on 18 July 1911 in Caracas with the purpose of establishing uniform rules governing consular relations among the member states, particularly in situations where one of the contracting parties did not maintain a consular representative in the territory of another. In this regard, one of the most significant provisions is Article IV, which provides that a consul of one member state may represent the interests of nationals of another member state that lacks consular representation in the relevant locality. The agreement further contained provisions regulating additional matters, including extradition and asylum, among others).

Much more interesting, both in terms of the breadth and quality of its provisions and the relatively large number of participating states, is the Havana Convention on Consular Representatives, signed in the capital of Cuba on 20 February 1928. The Convention is particularly notable for its classification of consuls into distinct categories, while leaving the criteria for their appointment to the discretion of individual states. It is further significant in that it expressly prohibited the granting of diplomatic or consular asylum to persons accused or convicted of ordinary crimes. The Convention represented an important step in further development of international law in this field. It was ratified by 14 member states of the American States and entered into force in 1929.

The European Convention on Consular Functions was opened for signature within the Council of Europe on 11 December 1967, approximately four years after the signing and nearly one year after the entry into force of the Vienna Convention on Consular Relations (1963). In this respect, it is complementary to the Vienna Convention and may be regarded as a supplementary instrument, as it focuses specifically on consular functions. The Convention regulates the functions of consuls in member states, covering a broad range of those duties and powers, including the protection of nationals, assistance in relations with local administrative and judicial authorities, legal assistance, the performance of notarial acts (such as the legalization of signatures, certification of documents, and issuance of certificates), the administration of estate of deceased nationals, as well as functions related to shipping. It entered into force only on 9 June 2011, following the deposit of five ratifications, which constituted the requisite threshold for its entry into force. As of March 2026, its membership includes only Georgia, Greece, Norway, Portugal, and Spain. A further four states have signed it, but did not ratify it, while the remaining 37 member states of the Council of Europe have

neither signed nor ratified it.²⁷ Nevertheless, it has been argued that the Convention has made a meaningful contribution to the development of international law in this field (Green, 1972, pp. 176-188; Maftei, 2016, pp. 102-108).

The most significant achievement in this field was the conclusion of the Vienna Convention on Consular Relations, signed in Vienna on 24 April 1963, and entering into force on 19 March 1967. This instrument effected the codification and progressive development of international law on a universal scale by regulating the principal issues of consular law, including the establishment of consular relations, the relationship between consular and diplomatic relations, consular functions, classes of consuls, honorary consuls, the issuance of exequatur, and consular immunities and privileges, among others. In contemporary international law, it constitutes the most important source of consular law. Along with the Convention, two optional protocols were concluded – the Optional Protocol on the Acquisition of Citizenship and the Optional Protocol on Mandatory Dispute Resolution. In addition to the Convention, the Optional Protocols entered into force on 19 March 1967. As of 26 March 2026, the Convention has 182 members. Although more than six decades have passed since its adoption despite the fact that it governs largely non-political matters of general interest to all states, it is noteworthy that 12 of the total 193 United Nations Member States are not yet parties to the Vienna Convention.²⁸

6. The Perspectives of Consuls and Consular Law

Relying on the foregoing analysis, it might be concluded that the sphere of consular relations and consular law belongs to those areas which, after undergoing several transformations driven by practical needs, have been definitively and comprehensively regulated by general international law. However, such a conclusion would be incorrect.

First, experience demonstrates that no set of social relations is permanently stable or immutable. It follows that legal norms governing such relations cannot be regarded as fixed once and for all. Everything changes (*panta rhei*); one cannot step into the same river twice.

²⁷ Chart of signatures and ratifications of Treaty 061, Status as of 26 March 2026, Council of Europe, www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty-num=061, 3. 7. 2026.

²⁸ Among the parties to the Convention is the Holy See, which is not a Member of the United Nations. Accordingly, only 181 United Nations Members States are currently bound by the Convention.

Consuls and consular relations are no exception to this general principle. Both they and consequently the branch of international law governing them (consular law) are subject to ongoing change. This is to be expected. While incremental adjustments are self-evident, the present discussion is concerned primarily with more substantial transformations. In this regard, there are grounds for anticipating that fundamentally different solutions may emerge in the relatively near future.

At first glance, the importance of the institution of consuls, the number of consuls, and thus the significance of consular law may be expected to increase over time. Given the current proliferation of consular actors and instruments, including consular conventions and related legal documents, this tendency appears to be reinforced by the growing number of states, expanding international economic and other cooperation, implying sustained growth of foreign investments and mobility. The rising number of foreigners in host states, including migrant workers, tourists, and athletes, further contributes to the expansion of cross-border relations falling under the purview of modern consular authorities. This suggests that the number of consuls and consular representations will continue to expand. Such assessments appear, at present, to be both logical and well founded. In this respect, it has been rightly pointed out that, within the global framework, the work of consuls is acquiring increasing importance, and that the notion of a form of 'consular internationalism' is even being formulated (Johns, 2025, pp. 60-83).

However, there is also room for an alternative line of reasoning. It is equally conceivable that, in the relatively near future, consuls may experience a gradual reduction in their functions and, ultimately, cease to exist. This outcome could arise for a variety of reasons.

We live in an era in which changes in the way of life, including international relations, occur at an exceptionally rapid pace. Many developments are changing, quite literally, before our eyes.

Indeed, if the current situation is compared with that prevailing at the time of the adoption of the Vienna Convention on Consular Relations (1963), i.e., little more than six decades ago, not only do many things look different, but contemporary realities are also undergoing continuous transformation. In this regard, three principal outcomes regarding the future of consuls may be envisaged: (1) the disappearance of consuls as a consequence of the physical extinction of humanity, (2) the transformation of the institution of consuls; and (3) the disappearance of consuls as an obsolete institution of international law.

1. The extinction of humanity. Given the contemporary global context, characterized by deep antagonisms and large-scale armed conflicts with consequences that remain difficult to predict, it is necessary to acknowledge the possibility of a

broadier civilizational catastrophe.²⁹ Indeed, some scholars argue that the world has already entered a Third World War, which began in the early 1990s but has thus far manifested primarily through a series of localized low-intensity conflicts that are not easily perceived as components of a single global confrontation. At the time of writing (early April 2026), armed conflicts continue to spread across different regions of the world, involving an increasing number of states, including nuclear powers. Consequently, the risk of a large-scale catastrophe may be greater today than it was during the Cold War (Krivokapić, 2024, pp. 79-116).

In this context, if humanity is confronted with a total global war, the institution of consuls may become irrelevant, as neither the need for such functions nor the individuals who would perform them would remain. Conversely, if such a conflict does not result in total devastation, it is conceivable that, within the surviving segment of humanity, certain relationships could revert to forms characteristic of earlier historical periods. In that case, consuls would likely retain their current functions, while certain aspects of consular activity might revert to practices associated with previous eras, such as those related to the capitulatory regime.

2. Transformation of the consul. If humanity demonstrates the wisdom and strength to survive in relative peace, the international community may enter a new reality more rapidly than is commonly anticipated. In such a scenario, the role of states is likely to diminish as many functions are transferred both to global and regional government structures and to a variety of non-state actors. Under these circumstances, the institution of the consul would probably persist, at least for a transitional period. Although consuls might lose some of their traditional functions, they could simultaneously acquire new functions. At this point, however, any more precise assessment of these potential developments would be largely speculative.

3. Disappearance of the consul. Although the prospect of a world that endures and the institution of the consuls disappears may appear unrealistic today, such a development is not inconceivable. Throughout history, many institutions of international law and international relations have, at various points, been completely abandoned, or even banned. Examples include the abolition of the capitulatory regime, consular judges, the right of states to wage war, the institution of formal declarations of war, privateering, the principle of *cuius regio eius religio*, bilateral river commissions (subsequently replaced by multilateral international bodies), the

²⁹ Less than four years ago, we published a paper examining the relationship between the Cuban Missile Crisis (1962) and the Ukrainian crisis that had just erupted at that time (2022), arguing that the world had once again found itself on the brink of a world war (Krivokapić & Vukadinović, 2022, pp. 349-366). The military actions undertaken by United States and Israel against Iran on 28 February 2026 have made the situation even more complicated and uncertain, threatening to spill over into a global armed conflict.

taking and retention of hostages, the international slave trade, and the belligerent right of angary.

But why might consuls disappear? Several developments suggest that such a possibility cannot be entirely dismissed. Various phenomena and processes that already characterize our reality could, in principle, indicate the potential trends in the near future. Only a few of the most significant examples will be considered here.

1. Today's world is characterized by processes of globalization, integration, and regionalization, as well as by the gradual demise of the role of the state and the emergence of new actors in international relations. These developments are also reflected in the evolution of international law (Кривокапић, 2022, pp. 515-544). At the same time, an increasing number of issues are being addressed the international level, accompanied by growing tendencies toward unification, rationalization, and automation. Over time, these trends may contribute to a decrease in the importance of bilateral diplomatic and consular relations, as an expanding range of functions is transferred to specialized and other international authorities and bodies.

2. At the same time, the role of the state continues to undergo gradual but persistent transformation. An increasing number of functions and competences are being transferred to various non-state actors, including non-governmental organizations, private enterprises, and other entities. While this process may alleviate certain burdens on the state apparatus, it also weakens its role. These developments also have implications for state institutions entrusted with the maintenance of international relations, and among them consular authorities.

3. Whereas states traditionally communicated with one another primarily through their official organs of international representation – namely heads of state or government, ministers or ministries of foreign affairs, and diplomatic and consular missions – contemporary international relations are characterized by an expanding range of issues addressed through direct contacts among specialized state institutions. Parliaments, competent ministries, courts, armed forces, police agencies, and other competent authorities increasingly engage in direct cooperation, finding new channels and reducing the need for the involvement of consular services.

In this regard, it has been rightly observed that “the state is not disappearing; it is disaggregating into its separate, functionally distinct parts. These parts – courts, regulatory agencies, executives, and even legislatures – are networking with their counterparts abroad, creating a dense web of relations that constitutes a new, transgovernmental order. Today's international problems – terrorism, organized crime, environmental degradation, money laundering, bank failure, and securities fraud – create and sustain these relations” (Slaughter, 1997, p. 184). Indeed, it can be observed that state authorities increasingly communicate directly with their counterparts in other countries, establishing stable horizontal

forms of cooperation without the need for consular involvement.³⁰ There is an ever-increasing range of activities and functions that, in the past, were carried out with greater or lesser participation of consuls but are now performed through other mechanisms.

4. Even diplomatic relations are today conducted in a manner that differs significantly from the past. Increasingly, heads of state or government negotiate directly and make joint decisions, whether through videoconferencing, telephone communications, or by using modern means of transportation that enable them to meet at the agreed place within a very short period of time. Within this framework, the role of embassies and ambassadors has gradually declined, as they increasingly lose their autonomy and assume a role of coordinators of activities that are even more firmly controlled by other, higher-level authorities. In a situation in which the position of diplomatic missions is weakening, it is only natural that these processes are also reflected in the position and role of consuls.

5. The role of transnational (multinational) companies – economic enterprises with branches in multiple countries and, in some cases, throughout the world – is constantly increasing. The largest among them already possess greater economic resources than most states, while their economic, political, informational, and other forms of influence continue to expand. As a result, they are increasingly engaged in conducting their own business diplomacy and managing their own international relations independently. Moreover, there are already grounds for considering such corporations a distinct category of subjects of international law (Krivokapić, 2017, pp. 110-127).

Although consuls, in principle, continue to provide the necessary information, interpret local regulations, and facilitate foreign investment and access to the host country's market, many transnational corporations prefer to rely on other mechanisms, such as direct contacts with the authorities of the respective state, the deployment of their own experts and negotiators, the engagement of leading local legal counsel, and similar arrangements. Because they regularly transfer personnel from one country to another, transnational corporations also develop mechanisms for overcoming visa-related obstacles that would otherwise require consular involvement. By communicating directly with the governments of the host countries, which are often highly interested in attracting foreign investment and therefore willing to offer various concessions, transnational corporations are able to resolve many issues that would traditionally fall within the scope of consular

³⁰ For example, today ministries of the interior directly conclude cooperation agreements; organizational units within these ministries communicate and cooperate directly with their counterparts abroad; and ministries of the interior are represented in corresponding institutions of other states through liaison officer, among other mechanisms.

functions. This leads to the conclusion that consuls are becoming progressively less important for the largest and most powerful economic actors.

6. To this, it may be added that business meetings and agreements are increasingly conducted through videoconferencing, the electronic exchange of correspondence and documents, and similar means, without the physical presence of the representatives of the parties concerned. This, in itself, reduces the circumstances in which consular assistance might be required. Since the individuals involved do not travel to a foreign country, many of the most common reasons for consular intervention naturally cease to exist. Such persons are not exposed to situations that may arise during a stay in a foreign country, including the loss of passports, theft of money or other property, arrest, death, and similar incidents.

7. In all likelihood, many of the functions currently performed by consuls (such as issuing documents to own nationals and granting visas to foreign nationals) will, in the foreseeable future, be performed much faster and at lower cost by computer programs and automated systems. This trend is likely to become increasingly pronounced as artificial intelligence, smart robotics, automation, digital data processing, and other technological innovations continue to develop and find wider practical application (Choi, 2006, pp. 117-132).

8. If an individual loses their passport or it is stolen, their identity can already be reliably established through modern biometric identification systems, including fingerprint analysis, iris scanning, face recognition, and voice recognition. In addition, given the increasingly comprehensive nature of data systems and the cooperation of states within Interpol, it is relatively easy to determine whether the person concerned is wanted or poses a security risk. Where no additional complications arise, once the identification has been completed, the foreign (territorial) state may also provide certain traditional consular services, such as issuing a one-way travel document enabling the individual to return to their country of origin. This is already done in some cases – for example, for foreign nationals who have lost their passports and whose countries do not maintain a diplomatic or consular mission in the host state. For such practices to evolve from exceptional measures into a general rule, a broader framework of international legal regulation would be required; however, there appear to be no fundamental preventing such a solution.

9. In our time, means of communication such as mobile phones and the Internet have developed at an extraordinary pace, so that a national who, for any reason, requires assistance abroad can very quickly and easily establish contact not only with their embassy, but also directly with their family members, friends, and the competent authorities in their home country.

If an individual has run out of money, family members can quickly and easily transfer funds through payment cards, postal or other money transfer services,

or even settle debts and cover medical or other expenses remotely. If legal assistance is required, it is highly likely that relatives would prefer to seek out a lawyer themselves, rather than relay on a consul. Where intervention by the state of citizenship becomes necessary, the embassy of that state in the receiving state can assume responsibility for providing assistance, and, in exceptional cases, a special diplomatic mission may be dispatched. One possible option is for ministries of foreign affairs to establish a system of so-called 'flying consuls' (or 'consular service shuttles'), namely *ad hoc* consular officers who would travel to a foreign country when necessary in order to resolve specific situations. Naturally, such arrangements would require prior regulation under international law; however, there appear to be no fundamental obstacles in principle that would prevent their development.

These brief remarks already suggest that, in the relatively near future, there may be no consular functions defined by the Vienna Convention on Consular Relations (1963) that cannot be performed equally effectively by other actors. Functions that cannot be provided through alternative mechanisms could, at least initially, be performed by the honorary consuls. If this development were to materialize, it would imply consuls, as traditionally understood, could become largely redundant.

At the same time, the gradual abandonment of the consular institution may also produce certain tangible benefits.

First, this would eliminate a certain 'double-track' system that exists today, resulting from the simultaneous operation ministries of foreign affairs, their diplomatic missions abroad, and consular posts, particularly in situations where several consuls may operate within the same foreign state. While the very existence of such actors indicates that they perform necessary functions, it also creates potential for certain difficulties, such as conflict of jurisdiction and divergent administrative practices.

In addition, the replacement of consular officials and consular staff with intelligent machines would, notwithstanding the disadvantages associated with a certain dehumanization of relations, lead to increased efficiency (as robots operate 24 hours a day, seven days a week, do not require annual leave, do not fall ill, and do not consume alcohol) as well as greater precision, particularly through the reduction of human error. This is especially significant when considering that the costs of maintaining consular services in their current form are substantial, as they include relatively high salaries of consuls and other consular staff, expenses related to accompanying family members, transportation costs to and from the place of service, the acquisition or rental of consular offices, the procurement of office furniture and supplies, as well as the organization of official receptions and similar events. All of these elements could, at some point, become redundant, thereby relieving national budgets of considerable expenditure. Such savings would

be substantial for individual states and potentially immense when considered at the global level.

The changes under discussion cannot occur overnight. Initially, it would likely be natural to implement a full integration of diplomatic and consular services through the formal cumulation of diplomatic and consular functions, thereby eliminating distinctions between the personnel performing them.

This would imply that consulates and consuls, as they exist today, would be abolished, and that most of their functions would be fully assumed by embassies and their consular sections. After all, many of these functions have long been carried out by diplomatic missions, and not only by their consular sections. Embassies are, in any case, responsible for protecting the interests of the sending state and its nationals in the receiving state; for promoting the development of trade, economic, cultural, and scientific relations between the sending and receiving states; for gathering, through lawful means, information on the commercial, economic, cultural, and scientific conditions and developments in the receiving state; for reporting such information to the sending; and for performing similar tasks.

Every coin has two sides. The main weakness of the scenario described above would be the loss of direct personal contact within the immediate consular environment (i.e., within the consular district) between consuls, on the one hand, and local authorities, emigrants, members of the national minority of the sending state, and other relevant actors, on the other. However, the mere existence of a consul does not necessarily imply that they perform their duties effectively or responsibly, nor that they have established meaningful relations with the aforementioned entities. In addition, in contemporary conditions, communication – including face-to-face interaction – can be rapidly and efficiently established through modern technical means. Moreover, videoconferencing via the Internet makes it possible, when necessary, to urgently connect and communicate directly with various actors, not only consuls and representatives of local authorities, but also embassy officials, ship captains, consuls of other countries in the same location, and others, meetings between whom would otherwise be difficult to organize, not to mention the time saved by eliminating travel. Finally, with regard to the establishment and maintenance of personal relations, honorary consuls have traditionally proven to be considerably more effective than career consuls.

With regard to the weaknesses, it is true that nationals facing certain difficulties abroad, such as the loss of a passport, arrest, and similar situations, or engaged in other matters in a foreign country, for example, employment, inheritance issues, and the like, as well as crew members of merchant ships or aircraft located in foreign ports or airports, would in foreseeable future likely prefer direct interaction with a human consul. On the other hand, digital platforms and intelligent automated

systems are expected to facilitate many tasks that are currently carried out in consular offices at considerable cost in terms of time and resources. Indeed, many problems are already being prevented or resolved through automated data processing and inter-agency information exchange. This development forms part of a broader and ongoing tendency to replace human labor, wherever feasible, with intelligent automated systems, including in roles such as bank clerks, truck drivers, translators, and others. While this trend may be interpreted as a form of societal dehumanization, it appears to be a trajectory that is difficult to reverse. As a partial consolation, one may recall the advantages already provided by ATMs and various automated systems at airports, ports, and other facilities, which enable essential tasks, such as cash withdrawals or flight check-in, to be completed within seconds and without waiting in queues.

The changes in question would also imply a somewhat different definition of the status of diplomatic representatives themselves. They could, *inter alia*, provide an opportunity to reduce the scope and extent of diplomatic privileges and immunities for all diplomatic agents, not only for those performing consular functions. Indeed, there are reasons to consider whether the level of protection currently enjoyed by diplomats should be reduced to that accorded to contemporary consuls. In practice, this would mean that diplomatic agents would enjoy not absolute immunity, but rather functional immunity limited to acts performed in the exercise of their official duties, together with immunity in respect of minor offenses. This would represent an adaptation to the conditions of contemporary life and could contribute to reducing various abuses of diplomatic privileges and immunities that are frequently encountered in practice (Ahmad, Lilienthal & bin Haji Asmad, 2021, pp. 165-190; Кривокапич, 2022, pp. 62-73).

To the considerations outlined above, it may be added that a portion of the activities traditionally performed by consuls is increasingly being assumed by various non-state actors. In contemporary conditions, international trade, economic, cultural, scientific, sporting, and other forms of cooperation are increasingly developed outside official state channels, through direct contacts among interested individuals, groups, and organizations. With regard to obtaining information about developments in a foreign country, embassies are no longer the sole source of such information, as various alternative channels have been increasingly important, including the media, reports of international organizations, and international and national non-governmental organizations. Indeed, in a world in which virtually every significant event is immediately recorded by someone with a mobile phone and disseminated through the Internet, there is relatively little important information that could become available to a consul through lawful means without simultaneously becoming known to the embassy and the broader public.

Some functions currently performed by consuls will eventually become unnecessary. In a world in which information about individuals is instantly accessible and identification is carried out through advanced technological methods, not only could a territorial state issue a one-way travel document to a person who has lost their passport, but travel documents themselves may eventually become entirely unnecessary. Visas are already being abolished with increasing frequency,³¹ and it is quite possible that they will disappear altogether in the future, as a result of several developments, including advances in personal identification technologies, digital processing of documents and data, the growing use of electronic documents, the improvement of various databases, and similar innovations.

The strengthening of international law and international institutions also plays an important role in this regard. Among other developments, international mechanisms for the protection of individuals and legal persons against unlawful actions by foreign states are becoming increasingly sophisticated and accessible. Whereas in the past such persons had to rely on consular assistance or the diplomatic protection of their country of nationality, an increasing number of procedures now allow them to bring their claims before the competent international bodies, such as the European Court of Justice. A consul can undoubtedly react more quickly, which may be of crucial importance in urgent situations; however, the question remains how effective such intervention would ultimately be. By contrast, decisions of international courts and other international bodies are generally reached more slowly, but they offer greater prospects of achieving a fair resolution and providing appropriate redress. Although these mechanisms do not exclude one another – the interested party must ordinarily exhaust all available remedies within the domestic legal system of the territorial state before turning to an international forum – to the extent that international mechanisms continue to be strengthened, they are likely to relegate various forms of unilateral state action to the background, thereby reducing the need for consular intervention.

If developments proceed in the direction described above, existing international consular law will also have to undergo fundamental changes. It will need to incorporate a greater number of standardized rules and new legal solutions in order to regulate more precisely the conditions under which entities other than consuls may perform functions that are currently entrusted to them. Consequently, a new codification of this branch of international law may become necessary. Although it may currently appear unlikely that such developments will occur in the near future, one should not be too confident in that assumption. It is sufficient to recall the extent to which international relations changed and international law evolved

³¹ States are increasingly concluding bilateral and multilateral agreements providing for the abolition of visa requirements.

during the first two decades following the end of the Second World War. Moreover, life continues to accelerate, generating new challenges and creating demand for new legal and institutional solutions.

6. Concluding Remarks

Several basic conclusions may be drawn from the foregoing analysis.

Consuls and their historical predecessors constitute one of the oldest institutions of international law. Their existence, in one form or another, has been documented since antiquity.

They did not emerge spontaneously. Rather, the emergence and development of the consular institution were driven by the needs of cross-border relations, particularly the maintenance of international trade and, subsequently, the expansion of other forms of international cooperation. In other words, consuls emerged when there was an objective need for them and evolved in response to changing circumstances and requirements.

Over time, consuls have undergone a long process of development, evolving through a series of transformations into state officials who serve the interests of the state they represent, i.e., the sending state, and its individuals and legal persons, but also – an aspect which is often overlooked – the interests of the state in which they perform their functions, i.e., the receiving state. This is because the receiving state likewise has an interest in the promotion of international cooperation, to the advancement of which foreign consuls contribute in numerous ways.

We live in a period in which the international community appears to be at a crossroads, making it difficult to predict the future of states as sovereign entities and, consequently, of their institutions, including consuls. Nevertheless, a number of developments suggest that, in the relatively near future – although most likely not before the middle of this century – the institution of the consul, as it is known today, may undergo profound transformations, and could even disappear altogether. Such developments would result from the combined effect of various factors, including the relative weakening of the state sovereignty and broader changes within the international community; the gradual disappearance of certain functions currently performed by consuls; the transfer of some consular functions to other actors (diplomatic agents, domestic state authorities, non-state actors, and others); and the increasing use of artificial intelligence, robotics, and other technical innovations.

Parallel to the emergence and development of consuls, and as a foundation for their existence and functioning, the relevant norms of international law gradually evolved, eventually giving rise to a distinct branch of that legal system

known as consular law. This branch was codified at the universal level by the Vienna Convention on Consular Relations of 1963, but that does not mean that its development has come to an end. As long as consuls continue to exist, any significant changes to their role and status will necessarily require corresponding adjustments to universal international law and, perhaps, a new codification of consular law at the global level.

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