

**B** By The Brief team on Jun 20, 2018

ANALYSIS, INTERNATIONAL LAW

## Advantage Becker

If the tennis champion's diplomatic immunity is confirmed by the courts he can claim victory, but they have taken a dim view of perceived abuses in recent years, Khawar Qureshi writes



Boris Becker was a gifted tennis player but sadly he is no stranger to controversy.

He was declared bankrupt by the English court in 2017, apparently concerning his failure to discharge private and commercial debts. Steps are being taken to identify and bring in his assets to satisfy his debts. Becker has described this as “unjustified and unjust”.

Becker says that in April 2018 he was appointed as the “sports and cultural attaché to the EU for the Central African Republic” – despite there appearing to be some confusion in the CAR over the arrangements. As a result, his legal team, led by Ben Emmerson, QC, of Matrix Chambers in Gray’s Inn, contend that the English High Court cannot exercise any civil jurisdiction absent a waiver of immunity from the CAR. The High Court has adjourned the matter until October.

In recent years there have been increasing concerns over whether the status of “diplomat” is being abused in attempts to avoid the jurisdiction of the courts. In 2016, a Saudi oil tycoon’s attempt to claim immunity so as to avoid divorce proceedings brought by his former wife, Christina Estrada, was described by the court as “spurious”.

It had been suggested that St Lucia had appointed him as its permanent representative to the UN’s international maritime organisation, which is headquartered in London, without any legitimate basis. It was even suggested that he had paid for his appointment in anticipation of the matrimonial proceedings. Without pre-empting the legal arguments that may be deployed in the Becker case, the court will no doubt consider a range of issues. It will assess whether Becker falls within the scope of the Diplomatic Privileges Act 1964 and whether the former tennis ace’s status is that of a “member” of the CAR UK mission. If so, was this notified to the UK authorities?

The court will also look at whether Becker is seeking to claim immunity in respect of an action concerning “private immovable property” in England & Wales or “professional or commercial activity”. Both are exceptions to immunity under the legislation.

Will the government of the CAR clarify Boris’s “diplomatic” status prior to the October hearing in the light of possible concerns about abuse? Will the British foreign office make representations to the CAR concerning Becker’s claim? And can Becker claim immunity in respect of proceedings that appear to be a continuation of proceedings initiated prior to his alleged gain of immunity? The claim by Becker and those advising him raises many interesting legal questions. The answers may well be clear and simple. What is certain is that Becker’s claim to immunity brings sharper focus on the potential for abuse.

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