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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

Questionnaire on “Immunities of special missions”

47th meeting
Strasbourg, 20-21 March 2014

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QUESTIONNAIRE ON “IMMUNITIES OF SPECIAL MISSIONS”

FOREWORD

The topic of “Immunities of special missions” has been included in the agenda of the 46th meeting of the CAHDI (Strasbourg, 16-17 September 2013) at the request of the delegation of the United Kingdom which had prepared a working document for that purpose. This document had been prepared to generate a process of exchange of views and of information gathering on the practice and the legislation relating to special missions in member and observer States within the CAHDI.

At the said meeting, the members of the CAHDI held an exchange of views on this issue and agreed to draft a questionnaire aiming at establishing an overview of legislations and specific national practices in this field.

ACTION REQUIRED

The delegations are invited to examine the questionnaire below and to submit their replies, which will be included in the new database of the CAHDI on « Immunities of States and international organisations ».

QUESTIONNAIRE

Legal basis

1. Has your State signed and/or ratified the *United Nations Convention on special missions* (1969)? If not, does your State intend to sign/ratify the Convention?
2. Does your State apply other international legal instruments in this area (ex.: bilateral, multilateral agreements or headquarters agreements)?
3. Has your State adopted a specific national legislation in the field of immunities of special missions?
 - a. If so, please provide information concerning the relevant legislative provisions (in particular title, source and content; if possible, please provide official translations in French or in English and/or references to online sources);
 - b. If not, is the issue of immunities of special missions covered by another part of your legislation? If so, please provide information concerning these relevant legislative provisions (in particular title, source and content; if possible, please provide official translations in French or in English and/or references to online sources).
4. Have the authorities of your State released official statements, reports or any other document concerning the status and the immunities of special missions? If so, please provide any relevant information relating to these documents.
5. Does your State consider that certain obligations and/or definitions regarding immunity of special missions derive from customary international law? If so, please provide a brief description of the main requirements of customary international law in this respect.
6. Please provide information on the scope of the immunities of special missions, in particular:
 - a. The extent of the privileges and immunities granted to special missions and to their members;
 - b. The scope *ratione personae* (categories of individuals who may enjoy an immunity of special mission);
 - c. The scope *ratione materiae*, in particular by specifying if there are exceptions to the granting of the immunity;
 - d. The temporal limits of the immunities accorded to special missions.

National practice and procedure

7. Is there national case law in the field of immunities of special missions? If so, please provide information on these decisions (date of the judgment, authority that issued the judgment, name of the parties, main points of law, French or English translation of the judgment or summary of the judgment in English or in French).
8. Is there a mechanism of formal agreement of special missions, namely a process under which your State can accept in advance that an official visit constitutes or not a special mission?

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- a. If yes, which authority delivers these agreements? What weight do the courts attach to such agreements? Is there a formal notification or communication procedure between the governmental authorities and the courts?
 - b. In the absence of such a formal agreement, can an implied consent derive from the behaviour of the governmental authorities?