

BOSNIA AND HERZEGOVINA

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?**

Bosnia and Herzegovina is party to the United Convention on special missions (1969). The former Yugoslavia has signed and ratified the Convention. Bosnia and Herzegovina deposited with the Secretary General notification of succession to the Convention on 1st September 1993.

2. **Does your State apply other international legal instruments in this area (ex.: bilateral, multilateral agreements or headquarters agreements)?**

Bosnia and Herzegovina is party to several multilateral and bilateral treaties in this area:

- Vienna Conventions on diplomatic relations (1961)
- Vienna Convention on consular relations (1963)
- Convention on privileges and immunities of the United Nations
- Convention on Special Missions (1969)

Besides that, The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), has provisions on immunities and privileges of OSCE and military forces in the annexes.

Bosnia and Herzegovina ratified the Partnership for Peace (PfP) Status of Forces Agreement (SOFA) on 4th August 2008.

Bosnia and Herzegovina has several bilateral and headquarters agreements regarding privileges and immunities with special missions and international organizations accredited in Bosnia and Herzegovina.

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).**

For the implementation of the PfP SOFA Agreement several domestic laws have been changed.

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.**

No.

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.**

If the sending state notifies the receiving state (Bosnia and Herzegovina) through diplomatic channels about the “Special mission”, members of the mission, the scope, travelling dates and

other details, the mission will enjoy immunities and privileges based on the customary international law and Convention on Special Missions.

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;

According to the UN Convention on Special Missions

b. The scope *ratione personae* (categories of individuals who may enjoy an immunity of special mission);

Basically, immunity would be granted to bearers of diplomatic and service passports, but also to other members of the mission with ordinary passports if they are notified as members of the mission.

c. The scope *ratione materiae*, in particular by specifying if there are exceptions to the granting of the immunity;

UN Convention on Special Missions

d. The temporal limits of the immunities accorded to special missions.

UN Convention on 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).

No.

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?

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?

There is no single formal mechanism in place for establishing beforehand whether or not an official visit constitutes a special mission. The sending state is required to notify the special mission in accordance with provisions of Convention. Although an official invitation and confirmation of visit from the Presidency of Bosnia and Herzegovina, Council of Ministers and other governmental institutions may be considered as consent on behalf of Bosnia and Herzegovina.