

BULGARIA

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?**

The Republic of Bulgaria has ratified the United Nations Convention on special missions (Adopted by the General Assembly of the United Nations on 8.12.1969. Ratified by Decree No. 618 of the State Council from 24.02.1987 - SG, No. 17/03.03.1987. Issued by the Ministry of Foreign Affairs, promulgated SG No. 70/08.09.1987, corrected, SG No. 76/02.10.1987, effective for Bulgaria since 13.06.1987) **with the following reservations:**

"a) under Art. 8:

"Based on the sovereign equality of States principle, the People's Republic of Bulgaria considers that if there is a difference concerning the determining of the staff number of the special mission, this problem should be settled by agreement between the sending State and the receiving State;

b) under Art. 25:

"The People's Republic of Bulgaria doesn't accept the provision, referred to in Art. 25, para 1 of the Convention, according to which the authorities of the receiving State may entry in the premises where the special mission is located in event of fire or other natural calamity without explicit consent of the head of the mission.";

c) under Art. 50:

"The People's Republic of Bulgaria finds it necessary to emphasize that Art. 50 of the Convention, excluding certain number of States by the possibility to participate in it, has unduly restrictive character. This provision is incompatible with the nature of the Convention, which has omnipurpose character and should be open for accession by any State."

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

Currently, the Republic of Bulgaria does not apply any other international legal instruments in the area of special missions.

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).**

There is no specific national legislation in the field of immunities of special missions. However, some provisions of the following acts apply¹:

- Criminal Procedure Code;
- Extradition and European Arrest Warrant Act;
- Recognition, Enforcement, Issuance and Transmission of Writs for Securing of Assets Act;
- Act on Recognition, Execution and Forwarding of Judgments and Probation Decisions with a View to Exercising Supervision of Probation Measures and Alternative Sanctions;

¹ A list of the relevant provisions of the above mentioned acts is attached to the questionnaire.

- Recognition, Execution and Transmission of Confiscation or Seizure Orders and Decisions Imposing Financial Penalties Act;
- Recognition, Execution and Transmission of Decisions on Supervision Measures Other Than Measures Which Require Detention Act;
- European Investigation Order Act;
- Recognition, Enforcement and Transmission of Judicial Decisions for Imposition of Penalty of Imprisonment or of Measures Involving Imprisonment Act;
- European Protection Order Act.

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.

The authorities of the Republic of Bulgaria have not released any official statements, reports or any other document concerning the status and the immunities of special missions.

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.

The Republic of Bulgaria considers that some aspects regarding the immunity of special missions may derive from customary international law, which constitutes one of the primary sources of international law, as stated in the Charter of the United Nations /art. 38 of the Statute of the International Court of Justice/.

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;

The Republic of Bulgaria has made the following reservation regarding art. 25 of the UN Convention on special missions:

„The People's Republic of Bulgaria does not accept the provision of article 25, paragraph 1 of the Convention, according to which the agents of the receiving State may enter the premises where the special mission is established in case of fire or other disaster without the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission.”

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

The scope *ratione personae* is provided for in the United Nations Convention on special missions.

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

The scope *ratione materiae* is provided for in the United Nations Convention on special missions.

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

The temporal limits of the immunities accorded to special missions are provided for in the United Nations 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).

There is no national case law in the field of immunities of special missions.

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?

Under art. 2 of the UN Convention on Special Missions the consent of the receiving State for the constitution of a special mission has to be given in advance. The authority which delivers these agreements on behalf of the Republic of Bulgaria is the Ministry of Foreign Affairs. However, there are cases in which other ministries have reached agreements with their foreign counterparts on the constitution of a special mission. The agreement is to be reached through diplomatic or other official channels (notes, official letters).

There is no internal legal requirement for a formal notification or communication procedure between the governmental authorities and the courts regarding special missions. However, in case a criminal proceeding is initiated, governmental authorities are obliged to provide all the information they have on the constitution and composition of the special mission.

b. In the absence of such a formal agreement, can an implied consent derive from the behaviour of the governmental authorities?

N/A.

APPENDIX TO THE REPLY OF BULGARIA

Criminal Procedure Code

Promulgated, State Gazette No. 86/28.10.2005, effective 29.04.2006, amended, SG No. 46/12.06.2007, effective 01.01.2008, amended and supplemented, SG No. 109/20.12.2007, effective 01.01.2008, amended, SG No. 69/05.08.2008, amended and supplemented, SG No. 109/23.12.2008, amended, SG No. 12/13.02.2009, effective 01.05.2009, amended and supplemented, SG No. 27/10.04.2009, supplemented, SG No. 33/30.04.2009, amended and supplemented, SG No. 15/22.02.2010, SG No. 32/27.04.2010, effective 28.05.2010, amended, SG No. 101/28.12.2010, amended and supplemented, SG No. 13/11.02.2011, effective 12.08.2011, amended, SG No. 33/26.04.2011, effective 27.05.2011, supplemented, SG No. 60/5.08.2011, amended, SG No. 61/9.08.2011, amended and supplemented, SG No. 93/25.11.2011; amended with Decision No. 10 of the Constitutional Court of the Republic of Bulgaria - SG No. 93/25.11.2011; supplemented, SG No. 19/6.03.2012, effective 06.03.2012, amended, SG No. 20/09.03.2012, effective 10.06.2012, amended and supplemented, SG No. 25/27.03.2012, effective 28.04.2012, supplemented, SG No. 60/7.08.2012, effective 08.09.2012, SG No. 17/21.02.2013, SG No. 52/14.06.2013, effective 14.06.2013, amended and supplemented, SG No. 70/9.08.2013, effective 09.08.2013, SG No. 71/13.08.2013, SG No. 21/08.03.2014, SG No. 14/20.02.2015, SG No. 24/31.03.2015, effective 31.03.2015, SG No. 41/05.06.2015, effective 06.07.2015, SG No. 42/09.06.2015, supplemented, SG No. 60/07.08.2015, amended and supplemented, SG No. 74/26.09.2015, amended, SG No. 79/13.10.2015, effective 01.11.2015, SG No. 32/22.04.2016, amended and supplemented, SG No. 39/26.05.2016, effective 26.05.2016, SG No. 62/09.08.2016, effective 09.08.2016, supplemented, SG No. 81/14.10.2016, effective 14.10.2016, SG No. 95/29.11.2016, amended and supplemented, SG No. 13/07.02.2017, effective 07.02.2017, SG No. 63/04.08.2017, effective 05.11.2017, supplemented, SG No. 101/19.12.2017, amended and supplemented, SG No. 07/19.01.2018, SG No. 44/29.05.2018; amended with Decision No. 14/09.10.2018 of the Constitutional Court of the Republic of Bulgaria - SG No. 87/19.10.2018; amended and supplemented, SG No. 96/20.11.2018, SG No. 07/22.01.2019, supplemented, SG No. 16/22.02.2019, SG No. 83/22.10.2019, amended and supplemented, SG No. 98/17.11.2020, SG No. 103/04.12.2020, SG No. 110/29.12.2020, effective 30.06.2021, amended, SG No. 9/02.02.2021, effective 06.02.2021, supplemented, SG No. 16/23.02.2021, amended, SG No. 20/09.03.2021; Decision No. 07/11.05.2021 of the Constitutional Court of the Republic of Bulgaria - SG No. 41/18.05.2021; amended, SG No. 80/24.09.2021; Decision No. 13/05.10.2021 of the Constitutional Court of the Republic of Bulgaria - SG No. 85/12.10.2021; amended and supplemented, SG No. 32/26.04.2022, effective 28.07.2022, supplemented, SG No. 62/05.08.2022, amended and supplemented, SG No. 48/02.06.2023, SG No. 69/11.08.2023, SG No. 84/06.10.2023, effective 01.03.2024, SG No. 86/13.10.2023, SG No. 18/01.03.2024, supplemented, SG No. 36/23.04.2024, amended and supplemented, SG No. 39/01.05.2024

Article 5

Procedural actions provided for by this Code may be applied with regard to persons who enjoy immunity from the criminal jurisdiction of the Republic of Bulgaria, only in compliance with the norms of international law.

Extradition and European Arrest Warrant Act

Promulgated State Gazette, No 46/03.06.2005, effective 04.07.2005, amended, SG No. 86/28.10.2005, effective 29.04.2006, amended and supplemented, SG No. 52/06.06.2008, SG No. 49/29.06.2010, SG No. 55/19.07.2011, amended, SG No. 53/27.06.2014, amended and supplemented, SG No. 07/22.01.2019, SG No. 45/07.06.2019, effective 01.01.2020, SG No. 48/02.06.2023, effective 01.09.2023, SG No. 67/04.08.2023, SG No. 100/01.12.2023, amended, SG No. 18/01.03.2024

Article 6

(1) The extradition of the following persons shall not be granted:

1. Bulgarian nationals, unless otherwise provided for in an international treaty to which the Republic of Bulgaria is a party;
2. persons who have been granted asylum in the Republic of Bulgaria;

3. foreign nationals enjoying immunity from the criminal jurisdiction of the Republic of Bulgaria;
 4. persons who are not criminally responsible under Bulgarian legislation.
- (2) The existence of Bulgarian nationality, asylum granted in the Republic of Bulgaria or immunity from the criminal jurisdiction of the Republic of Bulgaria shall be determined at the moment of receipt of a request for extradition.

Article 47

(Effective 01.01.2007)

(1) Where the person claimed enjoys a privilege or immunity in respect of the jurisdiction of the Republic of Bulgaria and a Bulgarian authority is competent to waive any such privilege or immunity, the court shall immediately extend a request to this effect to the said competent authority.

(2) Where the authority of another State or an international organisation is competent, the court shall immediately notify the issuing authority thereof, in order to allow the latter to proceed with a request for the waiver of the said privilege or immunity.

(3) In cases under Paragraphs (1) and (2), the periods for completion of judicial proceedings on the execution of a European arrest warrant shall start running from the day on which the court is notified of the waiver of the said privilege or immunity.

Recognition, Enforcement, Issuance and Transmission of Writs for Securing of Assets Act (Title amended, SG No. 16/2018, SG No. 56/2022)

Promulgated, State Gazette No. 59/21.07.2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union - 01.01.2007, amended, SG No. 16/20.02.2018, amended and supplemented, SG No. 56/19.07.2022, amended, SG No. 84/06.10.2023, effective 06.10.2023

Article 9

(1) (Amended, SG No. 56/2022) The court under Article 6 may refuse to recognize or enforce a writ for securing of assets in cases where:

1. no certificate or an incomplete certificate has been submitted, or the submitted certificate is obviously at variance with the writ for securing of assets;

2. under Bulgarian law the person subject to criminal proceedings enjoys such immunity or privilege as would render impossible the enforcement of the writ for securing of assets;

...

Act on Recognition, Execution and Forwarding of Judgments and Probation Decisions with a View to Exercising Supervision of Probation Measures and Alternative Sanctions

Promulgated, State Gazette No. 25/27.03.2012, effective 28.04.2012

Article 15

(1) The court may refuse to recognise a judgment or decision referred to in Item 1 of Article 2 herein and may refuse to exercise supervision of probation measures or alternative sanctions where:

...

8. the sentenced person enjoys immunity under Bulgarian law, which makes it impossible to supervise probation measures or alternative sanctions;

...

Recognition, Execution and Transmission of Confiscation or Seizure Orders and Decisions Imposing Financial Penalties Act

(Title amended, SG No. 56/2022)

Promulgated, SG No. 15/23.02.2010, amended and supplemented, SG No. 55/19.07.2011, SG No. 56/19.07.2022

Article 19

(1) The court may refuse to recognise or to allow the execution of a confiscation or seizure order if it establishes that:

...

4. there is immunity or privilege under the Bulgarian legislation which prevent the execution of the order;

...

Article 35

The court may refuse to recognise or to allow the execution of a decision imposing a financial penalty if it establishes that:

...

4. there is immunity or privilege under the Bulgarian legislation which prevent the execution of the decision;

...

Recognition, Execution and Transmission of Decisions on Supervision Measures Other than Measures Which Require Detention Act

Promulgated, State Gazette No. 33/26.04.2016, effective 27.05.2016

Article 9

(1) The court may refuse to recognise the decision on supervision measures when:

...

7. the person on whom the measure was enacted has immunity under the Bulgarian law;

...

European Investigation Order Act

Promulgated, State Gazette No. 16/20.02.2018, amended, No. 32/26.04.2022, effective 27.07.2022, amended and supplemented, SG No. 36/23.04.2024

Article 16

(1) The competent authority under Article 9, Paragraph 1 may refuse to recognise or execute a European Investigation Order where:

1. there is immunity or privilege under Bulgarian law, which makes its execution impossible;

...

(4) In the cases under Item 1 of Paragraph (1), where a Bulgarian authority is competent to waive any such privilege or immunity, the competent authority under Article 9, Paragraph 1 shall immediately notify the relevant competent authority to proceed with a request.

(5) In the cases under Item 1 of Paragraph (1), where an authority of another country or an international organisation is competent to waive any such privilege or immunity, the authority under Article 9, Paragraph 1 shall immediately notify the issuing authority to proceed with a request.

(6) In the cases under Paragraphs (4) and (5) the periods referred to in Article 14 shall start running from the day on which the competent authority under Article 9, Paragraph 1 is notified of the waiver of the said privilege or immunity.

Recognition, Enforcement and Transmission of Judicial Decisions for Imposition of Penalty of Imprisonment or of Measures Involving Imprisonment Act

Promulgated, State Gazette No. 45/07.06.2019, effective 01.01.2020, amended, SG No. 56/19.07.2022

Grounds for refusal of recognition and enforcement

Article 15.

(1) The court may refuse to recognise and enforce a judicial decision where:

...

6. the sentenced person enjoys immunity under Bulgarian law;

...

European Protection Order Act

Promulgated, State Gazette No. 41/05.06.2015, effective 06.07.2015, supplemented, SG No. 33/26.04.2016, effective 27.05.2016

Grounds for refusal of recognition

Article 7

The court may refuse to recognise a European Protection Order where:

...

5. the person causing danger enjoys immunity, which makes it impossible to take a protective measure;

...