

ESTONIA

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 Estonia has ratified the United Nations Convention on special missions and it entered into force in respect of Estonia on 21 October 1991.

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

The Republic of Estonia is also a state party to the Optional Protocol to the aforementioned Convention concerning the Compulsory Settlement of Disputes.

With regard to the immunities and privileges of foreign states and international organizations, Estonia has concluded several bilateral agreements in this field (for example, the agreements on privileges and immunities with the Organization for Economic Co-operation and Development, the Organization for the Prohibition of Chemical Weapons, the European Union etc.).

Multilateral agreements of relevance signed or acceded to by Estonia are the United Nations Convention on Jurisdictional Immunities of States and Their Property, the Convention on the Privileges and Immunities of the United Nations, the United Nations Convention on the Privileges and Immunities of the Specialized Agencies, the General Agreement on Privileges and Immunities of the Council of Europe, the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations.

Estonia hosts two headquarters of international organizations: The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA) and the NATO Cooperative Cyber Defence Centre of Excellence. For special missions to these international organizations the respective headquarters agreements are relevant (see the Headquarters Agreement between the Government of the Republic of Estonia and the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, <https://www.riigiteataja.ee/aktilisa/2060/3201/5002/agreement.pdf#>, and the Agreement between the Republic of Estonia and the Supreme Headquarters Allied Powers Europe and Headquarters, Supreme Allied Commander Transformation to Supplement the Paris Protocol, https://www.riigiteataja.ee/aktilisa/2140/5201/3002/NATO_HQ_engl.pdf#).

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).

Estonian legislation does not specifically regulate the issues of immunities of special missions. As mentioned above, international treaties to which Estonia is a state party, have superior force in Estonian legislation. According to the Constitution, if laws or other legislation of Estonia are in conflict with international treaties, the provisions of the international treaty apply (Section 123).

The immunities of special missions are covered by the Code of Civil Procedure and Code of Criminal Procedure.

Extracts from the relevant legislative acts concerning immunities of special missions (<https://www.riigiteataja.ee/en/>):

Constitution of the Republic of Estonia

<https://www.riigiteataja.ee/en/eli/ee/521052015001/consolide/current>

Passed 28 June 1992

§ 3.

Governmental authority is exercised solely pursuant to the Constitution and laws which are in conformity therewith. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system. Laws are published in accordance with prescribed procedure. Only published laws may have binding force.

§ 123.

The Republic of Estonia may not enter into international treaties which are in conflict with the Constitution. When laws or other legislation of Estonia are in conflict with an international treaty ratified by the *Riigikogu*, provisions of the international treaty apply.

2. Code of Civil Procedure

<https://www.riigiteataja.ee/en/eli/ee/524072017001/consolide/current>

Passed 20 April 2005

§ 10. Restricted competence of court in respect of extra-territorial persons

The jurisdiction of the courts of the Republic of Estonia does not extend to:
1) the members of foreign diplomatic representations established in the Republic of Estonia, their family members and private servants, to the extent prescribed by the Vienna Convention on Diplomatic Relations;

2) the members of consular posts, to the extent prescribed by the Vienna Convention on Consular Relations; 3) the persons not specified in clauses 1) or 2) of this section if this arises from international agreements, generally recognised principles of international law or an Act.

3. Code of Criminal Procedure

<https://www.riigiteataja.ee/en/eli/ee/511092017001/consolide/current>

Passed 12 February 2003

§ 3. Territorial and temporal applicability of criminal procedural law

(1) Criminal procedural law applies in the territory of the Republic Estonia. Criminal procedural law also applies outside the territory of the Republic Estonia if this arises from an international agreement or if the object of the criminal proceeding is an act of a person serving in the Defence Forces of Estonia.

(2) In criminal proceedings, the criminal procedural law in force at the time of performance of a procedural act shall be applied.

(3) The requirements for using the evidence taken abroad in criminal proceedings in Estonia are provided for in § 65 of this Code.

(4) During a state of emergency this Act applies, taking account of the specifications provided for in the State of Emergency Act.

§ 4. Applicability of criminal procedural law by reason of person concerned

Criminal procedural law applies equally to all persons with the following exceptions:

1) the specifications concerning preparation of a statement of charges and performance of some procedural acts with regard to the President of the Republic, members of the Government of the Republic, the Auditor General, the Chancellor of Justice and the Chief Justice and justices of the Supreme Court are provided for in Chapter 14 of this Code;

2) the specifications concerning procedural acts performed with regard to members of the *Riigikogu* before preparation of a statement of charges and of preparation of the statement of charges are provided for in Chapter 14¹ of this Code;

3) Estonian criminal procedural law may be applied to a person enjoying diplomatic immunity or other privileges prescribed by an international agreement at the request of a foreign state, taking into account the specifications provided for in an international agreement.

- 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.**

Estonian authorities have not released official statements or other documents concerning the status and 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.**

As stated in the replies to questions 1 and 2, Estonia is a state party to the 1969 UN Convention on special missions, its Optional Protocol as well as other relevant UN conventions on immunities of foreign states and international organizations. Estonia considers immunities afforded to special missions to derive from customary international law in as far as the principles relating thereto are not covered by the 1969 Convention and in relation to countries that are not states parties to it. Issues that arise in respect to immunities of special missions are solved case-by-case.

- 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.

As provided in the replies to questions 1 and 2, Estonia has acceded to the 1969 UN Convention on special missions and the provisions of the Convention are applied in Estonia directly. The relevant Estonian civil and criminal laws set forth the main principles and refer to the international agreements concluded between Estonia and the specific organization, institution or mission.

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).**

The disputes concerning immunities of diplomatic representatives, organizations or special missions are in the first instance settled by the Protocol Department of the Ministry of Foreign Affairs. No dispute to date regarding the immunities and privileges of special missions has reached Estonian courts.

- 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?**

No special mechanism has been established with regard to processing a request for accepting in advance that an official visit constitutes or not a special mission.