

## ISRAEL

### 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?**

Israel signed the Convention on Special Missions (1969) (hereinafter: “The Convention”) in 1970. The Convention was not ratified by Israel. However, Israel’s domestic law provides a mechanism to afford immunities and privileges to special missions, as set forth in the Law of Immunities and Privileges (International Organizations and Special Missions), 5743-1983 (hereinafter: “The Law”).

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

The Law authorizes the Minister of Foreign Affairs to issue a specific Order granting immunities and privileges, *inter alia*, to special missions of foreign states or international organizations, which are due to arrive in Israel for carrying out a duty set forth under an international treaty to which Israel is a party. The issuance of such order requires the establishment of a bilateral agreement between the sending state or international organization and Israel, which specifies the special mission’s duties. The order is therefore issued on the basis of the relevant bilateral agreement. Two such agreements were signed by Israel throughout the last three years.

**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).**

Please find in the Appendix to the reply an unofficial translation of the Law.

**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.**

Pursuant to Article 5 of the Law, every Ministerial Order which grants immunities and privileges to special missions requires a process of consultation with the Attorney General, after which it must be approved by the Government and published in the official governmental gazette.

Two recent Ministerial Orders for privileges and immunities of special missions were issued between the years 2015-2016. [Note: These two Ministerial Orders were sent to the Secretariat only in Hebrew and are available upon request].

Other than the Law and any orders issued on the basis of this legislation, we are unaware of any official statements or reports in Israel regarding 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.**

Israel is of the view that the general principle that privileges and immunities may be accorded to special missions that were acknowledged as such by the sending and receiving States, derives from customary international law.

However, Israel recognizes that States’ views and practice differ with respect to the implementation of this general principle including, *inter alia*, regarding the precise scope of privileges and immunities granted to such special missions and the modalities and conditions for agreement of special mission status between the sending and the receiving States.

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.**

Article 4 of the Law grants the Minister of Foreign Affairs the authority to determine the extent of immunities and privileges enjoyed by a special mission, as well as their duration. The Law itself does not determine categories of individual members of special missions who may enjoy privileges and immunities, nor does it determine the temporal limits of such immunities.

However, it should be noted that Article 6 of the Law specifically excludes citizens and residents of Israel from being granted privileges and immunities under the Law.

#### **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).**

We are unaware of any court rulings in Israel regarding the 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?**

As aforementioned, privileges and immunities to special missions in Israel can only be granted through a Ministerial Order issued by the Minister of Foreign Affairs and approved by the government following a process of consultation with the Attorney General. The Order must be on the basis of a bilateral agreement. The issuance process is led and facilitated by the legal department of the Ministry of Foreign Affairs, in conjunction with the relevant departments of the Ministry of Justice.

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

Given the requirement set forth in Article 4 of the Law, according to which a Ministerial Order can only be issued for a special mission whose duty was set forth in an international treaty to which Israel is a party, no implied consent or non-formal agreement can be a basis for granting special missions with privileges or immunities in Israel.

## APPENDIX TO THE REPLY OF ISRAEL

### Immunities and Privileges Law (International Organizations and Special Missions), 5743-1983\* [(Amendment No. 1) 5767 - 2006]

#### 1. Definitions

Under this Law –

“International Organization” - an inter-ministerial organization of which Israel is a member or that is a party to an international convention with Israel as well as an organization in which central banks of countries are members, listed under the Addendum; [(Amendment No. 1) 5767 - 2006]

“Immunities and Privileges” - diplomatic immunities and privileges as well as immunities and privileges granted pursuant to international conventions to which Israel is a party, including the restrictions under such conventions. [(Amendment No. 1) 5767 - 2006]

#### 2. International organizations [(Amendment No. 1) 5767 - 2006]

The Minister of Foreign Affairs shall be entitled to set forth under an Order which immunities and privileges shall be granted in Israel to each of the following, and all in general or to types thereof:

(1) A certain international organization, the employees of the organization, the organization's property or assets;

(1) A certain accredited international organization mission, the mission's employees, their families or assets;

(2) Assets held by a certain international organization that engages in banking or where the assets of a third party are held per the instructions of such international organization in his name or at his order.

#### 3. Conferences [(Amendment No. 1) 5766 - 2006]

(a) the Minister of Foreign Affairs shall be entitled to set forth under an Order which immunities and privileges shall be granted in Israel to an international organization due to a conference held in Israel on behalf of the organization, its employees, officers, state representatives, experts and consultants participating in the conference, all as shall be set forth under the Order; the Order shall set forth, inter alia, the period during which such immunities and privileges shall apply.

(b) Under this Section, “Conference” - including a conference, rally and any convention held in Israel on behalf of an international organization.

---

Published [Book of Laws 5743 No. 1087](#) dated 21.7.1983, pp. 124 [Bills 5743 No. 1609](#), pp. 46).

Amended [Book of Laws 5767 No. 2070](#) dated 19.11.2006, pp. 12 ([Government Bill 5766 No. 233](#), pp. 252) - Amendment No. 1.

#### **4. Special missions** [(Amendment No. 1) 5767 - 2006]

The Minister of Foreign Affairs shall be entitled to set forth under an Order which immunities and privileges shall be granted in Israel to a special mission of another state or of an international organization, arriving at Israel for carrying out a duty set forth under an international convention to which Israel is a party, its members and employees, all as shall be set forth under the Order; the Order shall set forth, inter alia, the period during which such immunities and privileges shall apply.

#### **5. Orders**

An Order pursuant to Sections 2, 3 and 4 shall be approved by the government, after consulting with the Attorney General.

#### **6. Exception** [(Amendment No. 1) 5767 - 2006]

Immunities and privileges pursuant to this Law shall not be granted to Israeli citizens or residents.

#### **7. Corporation**

(a) An international organization regarding which an Order had been issued pursuant to Section 2 shall constitute a corporation in Israel. [(Amendment No. 1) 5767 - 2006]

(b) An international organization regarding which an Order had been issued pursuant to Section 3 shall constitute a corporation in Israel for the period during which the immunities and privileges had been applied and in respect of an action entailed in holding the conference.

#### **8. Implementation and regulations**

The Minister of Foreign Affairs shall be responsible for the implementation of this Law and he shall be entitled to install regulations for any issue concerning its implementation.

#### **9. Nullification** [(Amendment No. 1) 5766 - 2006]

The International Organizations 'Status Law, 5740 - 1980 - nullified.

### **ADDENDUM**

(Section 1)

1. Bank for International Settlements.