

ITALY

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?**

Italy has not ratified the UN Convention on special missions (1969). There are no current plans to do so.

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

Italy is party to several multilateral and bilateral agreements in this area: among them, the Vienna Conventions on diplomatic relations (1961) and on consular relations (1963), the Convention on privileges and immunities of the United Nations (1946) and of specialized agencies (1947). It also applies agreements granting immunities and privileges to the personnel of those international organizations whose headquarters are in Italy, or of which Italy is a member.

- 3. Has your State adopted a specific national legislation in the field of immunities of special missions?**

Italy has not adopted any specific 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).**

In so far as the immunity of special missions is part of customary international law, Article 10.1 of the Italian Constitution stipulates as follows: “The Italian legal system conforms to the generally recognised principles of international 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.**

n/a

- 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.**

In the view of the Italian authorities, a “special mission” is a temporary mission, representing a State, which is sent by this State to another State with the consent of the latter, in order to deal on specific questions with it or to perform a specific task in relation to it. The mutual consent of the sending and the receiving State is necessary to determine the functions of a special mission. The consent of the receiving State is previously obtained by the sending State through the diplomatic channel or another agreed or mutually acceptable channel. Consent may also be given implicitly; in particular cases, it might be given retroactively.

Italy considers that immunity of the members of special missions from judicial proceedings, and in particular from criminal proceedings, is part of customary international law. Beyond this, States enjoy discretion with regard to the exact scope of immunities granted to a special mission, depending on its function and the necessities it entails.

In order to enable the receiving State to guarantee such immunities, customary international law requires the sending State to notify the exact composition of the special mission, its travel dates and its seat in the host State.

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 scope of immunities granted beyond the core requirements of customary international law varies according to the agreement between sending and receiving State, which in turn depends on the functions and necessities of each special mission. In this regard, the Vienna Convention on Diplomatic Relations serves as guideline.

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

Immunities apply to all members of a special mission to whom the receiving State has consented. Also in this regard, the Vienna Convention on Diplomatic Relations serves as guideline, in particular for differences between immunities granted to diplomats and the technical and administrative personnel of the special mission.

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

As stated under 6a, the extent of immunities granted beyond the core requirements of customary international law depends on the functions and necessities of each special mission, with the 1961 Vienna Convention serving as a guideline.

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

Special missions are of a temporary character. Since immunities depend on the specific task of the mission, they are granted during its duration. However, immunities of members of special missions continue to subsist with regard to acts performed by them in the exercise of their functions.

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).

n/a

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?

In order to obtain the consent of the receiving State, the sending State is required to send a formal notification to the Italian Ministry of Foreign Affairs, indicating the exact composition of the special mission, travel dates and the place of seat in the host State. The Italian Ministry of Foreign Affairs is the competent authority to deliver the consent of the Government.

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

An official reception by competent Italian officials would normally indicate implied consent to the special mission.