

## JAPAN

### 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?**

No, Japan has not signed or ratified the United Nations Convention on Special Missions (1969) and currently has no intention to sign/ratify it.

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

With respect to the privileges and immunities of diplomatic missions and consular posts, Japan has ratified the Vienna Convention on Diplomatic Relations (1961), has acceded to the Vienna Convention on Consular Relations (1963) and has concluded several bilateral consular agreements.

With respect to the privileges and immunities of international organizations, Japan has concluded various instruments providing for privileges and immunities of the representatives of Member States to international organizations as one of the Member States, including the Convention on the Privileges and Immunities of the United Nations (1946) and of the Specialized Agencies (1947). Japan has also concluded several headquarters agreements with international organizations which are located in Japan and granted necessary privileges and immunities to them.

Japan has also acceded to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973).

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

No, Japan has not adopted a specific national legislation focusing on 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).**

The issue of immunities of special missions is not specifically covered by another part of the Japanese legislations. There may nonetheless be areas in which practices applied for diplomatic missions are followed *mutatis mutandis* for special missions. The status of the members of special missions will be determined on the basis of applicable international legal instruments and customary 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.**

No. There are no official statements, reports or other documents that the Government of Japan issued on the status and immunities of special missions as such.

(Note: The statements and comments by the Government of Japan at the Sixth Committee which considered the Draft Convention on Special Missions are the official statements/comments which were made public at the time.)

**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.**

Japan considers that incumbent foreign Heads of State, Heads of Government and Foreign Ministers on an official visit to Japan enjoy immunities *ratione personae* under customary

international law for the duration of their visit in Japan. Other state officials accompanying them can enjoy certain privileges and immunities for the duration of their visit in Japan. The visit must be official (not an incognito visit). For practical reason, it would also be necessary that the names and functions of those personnel accompanying the Head of State, Head of Government or Foreign Minister are notified to the Government of Japan in advance so that relevant privileges and immunities may be recognized.

**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;**

See answer to Q5.

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

As stated in Q5, Japan considers that at least incumbent foreign Heads of State, Heads of Government and Foreign Ministers on an official visit to Japan enjoy *immunities ratione personae* under customary international law for the duration of their visit in Japan.

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

See answer to Q5. Japan considers that former Heads of State, Heads of Government and Foreign Ministers on an official visit to Japan enjoy immunity *ratione materiae* for the acts performed by them in the exercise of their official functions even after their visit.

Other foreign state officials on an official visit to Japan may enjoy immunity from at least Japanese criminal jurisdiction for the acts performed by them in the exercise of their official functions during their visit.

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

See answer to Q5. Except for the *immunity ratione materiae* which continues even after their official visit, any privileges and immunities that are granted specifically for the purpose of facilitating their official visit to Japan will be considered terminated at the end of their official visit.

## **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. There are no national case law before the court 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?**

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

At present, there is no formal procedure to agree with the sending state that visit of certain officials constitutes "special mission" or not.

However, as stated in the answer to Q5, it would be necessary that the names and functions of those personnel accompanying the Head of State, Head of Government or Foreign Minister are notified to the Government of Japan in advance so that relevant privileges and immunities may be recognized. At present, when the Ministry of Foreign Affairs receives from the respective Embassies in Japan the list of visiting foreign state dignitaries and officials accompanying them including their names, dates of birth, passport numbers, and flight details, the Ministry of Foreign Affairs facilitates immigration, customs and quarantine process on their arrival and departure, with relevant Ministries and the airport authorities.