

MALTA

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?**

Malta has neither signed nor ratified the Convention. It has no current plans to accede to the Convention.

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

Malta is a party to the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations and maintains a number of bilateral consular conventions. Malta is a member of a number of international organisations in connexion with there exist agreements that provide for privileges and immunities to be granted to the staff of these organisations and/or the representatives of the member states thereof. Furthermore, Malta hosts a number of international organisations with which it has host country agreements (HCAs).

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

The Diplomatic Immunities and Privileges Act 1966 (Chapter 191 of the Laws of Malta) provides for the grating of immunities to 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);**

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8704>

- 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).**

n/a

- 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.

- 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.**

Whilst Malta acknowledges that members of special missions may be entitled to certain immunities, it has not as yet taken a formal position as to the precise scope of these under customary international law, and any situation that were to arise would be considered on an individual basis. Any questions concerning the immunities of a special mission in the context of legal proceedings in Malta would be determined by the competent court with reference to customary international law.

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;

Persons on a special mission enjoy personal inviolability and immunity from criminal jurisdiction, and also immunity from civil jurisdiction in so far as the assertion of civil jurisdiction would hinder them performing their official functions as members of a special mission.

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

Special mission immunity applies to all members of a special mission to whom the receiving State has consented and received as such.

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

As other persons enjoying immunity *ratione personae*, the members of a special mission enjoy personal inviolability and immunity from criminal jurisdiction without exception.

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

The immunity *ratione personae* enjoyed by members of a special mission subsists for as long as is necessary for the accomplishment of their mission, including the relevant periods of travel, and will continue to subsist in respects of acts performed by them during the exercise of their functions as a member of the special 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).

No.

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?

The Diplomatic Immunities and Privileges Act (section 7) provides for a procedure concerning the holding of international conferences in Malta.

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?

The Ministry of Foreign Affairs is responsible for providing express confirmation of consent to a special mission. Such confirmation would be made at the request of a party to litigation or at the request of the court. The courts will treat such confirmation as conclusive.

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

There is no recent local case-law concerning this matter.