

ROMANIA

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, Romania has not signed or ratified the United Nations Convention on Special Missions and does not, for the time being, intend to accede to it.

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

The Headquarters Agreement between Romania and the Regional Center of Southeast European Cooperative Initiative for Combating Transborder Crime (SECI – currently SELEC) provides, in art. 19, for a series of privileges and immunities so far as may be necessary for the effective exercise of their functions and during their journeys in connection with such functions and during attendance at the Headquarters

Article 19:

1. Experts shall enjoy, within and with respect to the host country, the following privileges and immunities so far as may be necessary for the effective exercise of their functions and during their journeys in connection with such functions and during attendance at the Headquarters:

(a) immunity from personal arrest or detention;

(b) immunity from seizure of their personal and official baggage, and the same immunities from inspection in respect of such baggage as are accorded to diplomatic agents;

(c) immunity from legal process of any kind with respect to words spoken or written, and all acts done by them, in the performance of their official functions, such immunity to continue although the persons concerned may no longer be employed on missions for, serving on committees of, or acting as consultants for, the SECI Center, or may no longer be present at the Headquarters or attending meetings convened by the SECI Center. In any event, such immunity shall not extend to civil action by a third party for damages arising from a road traffic accident caused by a motor vehicle, operated by an expert where these damages are not recoverable from insurance;

(d) inviolability of all papers, documents and other official material;

(e) the right, for the purpose of all communications with the SECI Center, to use codes and encrypted systems and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(f) exemption with respect to themselves and their spouses from immigration restrictions and alien registration obligation;

(g) the same protection and repatriation facilities as are accorded in time of international crisis to the members of diplomatic missions in accordance with the Vienna Convention; and

(h) the same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Experts who are citizens or permanent residents of ROMANIA shall enjoy only the privileges and immunities, accorded by subparagraphs 1(a – e) of this Article.”

The Headquarters Agreements between Romania and various UN agencies (e.g. UNICEF, UNDP) having offices located in Romania generally contain provisions concerning experts on mission by reference to the relevant provisions of the Convention on the Privileges and Immunities of the UN and of the Convention on the Privileges and Immunities to the Specialized Agencies.

On a number of occasions, agreements having temporary application have been concluded, when a conference of an international organization has been organized on the territory of Romania. Such agreements normally contain provisions on privileges and immunities of experts on mission and of participants to a certain conference (e.g. the 2015 Agreement by exchange of letters between the Government of Romania and the International Criminal Police Organization – INTERPOL concerning the privileges and immunities of the participants to the 43rd European Regional

Conference of the International Criminal Police Organization – INTERPOL, for the period 12-22 May 2015).

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).**

No, Romania has not adopted a specific national legislation in the field of immunities of special missions nor is the issue covered by another part of the legislation.

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 such official statements, reports or documents have been released.

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.

Although not a party to the UN Convention on Special Missions, Romania considers that its provisions reflect the customary international law in this field and Romania applies the Convention as such.

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;**

According to the UN Convention on Special Missions.

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

According to the UN Convention on Special Missions. In practice, immunity of special missions would be granted to holders of diplomatic passports or service passports (for members of the administrative and technical staff).

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

According to the UN Convention on Special Missions.

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

According to the UN Convention on Special Missions.

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 relevant case law has been identified.

- 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 formal process is necessary, except for the agreement, via diplomatic or other channels, between Romanian hosting authority and the foreign counterpart as to the official visit on Romanian territory.