

## SLOVENIA

### 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?**

The Republic of Slovenia is a party to the United Nations Convention on special missions (1969) (notification of succession of 6 July 1992).

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

The Republic of Slovenia is a party to various multilateral treaties containing provisions that would apply to visiting missions and their members, such as the Convention on the Privileges and Immunities of the United Nations, the Protocol on the Privileges and Immunities of the European Union, the General Agreement on Privileges and Immunities of the Council of Europe, etc. The Republic of Slovenia is also a party to the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963).

The Republic of Slovenia has concluded headquarters and other agreements with international organisations that have established their headquarters or other offices in Slovenia (the Seat Agreement between the Government of the Republic of Slovenia and the European Agency for the Cooperation of Energy Regulators, the Headquarters Agreement between the Government of the Republic of Slovenia and the Center of Excellence in Finance, the Agreement between the Republic of Slovenia and the International Center for Promotion of Enterprises on the Amendments to the Agreement between the Socialist Federal Republic of Yugoslavia and the International Center for Public Enterprises in Developing Countries regarding the Headquarters of the International Center for Public Enterprises in Developing Countries, the Agreement between the Government of the Republic of Slovenia and the European Bank for Reconstruction and Development on the Establishment and Activities of the Resident Office of the European Bank for Reconstruction and Development in the Republic of Slovenia, the Framework Agreement between the Republic of Slovenia and European Investment Bank governing EIB activities in Slovenia, the Cooperation Agreement between the Government of the Republic of Slovenia and the International Organization for Migration, the Agreement between the Government of the Republic of Slovenia and the United Nations High Commissioner for Refugees).

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

The UN Convention on special missions is part of the Slovenian legal system. The internal legislation of the Republic of Slovenia does not specifically regulate the issues of immunity of special missions. The provisions on persons enjoying immunities are mainly found in the national procedural law, which mostly refers to the provisions of international law.

- 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).**

As mentioned above, the national legislation contains no general provisions on immunity. When immunity is mentioned, it is with reference to international law. Special provisions on immunity are contained in the following acts:

**The Criminal Procedure Act, Article 141**, states:

"(1) Exemptions from the criminal prosecution of persons enjoying immunity in the Republic of Slovenia under international law shall be governed by the provisions of the ratified and published international agreements.

(2) In case of doubt as to whether such exemption should apply to a particular person, the court shall consult the ministry responsible for foreign affairs."

**Article 124, Paragraph 3**, of the same Act states:

"(3) Service on persons enjoying immunity under international law in the Republic of Slovenia shall be effected through the ministry responsible for foreign affairs, unless provided otherwise by international treaties."

**The Civil Procedure Act, Article 28**, states:

"(1) In relation to the jurisdiction of the courts in the Republic of Slovenia over foreign citizens who enjoy immunity in the Republic of Slovenia and over foreign states and international organisations, the rules of international law shall apply.

(2) If doubt arises as to the existence and scope of the right to immunity, an explanation shall be given by the ministry responsible for justice."

**The General Administrative Procedure Act, Article 24**, states:

"(1) Regarding the jurisdiction of national authorities in cases where the party is a foreign national who enjoys the right to immunity in Slovenia, a foreign country or an international organisation, treaties and other rules of international law that are binding on Slovenia shall apply.

(2) If there is any doubt as to the existence and extent of the right to immunity, an explanation shall be given by the ministry responsible for foreign affairs.

(3) Official actions relating to persons with immunity shall be performed through the ministry responsible for foreign affairs."

**The Minor Offences Act, Article 12 - Immunity**, states:

"(1) Minor offence proceedings against foreigners who in the Republic of Slovenia enjoy immunity under international law shall be conducted only for violations not covered by such immunity; foreigners may only be imposed a fine or caution.

(2) When doubt arises as to whether the person or a violation is covered by such immunity, the minor offence authority shall consult the ministry responsible for foreign affairs.

(3) The minor offence authority shall notify the ministry responsible for foreign affairs of the minor offence committed by a foreigner enjoying immunity under international law; in the case referred to in paragraph one of this Article, the notification shall include the minor offence decision."

**Article 136 - Judgment staying proceedings** of the same Act states:

"(1) A minor offence judgment staying proceedings shall be issued:

1. where the act is not a minor offence;
2. where the accused has already been found liable for the same minor offence on the basis of a final decision, or if the proceedings against him or her were stayed, unless they were stayed because the accusatory instrument was filed by an ineligible initiator (paragraphs one and two of Article 103);
3. where the accused enjoys immunity from prosecution under international law;
4. where prosecution has become statute-barred;
5. where it is not proved that the minor offence was committed by the accused;
6. where the accused dies during the proceedings;

7. where an Act stipulates that no minor offence sanction shall be imposed on the perpetrator;
  8. where there are circumstances excluding minor offence liability pursuant to this Act;
  9. where the minor offence is a petty offence, and the special circumstances, low level of liability or the perpetrator's personal circumstances imply that proceedings would not be expedient;
  10. where there are other circumstances excluding minor offence proceedings.
- (2) The court shall also stay the proceedings if the initiator of the proceedings withdraws his or her application. The application may be withdrawn until the minor offence judgment is issued. ”

**Article 202 - Enforcement** of the same Act states:

"(12) A fine imposed under paragraph one of Article 12 of the Minor Offences Act shall not be enforced."

**The Police Tasks and Powers Act, Article 28 - Specifics of exercising police powers against people with immunity**, states:

"In performing police tasks, police officers shall consider the specifics of the procedure and the principle of exemption (immunity) of certain persons, buildings, means of transport and things."

**Article 29 - Diplomatic and consular immunity** of the same Act states:

"(1) As of the moment of their being informed to that effect, police officers may not produce, apprehend or restrict the movement of a person who enjoys diplomatic immunity in the Republic of Slovenia and refers to it by producing a relevant document; however, they shall collect and secure evidence supporting the fact that the person in question has violated the relevant regulations of the Republic of Slovenia. The police shall notify the ministry responsible for foreign affairs of the violation committed by a person enjoying diplomatic immunity in writing. In connection with a violation committed by a person enjoying diplomatic immunity, those sanctions may be imposed that are in accordance with the law and not covered by immunity.

(2) Notwithstanding the provision of the preceding paragraph, police officers shall forestall an action by a person enjoying diplomatic immunity that involves grave danger.

(3) Police officers may produce, apprehend or restrict the movement of a person who enjoys diplomatic immunity in the Republic of Slovenia and refers to it by producing a relevant document solely on the basis of a written court warrant; however, if the person is suspected of committing a criminal or minor offence, they may use against him any statutory police power and other official action, except production, arrest or restriction of movement. The preceding paragraph shall not apply to honorary consular officers.

(4) Police officers may not enter the premises of a diplomatic mission or consular post, other than a consular post headed by an honorary consular officer, nor may they enter the private home of a foreign diplomatic representative or inspect or search a vehicle used by such representative.

(5) Police officers may exceptionally enter the premises of a diplomatic mission when such action is demanded and agreed upon by the head of the mission, or the premises of a consular post when such action is demanded and agreed upon by the head of the consular post, a person designated by him, or head of the diplomatic mission of the country of appointment. In such case, police officers may require the person who has demanded entry to confirm this demand in writing. The private home of a foreign diplomatic representative may be entered by police officers at the request or with the consent of the head of the mission or head of the consular post or a person designated by the aforementioned heads. The aforementioned cases shall require the presence of the representative of the mission or consular post.

...

(7) The archives, documents and official correspondence of diplomatic missions and consular posts and diplomatic and consular postal items may not be opened, examined, withheld or seized. The said provision shall apply to archives, documents and official correspondence of consular posts headed by honorary consuls only provided that they are separated from other documents of the honorary consular officer or other persons.

...

(9) The provisions of paragraphs one, two, four, five and seven of this Article shall also apply to international organisations based in the Republic of Slovenia and their personnel who enjoy immunity to the extent provided by treaties.

(10) Police officers shall exercise police powers against people enjoying diplomatic or consular immunity in compliance with international law and in a manner complying with international practice."

**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.**

The Republic of Slovenia considers that the UN Convention on special missions largely reflects 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;**

The Republic of Slovenia grants the privileges and immunities to special missions and to their members in accordance with the UN Convention on special missions, provided that the Slovenian authorities (ministry responsible for foreign affairs) have consented to the mission and have been informed of its composition.

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

Members of missions are granted immunities in accordance with the UN Convention on special missions.

Privileges and immunities are in principle not accorded to members of the mission who are nationals of or permanently resident in the receiving State, with the exception of the immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of their functions, which is also accorded to the representatives of the sending State in the special mission and to members of its diplomatic staff who are nationals of or permanently resident in the receiving State (in accordance with the UN Convention on special missions).

**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.**

The immunities granted for special missions shall be effective only for the duration of the 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).**

To our knowledge, there is no national case law on the immunity 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?**

No specific mechanism has yet been established. In principle, prior explicit consent is expected. The special mission should be announced in advance through diplomatic channels to obtain consent, which should in principle be explicit (by the ministry responsible for foreign affairs) and communicated through diplomatic channels.