

THE CONCEPT AND CLASSIFICATION OF SPECIAL MISSIONS
UNDER INTERNATIONAL LAW DOCTRINE

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1. INTRODUCTION

Special missions are the oldest form of diplomatic relations, since they have been functioning as a kind of *ad hoc* diplomacy for several thousand years (occasionally, not on a permanent basis). It must be also remembered that this institution developed particularly after the Second World War and was widely used by all countries in connection with the ongoing development of modern means of communication, which happened to be conducive to comprehensive development of relations between states and interdependence of national interests. The evidence of existence of such an institution was the number of special missions sent and received. With time, special missions began to engage in discussing important bi – and multilateral issues, concluding treaties and participating in public ceremonies. They started to be increasingly seen as a convenient institution competent to manage various international tasks¹.

Nevertheless, it must be taken into account that in general, there have been no regulations in this field for a long time, which significantly impeded functioning of special missions. It was only in the 1960s when appropriate codification was introduced, mainly thanks to M. Bartos from the then Yugoslavia. The United Nations General Assembly, pursuant to

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¹ See G. R. Berridge, *Diplomacy. Theory and Practice*, London 1995, p.34.

the resolution of 8 December 1969 approved the Convention on Special Missions² (hereinafter referred to as the Convention) based in fact on the provisions of the Vienna Convention of 1961 on diplomatic relations. The General Assembly adopted the Optional Protocol to the Convention on Special Missions concerning the compulsory settlement of disputes, ratified by particular participants in the period from 1972 to 2006, arising from interpretation and application of the Convention and recommendation on the settlement of civil disputes arising from the Convention³.

The main intention of the author is to present the international law doctrine related to special missions, outlining the patterns to be followed in diplomatic relations. Therefore, less attentions was paid to comparative law aspects.

2. THE CONCEPT OF A SPECIAL MISSION

The basic features of a special mission are defined in Article 1 (“Use of Terms”) of the aforesaid Convention. It can therefore be concluded that it is a statutory definition of a special mission, which is said to be a temporary mission, representing the State, which is sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task. Nonetheless, the assignment of specific tasks to special missions is a feature that distinguishes it from e.g. business, institutional or private representation offices. Therefore, a special mission should be considered as an international law entity⁴. Furthermore, the UN International Law Commission did not recognize international organizations as special missions. The same Commission found that the head of a special mission is the person with whom the sending State assigned the duty of acting in the said capacity. According to

² See *Optional Protocol to the Convention on Special Missions concerning the compulsory settlement of disputes*, New York, 8 December 1969, UNTS vol. 1400, p. 339.

³ See *Vienna Convention on Consular Relations Done at Vienna on 18 April 1961*, United Nations, Treaty Series, Vienna, 18 April 1961, UNTS, vol.500, p. 95.

⁴ See A. Przyborowska-Klimczak, W. Staszewski, *Prawo dyplomatyczne i konsularne. Wybór dokumentów*, Lublin 2005, p.78.

the Convention, the members of a special mission are the head of the special mission, the representatives of the sending State in the special mission and the members of the staff of the special mission. In addition, the Convention introduces a distinction between members of the diplomatic administrative and technical staff of the special mission. The first group includes members of the staff who have diplomatic status for the purposes of the special mission. Members of the administrative and technical staff are the members of the staff of the special mission employed in the administrative and technical service of the special mission. Furthermore, members of the service staff are the members of the staff of the special mission employed by it as household workers or for similar tasks. The Convention introduces also the term “private staff”, who are persons employed exclusively in the private service of the members of the special mission⁵.

The appointment of special mission members is also important from the point of view of the issue under discussion. Pursuant to Article 8 of the Convention, the sending State may freely appoint the members of the special mission after having given to the receiving State all necessary information concerning the size and composition of the special mission (names and designations). The receiving State may decline to accept a special mission of a size that is not considered by it to be reasonable, but it may also do so without giving reasons⁶.

The Article 9 of the Convention stipulates that a special mission shall consist of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include the afore-said staff (i.e. diplomatic staff, administrative and technical staff and service staff). In addition, members of a permanent diplomatic mission or of a consular post in the receiving State included in a special mission shall retain their privileges and immunities as members of their permanent diplomatic mission or consular post in addition to the privileges and immunities⁷.

It should be noted that pursuant to Article 13 of the Convention the functions of a special mission shall commence as soon as the mission enters

⁵ See J. Sutor, *Prawo dyplomatyczne i konsularne*, Warszawa 2010, p.353.

⁶ See Z. J. Pietraś, *Dyplomatyczna misja specjalna jako instytucja prawa międzynarodowego*, Lublin 1978, p.31.

⁷ See J. Sutor, *Przywileje i immunitety międzynarodowe*, Warszawa 1973, p.78.

into official contact with the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed. The commencement of the functions of a special mission shall not depend upon presentation of the mission by the permanent diplomatic mission of the sending State or upon the submission of letters of credence or full powers⁸.

It is also essential for the functioning of a special mission to identify its seat. Article 17 of the Convention provides that its seat is the locality agreed by the States concerned. In the absence of agreement, the special mission shall have its seat in the locality where the Ministry of Foreign Affairs of the receiving State is situated. However, if the special mission performs its functions in different localities, the States concerned may agree that it shall have more than one seat from among which they may choose one as the principal seat⁹.

The functions of a special mission shall come to an end upon the agreement of the States concerned, the completion of the task of the special mission, the expiry of the duration assigned, notification by the sending State that it is terminating or recalling the special mission or notification by the receiving State that it considers the special mission terminated. Using the phrase “inter alia”, the Convention allows also other grounds for termination of the special missions. However, the severance of diplomatic or consular relations between the sending State and the receiving State shall not of itself have the effect of terminating special missions existing at the time of such severance¹⁰.

In general, the functioning of special missions can be accepted due to the adopted principle of general facilities referred to in Article 22 of the Convention. Therefore, the receiving State shall assist the special mission, if it so requests, in procuring the necessary premises and obtaining suitable accommodation for its members. Furthermore, the sending State and the members of the special mission acting on behalf of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises occupied by the special mission, other than such as represent

⁸ See *Protokół dyplomatyczny*, Warszawa 2005, p.87.

⁹ See T. Orłowski, *Protokół dyplomatyczny*, Warszawa 2006, p.67.

¹⁰ See S. Sawicki, *Prawo konsularne. Studium prawnomiędzynarodowe*, Warszawa 2006, p.39.

payment for specific services rendered. The exemption from taxation shall not apply to persons contracting with the sending State or with a member of the special mission¹¹.

The security of the premises is provided for in Article 25 of the Convention stipulating the inviolability thereof. The inviolability in this case means that the agents of the receiving State may not enter the said premises, except with the consent of the head of the special mission or, if appropriate, of the head of the permanent diplomatic mission of the sending State accredited to the receiving State. By implication, such consent may be assumed in case of fire or other disaster and only in the event that it has not been possible to obtain the express consent of the head of the special mission or of the head of the permanent mission. Besides, the receiving State is under a special duty to take all appropriate steps to protect the premises from any disturbance of the peace. In addition, the premises of the special mission, their furnishings, and its means of transport shall be immune from search, requisition, attachment or execution. Inviolability of the premises is extended in Article 26 of the Convention to the archives and documents of the mission. A special form of legal protection afforded to members of a special mission by the receiving State is to ensure to all members of the special mission freedom of movement and travel. This is of particular justification, especially in the case of official communication of the special mission, which shall be inviolable. The bag of the special mission shall not be opened or detained and the special mission shall use the means of communication, including the bag and the courier. The courier of the special mission shall enjoy personal inviolability and shall not be liable to any form of arrest or detention¹².

A separate segment of entitlements awarded to members of the special mission is the personal inviolability. Inviolability is also extended to the private apartments of the sending State representatives and the members of its diplomatic staff. The privileged position of the members of the mission is also reflected in the immunity from (criminal, civil and administrative) jurisdiction granted to them. Exceptions apply to actions in the cases described in detail in Article 31 of the Convention (in the field of property

¹¹ See G. Grabowska, *Funkcjonariusze międzynarodowi*, Katowice 1988, p.98.

¹² See S. Sawicki, *Immunitet jurysdykcyjny konsula*, Warszawa 1987, p.29.

rights, succession, professional or commercial activity and motor insurance claims). The immunity from jurisdiction of the representatives does not exempt them from the jurisdiction of the sending State. A particular form of legal protection of the special mission members is their exemption from social security legislation applicable in the receiving State (Article 32 of the Convention), exemption from dues and taxes (Article 33 of the Convention) and exemption from personal services (Article 34 of the Convention). Separate exemptions are set out in Article 35 of the Convention and are relating to customs regulations. Specifically, the personal baggage of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be exempt from inspection (except for special cases). The unique position of the members of the mission does not allow them to pursue any professional or commercial activity in the receiving State in order to achieve personal gain¹³.

It should also be noted that certain privileges and immunities of the diplomatic staff members are extended to the administrative staff, technical, service, personal and even family members. For example, private staff of the members of the mission is exempt from dues and taxes on the emoluments they receive by reason of their employment (Article 38 of the Convention)¹⁴.

It must be remembered that every member of the special mission shall enjoy the privileges and immunities to which he is entitled from the moment he enters the territory of the receiving State for the purpose of performing his functions in the special mission or, if he is already in its territory, from the moment when his appointment is notified to the Ministry of Foreign Affairs or such other organ of the receiving State as may be agreed. Generally, when the functions of a member of the special mission have come to an end, his privileges and immunities shall normally cease at the moment when he leaves the territory of the receiving State. In the event of the death of a member of the special mission, the members of his family shall continue to enjoy the privileges and immunities (Article 43 of the Convention)¹⁵.

¹³ See E. Pietkiewicz, *Protokół dyplomatyczny*, Warszawa 1998, p.77.

¹⁴ *Ibid*, p.79.

¹⁵ See J. Salomon, *Manuel de droit diplomatique*, Brussels 1996, p. 83-84.

In addition, pursuant to Article 43 of the Convention, property of a member of the special mission or of a member of his family in the event of death is subject to special protection. In addition, in case of armed conflict, the receiving State must grant facilities to enable the mission members and their families to leave and to remove the archives of the special mission¹⁶.

3. CLASSIFICATION OF SPECIAL MISSIONS

In the international law literature, there can be distinguished several classifications of special missions. For instance: Z. J. Pietraś uses five criteria (trends). The first lacks a uniform criterion, which he calls non-coherent. The second criterion put forward by Pietraś is based on the legal status of the special mission members. The third classification trend pertains to a subjective criterion, fourth to the objective one and fifth usually covers the mixed subjective and objective classifications¹⁷.

Non-coherent classifications of special missions should account for the distribution proposed by R. Genet. The author found among diplomats the state representatives in the political special missions, extraordinary ambassadors in the ceremonial non-political missions, non-diplomatic political representatives, and commissioners in bilateral relations and in bilateral or multilateral commissions, secret negotiators, private representatives of the head of state and observers at international conferences and in international organizations¹⁸.

However, K. Stefko distinguished representatives of the de facto recognized government, representatives of the insurgents recognized as belligerents, ministers and chiefs of general staff in military missions, state representatives at international conferences and congresses, members of branch offices, international exhibitions commissioners, deputy heads of state before international tribunals or international arbitration courts¹⁹.

¹⁶ *Ibid*, p. 88.

¹⁷ See Z. J. Pietraś, *op. cit.* p. 44.

¹⁸ See R. Genet, *Traite de diplomatie et de droit diplomatique*, Paris 1931-1932, vol. II, p. 43.

¹⁹ See K. Stefko, *Dyplomatyczne zwolnienie od jurysdykcji cywilnej*, Lviv 1938, p. 63.

On the other hand, M.R. Donnarumma distinguished the travelling members of parliament, United States executive officers, observers and delegates to international conferences, congresses and meetings, the heads of states and governments, foreign ministers and other members of the government at the time of official visits abroad, of real governments and the insurgents recognised as belligerents, delivery, protocol and ceremonial missions²⁰.

Even more extensive classification has been proposed by I. P. Bliszczenko, who also included delegations participating in international conferences, delegations to bilateral negotiations, state representatives in special international commissions, state representatives in special missions, international exhibitions commissioners and commanders of warships acting as members of military delegations, heads of states, prime ministers and foreign ministers during official visits abroad, technical delegations, members of the international research and reconciliation commissions, representatives of state or head of state, observers sent by states or international organizations, secret negotiators and private representatives of heads of states²¹.

Due to the criterion of the mission's legal status (the scope of the privileges and immunities), the classification put forward by K. Strupp must be taken into account. He distinguished heads of foreign states, their entourage and family residing with them, members of parliament delegated for a specific purpose, arbiters and members of the conciliation and research commissions, the Hague Tribunal judges, delegates to the League of Nations as well as representatives of the League of Nations and the delegates to the international committees in accordance with the conventions in force²².

According to the subjective criterion and based on practical solutions adopted in the United States, M. Cardozo included special missions operating under the international cooperation programmes of in multilateral, bilateral, special missions of the member states of international organiza-

²⁰ See M. R. Donnarumma, *La diplomazia „ad hoc”*, Napoli 1968, p. 27-28.

²¹ See .I.P. Bliszczenko, *Diplomaticzeskoje prawo*, Moscow 1972, p. 929.

²² *Ibid*, p. 933-934.

tions as well as special missions of non-member states at international organizations²³.

A mixed trend in the classification of special missions has been represented by E. Satow. He distinguished special missions with ceremonial functions, special missions of representatives performing specific goals, commissioners negotiating solutions to border issues, delegates to international conferences and papal legates²⁴.

Waters divided the special missions functioning in the diplomatic practice of the United States into representatives of the President, delegates to international conferences convened *ad hoc*, officers or delegates of the international organizations and members of the international committees²⁵.

However, the subject criterion for division of special missions division has been adopted by the members of the American Bar Association, who in 1927 proposed the division accounting for the defenders of the state in arbitration proceedings, agents border delimitation missions, members of international research committees, joint or the examining the claims and judges appointed to settle international disputes. The authors of the classifications according to the subjective criterion included also the aforesaid M. Cardozo and H. M. Wriston. The first one proposed *ad hoc* missions performing economic, military, cultural and technical functions. On the other hand, H. M. Wriston in the classification of *ad hoc* missions mentioned representatives sent by the state to establish diplomatic relations, representatives sent to countries with which the United States broke off the relations, representatives sent to non-recognized states and governments, representatives sent to colonial and dependent countries, representatives sent to international conferences and representatives sent to the countries in which the United States do not maintain permanent diplomatic and economic agencies²⁶.

²³ See M. Cardozo, *Diplomats in International Cooperation*, „Step Children of the Foreign Service”, Ithaca 1962, p. 94.

²⁴ See E. Satow, *International Congresses*, London 1920, p. 199-200.

²⁵ See M. Waters, *The Ad Hoc diplomat. A Study in Municipal and International Law*, Hague 1963, p. 38.

²⁶ See Z. J. Pietraś, *op. cit.*, p. 47.

Nevertheless, the UN International Law Commission rejected the suggestions to introduce the classification of special missions based on the status of their heads. This criterion was to be included among the so-called high rank persons. The Article 21 of the Convention clearly stipulates that the Head of the sending State, when he leads a special mission, shall enjoy in the receiving State or in a third State the facilities, privileges and immunities accorded by international law to Heads of State on an official visit. The Commission also did not decide to divide the special missions based on the nature of their objectives (economic, technical, scientific) due to changing priorities in this area²⁷.

However, the literature, mainly due to M. Hardy, distinguishes the criterion of the rank of the head of the special mission in relation to the status of the entire mission and its members as a dividing line for high rank special missions led by the presidents or ministers, standard special missions consisting of senior government officials and low rank special missions consisting of representatives of various government departments. H. Arbuet Vignali differentiated four types of special missions based on their ranks (protocol, high rank representations, political and technical). According to J. Pietraś, when using the rank criterion-based classification, one can distinguish political, typical diplomatic paradiplomatic missions²⁸.

Nowadays, the overwhelming trend is the viewpoint formulated by M. Lachs as long as fifty years ago stipulating that the traditional distinction between political and diplomatic instruments of international action should be abandoned. This is underpinned by the fact that it is now high rank persons (presidents, prime ministers, foreign ministers) who travel internationally much more often than before²⁹.

One cannot ignore the important issue of the scope of the special mission's functions, especially since the approach of the UN International Law Commission members has greatly evolved during the sessions of that body. M. Bartos proposed to extend the provisions of the Convention to *ad hoc* diplomatic and technical missions and to treat the former as the diplomatic

²⁷ See J. Sutor, *Prawo dyplomatyczne*, p. 355.

²⁸ See Z. J. Pietraś, *op. cit.*, p. 50.

²⁹ See M. Lachs, *Instrumenty współczesnej dyplomacji*, „Sprawy Międzynarodowe” 1961, No. 11, p. 15.

missions and the latter as consular missions. There were also many opinions on the futility of distinguishing between political and technical missions due to the difficulty in indicating the division line and recognition of priorities of their objectives. The International Law Commission finally adopted *modus vivendi* which allowed to adopt a uniform legal status for all special missions³⁰.

The difficulty in separating the political and technical functions has also been pointed to by M. Gąsiorowski, who claimed the abstractness of such intentions. The validity of such a claim is confirmed by the realities of the international operation of permanent diplomatic missions, special missions in bilateral and multilateral relations and international organizations³¹.

The literature on the subject identifies also paradiplomatic missions based on the rank criterion. This certainly pertains to participation of persons with expertise but do without permanent diplomatic status in the work of diplomatic missions. Such a concept was advocated by C. Labeyrie-Menahem, the author of the concept "paradiplomat". The doctrine reveals also a differentiated approach to diplomatic missions, starting from the position of administrative officers deprived of diplomatic status to recognition of that status in case they obtain the appropriate authorizations. Z. J. Pietraś correctly presents an intermediate position, which assumes that the official situation of the state representatives in the sending state is an internal matter of that state³².

Using the subjective criterion, one can distinguish special missions in bilateral and multilateral relations. Those in bilateral relations are characterized by the fact that they function between the two parties to the agreement (a state or group of states sending a special mission). Therefore, special missions in these relations may take various forms e.g. sent by one state or joint missions³³.

Essentially, special missions are sent by the state to another state after obtaining the consent of the receiving state or through diplomatic channels.

³⁰ See Z.J. See Z. J. Pietraś, *op. cit.* p. 51.

³¹ See M. Gąsiorowski, *Dyplomaci i konsulowie*, Warszawa 1966, p. 40.

³² See Z. J. Pietraś, *op. cit.* p. 53.

³³ See M. Paszkowski, *Dyplomacja wielostronna na forum organizacji międzynarodowych*, Warszawa 1976, p. 17.

The use of circular missions despite controversy regarding their admissibility has become a common practice because of the seriality of typical missions operating in a particular geographic area (e.g. H. Kissinger's mediation missions in the Middle East in the 1970s). It is also characteristic that each of the receiving states may reject the proposal to adopt a circular mission but can neither speak for other states nor oppose the visit of such a mission in other states³⁴.

In addition, the sending state is required to notify each of the receiving states about the intended route of a special mission. Generally, however, the issue of circular missions emerged especially when discussing the status of travelling deputies or circular ambassadors³⁵.

Another form of bilateral special missions are joint missions representing several states in their relations with one receiving state. Hence, the joint missions are defined as a body of two or more sending states. Sending states should also notify the receiving states of their intention to send a joint mission in order to obtain the consent of that state for acceptance of such a mission. It should also be noted at this point that sending of joint missions became especially popular in the twentieth century, in the situation of integrational and regional diplomatic actions (Nordic and Benelux countries)³⁶.

Another form of special missions distinguished in the international law doctrine are the joint circular missions established by several sending states in order to establish contact with several receiving states. Each sending state is also obliged to notify the receiving state of its intention to send such a mission. Another type of special missions are missions in multilateral relations. They may take the form of conference missions, the state missions to international organizations and international organizations' missions sent to a state or states³⁷.

The classification of special missions based on the subject criterion takes into account the function or purpose of the mission. These can be negotiating, military, surveillance, delivery or ceremonial functions. Negotiat-

³⁴ See J. Sutor, *Prawo dyplomatyczne*, p. 355.

³⁵ See E. Denza, *Diplomatic Law. Commentary on the Vienna Convention on Diplomatic Relations*, Oxford 1998, p. 121-122.

³⁶ See M. Paszkowski, *op. cit.*, p. 361.

³⁷ *Ibid*, p. 121

ing missions are sent where no permanent diplomatic relations function between the sending state and the receiving state or where such an agency cannot conduct negotiations or if negotiations come to a deadlock situation or it is necessary to resolve a problem during a multilateral meeting of conference missions. The negotiating missions can be classified internally, as did M. Bartos. He distinguished purely political and military missions as well as those involved in negotiating the border, police, transportation, water supply, economic, customs, veterinary, medical, repatriation, humanitarian and immigration issues as well as missions seeking the graves of fallen soldiers. A specific kind of special missions are military missions, which can be divided into representative military delegations, military missions acting as the diplomatic missions of the sending state, supervisory missions of the states participating in the works of the committees appointed in the cease-fire agreement after the Second World War, naval commanders during the official visits of warships overseas, allied military missions and commanders and officers of military units residing in another country under bilateral peace agreements³⁸.

The third type of special missions based on the subjective criterion are observation missions (conference missions concerning the international research committees and international conciliation committees). Such committees are usually created on the *ad hoc* basis as a common instrument for states in resolving contentious issues³⁹.

Another form of special missions are delivery missions, which shall be distinguished from activities of diplomatic couriers (operating between internal and external bodies of the sending state). The actual objectives of the delivery missions are secret or unofficial negotiations or consultations. A characteristic feature of these missions is their representative nature, clearly defined purpose and short term⁴⁰.

However, ceremonial missions are high rank missions, the purpose of which boils down to the official representative activities of the sending state. In addition to such missions, it is also possible to conduct informal negotiations with the receiving state. For instance, in connection with

³⁸ See Z. J. Pietraś, *op. cit.* p. 67.

³⁹ *Ibid*, p. 88.

⁴⁰ See G.R. Berridge, *op. cit.*, p. 98.

coronations, weddings and funerals of heads of states, diplomatic actions are taken (case of J. F. Kennedy and Ch. De Gaulle funerals)⁴¹.

According to the criterion of transparency, one may distinguish secret *ad hoc* missions characterized by short-term urgent need to attend to the public interest. They have been used for centuries, from the Middle Ages until present. Due to their nature, it is recognized that they can expect the ceremonial reception, though contrary opinions are not uncommon in the literature⁴².

Based on the transparency criterion, Z. J. Pietraś divided the missions into three types (open missions, whose arrival is announced and known, undisclosed ones, whose stay in the receiving state is announced at the end of the mission and secret ones, known to a small group of insiders). However, among the secret missions, M. Bartos distinguished secret emissaries deemed to be secret couriers, negotiators, observers and agents⁴³.

When discussing the approaches to classification of special missions, separate consideration should be given to special high rank missions. They are different from typical special missions in terms of the level at which the contact is established, since the formal content remains the same. The status of the person in charge of the high rank special mission's work is a characteristic feature of such missions, although it should be noted that the principle adopted by the UN International Law Commission was to develop a uniform status for all kinds of special missions⁴⁴.

Exchange of high rank special missions, which is not conceptually equal to "diplomacy at the top", has a long-term tradition in Poland and can be dated back to the Congress of Gniezno of 1000. Nonetheless, this type of diplomatic activity could be discerned especially in the so-called Cold War period⁴⁵.

The advantage of such contacts is commonly recognized due to possibility of exerting personal influence on the discussion partners, breaking deadlocks and acting under pressure from the mass media. Opponents

⁴¹ See J. Sutor, *Prawo dyplomatyczne...*, p. 356.

⁴² Cf. e.g. J. Salomon, *op. cit.*, p. 70-71.

⁴³ See Z. J. Pietraś, *op. cit.*, p. 71.

⁴⁴ See S. E. Nahlik, *Narodziny nowożytnej dyplomacji*, Wrocław 1971, p. 19-21.

⁴⁵ *Ibid*, p. 24.

put forward an argument of limiting the competence of the diplomatic service, the tendency for quick and “fancy” decision-making, unawareness of the problems and even physical tiredness of high rank diplomatic representatives⁴⁶.

It must be kept in mind that the basis of the status of leaders and high rank members of the mission is their position determined by the domestic law of the sending state and the recognition of this position, especially by the receiving state. Based thereon, the missions were divided into typical high-rank missions led by the head of state, prime minister or foreign minister and non-typical missions headed by other high rank persons of the sending State⁴⁷.

At this point, one can see clearly the division into typical and non-typical missions. Typical missions are those where the heads are the chiefs of internal authorities of the state, entitled to represent it abroad, acting in accordance with the powers conferred by the Constitution and appointed pursuant to the provisions thereof. During a foreign mission, the head of state can also perform his/her internal powers. However, in the case of a stay *in cognito* in another state, the said person is protected by a specific system of privileges and immunities, but generally does not enjoy the ceremonial and formal reception. The legal status of a prime minister and a minister of foreign affairs specified in the constitution of each state allows them to enjoy their diplomatic privileges while conducting the works of special missions. This method of treating prime ministers and ministers of foreign affairs stems also from the adoption of the principle of courtesy followed in the diplomatic relations⁴⁸.

In addition to the typical missions, Article 21 para. 2 of the Convention identifies also non-typical missions. They are headed by persons of high rank. A broad interpretation of the term comprises vice-presidents, deputy prime ministers and ministers, other high officials of the sending state, the officers in the rank of minister, heads of legislative bodies and members of the cabinet⁴⁹.

⁴⁶ See Z. J. Pietraś, *op. cit.*, p. 169.

⁴⁷ See J. Sutor, *Prawo dyplomatyczne...*, p. 354

⁴⁸ See E. Denza, *op. cit.*, p. 166.

⁴⁹ See G. Grabowska *op. cit.*, p. 19.

A specific way to implement special missions in multilateral relations is an international conference. It is a long proven institution of diplomatic law and the very term comprises meetings of government representatives, international conventions and meetings of a mixed nature. Purpose of the international conference comes down primarily to the consultation of the states, consideration of the problems or discussions on issues falling within the scope of the government functions, usually by finding a solution. The aim may also come down to conducting negotiations, concluding agreements or developing a common position until the formal regulation of contentious and unresolved issues between the states. A special feature of an international conference is that it is attended by foreign authorities of the sending state, while the authority of the receiving state acts as a sending state in this case⁵⁰.

It is also legitimate to say that an international conference may be called a congress of special missions sent by at least several states, convened to settle the disputable issues or development of international relations. Furthermore, the legal status of delegations to international conferences reminds the status of special missions in bilateral relations⁵¹.

It must be remembered that the international conferences can be divided according to different criteria. Therefore, the conferences are distinguished into political, legal, administrative and special, peace and other, debates, lawmaking and information, universal and regional, diplomatic and technical, political and non-political, codification and specific, periodic and ad hoc, diplomatic and "at the top". The variety of the accepted classifications clearly demonstrates the importance of international conferences in the past and contemporary international relations⁵².

The popularity of special missions is related to their high efficiency, taking into account special preparation of their participants for solving problems. The qualifications of the members are used more effectively to solve situations which are more complicated in factual and legal terms. As far as permanent missions are concerned, their lower efficiency may be attributed to their involvement in low-rank and routine tasks, which do not require special competence.

⁵⁰ See M. Lachs, *Umowy wielostronne*, Warszawa 1958, p. 91-92.

⁵¹ See L. Antonowicz, *Podręcznik prawa międzynarodowego*, Warszawa 2000, p. 40.

⁵² See M. Lachs, *Umowy wielostronne...*, p. 122.

4. CONCLUSION

The primary form of diplomacy, the so-called special mission, has been known for centuries. Even in the Bible one may read about the mission of the Queen of Sheba to the King of Israel, Solomon. Special missions also functioned in the culture and law of Greece, the Roman Empire, Egypt, Babylon, Persia and China, in the Byzantine Empire and the Italian city-states. The well-established historical identity of special missions (including the forms of evolutionary changes) is currently experiencing a revival, especially after the entry into force of the New York Convention of 1969. Currently, the sphere of diplomatic relations uses technical innovations in the area of various forms of communication and interpersonal (and interstate) exchange. Modern technological solutions also serve well the development of special missions, the operation of which is based on the proven principles of the past.

It must be remembered that nowadays three models of mission functioning are commonly implemented. The first (typical) one is based on the principle of voluntary sending and receiving of missions as well as the necessity for expressing the consent by the state sending and the state receiving the special missions. The scope of the privileges is almost the same as in the case of permanent diplomatic missions. The second model, referred to as a political one, details the issues of functions of the mission, the start and end of the mission, the policy of establishment and adoption of the mission and the recognition of the head of the mission *as persona non grata*. In the third (conference) model, we are dealing with three entities of the conference mission: the sending state, the host state of an international conference and the conference as a joint body of the sending states. This model assumes a simultaneous congress of special missions of many countries to conduct joint negotiations.

Special missions as institutions of public international law deserve special consideration also due to the special legal structures adopted in connection therewith (especially in the Convention). Attention should also be paid to the legal status of the special mission members, its composition, the regulations concerning the seat of the mission, security of facilities and inviolability of the mission members. The Convention also includes the provisions on the freedom of functioning of the mission.

The diversity of forms of the missions and various kinds thereof manifest the importance of this form of diplomacy in modern and ancient times.

The multiplicity of classification criteria do not distort the legal essence of the mission but indicates the fact of their importance in diplomatic relations. It should also be noted that despite the doctrinal differences related to the classification of the missions, the United Nations International Law Commission adopted a uniform standard for treatment thereof, irrespective of the status of its head.

One should also appreciate the effectiveness of diplomatic efforts in the framework of special missions. In most cases, they have led to the prevention of armed conflicts or to reduction of the impact thereof.

SUMMARY

The question touched upon in this paper is the depiction of special missions in terms of international law with particular emphasis on concepts and classifications. At the beginning, the author draws attention to the definition of special missions derived from the Convention on Special Missions of 8 December 1969. He also refers to the classification of the special mission members, as adopted in the Convention, the issues of their appointment, the composition of the mission, operation and closing of a special mission as well as the privileges and immunities associated with the mission. The second part of the paper comprises the discussion on approaches to classification of special missions. The author also referred to the various adopted approaches to classification of the missions based on the subjective, objective and mixed criteria as well as based on the status of the head of special missions. Separate attention has been devoted to international conferences as a specific way of implementing special missions in multilateral relations. Furthermore, the paper analyses the model issues of operation of special missions (models: typical, political and conference). The conclusion touches upon the importance of special missions in the history of diplomacy and the effectiveness of this type of actions undertaken nowadays as well as multi-faceted approach to the classification of special missions, well described in the literature on the subject.