



November 2018

**EUROPEAN CONVENTION ON STATE IMMUNITY of 16 May 1972
(ETS No. 74, entered into force on 11 June 1976)**

Subject: Accession by States which are not member States of the Council of Europe

I. Participation in the European Convention on State Immunity is not exclusively limited to member States of the Council of Europe. The Convention is also open for accession by other non-member States, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe. The relevant provision of the European Convention on State Immunity - Article 37, paragraph 1 - reads as follows:

“After the entry into force of the present Convention, the Committee of Ministers of the Council of Europe may, by a decision taken by a unanimous vote of the members casting a vote, invite any non-member State to accede thereto.”

II. The procedure for the accession of a State which is not a member of the Council of Europe may be summarised as follows:

1. In principle, the Committee of Ministers may take the initiative of inviting a non-member State to accede to a specific Convention. It is nevertheless customary for the non-member State to request accession in a letter addressed to the Secretary General of the Council of Europe. The letter should be signed by the Minister for Foreign Affairs or a diplomatic representative acting upon instructions of his or her government (see [Model application for accession to a treaty](#)).

2. In accordance with the Council of Europe's practice and before formally inscribing the point on the agenda of the Committee of Ministers, the Secretariat consults at the same time all member States of the Council of Europe, whether they are Parties or not to the Convention, and Parties to this Convention, that are not member States, on the request of invitation.

3. Requests for accession to a Council of Europe convention are examined by the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) and, then, by the Committee of Ministers. In the case of the European Convention on State Immunity, the decision on whether or not to issue an invitation has to be unanimously agreed by those Council of Europe members which have ratified the Convention. This decision is usually taken at the level of the Ministers' Deputies. Then, an invitation to accede to the Convention is notified to the State concerned by the Secretariat General.

4. It must be noted that the Committee of Ministers decided, in April 2013, to limit the validity of invitations of non-member States to accede to conventions to a period of five years.

5. The instrument of accession is deposited at the seat of the Council of Europe in Strasbourg, in the presence of a representative of the acceding State and of the Secretary General of the Council of Europe or his Deputy. The representative of the acceding State brings with him or her the instrument of accession and a procès-verbal of deposit is signed by both parties. Should it prove difficult for the acceding State to send a representative to Strasbourg, the instrument of accession may be sent by diplomatic courier. Deposit of the instrument of accession is notified to all concerned, accordingly to Article 41 of the Convention.

6. Article 37, paragraph 2, of the European Convention on State Immunity provides that the Convention shall enter into force three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

7. The Convention has been supplemented by *the Additional Protocol to the European Convention on State Immunity* (ETS No. 74A), which entered into force on 22 May 1985. States having acceded to the Convention are entitled to accede to the Protocol, without a specific invitation by the Committee of Ministers being necessary.

8. The instrument of accession and any declaration appended to it shall be accompanied by a translation into one of the official languages of the Council of Europe (English or French). It is important to stress that, subject to the applicable provisions of each treaty and in line with the 1969 Vienna Convention on the Law of Treaties, any declarations are to be made when depositing the instrument of accession.

9. It should be noted that Article 21, paragraph 4, of the European Convention on State Immunity provides that “*Each Contracting State shall, when depositing its instrument of ratification, acceptance or accession, designate the court or courts referred to in paragraph 1, and inform the Secretary General of the Council of Europe thereof.*”

It should also be noted that Article 39 of the European Convention on State Immunity provides that no reservation is permitted to the said Convention.

III. The text of the Convention, its explanatory report, the chart of signatures and ratifications and all declarations made with regard to it can be consulted on the website of the Council of Europe's Treaty Office on <http://conventions.coe.int>. Information concerning the Protocol is also available on this website.

For any further information, please contact the Treaty Office:

Treaty Office
Directorate of Legal Advice
and Public International Law (DLAPIL)
Council of Europe
F-67075 Strasbourg Cedex (France)
E-mail : treaty.office@coe.int