

BELARUS

LEGAL BASIS

1. **Has your State signed and/or ratified the European Convention on State Immunity (1972) and/or the United Nations Convention on Jurisdictional Immunities of States and Their Property (2004)? Do the authorities of your State consider the provisions on these treaties on service of process as a codification of customary international law? Does your State apply any other international legal instrument (apart from bilateral agreements)?**

The Republic of Belarus has neither signed nor ratified the aforementioned Conventions, and does not comment on the legal nature of their provisions with regard to the customary international law. Belarus deems it sufficient to note the regional nature of the former and the limited degree of acceptance of the latter, which in any case prevent from viewing the Conventions in their entirety as the codification of customary international law.

The Republic of Belarus is a party to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters of 15 November 1965 and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965, as well as certain regional instruments, e.g. 2002 CIS Convention on legal assistance and legal relations in civil, family and criminal matters, and therefore applies the provisions of these Conventions, relating to the service of process.

2. **Please provide information on:**

- a. **National legislation (in particular its title, source and content; if available, please provide official translations and/or references to Internet sources).**

National legislation of the Republic of Belarus contains a general rule concerning notification procedures in relation to the foreign persons involved in the case. However it does not contain special norms on service of process on a foreign State. Besides, there were no proceedings in the courts of the Republic of Belarus against foreign States.

The Republic of Belarus believes that the appropriate notification to a foreign State should be sent through diplomatic channels, unless otherwise provided by the applicable international treaty.

- b. **Case-law and practice, specifying whether your national courts and tribunals review the lawfulness of the service of process by operation of law.**

None.

PROCEDURE

3. **Please describe the procedure(s) applicable to service of process on a foreign State, specifying the hierarchy between the different methods for serving process. In particular, please provide information on when the service is deemed to be effected, time-limits, the grounds to refuse service of process and the consequences of the unlawfulness of the service.**

The national legislation of the Republic of Belarus does not contain special norms on the service of process on a foreign State, and therefore provisions of relevant international treaties are applied.

- a. **How are the terms "diplomatic channels" (Article 16 § 2 of the European Convention and Article 22 § 1 c) i) of the United Nations Convention) interpreted**

by your national authorities? Please indicate whether these terms include a notification to the embassy of the State concerned in the State of forum.

The Republic of Belarus is not a Party to the aforementioned Convention, and therefore does not interpret the terms, used therein, for the purpose of the implementation of the Convention.

Nevertheless the term “diplomatic channels”, when used for the purpose of implementation of the treaties in force of the Republic of Belarus, is usually interpreted as the channel of communication between Ministries of Foreign Affairs, as well as between Ministries and the diplomatic Missions of the States concerned, or, in limited scenarios, between diplomatic Missions of the States concerned in third country.

b. How are the terms “if necessary” (Article 16 § 2 of the European Convention and Article 22 § 3 of the United Nations Convention) interpreted by your national authorities?

The Republic of Belarus is not a Party to the aforementioned Convention, and therefore does not interpret the terms, used therein, for the purpose of the implementation of the Convention.

Nevertheless, the national legislation of the Republic of Belarus has the following norm regulating the necessity of provision of translated documents to the defendant.

Article 16 §2 of the Code of Civil Procedure of 11 January 1999 stipulates that “the parties, pursuing legal interest in the outcome of the case, who do not have the knowledge (or have insufficient knowledge) of the language of proceedings, are entitled to study the documents of the case and to participate in court proceedings with the help of an interpreter, and the right to appear in court using the language which they normally use”.

4. Where your State is the defendant in the proceedings, what is accepted as an adequate service of process? Please specify whether your State accepts the service to its embassy in the State of forum.

The acceptability of a service of process may be reviewed in every particular case on the grounds of its conformity with the relevant provisions of international treaties, customary international law, and applicable national law.

The Republic of Belarus would accept the service to its embassy through diplomatic channels from the Ministry of Foreign Affairs of the State concerned.