

BOSNIA AND HERZEGOVINA

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)?**

Bosnia and Herzegovina has not signed the European Convention on State Immunity and the United Nations Convention on Jurisdictional Immunities of State and Their Property. The Ministry of Foreign Affairs of Bosnia and Herzegovina has sent the initiative for the ratification of both Conventions to the Ministry of Justice of Bosnia and Herzegovina.

Bosnia and Herzegovina ratified the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters from 1965, and the Convention stepped in force for Bosnia and Herzegovina on 1 February 2009.

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).**

Law on administrative procedures („Official Gazette of Bosnia and Herzegovina“, No 16/02, from 06. March 2002.) provides in Article 84.:

“(1) Natural persons and legal entities abroad, as well as foreign states, international organizations and persons in Bosnia and Herzegovina who enjoy diplomatic immunity, the delivery of a written document is done through the authority of the competent authority for the foreign affairs of Bosnia and Herzegovina, unless otherwise specified in international agreements.

(2) Citizens of Bosnia and Herzegovina, who are located abroad, can be delivered directly. Delivery of these and other documents may also be carried out through diplomatic and consular representations of Bosnia and Herzegovina abroad.”

The competent authority for foreign affairs is the Ministry of Foreign Affairs of Bosnia and Herzegovina.

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

National courts of Bosnia and Herzegovina always review the lawfulness of the service of process in accordance with the Hague Convention and Law on administrative procedures.

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.**

- 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.**

“Diplomatic channels” is interpreted by the authorities Bosnia and Herzegovina as the channels of communication from the Ministry of Foreign Affairs of Bosnia and Herzegovina, through the embassies and consulates of Bosnia and Herzegovina, to the Ministry of Foreign Affairs of the state concerned. Also, The Ministry of Foreign Affairs may send the documentation to the foreign embassies in Bosnia and Herzegovina. The service is deemed to be effective on the date of receipt from the Ministry of Foreign Affairs of the state concerned or the embassy of the aforementioned state in Bosnia and Herzegovina.

- 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 practice in Bosnia and Herzegovina is that the judicial documents should be provided with the translation.

* European Court of Human Rights, *Wallishauser v. Austria*, application No. 156/04, judgment delivered on 17 July 2012.

- 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.**

Bosnia and Herzegovina authorities accept as the adequate service of process, the service to its embassy.