

FINLAND

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)?**

Finland ratified the 2004 UN Convention on Jurisdictional Immunities of States and Their Property in 2014. The Government proposal relating to this Convention was under consideration in Parliament in 2013 and the beginning of 2014 and the ratification process was finalized during spring 2014.

Finland has not signed the 1972 European Convention on State Immunity.

The case law of the Supreme Court of Finland has referred both to the United Nations Convention and the Council of Europe Convention as sources of customary law relating to jurisdictional immunity of States and their property (precedents KKO 1993:120 and KKO 2007:49). The Government proposal relating to the United Nations Convention refers in general terms to the codification in the Convention of the customary law rule on immunity of States and their property but does not take any stand on the possible customary law nature of the provisions on service of process in particular.

Finland interprets article 26 of the Jurisdictional Immunities Convention as a savings clause with regard to any other international agreements in force between States parties to the Convention. The Convention therefore regulates the jurisdictional immunities of States and their property between the States parties to the Convention only to the extent that they are not regulated by other existing international agreements, such as the 1961 Vienna Convention on Diplomatic Relations, which Finland is a party to.

EU legislation, especially Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 has relevance between EU Member States in relation to service of process to a foreign State.

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).**

Under Finnish law, the service of notices in proceedings is regulated by Chapter 11 of the Code of Judicial Procedure (act no. 4/1734, unofficial translation to English available at <http://www.finlex.fi/fi/laki/kaannokset/1734/en17340004.pdf>). The said Code does not, however, include any special sections explicitly on the service of official documents on foreign States or international organizations enjoying privileges and immunities under international law. The United Nations Convention on Jurisdictional Immunities of States and Their Property was implemented in Finland through a so-called blanket Act, which incorporates the provisions of the Convention as part of Finnish legislation. In matters relating to immunities of foreign States and their property, the Finnish courts and other authorities will thus apply the provisions of the Convention as such.

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

The Finnish Supreme Court has ruled on a case concerning a claim against a foreign State in which also the question of service of summons was actualized (precedent KKO KKO 2007:49). A district court and a court of appeal had interpreted that the State in question enjoyed State immunity and had therefore dismissed the claim as inadmissible. The Supreme Court held that the lower courts should not have dismissed the claim as inadmissible without even serving summons on the State in question and without giving the State the opportunity to pronounce on the matter. The matter was returned to the district court, which then served summons as demanded by the Supreme Court.

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.

In accordance with Article 22, in the absence of other applicable conventions or special arrangements, a service of notices must be transmitted through diplomatic channels to the Ministry of Foreign Affairs of the State concerned. However, Finland recognizes that Article 22 does not preclude other arrangements that may be acceptable to the defendant State. For example, an effective service of summons has been established in Finland when the diplomatic mission of the defendant State has agreed to accept the relevant documentation from the process server at a meeting arranged at the Ministry for Foreign Affairs of Finland.

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.

Depending on the case and the defendant State, these terms may refer to delivery of the summons between the Ministries of Foreign Affairs or via the embassy of the defendant State in the State of forum. Service through diplomatic channels is understood to have been realized in any case by the receipt of documents by the defendant State's Ministry of Foreign Affairs.

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?

There is currently no case law or practice relating to the interpretation of the Articles referred to.

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.

Due to Article 22 of the 1961 Vienna Convention on Diplomatic Relations and the inviolability of the premises of missions, Finland does not in principle accept the service to its embassy in the State of forum by personal service of legal process within the mission premises. Furthermore, as far as the service to Finland's embassy in the State of forum is concerned, the service of process may be conducted by delivering the summons by other means than personal service to the Finnish embassy. In this case, the service of process is deemed to be effective in any case after the Ministry for Foreign Affairs has acknowledged receipt of it.