

## HUNGARY

### 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)?**

Hungary has not yet signed the European Convention on State Immunity and the United Nations Convention on Jurisdictional Immunities of States and Their Property. However, the signature of the Declaration on Jurisdictional Immunities of State Owned Cultural Property is in progress, and the ratification of the UN Convention of 2004 was taken into consideration as well.

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

In general terms there are two ways of service of process on a foreign state in Hungary:

1. There are bilateral agreements on mutual legal assistance in criminal and/or civil matters, in which the procedure of serving documents to a foreign state is declared (e.g. in case of mutual legal assistance in civil and/or criminal matters, usually the Ministry of Justice of Hungary is responsible for forwarding documents to Hungarian courts).

2. a) If there are no bilateral agreements and in other cases (e.g. administrative assistance) according to our national legislation, Hungarian authorities deliver documents directly to a foreign authority if the competent authority can be identified, and its address is known.

b) According to Act CXL of 2004 on the General Rules of Administrative Proceedings and Services, if the specific foreign authority is unknown for the Hungarian authorities, the Hungarian authority forwards the documents to the Minister of Foreign Affairs and Trade of Hungary, who then sends the documents through diplomatic channels with the assistance of the embassies of Hungary.

(Authentic English version of Act CXL of 2004 is available on the following website: <http://net.jogtar.hu/jr/gen/getdoc.cgi?docid=a0400140.tv&dbnum=62.>)

### 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.**

Within the bilateral international agreements between Hungary and other states on mutual legal assistance, parties always define the procedure of delivering documents to each other's authorities.

In other cases the Minister of Foreign Affairs and Trade of Hungary always attempts to deliver the documents to the foreign authority via the embassies of Hungary.

Our embassies forward documents through the ministries of foreign affairs of the host country.

Based on established practice, we always provide an *authentic translation* of all the documents to the language of the receiving state or to English. This practice was introduced as a consequence of our previous experiences where we have not received any reply in case a translation was not prepared. Service of process shall be addressed to a state directly (e.g. through diplomatic channels). Representatives, embassies of states may only be considered as deliverers, not recipients of documents coming from the authorities of the host states. Just as a recent example, the embassy of a foreign state in Budapest refused the co-operation in a civil procedure before a Hungarian court, because the documents were addressed to the embassy itself, as one of the parties of the procedure instead of the government of the foreign state. The embassy rejected the receipt of the document, stating that embassies shall not be considered as parties in national judicial proceedings, only the foreign states.

The Ministry of Foreign Affairs and Trade is responsible for collecting data about the co-operation of foreign states concerning service of process and for proposing bilateral agreements to cover these questions.

- 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.**

Hungary has not ratified the European Convention and the United Nations Convention, thus their provisions are not applicable in Hungary.

- 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?**

Hungary has not ratified the European Convention and the United Nations Convention, thus their provisions are not applicable in Hungary.

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.**

Hungary as a defendant also accepts service of process the same way as an applicant. Embassies shall only be considered as delivery services, not as recipients. Based on the order of the Minister of Foreign Affairs and Trade of Hungary, embassies of Hungary forward documents in every case when foreign authorities addresses documents to the Government of Hungary or to its authorities.