

IRELAND

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)?**

Ireland has neither signed nor ratified the European Convention on State Immunity or the United Nations Convention on Jurisdictional Immunities of States and their Property.

Ireland’s view is that customary international law requires service of process on a foreign State to be effected through the diplomatic channel in the capital of that State, allowing a minimum of sixty days following service for the entry of any appearance or the making of any subsequent court filing.

Ireland applies Regulation (EU) 2020/1784 in relation to EU Member States on the service of judicial and extrajudicial documents in civil or commercial matters. Additionally, Ireland is party to the 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters.

- 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.**

There is no Irish legislation governing State immunity, and no enactments that deal specifically with the service of process on a foreign State. However, the Supreme Court has recognised that the doctrine of State immunity forms part of the law of the State as one of the generally recognised principles of international law which, by virtue of Article 29(3) of the Constitution, Ireland has accepted as its rule of conduct in its relations with other states (see the *Government of Canada v the Employment Appeals Tribunal* [1992] 2 IR 484). The matter is regulated by customary international law as it applies within the domestic legal order.

The Irish courts review the service of process in accordance with the Rules of Court, should a question arise as to the validity of service. Furthermore, the Rules of Court provide that service of process outside of the jurisdiction is only permitted with the leave of the Court, so judicial oversight is exercised at the stage such leave is sought.

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.**

There is no Irish legislation expressly providing for the method of service of process on a foreign State. The High Court has held that it was 'inappropriate' for proceedings to be served on a foreign state through service on that State's ambassador to Ireland (*John Adams v Director of Public Prosecutions, Judge for District Court No. 16, and the UK Secretary of State for Home Affairs* [2001] 2 ILRM 401, upheld on other grounds on appeal to the Supreme Court). In reaching that decision, the High Court relied upon a number of provisions of the Vienna Convention on Diplomatic Relations, including Article 22 (service had been attempted at the embassy concerned), rather than on the doctrine of State immunity itself.

Irish practice is that proceedings being instituted against a State should be served through diplomatic channels on the Ministry of Foreign Affairs of that State. The Rules of the Superior Courts provide for a time limit, depending on the location of the State being served, in which to enter an appearance. Ireland considers that a foreign State should be afforded at least sixty days before being required to enter an appearance.

The Department of Foreign Affairs has instructed its embassies abroad not to accept service of legal process. If such service is attempted, process is returned to the Foreign Ministry of the forum State which is requested to arrange for service in the proper way through diplomatic channels on the Department of Foreign Affairs in Dublin.

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.

As set out above, Ireland is not a party to either the European Convention or the United Nations Convention. Notwithstanding that, in this particular context Ireland interprets the term 'diplomatic channels' to mean the transmission, from the Ministry of the Foreign Affairs of the forum State, via the embassy of the forum State in the respondent State, to the Ministry of Foreign Affairs of the respondent State. Ireland does not consider the term 'diplomatic channels' to encompass service of process on the embassy of the respondent State in the State of forum.

Ireland does not regard the term 'diplomatic channels' as requiring the notification of the embassy of the respondent State in the forum State.

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?

While Ireland is not a party to either the European Convention or the United Nations Convention, as a matter of reciprocity and comity among states Ireland regards it as appropriate to provide a courtesy translation into one of the official languages of the respondent State when English is not an official language of that State.

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.

Service of process has to be made via the forum State embassy accredited in Ireland to the Irish Department of Foreign Affairs. Service of process on the Irish embassy in the forum State is not accepted.