

## ISRAEL

### 1. Delegations are invited to provide information on any domestic legislation existing regarding this particular issue

Art. 1 of the **Civil Procedures Ordinance (Appearance of the Attorney General)**, states that if the Attorney General sees that a right of the State of Israel, or a right of the public, or an issue of public interest, is affected by or bound to, or are likely to be affected by or bound to, a certain legal procedure, he is allowed, as he sees fit, to appear in that procedure and to make his opinion heard, or to specially authorize his representative to do so on his behalf.

Israel has a number of laws regarding foreign states' and international organizations' privileges and immunities. Among them, The Foreign States Immunity Law, 5769-2008, The United Nations' Privileges and Immunities Ordinance, The United Nations' Privileges and Immunities Order, 1947 and the Privileges and Immunities law (International Organizations and Special Missions) 5743-1983.

Specifically in cases where questions regarding foreign state immunity are raised, article 19 to **The Foreign States Immunity Law, 5769-2008**, states that where a foreign state raises a plea of immunity, it shall give notice thereof to the Attorney General. Where no notice thereof has been given, the Court shall give notice thereof to the Attorney General. In such cases, and according to common practice, the Attorney General may consult with the Ministry of Foreign Affairs and decide whether to appear in Court in accordance with the aforementioned **Civil Procedures Ordinance (Appearance of the Attorney General)**.

In legal cases where questions of immunities of international organizations are raised, the Attorney General may appear before the Court in accordance with the aforementioned **Civil Procedures Ordinance (Appearance of the Attorney General)**. As mentioned above, according to common practice, the Attorney General may consult with the Ministry of Foreign Affairs and decide whether to appear in Court in accordance with the aforementioned **Civil Procedures Ordinance (Appearance of the Attorney General)**. It should be noted that the Attorney General has independent discretion to decide whether a certain case justifies his appearance in Court.

It should be mentioned that in practice, on technical matters regarding law suits filed in Israel against foreign states and international organizations, the Ministry of Foreign Affairs communicates with the relevant court through the Directorate of the Courts.

### 2. Delegations are invited to inform the Committee of other means through which the Ministry of Foreign Affairs communicates information to national courts and how the Ministry of Foreign Affairs perceives the scope of international legal obligations in this field. For example: Is information related to international legal obligations contained in the legislative preparatory works of domestic laws on immunities, directives, guidelines or circulars that have been issued on this subject.

See answer to question no. 1. It should be mentioned that the Ministry of Foreign Affairs is involved in legislative preparatory works, including legislation processes of laws on privileges and immunities, and contributes to the writing of the explanatory remarks attached to suggested new laws.

- 3. Are there any prohibitions or stated limits in domestic law, which could prevent the transmission of information to national courts by the Ministry of Foreign Affairs? In this regard, are there, in your domestic legal order, any relevant legislation or national practices? Any reference of case-law would be appreciated.**

In accordance with Israeli law, Government Ministries generally do not represent themselves in court, but rather, are represented by the Attorney General through a representative of the office of the State Attorney.

- 4. Can the Ministry of Foreign Affairs communicate with the Parties engaged in procedures before national courts and, if so, how? In particular with regard to the principle of equality of arms (e.g. does the communication with one Party imply informing the others about the content of that communication?), the scope of the communication (e.g. communication of possible factual elements or communication restricted to a single point of law), the principle of independence of the Judiciary and any other related issue.**

Within diplomatic channels, the Ministry of Foreign Affairs may conduct consultations with Foreign States and international organizations, *inter alia*, regarding interests that are raised in the course of legal proceedings taking place in Israel. However, neither the Ministry of Foreign Affairs or the Attorney General represent Foreign States and international organizations before the Court, and they are usually not involved in factual elements of the proceedings. Rather, the Attorney General, in consultation with the Ministry of Foreign Affairs, represents the Public interests and the interests of the State of Israel in respecting Israel's international obligations, and acts as an "officer of the Court" in clarifying the State of Israel's view on legal questions in this regard.

It should be stressed that under any circumstances, the court's independence of judgment is not affected.