

Exchange of national practices on possibilities for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States' or international organisations' immunities

LATVIA

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

There is no domestic legislation on possibilities for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States' or international organisations' immunities.

- 2. Delegations are invited to inform the Committee as to whether there are any other means for the Ministry of Foreign Affairs of communicating information to national courts and how the Ministry of Foreign Affairs perceives the scope of international legal obligations in [this] field.**

For example:

- **Are there any information related to international legal obligations contained in the legislative preparatory works of domestic laws on immunities?**
- **Are there any directives, guidelines or circulars that have been issued on this subject?**

It has to be particularly noted that there is no national legislation in Latvia on international immunities that are set out in International Law. There are also neither directives, nor guidelines or circulars issued on the subject of States' or International Organisations' immunities in Latvia. In case a national court sees it necessary to get information on immunities' issues from the Ministry of Foreign Affairs, it asks for the information on the case by case basis and the Ministry of Foreign Affairs responds respectively.

- 3. Delegations are invited to precise whether there are any prohibitions or stated limits in domestic law, which would 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 the Republic of Latvia the Government and the Court are separated powers therefore the Ministry of Foreign Affairs can give to the Court only information of a general nature on immunities, without giving advice as to the respective case, otherwise it can be perceived as a break of the rule of the separation of powers and independence of the courts. Article 83 of the Constitution of the Republic of Latvia (*Satversme*) states: „Judges shall be independent and subject only to the law.”

- 4. From a broader perspective, delegations are called upon to express their views as to whether the Ministry of Foreign Affairs can communicate with the Parties engaged in procedures before national courts and, if so, as to how it can proceed. 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.**
- **any other related issue.**

As mentioned above, the Ministry of Foreign Affairs can inform courts or any other natural or legal person on issues regarding International immunities. At the same time, the Ministry of

Foreign Affairs can give only information of a general and legal nature without attributing to the specific facts of a specific case. If the Ministry of Foreign Affairs of the Republic of Latvia informs any of the parties involved in the process in the domestic court related to immunities on legal issues, according to Latvian laws it does not have to inform the other party of such communication.