

MEXICO

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

- Article 89(X) of the Political Constitution of the United Mexican States: Power of the President to direct foreign policy.
- Article 28(I) of the Federal Public Administration Act: entrusts the power to direct foreign policy to the Ministry of Foreign Affairs
- Articles 13(XIX), (XXII) of the Internal Rules of the Ministry of Foreign Affairs: authority of the Ministry's Office of the Legal Adviser [hereinafter, OLA] to verify the fulfilment of international treaties in force, as well as to assist the Office of Protocol in legal matters involving foreign States, its missions and agents, international organizations and its international staff.
- Articles 15(I), (II) of the Internal Rules of the Ministry of Foreign Affairs: authority of the Office of Protocol to verify the application of legal rules regarding privileges and immunities of foreign States and international organizations.

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?

In order to convey information to national courts, the Ministry of Foreign Affairs may resort to the following means:

- a) The OLA may convey to national courts its general view on jurisdictional immunities without attributing it to a specific case. The previous mean has the objective to transmit non-binding information to courts before they become seized with a matter involving a foreign State or international organizations, so they may have in advance information for their analysis and assessment.
- b) When a domestic court is seized with a matter involving the jurisdictional immunity of a foreign State or international organization, either as a plaintiff or as defendant, the OLA may transmit its non-binding view regarding the scope of jurisdictional immunity to the national court. It is important to emphasize that, given separation of powers, the court analyzes and assesses the information received with liberty and independence.
- c) National courts may require information on jurisdictional immunity to the Ministry of Foreign Affairs. In this situation, the OLA is compelled to convey the non-binding information requested by the national court.
- d) The State or international organization involved in a procedure before a national court can communicate their views about the jurisdictional immunity they enjoy to the OLA, requesting that this information be forwarded to the national court. The OLA, acting as a transmission channel, may forward such information.

On the other hand, besides the domestic legislation cited above, in Mexico there is no domestic law specifically on jurisdictional immunity. Similarly, Mexico does not have directives, guidelines or circulars that lay down the scope of an international legal obligation in this matter.

- 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)?**

There is not an express prohibition in the Mexican domestic law that limits or prevents the OLA to transmit its views on jurisdictional immunity to national courts. However, article 49 of the Political Constitution of the United Mexican States establishes the principle of separation of powers. This principle proscribes the Executive power (e.g., the Ministry of Foreign Affairs) to intervene in the decisions of the judicial system. Given the fact that the OLA is not a party in the proceedings, it may only transmit non-binding considerations, leaving the court the power to analyze and assess such information.

- 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.**

It is relevant for the OLA to ensure due respect of the principles of equality of arms, separation of powers and judicial independence. Therefore, the OLA usually communicates with the parties upon request of one of them, or as requested by a national court. The OLA does not favor any party in the proceedings nor renders an opinion on the merits.