

MEXICO

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 of 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)?**

Mexico signed the United Nations Convention on Jurisdictional Immunity of States and Their Property on September 25, 2006 and the Senate approved it on April 29, 2014. Moreover, Mexico deposited the instrument of ratification of such Convention during the 70th session of the UN General Assembly, becoming the 19th State party of such treaty.

However, it is a common practice in Mexico that the entity named as defendant is the diplomatic mission, and not the foreign State. Therefore, Mexican authorities rely on article 41.2 of the Vienna Convention on Diplomatic Relations¹ to serve a process when a diplomatic mission or consular post is involved. Therefore, the Office of the Legal Adviser is usually the entity that transmits such service of process upon request of the judicial or administrative authority. Such transmission is carried out through a diplomatic note addressed to the diplomatic mission involved.

Besides, Mexico is party to the 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters since 1999, to the Inter-American Convention on Letters Rogatory since 1978, and to its Additional Protocol since 1979. These treaties on legal assistance provide a method to effect service of process in civil and commercial matters held before the appropriate judicial or other adjudicatory authority of one of the States Parties. In these sense, Mexico considers that such treaties may be applied in the terms of article 22, paragraph 1, section a) and article 26 of the United Nations Convention on Jurisdictional Immunity of States and Their Property.

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 applicable legislation or case-law on this topic.

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.**

Mexico has a well-established practice regarding service process when a foreign State, its diplomatic mission or consular posts are named as defendants in labor lawsuits. The

¹ Article 41.2: All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

guidelines codifying this practice were conveyed to diplomatic missions in Mexico through a circular note of the Ministry of Foreign Affairs in June 2006 (still in force).

When a Federal Labor Board admits a lawsuit against a Foreign State, its diplomatic mission or consular posts, it requests the Office of the Legal Adviser to serve process to the diplomatic mission. The Office of the Legal Adviser transmits the service documents through a diplomatic note. The diplomatic mission is provided with a minimum of 60 calendar days to answer the claim.

Service of process is considered to be effective when the diplomatic mission receives the diplomatic note and its annexes. If service of process is not performed in accordance with the above-mentioned practice, foreign States sometimes do not consider themselves properly served. Therefore, it is common that the court renders a default judgment that cannot be executed, due to the immunity from execution the foreign States enjoy.

- 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.**

Diplomatic channel, according to the Mexican practice, means the official communications originating from the Ministry of Foreign Affairs to the diplomatic missions, or official communications originating from a diplomatic mission to the Ministry of Foreign Affairs.

In this regard, these terms does include notification to the embassy of the State concerned in the State of forum. As mentioned in previous paragraphs, this is the most common method to serve a process in Mexican territory.

- 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?**

For Mexico, “if necessary” means that the obligation to provide translation of documents to be served will depend on the existence of such obligation in a treaty to which Mexico is a party.

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.**

Mexico considers that service of process is adequate:

- a) If it is carried out pursuant to the Convention on the Service abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters of 1965 or any other applicable treaty, or
- b) If it is carried out by the Ministry of Foreign Affairs of the State of the forum, and relevant documents are sent to the Mexican embassy in such State through diplomatic channels.