

MONTENEGRO

Pursuant to Article 9 of the Constitution of Montenegro, ratified and published international treaties and generally accepted rules of international law make an integral part of the internal legal system and they have supremacy over national legislation and are immediately applied when regulating relations differently from the national legislation. Montenegrin courts are obliged to act in accordance with this Article, which results in immediate application of ratified conventions in the field of privileges and immunities of international organisations and third states.

According to the principle of division of power, executive branch of power cannot affect the judicial branch of power, nor can it even intervene in proceedings concerning privileges and immunities of international organisations and third states.

Although there is no legal basis nor the possibility of intervention in the proceeding itself, the Ministry of Foreign Affairs may via the Ministry of Justice, as a body in charge of communication with judicial bodies, request information referring to proceedings which were initiated in relation to the mentioned issues as well as to point out to existence of a certain ratified convention or a generally accepted international rule referring to privileges and immunities. So far, international organisations have issued twice a request to the competent national courts to direct them to a certain international legal norm on privileges and immunities.

In November 2007, the High Commissioner-UNHCR addressed the Ministry of Foreign Affairs in relation to delivery of summons for main hearing before the Basic Court in Podgorica due to a private charge.

The Ministry of Foreign Affairs then addressed the Ministry of Justice with a request to point out the fact that Montenegro is a member of the Convention on the Privileges and Immunities of the United Nations, in its communication with the Basic Court in Podgorica. The Ministry of Justice requested from the Basic Court its position on judicial immunity in the proceedings. Within the indicated timeframe, the Court delivered its statement reading that the proceedings regarding UNHCR will be discontinued in accordance with the Law on Litigation Procedure and the Convention on the Privileges and Immunities of the United Nations. The position delivered has been forwarded to the UNHCR.

In September 2008, the Ministry of Foreign Affairs acted in the same manner in the case of address by the United Nations Children's Fund (UNICEF). The result was the same as in the previous case.