

## SERBIA

### 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 on 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)?**

The Republic of Serbia has not yet become a party to the *European Convention on State Immunity* (1972) and the *United Nations Convention on Jurisdictional Immunities of States and Their Property* (2004), but considers the provisions on service of process contained in these conventions as the customary international law.

The Republic of Serbia concluded with many States bilateral agreements regulating the service of process on a foreign state.

The Republic of Serbia also applies the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (1965) and the *Hague Convention on Civil Procedure* (1954) in relations with some states. The principles set out in the *Vienna Convention on Diplomatic Relations* (1961), particularly where the transmission of communications to the Ministry of Foreign Affairs is concerned, play a significant role, as well.

**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).**

The service of process on a foreign State is regulated by the Law on Civil Procedure (Art. 131 par. 1) which provides that the service of process on a foreign State will be performed through the diplomatic channels unless the international treaty or law stipulates otherwise.

**b. Case-law and practice, specifying whether your national courts and tribunals review the lawfulness of the service of process by operation of law.**

The courts of the Republic of Serbia had occasion to adopt the decisions on the question of the service of process. Such judicial decisions are mainly based on national legislation, but also on the international conventions which are applicable, because of the recognition of the customary nature of the provisions that they contain.

### 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.**

The service of process is performed through diplomatic channels, transmitting the documents to the Ministry of Foreign Affairs of the State in question via the diplomatic mission in the State, by notification. The service is considered to have been effected on receipt of the documents by the Ministry of Foreign Affairs.

The Republic of Serbia refuses any service of process referring to a procedure concerning its sovereign acts.

**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.**

The term “diplomatic channel” (Article 16 § 2 of the European Convention and Article 22 § 1 c) i) of the United Nations Convention), refers to the channels of communication between States, and in this instance to the transmission of documents to the Ministry of Foreign Affairs via the embassy of the State of forum accredited in the defendant State.

**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?**

The term “if necessary” (Article 16 § 2 of the European Convention and Article 22 § 3 of the United Nations Convention) means that the translation is required if the original document is not written in one of the official languages of the defendant State.

**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.**

If the Republic of Serbia has the bilateral agreement with the State in question, the adequate service of process should be performed in the manner prescribed by that agreement. The service of process through the embassy of the State of the forum shall not be regarded to be in conformity with the principle of international law concerning the inviolability of diplomatic missions. This method of service is generally not regarded as legally acceptable in the Republic of Serbia.