

November 2005

CROATIA

1. INTERNATIONAL LEGAL INSTRUMENTS

Republic of Croatia is not a party to, nor has it signed the European Convention on State Immunity of 1972 (European Treaty Series No. 074) with an Additional Protocol thereto (ETS No. 074A). Neither is a party or a signatory to any other international legal instrument in this field.

2. DOMESTIC LAW

Legislation of the Republic of Croatia does not regulate the issue of state immunity directly, however, it contains certain acts which direct to the rules of public international law. Examples include:

- a) Civil Litigation Act** (Official Gazette of the Republic of Croatia, No. 53/91, 91/92) which reads in its Article 26, as follows:

"Regarding the competence of Croatian courts of law to adjudicate the foreign nationals enjoying right to immunity in the Republic of Croatia, as well as foreign states and international organisations, rules of international law shall be applied.

In case where there is a doubt as to the existence and scope of the right of immunity, an explanation is given by an executive body in charge of judicial affairs."

- b) Execution Act** (Official Gazette of the Republic of Croatia, No. 57/96) reads in its Article 18, as follows:

"An act of execution or an act of securing cannot be issued against the property of a foreign State without previous consent of the Ministry of Justice of the Republic of Croatia, except when a foreign State agrees to execution or securing."

In the preliminary phase of the Pilot Project, the following data as annexed in standard forms (HR/1 – HR/7), has been collected

(a)	Registration no.	HR/1
(b)	Date	26 June 1991
(c)	Author(ity)	House of Representatives of the Parliament of the Republic of Croatia
(d)	Parties	
(e)	Points of law	Civil Litigation Act of Croatia in Article 26 states that in a dispute involving a foreign state or international organizations the relevant rules are those of public international law. In case of any uncertainties regarding the existence and scope of state immunity, an executive body in charge of judicial matters gives an explanation.
(f)	Classification no.	0.a., 0.b., 1., 2.c.
(g)	Source	Official Gazette of the Republic of Croatia, No. 53/91, 91/92.
(h)	Additional information	The act was taken over from legislation of Croatia's legal predecessor, the former Socialist Federal Republic of Yugoslavia
(i)	Summaries	

(a)	Registration no.	HR/2
(b)	Date	28 July 1996
(c)	Author(ity)	House of Representatives of the Parliament of the Republic of Croatia
(d)	Parties	
(e)	Points of law	Execution Act of Croatia in Article 18 states that an act of execution or an act of securing cannot be issued against the property of a foreign State without previous consent of the Ministry of Justice of the Republic of Croatia, except when a foreign State agrees on execution or insurance.
(f)	Classification no.	0.a., 0.b., 1.c., 2.
(g)	Source	Official Gazette of the Republic of Croatia, No. 57/96.
(h)	Additional information	
(l)	Summaries	

(a)	Registration no.	HR/3
(b)	Date	25 May 2001
(c)	Author(ity)	Zagreb Municipal Court
(d)	Parties	J. Š. B. (individual) vs. the Embassy of Japan
(e)	Points of law	In this case, the Zagreb Municipal Court has not yet passed the final decision about state immunity. However, in this case there have been two opposite opinions regarding state immunity. The Ministry of Foreign Affairs establishes that in a labor dispute, a foreign country is able to be a party to the dispute because of limited state immunity in this category of cases. Contrary to that opinion, the Embassy of Japan holds that state immunity is absolute in accordance with general principles of public international law except in cases when a state expressly gives a consent for a trial before a court of a foreign country. The whole process is still ongoing.
(f)	Classification no.	0.b.2, 1b., 2.c.
(g)	Source	Zagreb Municipal Court, the Ministry of Foreign Affairs via the Ministry of Justice
(h)	Additional information	Pursuant to Article 26 of the Civil Litigation Act of Croatia, in a dispute involving a foreign state or international organizations the relevant rules are those of public international law. In case of any uncertainties regarding the existence and scope of state immunity, an executive body in charge of judicial matters gives an explanation.
(i)	Summaries	

(a)	Registration no.	HR/4
(b)	Date	9 April 2001
(c)	Author(ity)	Zagreb Municipal Court
(d)	Parties	P.K. (individual) vs. the Embassy of the United States of America
(e)	Points of law	In this case, the Zagreb Municipal Court has not yet passed the final decision about state immunity. The defendant (Embassy of the USA) became involved in the dispute without challenging the competence of a Croatian court. By acting in this way, the defendant has given up the principle of absolute state immunity. The Ministry of Foreign Affairs establishes that in a labor dispute, a foreign country is able to be a party to the dispute because of limited state immunity in this category of cases. The whole process is still ongoing.
(f)	Classification no.	0.b.2, 1b., 2.c.
(g)	Source	Zagreb Municipal Court, the Ministry of Foreign Affairs of Croatia via the Ministry of Justice
(h)	Additional information	Pursuant to Article 26 of the Civil Litigation Act of Croatia, in a dispute involving a foreign state or international organizations the relevant rules are those of public international law. In case of any uncertainties regarding the existence and scope of state immunity, an executive body in charge of judicial matters gives an explanation.
(i)	Summaries	

(a)	Registration no.	HR/5
(b)	Date	19 October 1993
(c)	Author(ity)	Zagreb Commercial Court
(d)	Parties	Company "S", Vinkovci, Croatia vs. the Republic of Bosnia and Herzegovina, Ministry of Transport and Communications
(e)	Points of law	The parties have previously agreed that any of their disputes would be subject to competence of the Zagreb Commercial Court. By doing so, the defendant (Republic of Bosnia and Herzegovina) did not bring up the issue of its immunity as an obstacle to settle the dispute before the Croatian court. The Court has decided and subsequently executed its decision on defendant's assets.
(f)	Classification no.	0.b.3., 1.b., 2.b.
(g)	Source	Zagreb Commercial Court
(h)	Additional information	The Commercial Court has asked for consent for execution of its decision from the Ministry of Justice and the Ministry of Foreign Affairs of Croatia. These executive bodies gave their consent.
(i)	Summaries	

(a)	Registration no.	HR/6
(b)	Date	9 June 1999
(c)	Author(ity)	Zagreb Municipal Court
(d)	Parties	Company "S", Vinkovci, Croatia vs. the Republic of Bosnia and Herzegovina, Ministry of Transport and Communications
(e)	Points of law	In the dispute before the Municipal Court, the defendant did not raise the issue of its state immunity. Moreover, it has filed a counterclaim. The Zagreb Municipal Court has passed its decision in favor of the plaintiff.
(f)	Classification no.	0.b.3., 1.b., 2.c.
(g)	Source	Zagreb Municipal Court
(h)	Additional information	The defendant has lodged a complaint with the Zagreb District Court for the reasons unrelated to state immunity. The second-degree process is still ongoing.
(i)	Summaries	

(a)	Registration no.	HR/7
(b)	Date	4 December 2000
(c)	Author(ity)	The Ministry of Foreign Affairs of Croatia
(d)	Parties	unknown
(e)	Points of law	The Ministry establishes that the exemption from acts of inquiry (by the court of law) is recognized only on the premises of the diplomatic mission notified as such by diplomatic protocol of the receiving country
(f)	Classification no.	0.a,1.a,2.c
(g)	Source	The Ministry of Foreign Affairs
(h)	Additional information	In the dispute initiated between private parties the issue of inquiry on the premises allegedly used by diplomatic mission of the foreign state was raised. The inviolability of such premises was not established since the premises in question were not the ones notified as such by that state's diplomatic protocol.
(i)	Summaries	

(a)	Registration no.	HR/8
(b)	Date	9 April 2001
(c)	Author(ity)	Zagreb Municipal Court
(d)	Parties	L.O. (individual) vs. Turkish Embassy
(e)	Points of law	Based on a legal opinion given by the Ministry of Foreign Affairs via the Ministry of Justice of Croatia, the Court establishes that in a labor dispute, a foreign country is able to be a party to the dispute because of limited state immunity in this category of cases.
(f)	Classification no.	0.b.2,1.b,2.c
(g)	Source	Zagreb Municipal Court, the Ministry of Foreign Affairs via the Ministry of Justice of Croatia
(h)	Additional information	Pursuant to Article 26 of the Civil Litigation Act of Croatia, in a dispute involving a foreign state or international organizations the relevant rules are those of public international law. In case of any uncertainties regarding existence and scope of state immunity, an executive body in charge of judicial matters gives an explanation.
(i)	Summaries	