Service of Legal Documents Abroad

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DISCLAIMER: THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A PARTICULAR CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

PROHIBITION: Foreign Service officers are prohibited by Federal regulations (22 CFR 92.85) from serving process on behalf of private litigants or appointing others to do so, state law notwithstanding.

Service by Foreign Central Authority Pursuant to Multilateral Treaty or Convention
  Hague Service Convention
  Inter-American Convention on Letters Rogatory
  U.S. Central Authority for Hague and Inter-American Service Conventions

Service by Mail
  Hague Service Convention
  Treaty Obligation Not to Serve by Mail

Service by Publication

Waiver of Service

Service Pursuant to a Letter Rogatory

Service of Subpoenas

Service on a Foreign State, Agency or Instrumentality

SERVICE BY FOREIGN CENTRAL AUTHORITY PURSUANT TO MULTILATERAL TREATY OR CONVENTION: (Rule 4(f)(1) F.R.Cv. P.) The United States is a party to two multilateral treaties on service of process, the Hague Service Convention and the Inter-American Service Convention. Procedures for service under these treaties are summarized below, and explained in greater detail in our web pages about the operation of the conventions. See also our country-specific flyers on service of process or international judicial assistance.


NOTE: For the current list of
countries and dependencies party to the Convention, see the Status Table for the Hague Service Convention on the Hague Conference web page. The column captioned “EIF” (Entered into Force) reflects when the treaty became valid in that country. The Hague Conference designates months with Roman Numerals. It is important to read the reservations (Res), Declarations (D) and Notifications (N) for each country. The foreign central authorities (Auth) are also listed on the Hague Conference Service Convention page.

INTER-AMERICAN SERVICE CONVENTION: The Inter-American Convention on Letters Rogatory (OAS Treaty Text B-36) and List of Ratifications for OAS Treaty Text B-36), done at Panama January 30, 1975; and Additional Protocol (OAS Treaty Text B-46 and List of Ratifications for OAS Treaty Text B-46) with Annex [regarding service of process] done at Montevideo, Uruguay on May 8, 1979. Senate Treaty Doc. 98-27; 98th Congress; 2d Session. See the U.S. Department of State Circular on Operations of the Inter-American Convention - In Progress. Only countries party to both the Convention and the Additional Protocol have a treaty relationship with the United States. See Treaties in Force on the U.S. Department of State web page. The Inter-American Service Convention is now in force between the United States and Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela. For the most up to date information about ratifications and accessions to the Convention and the Additional Protocol, see the OAS web pages. Submit a request for service in a foreign country party to the Convention and Additional Protocol on a form USM-272 (English) and USM 272A (Spanish), available at the office of any United States Marshal or the U.S. Department of Justice’s contractor, Process Forwarding International (PFI). Information about how to submit requests is available at http://www.hagueservice.net/ and http://www.hagueservice.net/iac.html. And see Message to the Senate Transmitting the Inter-American Convention on Letters Rogatory and Additional Protocol (1984); Executive Order 12638 -- Delegation of Functions Relating to the Implementation of the Inter-American Convention on Letters Rogatory and Additional Protocol (1988).

U.S. CENTRAL AUTHORITY FOR HAGUE AND INTER-AMERICAN SERVICE TREATIES: Office of International Judicial Assistance, Civil Division, Department of Justice, 1100 L St., N.W., Room 11006, Washington, D.C. 20530, tel: 202) 307-0983;fax: (202) 514-6584. Requests for service of U.S. documents abroad under the Inter-American Service Convention should be sent to the U.S. Department of Justice’s contractor, Process Forwarding
International (PFI). Information about how to submit requests is available at http://www.hagueservice.net/.

**SERVICE BY INTERNATIONAL REGISTERED MAIL:** (Rule 4(f)(2)(C)(ii) F.R.Cv.P.) registered or certified mail, return receipt requested may be sent to most countries in the world. Rule 4(f)(2)(C) provides that this method of service may be used unless prohibited by the law of the foreign country. **(But see discussion below regarding treaty obligation to refrain from this method of service in certain countries.)** To ascertain whether such mail service exists in a foreign state, contact your local Post Office to review the International Mail Manual and consult the business section on international mail of the U.S. Postal Service web page for general information, or contact the Government Printing Office. For a general discussion of service by international mail see Born & Westin, 125-126; Epstein & Snyder, Sec. 4.04[3] p. 4-14 - 4-18; Ristau, Sec. 3-1-11, p. 70.4 - 70.5 (1995 supp.); and Wright & Miller, Sec. 1074, note 6 at 458; Sec. 1092 at 51, 52; Sec. 1134 at 377 regarding international mail conventions and Sec. 1136 regarding proof of service by mail in a foreign country (1987).

**HAGUE SERVICE CONVENTION TREATY OBLIGATION TO REFRAIN FROM SERVICE BY MAIL:** American courts have held that formal objections to service by mail made by countries party to a multilateral treaty or convention on service of process at the time of accession or subsequently in accordance with the treaty are honored as a treaty obligation, and litigants should refrain from using such a method of service. See DeJames v. Magnificence Carriers, Inc., 654 F.2d 280 (3d Cir. 1981), [cert. den., 454 U.S. 1085]; Porsche v. Superior Court, [123 Cal. App. 3d 755,] 177 Cal. Rptr. 155 (1981).

**Note:** Service by registered mail should not be used in the following countries which notified the treaty repository that it objected to the method described in Article 10(a) (postal channels):

- Argentina
- Bulgaria
- China, PRC
- Czech Republic
- Egypt
- Germany
- Greece
- Hungary
- Japan
- Korea
- Kuwait
- Lithuania
- Norway
These countries have notified the Hague Conference on Private International Law and the Government of the Netherlands (the repository) on accession, ratification or subsequently that they object to service in accordance with Article 10, sub-paragraph a of the Convention, via postal channels. See Memorandum of the Administrative Office of the U.S. Courts (November 6, 1980) at Cumulative Digest of United States Practice in International Law, 1981-1988, Department of State, Office of the Legal Adviser, 1447 (1994) or Ristau, Sec. 3-1-9, p. 70.2 (1995 supp).

For a definitive up to date information about countries objecting to service by mail (Article 10 a), see the status table of the Hague Conference on Private International Law Hague Service Convention web page and review the reservations and declarations for each country.

**PERSONAL SERVICE BY AGENT:** (Rule 4(f)(2)(C)(i) FRCvP) If personal service is desired in countries which are not party to the Hague Service Convention, the most expeditious method may be to retain the services of a local foreign attorney or process server. Rule 4(f)(2)(C) provides for personal service unless prohibited by the laws of the foreign country. The attorney (or agent) can execute an affidavit of service at the nearest U.S. embassy or consulate, or before a local foreign notary which can be authenticated, either with an apostille for countries party to the Hague Legalization Convention, or by a U.S. consular officer at a U.S. Embassy abroad. See our web page guidance about notarial and authentication services and 7 Foreign Affairs Manual Chapter 800. (See Wright & Miller, Sec. 1136 regarding proof of service. See 22 CFR 22.1 for the Consular Schedule of Fees for notarial and authentication services.)
services. Lists of foreign attorneys are available from the Department of State, Bureau of
Consular Affairs, Overseas Citizens Services and from U.S. embassies and consulates abroad.
See also our web feature, "Retaining a Foreign Attorney". It should be noted, however, that
this method of service may not be considered valid under the laws of the foreign country. If
eventual enforcement of the U.S. judgment in the foreign country is foreseen, this method
may not suffice. It may be prudent to consult local foreign counsel early in the process on this
point. American process servers and other agents may not be authorized by the laws of the
foreign country to effect service abroad, and such action could result in their arrest and/or
deportation. See Wright & Miller, Sec. 1135 and 1133 (1987) on the subject of who is
authorized to serve process abroad.

rogatory, also known as a "letter of request", is a request from a court in the United States to
a court in a foreign country requesting international judicial assistance, which is often
employed to obtain evidence abroad, but is also utilized in effecting service of process and
particularly in those countries which prohibit other methods of service. In some countries
service by letters rogatory is the only recognized method of service. Service of a judicial
summons, as set forth in Rule 9(c), F.R.Cr. P., may also be effected pursuant to a letter
rogatory. Service of process by judicial authorities in the receiving State pursuant to a letter
rogatory from a court in the sending State is based on comity. Procedural requirements vary
from country to country. See our web page guidance on "Preparation of Letters Rogatory". See
also our country-specific flyers for any peculiarities of particular countries, or consult the
appropriate geographic division of the U.S. Department of State, Bureau of Consular Affairs,
Office of American Citizens Services. Letters rogatory are a time consuming,
cumbersome process and should not be utilized unless there are no other options
available. If the laws of the foreign country permit other methods of service, the use
of letters rogatory is not recommended given the habitual time delays of up to a year
or more in execution of the requests. (See Casad, Jurisdiction in Civil Actions, 4.06(2)
14 Int'l Law. 637, 642 (1980); Born & Westin, 123-125, 133-136; Wright & Miller, Federal
Practice & Procedure, Sec. 1134 (1987); and Cumulative Digest of United States Practice in
International Law, 1981-1988, Department of State, Office of the Legal Adviser, 1442, 1448
(1994).)

SERVICE BY PUBLICATION: Service by publication may also be a viable option, however,
this may not be a valid method of service under the laws of the foreign country. If eventual
enforcement of a U.S. judgment in a foreign country is foreseen, it may be prudent to consult
local foreign counsel or American foreign legal consultants abroad before proceeding with such
a method of service. See Wright & Miller, Sec. 1062 at 222 (1987); Sec. 1074, note 17 at
461-463 (1987); 1092; 1112; 1117-1118 and 1996 pocket part.

WAIVER OF SERVICE: (Rule 4(d) F.R.Cv.P.) Waiver of service may also be a viable option,
however, this may not be a valid method of service under the laws of the foreign country. If
eventual enforcement of a U.S. judgment in a foreign country is foreseen, it may be prudent to consult local foreign counsel or American foreign legal consultants abroad before proceeding with such a method of service. See Wright & Miller, Sec. 1062 (1987). Waivers of service may be executed before a U.S. consular official abroad in the form of an acknowledgment or affidavit. See our web page about notarial and authentication services abroad.


**FOREIGN SOVEREIGN IMMUNITIES ACT:** U.S. embassies abroad will serve a summons, complaint and notice of suit on a foreign government (28 U.S.C. 1608 (a)(4); 22 C.F.R. 93) on instructions from the Department of State, Bureau of Consular Affairs, Office of Policy Review and Inter-Agency Liaison. Similarly, letters rogatory requesting service of process on an agency or instrumentality of a foreign government pursuant to 28 U.S.C. 1608(b)(3)(A) must be transmitted to the Department of State, Office of Policy Review and Inter-Agency Liaison. See Sec. 1608 of the Act for the specific hierarchical service provisions. See also our web page feature about service under the Foreign Sovereign Immunities Act and FSIA checklist.