

## EXTENDED SUMMARY

*In international and national regulations concerning the immunity of foreign states from jurisdiction, the immunity of foreign states from jurisdiction has been accepted as a rule, and exceptions to this rule have been regulated. In Turkish law, the immunity of foreign states from jurisdiction is regulated in Article 49 of Turkish Private International and Procedural Law Act (TPIL). According to this article, foreign states are not granted immunity from jurisdiction in legal disputes arising from private law relationships. It can be seen that Turkish law accepts the principle of restrictive immunity from jurisdiction with this regulation.*

*In cases where jurisdictional immunity is not recognized, Article 49(2) of TPIL contains a special and alternative provision regarding the service of process on the defendant foreign state in lawsuits filed against it. According to this article, service may be effected on the diplomatic representatives of the foreign state in disputes arising from private law relations of the foreign state. However, there is no clear regulation on how and by what procedure service should be effected. The doctrine accepts that this service should be effected in accordance with the local service procedure regulated in the Service of Process Law. However, in case of notification to the diplomatic representatives of the defendant foreign state, the procedure to be applied should be as specified in Article 45 of the Regulation on the Implementation of the Notification Law of 2012 and Articles 39-43 of the Notification Circular. In other words, service must be effected through diplomatic channels via the Ministry of Foreign Affairs. Therefore, this provision in the Regulation is in accordance with customary international law.*

*This study provides examples of state practices (such as UK, Canada, USA, Pakistan) that establish the rule of customary international law requiring that service of process on a foreign state be effected through diplomatic channels or an applicable international treaty. In particular, article 22 of the 2004 UN Convention, which is considered within the scope of international customary law, regulates service of process on foreign states. According to this article, service of process may be effected in accordance with international agreements, or it may be effected through diplomatic channels to the Ministry of Foreign Affairs of the relevant State.*

*When examining the regulations of states, it is observed that in most states, the conditions for serving notices to sovereign states are more stringent than those for serving notices to private individuals and generally require service through diplomatic channels. In this context, in our opinion, it would be appropriate to accept the regulation in Article 49 of the MÖHUK as a notification that can only be made through diplomatic channels, in accordance with Article 45 of the Notification Regulation, the Notification Circular, and international customary law.*

*The provision in Article 49(2) of the TPIL is an alternative provision regarding the procedure for service of process on a foreign state, and therefore service of process is not mandatory under this provision. In other words, service of process on a foreign state may be effected through diplomatic channels or in accordance with the procedures provided for in international agreements.*

*States are generally utilized 1965 Hague Service Convention for service of process to foreign states. Service of process to a state party to the Convention are made through the Central Authority under Article 5 of the Convention or through diplomatic channels in accordance with Article 9(2) of the Convention. The Practical Handbook on the Operation of the 1965 Hague Service Convention, published by the HCCH in 2025, examines state practices and shows that states serve documents to foreign states under these articles.*

*However, it should be noted that, due to state sovereignty, there are matters in the legal regulations and practices of each state that must be taken into consideration when implementing this Convention. In this context, it would be appropriate to contact the relevant Central Authorities, obtain information, and then make notification. As stated in our study, in accordance with the 1965 Hague Service Convention, for example, for the notification to be made to the defendant US state, it is mandatory to comply with the provisions set out in Annex-9 of Circular No. 63/3 dated 2011, entitled "Principles to be Applied to States in International Notification Procedures in Legal and Commercial Matters". Particularly in this context, as stated in our study, in cases filed against foreign states, granting a period of sixty days as a response period from the date of notification to the defendant foreign state in the notification procedure would be in line with customary international law and the legal regulations and practices of states such as the UK, USA, Bangladesh, Pakistan, South Africa and Canada.*