

State Immunity Law of the PRC

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Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Jurisdiction of Chinese Courts	2
Chapter III — Service of Process and Other Procedural Matters	3
Chapter IV — Immunity from Preservation and Enforcement Measures	4
Chapter V — Supplementary Provisions	4

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Jurisdiction of Chinese Courts
- Chapter III — Service of Process and Other Procedural Matters
- Chapter IV — Immunity from Preservation and Enforcement Measures
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of improving the system of foreign state immunity, specifying the jurisdiction of the courts of the People's Republic of China over civil cases involving a foreign state and its property, protecting the lawful rights and interests of the parties concerned, safeguarding the equal application of the law, and promoting friendly exchanges with foreign countries.

Article 2 — For the purposes of this Law, "foreign state" means: (1) a foreign sovereign state; (2) a constituent unit of a foreign sovereign state or a political subdivision of a foreign sovereign state that is authorized by the foreign sovereign state to exercise sovereign powers; (3) an agency, institution, or other organization of a foreign sovereign state or a constituent unit or political subdivision of a foreign sovereign state that exercises sovereign powers; and (4) a natural person or entity that is deemed to represent a foreign state in accordance with international law and the law of the foreign state concerned.

Article 3 — A foreign state and its property shall enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases, unless otherwise provided for by this Law. This Law shall apply to claims against a foreign state for compensation for personal injury or property damage, as well as other civil disputes.

Article 4 — The immunity enjoyed by a foreign state from the jurisdiction of the courts of the People's Republic of China may be waived by the foreign state in the following ways: (1) expressly consenting to the jurisdiction of the courts of the People's Republic of China by means of an international treaty, a written contract, a written statement submitted to the court, or a written statement made in the course of specific litigation; (2) filing a lawsuit as a plaintiff in a court of the People's Republic of China, in which case it shall be deemed to have consented to the court's jurisdiction over counterclaims directly related to the principal claim; (3) filing a counterclaim or participating in the litigation as an interested party or third party in a court of the People's Republic of China, in which case it shall be deemed to have consented to the court's jurisdiction over matters directly related to the counterclaim, the claim of the interested party, or the third party's participation; or (4) other methods of waiver recognized by international custom.

Article 5 — Where a foreign state enjoys immunity from jurisdiction in accordance with the provisions of this Law, it shall be deemed to also enjoy immunity from preservation and enforcement measures. Where a foreign state expressly waives immunity from jurisdiction, it shall not be deemed to have also waived immunity from preservation and enforcement measures. A foreign state may expressly waive immunity from preservation and enforcement measures separately by means of an international treaty, a written contract, a written statement submitted to the court, or a written statement made in the course of specific litigation.

Article 6 — A foreign state that asserts that it or its property is entitled to immunity from the jurisdiction of the Chinese courts shall raise an objection to the court. A foreign state shall be responsible for providing evidence on the factual matters on which it relies in asserting that it or its property is entitled to immunity from jurisdiction. The court shall, in accordance with the provisions of this Law, examine whether a foreign state or its property is entitled to immunity from jurisdiction.

Article 7 — The courts of the People's Republic of China and their judicial personnel shall strictly perform their duties in accordance with the law, respect the immunity of foreign states and their property, protect the lawful rights and interests of the parties, and maintain the dignity of national judicature. In handling civil cases involving a foreign state or its property, the courts of the People's Republic of China shall follow the principles of equality, reciprocity, and international law.

Article 8 — Where a foreign state grants the People's Republic of China and its property more favorable immunity treatment than that provided for in this Law, the People's Republic of China shall grant reciprocal treatment to such foreign state.

Chapter II — Jurisdiction of Chinese Courts

Article 9 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases arising from commercial activities conducted by the foreign state with an organization or individual of another state, including the People's Republic of China. For the purposes of this Law, "commercial activity" means any act of a foreign state that is not an exercise of sovereign powers, such as the transaction of goods, the provision of services, or the lending or borrowing of money, or any other commercial nature. When determining whether an act of a foreign state constitutes a commercial activity, the court shall comprehensively consider the nature, purpose, and other relevant factors of the act.

Article 10 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases arising from labor or service contracts concluded between the foreign state and an individual, where all or part of the labor or services are performed within the territory of the People's Republic of China, unless: (1) the individual concerned is a national of the foreign state concerned and is not a permanent resident of the People's Republic of China; (2) the individual concerned has been recruited to perform specific functions closely related to the exercise of sovereign powers; or (3) the individual concerned is a diplomatic agent, consular officer, or other person entitled to diplomatic privileges and immunities.

Article 11 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases arising from personal injury or death, or damage to or loss of tangible property, caused by an act or omission of the foreign state or its officials or agents within the territory of the People's Republic of China.

Article 12 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases involving: (1) determining any right or interest of the foreign state in immovable property located within the territory of the People's Republic of China; (2) determining any obligation of the foreign state arising from its ownership, possession, or use of immovable property located within the territory of the People's Republic of China; or (3) determining any right or interest of the foreign state in movable or immovable property arising by way of succession, gift, or bona vacantia.

Article 13 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases involving: (1) determining any right or interest of the foreign state in intellectual property such as patents, trademarks, copyrights, or trade secrets that are protected under the laws of the People's Republic of China; or (2) determining any infringement by the foreign state of intellectual property rights protected under the laws of the People's Republic of China.

Article 14 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases involving the participation of the foreign state in a company, partnership, or other entity, whether for profit or not for profit, or in the assets, rights, obligations, or liabilities of such entity, where: (1) the entity has participants other than the foreign state or a person entitled to immunity under this Law; and (2) the entity was established or has its principal place of business within the territory of the People's Republic of China.

Article 15 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases involving the operation of a ship by the foreign state, where: (1) the ship is used for commercial purposes; and (2) the relevant claim arises from the operation of such ship used for commercial purposes. The provisions of the preceding paragraph shall apply mutatis mutandis to the operation of aircraft or space objects by a foreign state.

Article 16 — A foreign state shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in civil cases involving an arbitration agreement concluded between the foreign state and an organization or individual of another state, including the People's Republic of China, unless otherwise provided for in the arbitration agreement. Where a foreign state has agreed to submit a dispute to arbitration in accordance with an international investment treaty or agreement, the provisions of the preceding paragraph shall apply.

Article 17 — Where a foreign state expressly waives immunity from the jurisdiction of the courts of the People's Republic of China by the methods specified in Article 4, Paragraph 1, Items (1) through (3) of this Law, the foreign state shall not enjoy immunity from jurisdiction in civil cases within the scope of such waiver.

Chapter III — Service of Process and Other Procedural Matters

Article 18 — The court of the People's Republic of China shall serve process on a foreign state in accordance with the following methods: (1) where an international treaty concluded or acceded to by the People's Republic of China with the foreign state concerned provides for a method of service, such method shall apply; (2) where no international treaty applies, service shall be effected through diplomatic channels; or (3) where the foreign state concerned expressly agrees in writing to accept service by other methods, such other methods may be used.

Article 19 — Service of process on a foreign state shall be deemed to have been completed on the date of receipt of the process by the foreign state. Where a foreign state refuses to accept service of process, the court shall serve the process through diplomatic channels, and the service shall be deemed to have been

completed on the date on which the process is handed over to the foreign state's diplomatic mission in China for transmission.

Article 20 — A foreign state shall, within three months from the date of service of the statement of claim, submit a statement of defense or raise an objection. Where a foreign state has a legitimate reason and applies for an extension of the time limit, the court shall decide whether to grant the extension. The court shall examine the objection raised by a foreign state in accordance with the provisions of this Law and make a ruling. Where a foreign state is dissatisfied with the ruling, it may appeal to the court at the next higher level within 15 days from the date of service of the ruling.

Article 21 — Where a foreign state, after being lawfully summoned in accordance with the provisions of this Law, fails to appear in court without justifiable reasons, the court may enter a default judgment after reviewing the facts of the case. Where a foreign state fails to appear in court, the court shall serve the default judgment in accordance with the provisions of Article 18 of this Law. A foreign state may, within six months from the date of service of the default judgment, apply to the court for the setting aside of the default judgment.

Article 22 — The court of the People's Republic of China shall try civil cases involving a foreign state by a collegiate bench composed of three or more judges. The foreign affairs department of the State Council and other relevant authorities shall provide the court with information relating to the determination of foreign state immunity upon the court's request.

Chapter IV — Immunity from Preservation and Enforcement Measures

Article 23 — The property of a foreign state shall enjoy immunity from preservation and enforcement measures, unless otherwise provided for in this Chapter.

Article 24 — The following categories of property of a foreign state shall not be deemed to be commercial property: (1) property of a diplomatic mission or consular post of the foreign state, and other property used or intended for use for the performance of diplomatic or consular functions; (2) property of a military nature or property used or intended for use for military purposes; (3) property forming part of the cultural heritage or archives of the foreign state and not placed or intended for sale; (4) property forming part of an exhibition of objects of scientific, cultural, or historical interest and not placed or intended for sale; (5) property of the central bank or other monetary authority of the foreign state; and (6) other property of a non-commercial nature that forms part of the exercise of sovereign powers of the foreign state.

Article 25 — Preservation measures against the property of a foreign state may be taken only under the following circumstances: (1) the foreign state has expressly waived immunity from preservation measures in accordance with the provisions of Article 5 of this Law; (2) the foreign state has allocated or earmarked property specifically for the satisfaction of the claim concerned; or (3) the preservation measures are taken against property of the foreign state located within the territory of the People's Republic of China that is used for commercial activities and is directly related to the subject matter of the litigation.

Article 26 — Enforcement measures against the property of a foreign state may be taken only under the following circumstances: (1) the foreign state has expressly waived immunity from enforcement measures in accordance with the provisions of Article 5 of this Law; (2) the foreign state has allocated or earmarked property specifically for the satisfaction of the relevant judgment; or (3) the enforcement measures are taken against property of the foreign state located within the territory of the People's Republic of China that is used for commercial activities and is directly related to the subject matter of the litigation, and such property has been determined by an effective judgment of the court to be used for commercial activities.

Chapter V — Supplementary Provisions

Article 27 — The provisions of this Law on foreign state immunity shall not affect the privileges and immunities enjoyed by foreign diplomatic missions, consular posts, special missions, delegations to international organizations, and delegations to international conferences, as well as the relevant personnel, in accordance with the provisions of the applicable international law of the People's Republic of China and the relevant laws of the People's Republic of China. The provisions of this Law shall not affect the privileges and immunities enjoyed by the head of state, head of government, minister for foreign affairs, and other officials of equivalent status of a foreign state in accordance with the provisions of the applicable international law of the People's Republic of China and the relevant laws of the People's Republic of China.

Article 28 — Where an international treaty concluded or acceded to by the People's Republic of China contains provisions different from those of this Law, the provisions of the international treaty shall prevail, except for the provisions on which the People's Republic of China has declared reservations.

Article 29 — This Law shall apply to the immunity of a foreign state and its property from the jurisdiction of the courts of the People's Republic of China. This Law shall not affect the immunity of international organizations.

Article 30 — This Law shall apply to civil proceedings initiated after the effective date of this Law. This Law shall not apply to civil proceedings initiated before the effective date of this Law.

Article 31 — For the purposes of this Law, "civil cases" include civil and commercial cases.

Article 32 — This Law shall come into force on January 1, 2024.

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