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## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

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WASHINGTON, D.C. 20544

November 7, 2000

### MEMORANDUM TO ALL CLERKS, UNITED STATES DISTRICT COURTS

**SUBJECT: Service of Process in Foreign Countries (INFORMATION)**

The Department of State has informed us that they have received a note of protest from the Russian Federation objecting to service of process by mail. This protest differs from those noted in earlier communications on this subject (memoranda dated May 23, 1990, May 20, 1982, and November 6, 1980) in that it concerns service upon a foreign state, not service upon a private entity located within the foreign state. This memorandum will provide information on foreign service of process in both situations.

#### Service on Foreign Governments

Rule 4(j)(1) of the Federal Rules of Civil Procedure provides for service of process on a foreign state pursuant to 28 U.S.C. § 1608. That section permits service by mail on foreign states, but section 1608(c) requires that for mail service to be effective, the postal receipt must be signed and returned. The State Department has advised that a number of countries, which are listed below, object to service by mail. If mail service is attempted in these countries, it could not only create diplomatic and foreign relations problems with those countries but also jeopardize the effectiveness of the service. Thus, even when a receipt is executed in a country that has objected to mail service, it is arguably executed without authority.

Accordingly, clerks should advise counsel who request their assistance with service by mail on countries included in the list below that service should instead be attempted under section 1608(a)(4), which is service through diplomatic channels. Normally, for service under this section, the State Department first requires evidence of attempted service by the means authorized in subsections 1608(a)(1), (a)(2), and (a)(3). The Department advises, however, that for countries which have protested service by mail, it will not require a showing that service has been attempted under (a)(3).

Service on Private Parties

With respect to service on private parties, clerks should recall that the 1993 amendments to the Federal Rules of Civil Procedure amended the provisions for service upon an individual in a foreign country. Service by mail, to be addressed and dispatched by the clerk, is permitted by F.R.Civ.P. 4(f)(2)(C) “unless prohibited by the law of the foreign country.” Accordingly, clerks should refrain from effecting service by mail addressed to those countries who have protested such service or who have entered reservations to mail service under Article 10(a) of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters.

The following countries have objected to mail service in accordance with Article 10(a) of the Convention:

China	Czech Republic
Egypt	Germany
Greece	Republic of South Korea
Latvia	Luxembourg
Norway	Poland
Slovak Republic	Switzerland
Turkey	Venezuela

The State Department has also received notification from the governments of the following two countries, who are not parties to the Convention, that they object to service by mail:

Kuwait  
Russian Federation

The State Department suggests that countries that have objected to mail service on private parties also object to mail service on the state itself, so the same list is applicable to both situations.

Additional information about service of process abroad is available from the Department of State web site at [http://travel.state.gov/judicial\\_assistance.html](http://travel.state.gov/judicial_assistance.html). This includes Department of State circulars, “Service of Process Abroad,” “Service Provisions of the Foreign Sovereign Immunities Act,” “Operation of the Hague Service Convention,” “Operation of the Inter-American Convention on Service,” and “Preparation of Letters Rogatory.”



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cc: Chief Judges, United States District Courts