



Tieslietu ministrija 

**JURISDICTION, APPLICABLE LAW,
RECOGNITION AND ENFORCEMENT
OF DECISIONS AND COOPERATION
IN MATTERS RELATING
TO MAINTENANCE OBLIGATIONS**

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The picture on the cover of the brochure is drawn
by five years old Beāte – a child from a divorced family.

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1. INTRODUCTION

On 18 December 2008 the European Council adopted Regulation (EC) No. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations* (hereinafter – Regulation No. 4/2009). The Regulation was started to get applied, similar as in other Member States of the European Union, except partially in Denmark, with 18 June 2011. The Regulation No. 4/2009 is the answer of the European Union to the increasing human migration and development of “international” family legal affairs and thus the increasing cross-border recovery of maintenance cases.

It shall be noted that in Latvia, similar as in other Member States of the European Union, according to regulation, which was applied prior to enforcement date of the Regulation No. 4/2009, there were no problems to take decisions in relation to cross-border maintenance liabilities. Still in many cases it was difficult to take a decision in respect to enforcement of recovery of maintenance abroad. Since the Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters** (hereinafter – Regulation No. 44/2001) and the Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European enforcement order for uncontested claims***, did not include a cooperation mechanism in the recognition and enforcement of decisions; the persons had to contact the respective foreign authorities individually in order to achieve enforcement of a positive decision in the respective country. Still in many cases the persons were not available to fulfil these regulations without legal assistance and huge financial means. This situation, considering the socially and financially sensitive reasons of the recovery of maintenance, was not satisfactory.

Therefore the overall objective of the Regulation No. 4/2009 was the set as follows: to eliminate all and any residuary obstacles for the recovery of maintenance within the European Union, which would allow creating such legal environment, which allows the maintenance creditors easily, quickly and mainly free of charge to acquire enforcement order, which would be easily and with no obstacles enforceable in the area of justice of the European Union. This objective has the following tasks:

- 1) To foster legal certainty by setting common and agreed competent and applicable laws’ rules in relation to cross-border cases of the recovery of maintenance;
- 2) To set common decision recognition and enforcement rules in maintenance cases and to achieve that a decision on a maintenance case taken in one Member State has the same force in a different Member State without further formalities;

* Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations. Published on OJ L 7 on 10.01.2009, p. 1 – 79.

** Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Published on OJ L 12 on 16.01.2001, p. 1 – 23.

*** Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European enforcement order for uncontested claims. Published on OJ L 143 on 30.04.2004, p. 15 – 39.

- 3) To establish a cooperation mechanism between Member States, which would allow the central authorities of the Member States to represent the interests of maintenance creditors;
- 4) To ensure efficiency and regularity of the recovery.

This material tries to provide answers to the question, how the aforementioned aims (although not in the same order) will be achieved and represented in the Regulation No. 4/2009.

Prior to analysing the Regulation No. 4/2009, one cannot avoid mentioning the close relation of the Regulation No. 4/2009 with the work, which took place in parallel to the elaboration of the Regulation No. 4/2009 in the Hague Conference on Private International Law; the Conference resulted in the following: Hague Protocol of 2007 on Law Applicable to Maintenance Obligations* (hereinafter – the Hague Protocol) and the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance** (hereinafter – the Hague Convention) (the Hague Convention is not yet binding to Latvia, but could be binding starting from beginning of 2013, when the European Union will have approved this convention on behalf of its Member States. On 9 June 2011 Council Decision (2011/432/EU) on the approval of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance was made***. When according to the decision by the European Council the Member States will have provided the relevant information to the Commission about implementation of the Hague Convention by 10 December 2012, the European Union will deposit the approval instrument of this convention in the depositary of the Hague Convention). Regulation No. 4/2009 is closely related to both Hague instruments – as to applicable laws and regulations of the cross-border maintenance cases the work was already finished in Hague and the Regulation No. 4/2009 included a simple reference that the law to be applied is identified according to the Hague Protocol (Article 15 of the Regulation No. 4/2009), while as to the Hague Convention, during elaboration of the Regulation No. 4/2009, the minimum aim of the European Union Member States was to adopt agreements made within Hague Convention, stipulated by the Regulation No. 4/2009, and to continue the agreement processes in relation to even closer cooperation and greater warranties for the maintenance creditor in the European Union than those contained within the Hague Convention.

* Hague Protocol of 2007 on Law Applicable to Maintenance Obligations. Available at <http://hcch.net/upload/conventions/txt39en.pdf> (reviewed at 10.04.2012)

** Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/conventions/txt38en.pdf> (reviewed at 10.04.2012)

*** Council Decision (2011/432/EU) of 9 June 2011 on the approval, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Published on OJ L 192 on 22.07.2011, p. 39 – 50.

2. TERMINOLOGY AND SCOPE OF THE REGULATION NO. 4/2009

The Regulation No. 4/2009 in Latvian includes a term uncommon to the legal system of Latvia – “uzturēšanas līdzekļi/uzturēšanas saistības” (maintenance/maintenance obligations). This term in Latvian covers all and any maintenance obligations, which result from family relations, relations between parents and children, marriage relations or relationship. The term in Latvian covers also the maintenance obligations uncommon to the legal system of Latvia, which exist in other European Union Member States, for example, between brothers and sisters or between partners. The courts of Latvia, by applying the Regulation No. 4/2009, may have to process various claims about the recovery of maintenance. The aforementioned is possible, since by applying The Hague Protocol, which is referenced Article 15 of the Regulation No. 4/2009, the courts of Latvia may have to apply foreign law. Moreover – within the legal provision of the substantive law of Latvia, i.e. the Civil Law, maintenance is individually classified – depending on the relations these are due to be paid. Should these be due to a child, considering relations between parents and children, these are called “maintenance for a child”; should these be due to marriage relations, the term “means necessary to existence and means to maintain the previous level of welfare of the spouse” is used in the Civil Law*. Should the obligation be due to be paid to parents/ grandparents, considering relations between parents and children, the term “duty to cater” is used in the Civil Law**. Thus also in the legal system of Latvia is the need to call various forms of maintenance with a single term, when there is the need to refer to all of them at the same time. Therefore it was decided to use the term in Latvian not specified in Latvian legislation – “uzturēšanas līdzekļi/uzturēšanas saistības” (maintenance/maintenance obligations) in order to cover all different types of maintenance (it should be mentioned that in English such terminology problems do not exist).

Referring to the abovementioned about the terminology used in Regulation No. 4/2009 the scope thereof may already be suspected. Article 1 of the Regulation No. 4/2009 “Scope” foresees that this Regulation shall apply to maintenance obligations arising from a family relationship, parentage, marriage or affinity. Recital 11 of the Preamble of the Regulation No. 4/2009 explains that the scope of this Regulation should cover all maintenance obligations arising from a family relationship, parentage, marriage or affinity, in order to guarantee equal treatment of all maintenance creditors; for the purposes of this Regulation, the term “maintenance obligation” should be interpreted autonomously. Thus the Regulation No. 4/2009 refers to all maintenance creditors equally, except for the children’ maintenance creditors, which have better and generous free-of-charge legal assistance provisions. It shall be said that this is a significant difference, if compared to the aforementioned Hague Convention, which mainly

* The Saeima is currently reviewing a draft law „Amendments to the Civil Law”, which foresees the further use of the term „means necessary to ensure the previous level of welfare of the spouse”

** The Saeima is currently reviewing a draft law „Amendments to the Civil Law”, which foresees the further use of the term „parents maintenance”

focuses on children' maintenance creditors and only partially on the maintenance arising from marriage. Parties of the Hague Convention may declare by a declaration only, that they will extend the application of the Hague Convention also to other maintenance obligations.

Briefly about the term "court" within Regulation No. 4/2009. Article 2(2) of the Regulation No. 4/2009 stipulates that for the purposes of this Regulation, the term "court" shall include also administrative authorities of the Member States with competence in matters relating to maintenance obligations provided that such authorities offer guarantees with regard to impartiality and the right of all parties to be heard and provided that their decisions under the law of the Member State where they are established:

- (i) may be made the subject of an appeal to or review by a judicial authority; and
- (ii) have a similar force and effect as a decision of a judicial authority on the same matter.

These administrative authorities are listed in Annex X. It shall be Article 2(2) of the Regulation No. 4/2009 caused heated debates during elaboration of the Regulation No. 4/2009. The necessity for this clause is related to the fact that disputes in maintenance cases are not settled by courts in all Member States (this does not refer to notarial acts, which include agreements between parties about the maintenance, scope and payment order). Especially in the Scandinavian countries the administrative authorities have the right to decide on the maintenance, probably, to speed up the decision making process. It would not be right to relate the Regulation No. 4/2009 to courts in their classical essence only, thus avoiding a number of Member States, where the decisions on maintenance obligations are made by administrative authorities, which are more related to the public administration or the executive rather than the judiciary. A solution was found within Regulation No. 4/2009 – Article 2(2) of the Regulation No. 4/2009 stipulates that the term "court" shall include also administrative authorities of the Member States with competence in matters relating to maintenance obligations provided that such authorities offer guarantees with regard to impartiality and the right of all parties to be heard and they are subject to other guaranties listed within Article 2(2). For the purposes of this document, by making use of the term "court" of the Regulation No. 4/2009, it shall also refer to administrative authorities of the Member States with competence in matters relating to maintenance obligations.

3. COOPERATION MECHANISM OF CENTRAL AUTHORITIES OF MEMBER STATES AS PER REGULATION NO. 4/2009

The cooperation mechanism stipulated by the Regulation No.4/2009 is a chapter, which is of most benefit to the maintenance creditor. For example, considering the Regulation No.4/2009 is in force and should Latvian creditors of maintenance for children ask, what should they to establish a decision on recovery of maintenance in any other Member State, where the defendant lives, the answer would be simple – turn to Administration of the Maintenance Guarantee Fund, which is the central authority of Latvia for application of the Regulation No.4/2009*. The applicant living in Latvia would have to do some translations, collate relevant documents, fill in the application, which may be assisted by the Administration of the Maintenance Guarantee Fund, but the rest will be done by central authorities responsible for application of the Regulation No.4/2009. Similar – should a decision taken by Latvian court on the recovery of maintenance for a child be executed in a different Member State, in addition to the aforementioned a transcript of the decision from the relevant court shall be received**. The person shall not seek the relevant court in any of the Member States to take or recognize the decision, it shall not seek also the competent enforcement authority or a representative, which is a mandatory precondition in some Member States in order to be entitled to turn to the court or execution authorities.***

To sum up – by ensuring application of the Regulation No.4/2009 in Latvia, a mechanism has been established, based on which any person living in Latvia may turn to the central authority of Latvia responsible for application of the Regulation No.4/2009, i.e. the Administration of the Maintenance Guarantee Fund, in order to achieve enforcement of a decision taken by Latvian authorities on recovery of maintenance (maintenance for children or maintenance for parents, or means necessary to ensure or maintain the previous level of welfare of the spouse) in any other Member State. The Administration of the Maintenance Guarantee Fund shall prepare all and any documents and forwards the application of this person on the enforcement of a decision taken by Latvian authorities on recovery of maintenance to the relevant foreign central authority responsible for application of the Regulation No.4/2009, which in turn carries out the relevant measures in the respective country to achieve the enforcement of the

* See detailed procedures, which the Administration of the Maintenance Guarantee Fund as the central authority carries out in respect to cross-border maintenance cases, in the Cabinet of Ministers Regulations No.571 of 19 July 2011 "Procedure, how the Administration of the Maintenance Guarantee Fund as the central authority carries out its functions in respect to cross-border maintenance cases". Published on the official gazette of Latvia "*Latvijas Vestnesis*" No.117 on 28.07.2011

** See Article 28 (1b) of the Regulation No.4/2009

*** For example, in Ireland the application on the enforcement of a judgement usually is submitted by a legal practitioner although there is no necessity for a creditor to be legally represented. All applications must be made in person however and applications cannot be made by post. See section about European Judicial Network in civil and commercial matters of the following website: http://ec.europa.eu/civiljustice/enforce_judgement/enforce_judgement_ire_lv.htm

decision taken by Latvian authorities. Same refers to the situation, where a person living in Latvia wishes to achieve decision-taking on recovery of maintenance in a foreign country, i.e. any other Member State, should the defendant live in that country. Thus persons living in Latvia shall be made easier recovery of maintenance from persons-debtors, who are living in other Member States. Considering the principle of reciprocity, similar guarantees shall be ensured for persons living in other Member States, but turning to Latvian authorities in same matters.

According to the Regulation No.4/2009 there are special forms for the forwarding of applications through the central authorities. Annex IV of the Regulation No.4/2009 includes a form with a view to recognition, declaration of enforceability or enforcement, while Annex VII hereof includes a form with the view to obtain or have modified a decision in matters relating to maintenance obligations. These application forms are filled in by both parties – the requesting central authority and the applicant – the maintenance creditor. Should Latvia from any other Member State receive such filled-in forms according to Annex VI and Annex VII of the Regulation No.4/2009, these shall be recognized accordingly: the application form pursuant to Annex VI shall be deemed as the submission for recognition of decision of maintenance obligations from a foreign country (Article 638 (2¹) of the Civil Procedure Law of Latvia stipulates that the central authority of Latvia in the case of announcing recognition or enforcement of a decision by a foreign court, by applying the Council Regulation No.4/2009, shall submit or transfer the application form (pursuant to Annex VI of the Regulation No.4/2009), which is deemed a submission, considering data contained within Article 57 of the Regulation No.4/2009) or it shall be deemed as the submission for the enforcement of the decision of maintenance obligations. While the application form pursuant to Annex VII shall be deemed as foreign claim statement in maintenance obligations case (Article 128(4) of the Civil Procedure Law of Latvia stipulates that the central authority of Latvia in the case of recovery of maintenance or recovery of maintenance for children and determination of paternity, by applying the Council Regulation No.4/2009, shall pursue a claim or transfer the claim statement by submitting to court the application form pursuant to Annex VII of the respective regulation, which is deemed a claim statement, considering data contained within Article 57 of the Regulation No.4/2009). The transmission of applications – receipt and sending – is one of the specific functions of the central authorities stipulated by Article 51 (1a) of the Regulation No.4/2009. While Article 51 (1b) of the Regulation No.4/2009 stipulates also another specific function of the central authorities – initiate or facilitate the institution of proceedings in respect of such applications. This function is logical, considering the function stipulated by Article 51 (1a); and this function is closely related to the function of providing legal aid, which is stipulated by a separate chapter of the present document. Central authority of Latvia in terms of Regulation No.4/2009 – the Administration of the Maintenance Guarantee Fund, as representative of a foreign, i.e. other Member State, maintenance creditor and sometimes also of a debtor shall itself start the proceedings in relation to the applications. This is based on respective amendments to the Law on the Administration of the Maintenance Guarantee Fund, where the Clause 4 of Article 5(2) stipulates that the Administration of the Maintenance Guarantee Fund shall upon necessity without special authorisation represent foreign persons in court and other governmental and municipal authorities, provided the persons are entitled to receipt of legal aid according to Regulation No.4/2009, i.e. foreign applicants in cross-border recovery of maintenance cases for children or other persons (according to Council Regulation No.4/2009), foreign applicants in cross-border cases of determination of paternity, should the claim be pursued according to Regulation No.4/2009 in parallel to the claim about recovery of maintenance for a child, as well as foreign applicants in cases about announcing recognition or enforcement

of a decision by a foreign court about recovery of maintenance for children or other persons in cases stipulated by the Regulation No.4/2009. Still in other countries other solutions may be applied, therefore the wording of Article 51 (1b) of the Regulation No.4/2009 is that flexible. In other countries, for example, the central authority may transmit such application received from foreign countries to other authority or merchant, for example, to a law office, which shall start proceedings in relation to the foreign applications as the representative of a maintenance creditor and sometimes representative of a debtor.

Article 51(2) of the Regulation No.4/2009 lists other specific functions of the central authorities; the function of the central authority – to take appropriate measures to provide or facilitate the provision of legal aid where the circumstances require – is addressed in a special chapter (legal aid) of the present document. The same refers to the function of the central authority to take appropriate measures – to provide assistance in establishing parentage of foreign applicants where necessary for the recovery of maintenance -, which is also discussed in the chapter about legal aid; still, as to this function, it shall be noted that, if the implementation of this function will not be related to providing legal aid to the creditor of maintenance for children, this function in Latvia shall probably take form in the information of the foreign interested party about the ways, how that person may carry out the paternity test in Latvia, and informing the person about authorities, where such tests may be carried out. As to the paternity tests in cross-border cases, i.e. in cases where one – the mother of the child, the child or the probable father live in another country, Latvia State Centre for Forensic Medical Examination shall be mentioned. The Latvia State Centre for Forensic Medical Examination has established a cooperation mechanism for the cooperation with similar authorities in other Member States, and thus the Latvia State Centre for Forensic Medical Examination is able to ensure the paternity tests with DNA testing method in cross-border cases, when the DNA profiles shall be received or transmitted abroad, much more effective, without involvement of other judicial or other authorities.

As to the function of the central authority to take appropriate measures – to encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes – it shall be noted that this function of the central authority shall be directly related to the mediation development in Latvia and adoption on the Law on Mediation. At the time of drafting the present document – in April 2012 – such cases, in the sense of Regulation No.4/2009, have not been registered with the central authority of Latvia. By further development of the mediation introduction in Latvia it is anticipated that parties of maintenance cases may choose cross-border mediation in order to achieve amicable solutions with a view to obtaining voluntary payment of maintenance. Most probably, in such cases the Latvian authority of Regulation No.4/2009 shall provide the parties contact information of qualified mediators, which will be able to provide mediation service for the parties in the cross-border maintenance case.

Cooperation provisions of the central authorities in the sense of Regulation No.4/2009 are not only an efficient mechanism for private entities, but also for judges and bailiffs, which are in charge of the respective cross-border maintenance case. For the application of Regulation No.4/2009 the central authority carries out appropriate measures not only for the transmission and receipt of applications from private entities and provision of legal aid to the same, but it carries out also other measures listed under Article 50(2) of Regulation No.4/2009:

- 1) to help locate the debtor or the creditor;

- 2) to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets;
- 3) to facilitate the ongoing enforcement of maintenance decisions, including any arrears;
- 4) to facilitate the collection and expeditious transfer of maintenance payments;
- 5) to facilitate the obtaining of documentary or other evidence, without prejudice to Regulation (EC) No 1206/2001*;
- 6) to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures which are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application;
- 7) to facilitate the service of documents, without prejudice to Regulation (EC) No 1393/2007** ***

In relation to points 1, 2 and 5 above it shall be noted that the Regulation No.4/2009 establishes an efficient, fast and cheap mechanism for the obtaining of proof and information in parallel to the already existing instruments by the European Union – Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters****. Mostly the central authorities of Regulation No.4/2009 carry out their operations free of charge. As to the efficiency of the mechanism for the obtaining of proof and information by the Regulation No.4/2009 time will show, since neither Regulation No.4/2009, nor the Hague Convention have set the aim to lift restrictions in relation to provision of private information, nor other restrictions in Member States and other countries. There are countries, where information pursuant to Regulation No.4/2009 and the Hague Convention is provided to courts only, and there are countries, where information, say, about assets and income may be provided only if relevant decision about recovery of maintenance has entered into force, i.e. only in the recognition or enforcement stage of the decision*****. Since national restrictions in the provision of information have been maintained, the scope of information, which the Latvian central authority will be able to receive from other central institutions, will first of all depend on the country, the stage of proceedings and whether the information will be provided to a court, bailiff or private person, and other circumstances (see Article 61 and 62 of Regulation No.4/2009).

Also in relation to point 7 about the submission of documents it shall be noted that with the Regulation No.4/2009 a parallel (as to Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial

* Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. Published on OJ L 174 on 27.06.2001, p. 1 – 24

** Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000. Published on OJ L 324 on 10.12.2007, p. 79 – 120

*** See Article 51(2) of Regulation No.4/2009

**** Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. Published on OJ L 174 on 27.06.2001, p. 1 – 24

***** See Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/expl38e.pdf> (reviewed at 10.04.2012), p.38-39

and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000*, cheaper, more efficient and faster document handing-out mechanism is established, the efficiency of which may also depend on the national restrictions as to handing out of documents.

The function of the central authority listed under point 6 should also be addressed; according to Article 51 (2i) of the Regulation No.4/2009 the central authorities of Regulation No.4/2009 shall ensure the implementation of appropriate provisional measures, which are territorial in nature, and the purpose of which is to secure the outcome of a pending maintenance application. Order described in Regulation No.4/2009 in relation to implementation of temporary measures is the same as in other civil law instruments of the European Union (for comparison see Article 14 of Regulation No.4/2009 and, for example, Article 31 of Regulation No.44/2001). In cases stipulated by Regulation No.4/2009, upon request by a foreign central authority of Regulation No.4/2009, Latvian central authority may submit an application on the securing of proof or an application requesting provisional measures to district (city) court, pursuant to jurisdiction stipulated by Civil Procedure Law of Latvia. The application about the securing of proof shall be reviewed in order stipulated by Section 16 of the Civil Procedure law. The application requesting provisional measures shall be reviewed in order stipulated by Section 19 of the Civil Procedure Law. Upon submission of such application the central authority of Latvia will have to observe the general provision of the Civil Procedure Law. According to Article 51 (2i) of the Regulation No.4/2009 it follows that a foreign, for example, Irish central authority may request the Latvian central authority to secure the proof or obtain provisional measures also in cases, where the principal proceedings are held in the respective foreign country, i.e. Ireland. Such cases, where the principal proceedings are held abroad, while the proof shall be secured or the provisional measures shall be obtained in Latvia, are not stipulated by the Civil Procedure Law, therefore such request by a foreign central authority, for example, from Ireland, will not be able to be processed (fulfilled) in Latvia. Similar – a Latvian central authority may turn to a central authority from another Member State with similar applications about securing the proof or obtaining the provisional measures.

In relation to most of functions of the central authority stipulated by Article 51(2) of the Regulation No.4/2009 it is necessary to request the foreign authority to carry out the measures, and therefore a special form is included in Annex V of the Regulation No.4/2009 – Request for specific measures. The form is linked and may be used for requests sent to a foreign central authority by requesting central authority, in order to: 1) to help locate the debtor or the creditor; 2) to help obtain relevant information concerning the income and assets of the debtor or creditor; 3) to facilitate the obtaining of documentary or other evidence; 4) to provide assistance in establishing parentage; 5) to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures which are territorial in nature; 6) to facilitate the service of documents. The application form contained within Annex V shall be filled in by the submitting central authority, but the proposal of such requests may be made by parties of the maintenance case or the court.

Besides the abovementioned specific functions Article 50 of Regulation No.4/2009 defines also general functions of the central authorities, which will not have direct impact, nor will be of direct great help to the parties in maintenance cases. Article 50 of Regulation No.4/2009

* Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000. Published on OJ L 324 on 10.12.2007, p. 79 – 120

stipulates that central authorities a) cooperate with each other, including by exchanging information, and promote cooperation amongst the competent authorities in their Member States to achieve the purposes of this Regulation; b) seek as far as possible solutions to difficulties which arise in the application of this Regulation. Central authorities carry out measures to improve the application of the regulation and strengthen their cooperation. For this purpose the European Judicial Network in civil and commercial matters, which is established with the Decision No.2001/470/EC, is used. This is ensured through meetings of European Judicial Network in civil and commercial matters, where representatives of the central authorities exchange information and discuss issues to come to a solution.

Article 54 of the Regulation No.4/2009 stipulates: each central authority shall bear its own costs in applying this Regulation. Central Authorities may not impose any charge on an applicant for the provision of their services under this Regulation save for exceptional costs arising from a request for a specific measure under Article 53 (to help locate the creditor; to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets; to facilitate the obtaining of documentary or other evidence; to provide assistance in establishing parentage where necessary for the recovery of maintenance; to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures which are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application; to facilitate the service of documents). The costs may not always be related to the measures listed in the brackets and, whether there will be any costs at all, depends on the involved Member State and the nature of the measure. Any way – according to Article 54(3) the Central Authority of the requested Member State may not recover the service costs, unless the applicant has not previously accepted the services for a set fee.

4. LEGAL AID STIPULATED BY REGULATION NO.4/2009

Prior to addressing provisions of legal aid contained within Regulation No.4/2009, which in the cases of maintenance for children are much more far-sighted than those contained in other European Union instruments, Article 45 of the Regulation No.4/2009 defining the “Content of legal aid” shall be referenced, i.e.:

“Legal aid granted under this Chapter shall mean the assistance necessary to enable parties to know and assert their rights and to ensure that their applications, lodged through the Central Authorities or directly with the competent authorities, are fully and effectively dealt with. It shall cover as necessary the following:

- a) pre-litigation advice with a view to reaching a settlement prior to bringing judicial proceedings;
- b) legal assistance in bringing a case before an authority or a court and representation in court;
- c) exemption from or assistance with the costs of proceedings and the fees to persons mandated to perform acts during the proceedings;
- d) in Member States in which an unsuccessful party is liable for the costs of the opposing party, if the recipient of legal aid loses the case, the costs incurred by the opposing party, if such costs would have been covered had the recipient been habitually resident in the Member State of the court seized;
- e) interpretation;
- f) translation of the documents required by the court or by the competent authority and presented by the recipient of legal aid which are necessary for the resolution of the case;
- g) travel costs to be borne by the recipient of legal aid where the physical presence of the persons concerned with the presentation of the recipient’s case is required in court by the law or by the court of the Member State concerned and the court decides that the persons concerned cannot be heard to the satisfaction of the court by any other means.”

Sources indicate that provisions about automatic, free legal aid for creditors of maintenance for children are the greatest achievement of the Hague Convention^{***}. The very important achievement was later included in the Regulation No.4/2009 (Article 46 of Regulation No.4/2009) and ensures automatic, unconditional free legal aid about all application by the maintenance creditor (application about the decision-taking, the modification, the recognition, the declaration of enforceability or the enforcement of a decision on the recovery of

* Provisions of the cooperation mechanisms and legal aid to creditors of maintenance for children, which are contained within Regulation No.4/2009, are almost identical with the Hague Convention

** See Beaumont, P. International Family Law in Europe – the Maintenance Project, Hague Conference and the EC: Triumph of Reverse Subsidiarity. The Rabel Journal of Comparative and International Private Law, Band 73, 2009, p.516

maintenance), which are received by central authorities and refer to recovery of maintenance for a child up to 21 years old. Article 46(2) of the Regulation No.4/2009 stipulates that free legal aid in respect to recovery of maintenance for children may be refused if it considers that, on the merits, the application or any appeal or review is manifestly unfounded. Free legal aid may not be refused in case of applications about the recognition, the declaration of enforceability or the enforcement of a decision on recovery of maintenance.

Already in The Hague Conference on Private International Law there were huge discussions about the age of a child, up to which the creditors of maintenance for children should be ensured automatic, free legal aid. The “middle” position won, i.e. automatic, free legal aid shall be granted to applications of maintenance for a child up to 21 years old. This is due to the fact that in the major part of countries maintenance for children are paid until a child starts or should start working independently, i.e. also after the age of 18, should the child continue studies in higher or other educational establishments. The same refers to Latvia as well – Article 179 of the Civil Law stipulates the following: “Parents, commensurate to their financial state, have a duty to maintain the child. Such duty lies upon the father and the mother until the time the child is able to provide for itself”.

It would not have been possible to reach an agreement within the European Union about unconditional, free legal aid provision in the maintenance cases for children, because some Member States objected to such provisions. The provisions were accepted by adopting the Hague Convention due to pressure by USA*. Automatic, free legal aid in cross-border maintenance cases was needed to be incorporated in the Regulation No.4/2009 and the Hague Convention, because cross-border maintenance creditors are unfamiliar with the foreign legal system, language, traditions and distance to a foreign court, where the hearings take place, is long**. Thus all applications about the recovery of maintenance for children younger than 21, which are received from central authorities of Regulation No.4/2009, enjoy free, automatic legal aid, i.e. applications, which are received by central authorities from abroad.

It must be noted that according to Regulation No.4/2009 and also the Hague Convention it is possible to include in single application the recovery of maintenance and claim to determine parentage. Such applications also enjoy free, automatic legal aid. The regulation does not particularly stipulate that the legal aid refers also to covering costs of the DNA or the paternity tests. Still – since Regulation No.4/2009 is closely related to The Hague Convention, in order to determine the content of legal aid within Regulation No.4/2009 (Article 45 of Regulation No.4/2009), The Hague Convention and the Explanatory report shall be reviewed. Neither does The Hague Convention particularly stipulate that legal aid refers also to covering costs of the DNA or the paternity tests. Still the Explanatory report of the Convention it has been clearly indicated that legal aid refers also to covering costs the paternity tests, including the DNA tests, which shall be provided free of charge in the cases of maintenance for children. Nevertheless it shall be noted that afterwards the country is entitled to requesting recovery of costs from the unsuccessful party (Article 67 of the Regulation No.4/2009).***

* See Beaumont, P. International Family Law in Europe – the Maintenance Project, Hague Conference and the EC: Triumph of Reverse Subsidiarity. The Rabel Journal of Comparative and International Private Law, Band 73, 2009, p.516 – 519

** See Beaumont, P. International Family Law in Europe – the Maintenance Project, Hague Conference and the EC: Triumph of Reverse Subsidiarity. The Rabel Journal of Comparative and International Private Law, Band 73, 2009, p.519

*** See Explanatory note of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/exp138e.pdf> (reviewed at 10.04.2012), p.77

In Latvia, within national maintenance cases, costs of DNA tests are not covered “in advance”, and therefore, in order to prevent obvious discrimination in national and cross-border cases, covering costs for the DNA tests “in advance” should be ensured also in national maintenance cases. Note the covering of costs for the DNA tests “in advance” in cases of maintenance for children is a socially sensitive issue, since frequently the person is not able achieving the decision-making by the court on the covering of costs, because the person lacks financial means to cover the costs of DNA tests. Thus the interests of a child and the rights to a social provision – the maintenance – are affected. Therefore currently, considering the economic situation in Latvia, the country cannot automatically ensure covering of costs for the paternity test in all cases, although the costs may be afterwards recovered from the unsuccessful party. It is clear that it is inadmissible establishing an obvious discrimination, which is hard to be justified, between maintenance applicants in national and cross-border cases, and, by meeting the international obligations, to exempt from covering the costs for paternity tests only the maintenance applicants in cross-border cases of maintenance for children. Thus the solution established already prior to implementation of the Regulation No.4/2009 should be applied, where the court, having reviewed each situation individually and considering Article 43(4) of the Civil Procedure Law, which stipulates that a court or a judge, upon considering the material situation of a natural person, shall exempt him or her partly or fully from payment of court costs into State revenues, as well as postpone payment of court costs adjudged into State revenues, or divide payment thereof into instalments, will have the rights to exempt a person from covering the costs of DNA or paternity tests. Thus a person shall be exempt from covering the costs of a DNA or paternity test only if his/her material situation will be that poor that he/ she cannot cover the costs of the test by him-/ herself. Upon conclusion it shall be stressed that automatic, free legal aid in cases of maintenance for children under the age of 21 shall be provided only if the application in the case has been received from central authorities; should the foreign creditor of maintenance for children will have directly turned to a court or bailiff in Latvia, see next paragraph.

For the rest of maintenance cases, which are not cases of maintenance for children under the age of 21, the applications of which have been received via central authorities, free legal aid is provided, having checked the financial situation of a person (Article 47(1) of the Regulation No.4/2009). Nevertheless this does not necessarily mean that Latvia will be able of making use of the scheme contained within the State Ensured Legal Aid Law to assess whether a foreign person shall be entitled to receiving free legal aid in Latvia. Thus, should the party who, in the Member State of origin, have already benefited from free legal aid in the case, he/she shall be entitled to free legal aid in any proceedings for recognition, enforceability or enforcement and to benefit from the most favourable legal aid provided for by the law of Latvia (Article 47(2) of Regulation No.4/2009). This means that, for example, also persons living in the United Kingdom, which comparing to Latvia have relatively higher income, will be entitled to legal aid in Latvia, should they have received at least partial free legal aid in the United Kingdom. And similar with persons living in Latvia: should they pursuant to State Ensured Legal Aid Law have received free legal aid in Latvia, they will be entitled to free legal aid in any proceedings for recognition, enforceability or enforcement and to benefit from the most favourable legal aid provided for by the law of the Member State of enforcement. Whereas persons living in Latvia willing to achieve establishment of a decision on the recovery of maintenance in any other Member State, i.e. persons, which are not addressed within decisions by Latvian authorities on the recovery of maintenance, will be subject to the means test according to the law of the respective Member State in order to receive free legal aid in the respective Member State (also in proceedings related to recognition and declaration of enforceability or in the stage of

enforcement even if the person will have passed the foreign means test, although it will not be entitled to free legal aid in Latvia). Similar provisions refer to persons living in other Member States: should such persons be willing to achieve establishment of a decision on the recovery of maintenance in Latvia, in order to receive free legal aid in Latvia, such persons will be subject to the means test stipulated by the State Ensured Legal Aid Law. All provisions given in the present paragraph in general refer also to maintenance debtor and a governmental authority as the applicant (Article 63 of Regulation No.4/2009)*, if, for example, the maintenance debtor has lodged the claim on the modification, recognition or declaration of enforceability in any other Member State. This is necessary so that the maintenance debtors could duly defend their rights, and not become insolvent and pay no more maintenance at all.**

The aforementioned subject of legal aid in Latvia shall also be addressed. By implementing the Regulation No.4/2009 Latvia has chosen a solution, where the central authority of Latvia for the application of Regulation No.4/2009 shall be Administration of the Maintenance Guarantee Fund, which solely, and not upon involvement of other authorities, shall ensure provision of legal aid according to Regulation No.4/2009 to foreign applicants, including their representation in court. This means that Administration of the Maintenance Guarantee Fund shall be representative of a foreign applicant in cross-border cases on the recovery of maintenance, unless the applicant will have refused from such representation or the applicant will be entitled to legal aid according to Regulation No.4/2009. Administration of the Maintenance Guarantee Fund shall also be representative of a foreign applicant in claims on the determination of paternity, should it be lodged in parallel to a claim on the recovery of maintenance for children according to Regulation No.4/2009, unless the foreign applicant will have refused from such representation and shall be living in another Member State. The central authority of Latvia will also be the representative of the applicant in cross-border case on recognition of a decision or the recognition and declaration of enforceability by a foreign court, unless the applicant will have refused from such representation or the applicant will be entitled to legal aid according to Regulation No.4/2009.

Nevertheless it shall be noted that all the legal aid provisions of the Regulation No.4/2009 considered above shall be effective only, if the persons living in Latvia will turn to authorities of other Member States via the central authority of the Regulation No.4/2009, i.e. Administration of the Maintenance Guarantee Fund, or persons living in another Member State, will turn to Latvian authorities. Should persons living in Latvia turn to Latvian authorities, for example, an applicant living in Latvia will lodge a claim about recovery of maintenance from a defendant living in another Member State within a competent court, considering his/ her place of residence, the abovementioned legal aid provision shall not apply. Since the applicant is deemed “national applicant of Latvia”, the person shall be subject to order on the provision of legal aid valid in Latvia, i.e. the applicant shall meet the criteria (low-income) of the State Ensured Legal Aid Law in order to be entitled to state ensured legal aid via the Legal Aid Administration (and not the Administration of the Maintenance Guarantee Fund). This means that the Administration of the Maintenance Guarantee Fund shall grant legal aid only to persons living abroad.

* See Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/expl38e.pdf> (reviewed at 10.04.2012), p.74

** See Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/expl38e.pdf> (reviewed at 10.04.2012), p.74

5. COMMON AND AGREED PROVISIONS ON THE JURISDICTION AND APPLICABLE LAW ACCORDING TO REGULATION NO.4/2009

5.1. PROVISIONS ON THE JURISDICTION

One of the aims of the Regulation No.4/2009 was to set agreed provisions of jurisdiction of cases on cross-border recovery of maintenance. According to Article 3 of the Regulation No.4/2009 in matters relating to maintenance obligations in Member States, jurisdiction shall lie with the court:

- for the place where the defendant is habitually resident, or
- for the place where the creditor is habitually resident, or
- which, according to its own law, has jurisdiction to entertain proceedings concerning the status of a person if the matter relating to maintenance is ancillary to those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties, or
- which, according to its own law, has jurisdiction to entertain proceedings concerning parental responsibility if the matter relating to maintenance is ancillary to those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties.

Regulation No.4/2009 stresses the habitual residence of the defendant or the creditor as the basic indicator for the jurisdiction in cross-border maintenance case. It must be noted that “habitual residence” is not a synonym to “registered address” known in Latvian legal system. Although the Court of Justice of the European Union has not defined the term „habitual residence” within Regulation No.4/2009, we can draw conclusions from parent responsibility cases, where the Court of Justice of the European Union has defined the term „habitual residence of a child”. Reference to the content and interpretation of the term “habitual residence of a child” are provided in the judgement by the Court of Justice of the European Union in the case No.C-523/07. The Court of Justice of the European Union stipulated: “Since Article 8(1) of Regulation No 2201/2003* does not make any express reference to the law of the Member States for the purpose of determining the meaning and scope of the concept of ‘habitual residence’, the determination of that concept must be made in the light of the context of the provisions and the objective of the regulation, in particular that which is apparent from Recital 12 in the preamble, according to which the grounds of jurisdiction which it establishes are shaped

* Regulation No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation No 1347/2000. Published on OJ L 338 on 23.12.2003, p. 1 – 29

in the light of the best interests of the child, in particular on the criterion of proximity. Thus, in addition to the physical presence of the child in a Member State other factors must be chosen which are capable of showing that that presence is not in any way temporary or intermittent and that the residence of the child reflects some degree of integration in a social and family environment. Therefore, the concept of ‘habitual residence’ under Article 8(1) of Regulation No 2201/2003 must be interpreted as meaning that it corresponds to the place which reflects some degree of integration by the child in a social and family environment. To that end, in particular the duration, regularity, conditions and reasons for the stay on the territory of a Member State and the family’s move to that State, the child’s nationality, the place and conditions of attendance at school, linguistic knowledge and the family and social relationships of the child in that State must be taken into consideration. It is for the national court to establish the habitual residence of the child, taking account of all the circumstances specific to each individual case.” Thus the interpretation of the term “habitual residence” given by the Regulation No.2201/2003 should also be reflected in the term “habitual residence” given by other regulations, and it is not enough to establish within Regulation No.4/2009 that the defendant or applicant have their registered address in Latvia – at the time the claim is lodged it should be also reviewed, whether the aforementioned link with Latvia does or does not exist.

In relation to the grounds of jurisdiction stipulated by Article 3 of the Regulation No.4/2009, it shall be noted that the reason for jurisdiction – the habitual residence of the defendant – is a rather classical reason, which is included in the Regulation No.44/2001. The reason for jurisdiction – the habitual residence of the creditor – is apparently included in the Article, because the creditor is deemed to be the weaker party in relation to the maintenance debtor and therefore the creditor is allowed to lodge a case about recovery of maintenance in the national court of its habitual place of residence. The provision of jurisdiction in Article 3 of the Regulation No.4/2009 – the court which, according to its own law, has jurisdiction to entertain proceedings concerning the status of a person if the matter relating to maintenance is ancillary to those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties – is apparently related to the procedural economy. It is no secret that the claims on the recovery of maintenance are usually processed in parallel with divorce and parentage claims. Thus, so that the parties would not have to lodge a claim on the recovery of maintenance in a foreign court at the time divorce and parentage claims are processed, Regulation No.4/2009 tolerates a maintenance case to be processed by the court, which, according to its own law, has jurisdiction to entertain proceedings concerning the status of a person.

Similar is the provision of jurisdiction in Article 3 of the Regulation No.4/2009 – the court which, according to its own law, has jurisdiction to entertain proceedings concerning parental responsibility if the matter relating to maintenance is ancillary to those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties – related to the procedural economy. Since, by processing parental responsibility claims (custody, access rights, and residence of a child), often also the claims on the maintenance for child are processed.

Nevertheless it shall be noted that Article 3 of the Regulation No.4/2009 shall be applied, unless Article 4 is applied, i.e. only, if parties have not chosen a court.

According to Article 4 of the Regulation No.4/2009 parties in maintenance cases have limited additional options to choose a Member State, the court of which will process the claim; choice of court agreement shall be in writing. By providing only limited opportunities for the parties as regards to the choice of a court, the Regulation No.4/2009 tries to achieve parties to be related to the Member State, as indicated by Article 4 of the Regulation No.4/2009, in the court of which the parties wish to settle their disputes. Still it shall be taken into account that

parties cannot conclude a written agreement on the choice of a court in a relating to a maintenance obligation towards a child under the age of 18 (Article 4(3) of the Regulation No.4/2009). This limitation is due to the fact that children would be the weaker party of such agreements and it would not be in the interests of a child to allow „manipulations” with the jurisdiction country.

Article 4 of the Regulation stipulates that:

“The parties may agree that the following court or courts of a Member State shall have jurisdiction to settle any disputes in matters relating to a maintenance obligation which have arisen or may arise between them:

- a) a court or the courts of a Member State in which one of the parties is habitually resident;
- b) a court or the courts of a Member State of which one of the parties has the nationality;
- c) in the case of maintenance obligations between spouses or former spouses:
- d) the court which has jurisdiction to settle their dispute in matrimonial matters; or
- e) a court or the courts of the Member State which was the Member State of the spouses’ last common habitual residence for a period of at least one year.

The conditions referred to in points (a), (b) or (c) have to be met at the time the choice of court agreement is concluded or at the time the court is seized.

The jurisdiction conferred by agreement shall be exclusive unless the parties have agreed otherwise.

..”

Thus it can be concluded that, unless the parties have agreed otherwise, the agreement by parties on the assignment of jurisdiction of a court of a Member State in which one of the parties is habitually resident or a court of a Member State of which one of the parties has the nationality, which has jurisdiction to settle their dispute in matrimonial matters or which was the Member State of the spouses’ last common habitual residence for a period of at least one year, shall be exceptional, i.e. the claim may not be lodged with the court of another country. Once again be reminded that the article on the choice of court shall not apply to a dispute relating to a maintenance obligation towards a child under the age of 18.

Article 5 of the Regulation N.4/2009, similar, and also in other European Union instruments, for example, Regulation No.44/2001, confers jurisdiction based on the appearance of the defendant, i.e. it stipulates that apart from jurisdiction derived from other provisions of this Regulation, a court of a Member State before which a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered to contest the jurisdiction.

Whereas Article 6 of the Regulation N.4/2009 “Subsidiary jurisdiction” stipulates that where no court of a Member State has jurisdiction pursuant to Articles 3, 4 and 5 and no court of a State party to the Lugano Convention which is not a Member State has jurisdiction pursuant to the provisions of that Convention, the courts of the Member State of the common nationality of the parties shall have jurisdiction.

Nevertheless Article 6 does not guarantee that parties as regards to maintenance case will be able to find a court, where the maintenance case will be processed. Thus a final alternative is: when proceedings cannot be reasonably brought or conducted, according to Article 7 of the Regulation No.4/2009, court of the Member State, which has sufficient connection, may take the jurisdiction in exceptional cases. Article 7 of the Regulation No.4/2009 stipulates provisions of “*Forum necessitatis*”. By being covered by Regulation No.4/2009 such provisions are

for the first time included within European Union's international private law instruments and stipulate jurisdiction in cases, when in any other third country the dispute is closely related to the proceedings cannot be reasonably brought or conducted or it turns out to be impossible.

Special attention shall be paid to Article 8 of the Regulation No.4/2009, which is untypical to other European Union instruments in cross-border civil matters and which stipulates limit on proceedings. In general Article 8 of the Regulation No.4/2009 stipulates that, where a decision on maintenance obligations' case is given in a Member State where the creditor is habitually resident, proceedings to modify the decision or to have a new decision given cannot be brought by the debtor in any other Member State as long as the creditor remains habitually resident in the State in which the decision was given. The provision is very important for courts by checking, whether a case on the recovery of maintenance or decision on the modification of recovery of maintenance lies within the jurisdiction of the court of the relevant Member State. The provision is deemed to be innovation, which is adopted in Regulation No.4/2009 from the Hague Convention*. Here it shall be noted that it shall only apply, as long as the creditor remains habitually resident in the State in which the decision was given. This provision is aimed at continuing the exclusive jurisdiction, which is of benefit to the maintenance creditor, which continues habitually resident in this jurisdiction. On the other side such provision ensures courts or other competent authorities guarantees for amending the decision, should the circumstances require doing that.** Thus it shall be concluded that Article 8 of the Regulation No.4/2009 is planned to be like a limitation to maintenance debtors in seeking courts in other countries (*forum shopping*) in order to achieve in this country beneficial amendments in the court decision taken by the court of the habitual residence of the creditor, which has entered into force, or to take a new decision, which replaces the court decision taken by the court of the habitual residence of the creditor. This provision shall not apply only between Member States; it is applied in a wider sense, i.e. where a decision is given in a Member State or a 2007 Hague Convention Contracting State where the creditor is habitually resident, proceedings to modify the decision or to have a new decision given cannot be brought by the debtor in any other Member State as long as the creditor remains habitually resident in the State in which the decision was given. Thus the limitation of Article 8 of the Regulation No.4/2009 shall apply also to decisions taken by courts of Hague Convention Contracting State.

Chapter II "Jurisdiction" includes also the Article 13 "Related actions" and Article 12 "Lis pendens", which are adopted from the Regulation No.44/2001 and are common also in other international private law instruments of the European Union.

Article 10 "Examination as to jurisdiction" of the Regulation No.4/2009 stipulates that, where a court of a Member State is seized of a case over which it has no jurisdiction under this Regulation it shall declare of its own motion that it has no jurisdiction. But what should the Latvian courts do, if they have accepted the receipt of claim statement in a maintenance case, but have afterwards concluded that it is not Latvia's cross-border jurisdiction according to the Regulation No.4/2009? At the time the present document was drafted, i.e. April 2012, amendments (which were promoted by the Minister of Justice) to Article 219 of the Civil Procedure Law – "The court shall leave the claim without proceedings" – are not yet in force. The

* See Beaumont, P. International Family Law in Europe – the Maintenance Project, Hague Conference and the EC: Triumph of Reverse Subsidiarity. The Rabel Journal of Comparative and International Private Law, Band 73, 2009, p.532

** See Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hcch.net/upload/expl38e.pdf> (reviewed at 10.04.2012), p.83

amendments shall stipulate a court shall leave the claim without proceedings, if it establishes that according to European Union Law or international agreements it has no jurisdiction to process the relevant case. Most probably, until the aforementioned amendments enter into force Latvian courts should deal analogously. The aforementioned is related to the fact that jurisdiction may change over time and therefore it is more suitable to leave the claim unprocessed and not to end proceedings, which would prohibit a person to repeatedly turn to a Latvian court in a dispute between the same parties, about the same subject and for the same grounds.

Practical aspects should be also addressed by covering the jurisdiction issues. It has already been mentioned that according to Regulation No.4/2009 the applicant living in another Member State may turn to a Latvian court (if it is its jurisdiction) via central authorities of the Regulation No.4/2009 in order to receive a decision on the recovery of maintenance or modifications to the decision on the recovery of maintenance. The applicant shall turn to the respective national (state, where it lives) central authority of the Regulation No.4/2009. Application forms are contained within the Annex of Regulation No.4/2009. Annex VII includes the application form to obtain or have modified a decision in matters relating to maintenance obligations*. The application form, which will be submitted to a Latvian court via central authorities of the Regulation No.4/2009, in fact shall replace an application of claim, but it shall differ from the content of the claim application as stipulated by Article 128 of the Civil Procedure Law. Claim applications, which are filled in Annexes VII of the Regulation No.4/2009, shall include at least information according to Article 57 of the Regulation No.4/2009 and the identity number, should it be known. In order to explain the aforementioned, amendments to Civil Procedure Law were introduced by extending Article 128 with a new, fourth, part.** Claim statements, which are filled in Annexes VII of the Regulation No.4/2009, shall be submitted to Latvian court in Latvian. Nevertheless as regards to supporting documents of the claim applications Article 66 of the Regulation No.4/2009 stipulates that the court seized may require the parties to provide a translation of supporting documents only if it deems a translation necessary in order to give a decision or to respect the rights of the defence. In practice this will always be the case, since in each case in Latvia the rights of the defence will have to be ensured, since proceedings in Latvia are held in the official language, i.e. Latvian. As regards to other cross-border cases of maintenance obligations, when a Latvian court shall hear a case against a defendant living in another Member State, while the applicant will be living in Latvia, or a case in relation to the applicant living in another Member State, but have turned to Latvian court avoiding the central authorities of the Regulation No.4/2009, the application forms contained within Annex VII of the Regulation No.4/2009 will not have to be submitted, and the general order of the Civil Procedure Law in relation to submission of claim statements shall apply.

* In cases stipulated by the Regulation No.4/2009 the central authority in Latvia together with a claim application on the recovery of maintenance for a child may submit also an application on the determination of parentage, which is filled in according to Annex VII of the Regulation No.4/2009

** Law „Amendments to the Civil Procedure Law”. Published on the official gazette of Latvia “*Latvijas Vestnesis*” No.95 on 17.06.2011

5.2. PROVISIONS OF THE APPLICABLE LAW

In relation to the next aim of the Regulation No.4/2009 – to establish common provisions of the applicable law – it shall be indicated that this aim was already achieved within the Hague Conference on Private International Law by adopting the Hague Protocol. Therefore Article 15 of the Regulation No.4/2009 includes only a reference that the law applicable to maintenance obligations shall be determined in accordance with the Hague Protocol. Already at the time the Hague Protocol was elaborated it was clear that only Member States, the Switzerland and also Japan, China (especially – Macao), probably, some South African countries will be interested in ratification of this document. Therefore within the Hague Conference on Private International Law provisions of the Hague Protocol were reached, which satisfy the European Union.*

Irrespective of the title – the Hague Protocol and the Hague Convention – are two separate law instruments, which shall be ratified separately in order to become binding to countries wishing to ratify these. Within the Hague Conference on Private International Law, upon elaboration of the Hague Protocol, it was discussed, whether it should be called “convention”, thus stressing it is an independent document. Nevertheless, due to various reasons, including the fact that the provisions of the Hague Protocol correlate to a certain amount to the provisions of the Hague Convention and reach beyond these, the decision was taken to keep the title “protocol”.**

Upon elaboration of the Regulation No.4/2009 the issue of the applicable law to a certain extent was a sensitive one to the delegations of the Member States, and therefore a solution was included in the Regulation No.4/2009 to apply results achieved already within the Hague Conference on Private International Law. And therefore Article 15 of the Regulation No.4/2009 stipulates simply that the law applicable to maintenance obligations shall be determined in accordance with the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations in the Member States bound by that instrument. Article 15 shows the inability of the Member States on reaching a common agreement on the applicable law; to be exact, upon elaboration of the Regulation No.4/2009, the United Kingdom strictly indicated it will not join Regulation No.4/2009, if it will have to apply foreign law, which is why the wording of Article 15 is what it is. Consequences due to non-application of Hague Protocol are addressed in the chapter on recognition and enforcement of foreign decisions. Here we can merely note that court decisions of Member States, which do not apply the Hague Protocol, are subject to more complex mechanism of recognition and declaration of enforceability.

The Hague Protocol stipulates applicable law in respect to maintenance obligations only. The Hague Protocol does not stipulate applicable law to relationships from which maintenance obligations arise, i.e., applicable law to family relationship, parentage, marriage or affinity.*** Thus the Hague Protocol does not stipulate that it is applicable also to, for example, contest of the validity of paternity or marriage, should such an issue arise within a claim, where the main

* See Beaumont, P. International Family Law in Europe – the Maintenance Project, Hague Conference and the EC: Triumph of Reverse Subsidiarity. The Rabel Journal of Comparative and International Private Law, Band 73, 2009, p.519-521

** See Explanatory Report of the Hague Protocol of 2007 on the law applicable to maintenance obligations. Available at <http://hcch.net/upload/expl39e.pdf> (reviewed at 10.04.2012), p.7

*** See Article 11 of the Hague Protocol, which stipulates what is set with the applicable law, i.e. what aspects of the maintenance obligations are subject to applicable law.

object is the recovery of maintenance. In such cases it will be the choice of the affected State, whether to apply the Hague Protocol in relation to contest of the validity of paternity or marriage, should such an issue arise within a claim, where the main object is the recovery of maintenance, or should it apply own conflict rule in relation to validity of paternity or marriage.*

The Hague Protocol is universal in its nature and it may be applied also in the Contracting States even if the law designated by its provisions is that of a non-Contracting State.**

General rule of applicable law (Article 3) of the Hague Protocol lays down a principle that maintenance obligations should be decided according to the law of the State of the creditor's habitual residence, unless otherwise stipulated by the Hague Protocol. When the creditor changes residence, the law of the State of the new habitual residence becomes applicable as from the moment when the change occurs.*** The aforementioned provisions of the Hague Protocol are in line with the jurisdiction provisions of Regulation No.4/2009, which inter alia stipulates that jurisdiction of maintenance cases lies within the court of the creditor's habitual residence. Since most probably the creditor will turn to the court of its habitual residence with the claim on the recovery of maintenance, in most cases the law of the court's state, and not foreign law, shall apply.

Article 4 of the Hague Protocol stipulates special rules favouring creditors of maintenance for children and maintenance for parents. For example, the provision lays down that, subject to said creditors have lodged a claim with the competent authority of the state, which is the habitual residence of the debtor, the law of the state, where the court is present, shall apply. But if the creditor, based on this law, cannot recover maintenance from the debtor, the law of the state, which is the habitual residence of the creditor, shall apply.**** Article 4(2) of the Hague Protocol stipulates also the following: is the creditor of the maintenance for children or parents, based on law contained within Article 3 of the Hague Protocol (by virtue of the law of the State of his or her habitual residence), unable to obtain maintenance from the debtor, the law of the state, where the court is present, shall apply. Whereas Article 4(4) of the Hague Protocol stipulates: is the creditor of the maintenance for children or parents, based on law contained within Article 3 of the Hague Protocol (by virtue of the law of the State of his or her habitual residence) and law contained within Article 4(2) of the Hague Protocol (law of the state, where the court is present) and Article 4(3) (law of the court's state of the debtor's habitual residence or law of the court's state of the creditor's habitual residence) unable to obtain maintenance from the debtor, the law of the state of their joint nationality, if identified, shall apply. Special rules of Article 4 favouring creditors of maintenance for children and maintenance for parents facilitate the application of court's state law (opposite of foreign law) on the one hand, while on the other hand they enable the creditors as the least protected social category recovering maintenance by "manipulating" the applicable law.

Article 5 of the Hague Protocol stipulates special rule with respect to spouses and ex-spouses – according to this Article it is possible not to apply the law of the creditor's habitual residence, if other national law has a closer connection with the marriage. Meaning, Article 5 of the Hague Protocol stipulates that in maintenance obligations' claims between spouses, ex-spouses or parties of a marriage which has been declared invalid, Article 3 shall not apply,

* See Explanatory Report of the Hague Protocol of 2007 on the law applicable to maintenance obligations. Available at <http://hcch.net/upload/expl39e.pdf> (reviewed at 10.04.2012), p.10

** Article 2 of the Hague Protocol

*** Article 3 of the Hague Protocol

**** Article 4 of the Hague Protocol

if one of the parties objects and if law of another state, in particular the law of the spouses' last common habitual residence, has a closer connection with the marriage – in such case law of another state shall apply. This provision was introduced, because the application of law of the creditor's habitual residence may be an inadequate solution for the maintenance obligations of spouses or ex-spouses. It shall be noted that in some legal systems, for example, in Scandinavian countries decision on maintenance for spouses are taken only in exceptional cases and only in a limited amount. Therefore it would not be admissible and it would be discriminating in such cases that the maintenance creditor, by changing its habitual residence with or without intent and thus causing the change of the applicable law, could achieve for himself/herself larger maintenance payments. The aforementioned would be unfair in relation to the spouses' maintenance debtor and in contradiction to the legitimate expectation of the debtor.*

Article 6 of the Hague Protocol stipulates special rule on defence of the debtor. This article lays down that, in case the maintenance obligation is not arising out of a parent-child relationship, which is subject to maintenance of children, and or those between spouses or ex-spouses, the debtor may contest the creditor's claim on the ground that there is no such obligation under both the law of the state of the debtor's habitual residence and the law of the state of the common nationality of the parties, if there is one. For example, this Article shall apply in cases, where the national law of an X Member State provides for paying maintenance between brothers and sisters and a Latvian citizen – brother – travels to the X state and establishes there his habitual residence and according to national law of the X Member State lodges a claim for recovery of maintenance against the sister, also a citizen of Latvia, who lives in Latvia (since according to Article 3 of the Hague Protocol national law of an X Member State as the national law of the brother's as a creditor's habitual residence shall apply), then the sister pursuant to Article 6 of the Hague Protocol "Special rule on defence of the debtor" may contest the brother's claim on the ground that there is no such obligation under both the law of the State of the sister's habitual residence (Latvia) and the law of the State of the common nationality (Latvia) of the parties.

The Hague Protocol provides also for limited opportunities to agree on the applicable law to the maintenance obligations.** The limitations manifest in the following way: ensuring that the maintenance creditor and debtor, upon choosing the applicable law, would nonetheless be somehow linked to the state, the national law of which they choose. The right to choose applicable law is not provided for maintenance obligations against persons under the age of 18 or adults, who by reason of impairment or insufficiency of personal faculties, are not in a position to protect their interests.*** This was recognized as inadmissible due to the vulnerability of these persons. Thus Article 8(1) of the Hague Protocol with the aforementioned limitations provides for the maintenance creditor and debtor to choose any of the following law to be applied to a maintenance obligation:

- a) the law of any State of which either party is a national at the time of the designation;
- b) the law of the State of the habitual residence of either party at the time of designation;

* See Explanatory Report of the Hague Protocol of 2007 on the law applicable to maintenance obligations. Available at <http://hcch.net/upload/exp139e.pdf> (reviewed at 10.04.2012), p.21-22

** Article 8 of the Hague Protocol

*** Article 8(3) of the Hague Protocol

- c) the law designated by the parties as applicable, or the law in fact applied, to their property regime;
- d) the law designated by the parties as applicable, or the law in fact applied, to their divorce or legal separation.

According to Article 8(2) in formal terms, the choice of applicable law is to be made in writing signed by the parties or the writing may be replaced by any medium, the contents of which are accessible so as to be usable for future reference.

Article 8(5) includes also sort of rules protecting the parties as regards to the choice of applicable law, meaning, the Article stipulates that the law chosen by the parties shall not apply, if application of the law chosen by the parties cause manifestly unfair or unreasonable consequences for either of the parties, except for cases, when parties were fully informed and aware of the consequences of their designation.

In order to facilitate application of law of the forum, Article 7 of the Hague Protocol provides for an option, in the particular proceedings, to choose as applicable law, unless choice pursuant to Article 8 of the Hague Protocol has not been made, law of the forum. Without prejudice to Article 3 – 6 of the Hague Protocol, this means that the maintenance creditor and debtor in the respective state only in the particular proceedings may obviously choose the law of that state in order to apply the law to the maintenance obligation. In such case, the designation of applicable law prior to respective proceedings shall be in an agreement in writing or recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference (Article 7(2) of the Hague Protocol).

Article 11 of the Hague Protocol shall also be addressed; this article lays down scope of the applicable law or to be exact – issues determined by the law applicable. Applicable law to maintenance cases stipulate inter alia:

- a) whether, to what extent and from whom the creditor may claim maintenance;
- b) the extent to which the creditor may claim retroactive maintenance;
- c) the basis for calculation of the amount of maintenance, and indexation;
- d) who is entitled to institute maintenance proceedings, except for issues relating to procedural capacity and representation in the proceedings;
- e) prescription or limitation periods;
- f) the extent of the obligation of a maintenance debtor, where a public body seeks reimbursement of benefits provided for a creditor in place of maintenance.

Article 13 “Public policy” of the Hague Protocol could be also of interest to Latvia, since this article provides an option to exclude the applicable law where its effects are manifestly contrary to the public policy of the forum. According to its judicial policy Latvia could assess, for example, whether it is suitable to apply Member State law, which imposes maintenance obligations arising from same sex partnership or marriage, taking into the account the public policy of Latvia.

Hague Protocol is applied in all Member States, except for the United Kingdom and Denmark (at the time the present document was drafted, i.e. April 2012, it could be concluded from informal discussions that the situation possibly could change as regards to Denmark). Whether a Member States does or does not apply the Hague Protocol, affects recognition and enforcement of a decision in a maintenance obligations’ case in another Member State, which shall be discussed in the next chapter.

6. COMMON PROVISIONS ON THE RECOGNITION AND ENFORCEMENT OF A DECISION IN MAINTENANCE CASES AND THE VALIDITY OF A DECISION IN ANOTHER MEMBER STATE

6.1. GENERAL INFORMATION

As already said before the condition whether a Member States does or does not apply The Hague Protocol has a great impact on the recognition and enforcement of a decision in a maintenance obligations' case in another Member State. For example, if a decision on maintenance obligations' case is taken in a Member State, which is bound by the Hague Protocol, such decision is automatically deemed to be recognized and enforceable in another Member State without special procedure on the recognition and enforcement of a decision. Whereas if a decision on maintenance obligations' case is taken in a Member State, which not bound by the Hague Protocol, such decision is subject to procedure of the declaration of enforceability of a decision, which is governed by provisions of the Regulation No.4/2009 on one hand and national law of that Member State on the other hand. This division depending whether a state is or is not bound by the Hague Protocol is due to the fact that in states, which will apply the Hague Protocol, the result in cases on the recovery of maintenance will be equal, since law applied by these states will be the same according to the Hague Protocol, which in turn allow this group of states to waive from the necessity to declare enforceability of a decision, which is taken by another state of the said group, and thus the state may waive also the necessity of control over that decision taken by another state. Should a state or states be not bound by the Hague Protocol, they cannot reach equal result in cases on the recovery of maintenance, since they apply different law, and thus there is the need to keep certain control via the declaration of enforceability of a decision, which is taken by another state.

P.R.Beaumont indicates that such division into various "speed tracks" depending on whether the respective Member State does or does not apply the Hague Protocol is rather due to political aspects, rather than judicial necessity. Moreover P.R.Beaumont indicates that the key differences between the various "speed tracks" are more visible than real, except for the disclaimer on public policy; issues as regards to classic non-recognition grounds about the "fast track" are moved to the enforcement stage, i.e. these are "transferred" only in time – postponed one judicial stage later. The author also stresses that the main problem in cross-border maintenance cases is not how to achieve the declaration of the enforceability of a maintenance decision, but rather how to achieve the enforcement itself.*

* Beaumont P.R., McElevay P.E., Private International Law. Edinburg: W.Green, 2011, p.905

6.2. “FAST TRACK”

Thus the “fast track” decisions as “European Union executive documents” become valid as from the moment they enter into force or from the moment they are adopted (enforceable immediately), because they are adopted in a Member State bound by the Hague Protocol. At first we have to look at provision contained within Regulation No.4/2009, which protect the defendant in a maintenance case and allows decisions on maintenance cases taken by Member States bound by the Hague Protocol becoming automatically recognized and enforceable in other Member States without special procedure on the recognition and declaration of enforceability thereof, i.e. decisions as “European Union executive documents” become valid as from the moment they enter into force or from the moment they are adopted (enforceable immediately) or referring to P.R.Beaumont to take the “fast track”. Regulation No.4/2009, if compared to Regulation No.2201/2003, provides the defendants in maintenance cases with additional protection, which is related to the fact that the claimant for the recovery of maintenance may lodge a claim also based on its habitual residence. Procedural justice in relation to the defendant, who did not enter an appearance in the court, which took the decision on the maintenance, in the Member State of origin is achieved by including a possibility for the defendant to apply for a review of the decision (Article 19 of the Regulation No.4/2009). In order not to mix up the mutual principle of trust between the Member States, the defendant shall apply for a review of the decision in the court of origin or the court, which has taken the relevant decision.* Nevertheless the grounds, when the defendant, who did not enter an appearance, shall have the right to apply for a review of the decision according to the Regulation No.4/2009, are much broader than the classic grounds for non-recognition of the decision. For example, according to Article 19 of the Regulation No.4/2009 a defendant shall have the right to apply for a review of the decision not only in cases when she/he was not served with the document instituting the proceedings or an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence, but also in cases where she/he was prevented from contesting the maintenance claim by reason of force majeure or due to extraordinary circumstances without any fault on his part, unless he failed to challenge the decision when it was possible for him to do so. According to Article 19(2) of the Regulation No.4/2009 the time limit for applying for a review shall run from the day the defendant was effectively acquainted with the contents of the decision and was able to react, at the latest from the date of the first enforcement measure having the effect of making his property non-disposable in whole or in part. The defendant shall react promptly, in any event within 45 days. No extension may be granted on account of distance. According to Article 19(3) of the Regulation No.4/2009, if the court rejects the application for a review on the basis that none of the grounds for a review set out in Article 19 apply, the decision shall remain in force. If the court decides that a review is justified for one of the grounds laid down above, the decision shall be null and void. Prior to joining the European Union such mechanism of the review of decisions was uncommon for the legal system of Latvia; now it has been introduced in the Civil Procedure Law. Section 60¹ of the Civil Procedure Law lays down the repeated processing of a case due to review of decisions provided in the legal provisions of the European Union. By introducing the Regulation No.4/2009 in Latvia, the reference to Article 19 of the Regulation No.4/2009 was included in the Section 60¹ of the Civil Procedure Law. Section 60¹ of the Civil Procedure Law stipulates the following: to which court

* Beaumont P.R., McEleavy P.E., *Private International Law*. Edinburg: W.Green, 2011, p.906

the defendant shall submit its application on the review of a decision taken by a Latvian court, within what period the court shall process the application, as well as the content of the court decision and consequences resulting from the defendant's application on the review of a decision taken by a Latvian court. Since Latvia is bound by the Hague Protocol, decisions in maintenance cases taken by Latvian courts shall be automatically enforceable in other Member States after the transitory period (see chapter 8 of the present document), and thus Article 19 of the Regulation No.4/2009 refers also to Latvia.

As regards to the "fast track" decisions, Article 21 "Refusal or suspension of enforcement" of the Regulation No.4/2009 shall be addressed. Although in general the enforcement shall be carried out according to national law of the Member State of enforcement, Article 21 of the Regulation No.4/2009 stipulates specific provisions as regards to the enforcement of the "fast track" decisions in another Member State, which is not a Member State, where the decision was taken. Article 21 of the Regulation No.4/2009 stipulates that the ground for the refusal or suspension of enforcement, which are laid down by the national law of the relevant Member State, are applied so far as they are not in contradiction to Article 21. Article 21(2) of the Regulation No.4/2009 stipulates that the competent authority in the Member State of enforcement shall, on application by the debtor, refuse, either wholly or in part, the enforcement of the decision of the court if the right to enforce the decision of the court is extinguished by the effect of prescription or the limitation of action, either under the law of the Member State of origin or under the law of the Member State of enforcement, whichever provides for the longer limitation period. Also according to the said Article the competent authority in the Member State of enforcement may, on application by the debtor, refuse, either wholly or in part, the enforcement of the decision of the court if it is irreconcilable with a decision given in the Member State of enforcement or with a decision given in another Member State or in a third State which fulfils the conditions necessary for its recognition in the Member State of enforcement (these are also classical grounds for non-recognition of a foreign decision (see Article 24 points (c) and (f) of the Regulations No.4/2009)*. Whereas according to Article 21(3) of the Regulation No.4/2009 the competent authority in the Member State of enforcement may, on application by the debtor, suspend, either wholly or in part, the enforcement of the decision of the court of origin if the competent court of the Member State of origin has been seized of an application for a review of the decision of the court of origin pursuant to Article 19. Furthermore, the competent authority of the Member State of enforcement shall, on application by the debtor, suspend the enforcement of the decision of the court of origin where the enforceability of that decision is suspended in the Member State of origin. Also in Latvia, by implementing Regulation No.4/2009, the Article 644² "Enforcement issues related to executive documents of the European Union" and Article 644³ "Refusal of enforcement of a decision taken by a foreign court" of the Civil Procedure Law were extended with a reference to Article 21 of the Regulation No.4/2009.

According to Article 644² of the Civil Procedure Law it can be concluded that a district (city) court, within the jurisdiction of which the decision by a foreign court shall be enforced, on application by the debtor and pursuant to Article 21(3) of the Regulation No.4/2009, shall have the right to:

- 1) Replace enforcement of a decision with measures for the securing of decision enforcement stipulated by Article 138 of the Civil Procedure Law;

* A decision which has the effect of modifying an earlier decision on maintenance on the basis of changed circumstances shall not be considered an irreconcilable decision within the meaning of this subparagraph.

- 2) Amend the type or order of the enforcement of the decision;
- 3) Suspend enforcement of the decision.

Application by the debtor shall be processed in a court sitting, having notified the participants in a matter in advance. The failure of such persons to attend is not an impediment to the adjudicating of the issue.

According to Article 644³ of the Civil Procedure Law it can be concluded that a district (city) court, within the jurisdiction of which the decision by a foreign court shall be enforced, which has received an extract from the decision as stipulated by Article 20(1b) of the Regulation No.4/2009 (executive document of the European Union) on application by the debtor and pursuant to Article 21(3) of the Regulation No.4/2009, shall have the right to refuse enforcement of the decision. Also this application by the debtor shall be processed in a court sitting, having notified the participants in a matter in advance. The failure of such persons to attend is not an impediment to the adjudicating of the issue.

Article 644⁴ of the Civil Procedure Law lays down details of the application, referred to in Article 644² and Article 644³, by the debtor on the postponement, division into time periods, varying of the form and procedure of enforcement, refusal of enforcement of an executive document of the European Union and stipulates other documents to be attached.

In general the guarantees and control opportunities of an automatically enforceable decision, which are stipulated by Article 19 and Article 21 of the Regulation No.4/2009 and which are adopted in the Civil Procedure Law, allowed the European Union legislator to refuse from the classic recognition or the necessity of declaration of enforceability provided for in the European Union instruments for these decisions in another Member State, which is not the Member State, where the decision was taken.

So how will the automatic enforcement manifest in practice in Latvia? Since Latvia is bound by the Hague Protocol, a decision in maintenance obligations' case taken over by Latvian courts will have to be enforced automatically in another Member State. But it shall be taken into account that the decision shall be taken within proceedings, which are initiated after the day the Regulation No.4/2009 was applied, i.e. after 18 June 2011. Thus, should the maintenance obligations' case be processed in Latvia, but the enforcement will have to be done in another Member State, on the request of a case party, Latvian court will have to provide an extract from the decision pursuant to Article 20(1b) of the Regulation No.4/2009 (Annex I of the Regulation No.4/2009), which in turn will be automatically enforceable in another Member State. In order to introduce the aforementioned provisions of Regulation No.4/2009 in Latvia, Article 541¹ of the Civil Procedure Law was amended by extending it with Part 4³, which stipulates that the extract from the decision pursuant to Article 20(1b) of the Regulation No.4/2009 shall be provided upon request of a case party after the judgement or the decision has entered into force, but in cases, when the judgement or the decision shall be enforced immediately – right after announcement of the judgement or decision-taking. Wording of the Part 5 of Article 541¹ was also amended; it stipulates that the extract is drafted by the court, within which the case is at that time.

Similar – should the decision in maintenance obligations' case be taken by an another Member State bound by the Hague Protocol, the respective decision in maintenance obligations' case will have to be enforced in Latvia without declaration of the enforceability of the decision. Thus it will affect also the documents to be submitted to the bailiff in Latvia, because a decision taken by another Member State will not need to be declared to be enforced and it will not be possible to request a court writ, which is widely known in the Procedural Law of Latvia, to be issued for submission to the bailiff. As regards to documents to be submitted,

which are submitted by foreign judgment creditors, to a sworn bailiff of Latvia for enforcement two different options are possible according to Regulation No.4/2009. Should the foreign judgment creditors choose to submit the documents via central authorities of Regulation No.4/2009, the Latvian central authority will send a special application for enforcement to the sworn bailiff of Latvia, as well as executive documents; the application will be elaborated based on Annex VI of Regulation No.4/2009. Currently according to Article 549 of the Civil Procedure Law the judgment creditors shall submit to the bailiff a simply application in writing, in which it states the form of enforcement. The central authority of Latvia will have to get in contact with judgment creditors and agree on the form of enforcement* – compulsory execution measure – since according to Article 41(1) of the Regulation No.4/2009 the procedure for the enforcement of decisions shall be governed by the law of the Member State of enforcement. Should the foreign judgment creditor not wish to make use of the central authorities of the Regulation No.4/2009, it will not be able to submit to a bailiff of Latvia the application as provided in Annex VI of Regulation No.4/2009, but the application to be submitted shall be subject to general procedures of the Civil Procedure Law. In addition to either of the applications documents (as well as documents as stipulated by Article 64 of the Regulation No.4/2009 in specific cases) as stipulated by Article 20 of the Regulation No.4/2009 will have to be submitted to a bailiff in Latvia.

Article 20 “Documents for the purposes of enforcement” of the Regulation No.4/2009 stipulates:

„1. For the purposes of enforcement of a decision in another Member State, the applicant shall provide the competent enforcement authorities with:

(a) a copy of the decision which satisfies the conditions necessary to establish its authenticity;

(b) the extract from the decision issued by the court of origin using the form set out in Annex I;

(c) where appropriate, a document showing the amount of any arrears and the date such amount was calculated;

(d) where necessary, a transliteration or a translation of the content of the form referred to in point (b) into the official language of the Member State of enforcement or, where there are several official languages in that Member State, into the official language or one of the official languages of court proceedings of the place where the application is made, in accordance with the law of that Member State, or into another language that the Member State concerned has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Union other than its own which it can accept for the completion of the form.

2. The competent authorities of the Member State of enforcement may not require the applicant to provide a translation of the decision. However, a translation may be required if the enforcement of the decision is challenged.

3. Any translation under this Article must be done by a person qualified to do translations in one of the Member States.”

* See Article 14 of the Cabinet of Ministers Regulations No.571 of 19 July 2011 “Procedure, how the Administration of the Maintenance Guarantee Fund as the central authority carries out its functions in respect to cross-border maintenance cases”. Published on the official gazette of Latvia “Latvijas Vestnesis” No.117 on 28.07.2011

6.3. "TRADITIONAL ROUTE"

Provisions of the Regulation No.4/2009 about the recognition of foreign court decisions on the recovery of maintenance (Section 2 of Chapter IV of Regulation No.4/2009) shall refer only to decisions, which are taken in a Member State, which is not bound by the Hague Protocol (currently in Denmark (it could be concluded from informal discussions Denmark considers joining the Hague Protocol) and the United Kingdom). Only such decisions will be subject to declaration of enforceability.

Decision in maintenance cases taken by Member States, which are not bound by the Hague Protocol, but which based on application by the interested party shall first be declared to be enforced in other Member States in order to get validity there, or, referring to P.R.Beaumont, take the "traditional route", the following shall be noted: Decision in maintenance cases taken by Member States, which are not bound by the Hague Protocol, the procedures, how the decisions are declared to be enforced is similar to the procedure, which is already contained within Regulation No.44/2001. According to Article 30 of the Regulation No.4/2009 the decision, on the application of the interested party, shall be declared enforceable without any review of the grounds for the non-recognition of a foreign decision stipulated under Article 24 immediately on completion of the formalities in Article 28 and at the latest within 30 days of the completion of those formalities, except where exceptional circumstances make this impossible. The party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application. Thus the first stage, similar as in Regulation No.44/2001, is a formal stage, where the court has no right to assess the grounds for the non-recognition, but it shall automatically declare the decision taken by another Member State enforceable. At this stage the parties shall have also no right to submit their considerations or refer to the existence of grounds for non-recognition included within Article 24 of the Regulation No.4/2009. According to Article 31 of the Regulation No.4/2009 the decision on the declaration of enforceability shall forthwith be brought to the notice of the parties. Only after the notification may the parties, pursuant to Article 32 of the Regulation No.4/2009, appeal the decision on the declaration of enforceability and provide their considerations as to whether the grounds for non-recognition included within Article 24 of the Regulation No.4/2009 are present (note that the grounds for non-recognition included within Article 24 of the Regulation No.4/2009 are in line with the grounds for non-recognition included within Article 34 of the Regulation No.44/2001). Article 24 of the Regulation No.4/2009 lays down the grounds, upon the existence of which it is possible not to recognize a decision in a maintenance obligations' case taken by another Member State. It is deemed that the grounds for non-recognition included within Article 24 of the Regulation No.4/2009 are exclusive and Member States would not have the right to extend the grounds for non-recognition in their national laws for the cases, which are subject to Regulation No.4/2009. Grounds for non-recognition included within Article 24 of the Regulation No.4/2009 are more restricted than those listed in Article 637(2) of the Civil Procedure Law. According to Article 32(3) of the Regulation No.4/2009 the appeal on the decision on the declaration of enforceability shall be dealt with in accordance with the rules governing procedure in contradictory matters. According to Article 32(5) of the Regulation No.4/2009 an appeal against the declaration of enforceability shall be lodged within 30 days of service thereof. If the party against whom enforcement is sought has his habitual residence in a Member State other than that in which the declaration of enforceability was given, the time for appealing shall be 45 days and

shall run from the date of service, either on him in person or at his residence. No extension may be granted on account of distance (taking into account that the introduction of the 45-days term is an innovation within the international private law instruments of the European Union, where such exact appeal terms have not been determined before, Latvia, upon introduction of the Regulation No.4/2009 in Latvia, extended also the Article 641 of the Civil Procedure Law by adding Part 2¹, because the 45-days term is a departure from the general term, which was included in Article 641 until then, i.e. 60 days). The court with which an appeal is lodged shall refuse or revoke a declaration of enforceability only on one of the grounds specified in Article 24 (Article 34 of the Regulation No.4/2009), and subject to Article 32(2) of the Regulation No.4/2009, the court seized of an ancillary appeal (regional court in Latvia) shall give its decision within 90 days from the date it was seized, except where exceptional circumstances make this impossible (taking into account that the introduction of the 90-days term is an innovation within the international private law instruments of the European Union, where such exact appeal terms have not been determined before, Latvia, upon introduction of the Regulation No.4/2009 in Latvia, extended also the Article 642 of the Civil Procedure Law by adding Part 2¹, because until then Article 642 did not stipulate exact terms for the review of ancillary appeals and appeals on decisions on ancillary appeals). Whereas according to Article 34(3) of the Regulation No.4/2009 the court seized of an appeal on the decision on the ancillary appeal about the declaration of enforceability shall give its decision without delay (in Latvia it would be cassation instance).

As regards to the practical aspects of the declaration of enforceability two different situations shall be subdivided: a person wishes to achieve declaration of enforceability in Latvia via the central authorities of Regulation No.4/2009, or a person wishes to turn to Latvian courts directly with the view to declaration of enforceability of a decision. In the first case, via the central authorities, Regulation No.4/2009 stipulates special procedure, if a person living in one Member State turn to central authority of the Regulation No.4/2009 of his/her residence with a view to declaration of enforceability of a maintenance decision in another Member State. Annexes of the Regulation No.4/2009 include special application forms; in this case application form contained within Annex VI "Application form with a view to the recognition, declaration of enforceability or enforcement of a decision in matters relating to maintenance obligations" shall be used. This application form shall replace the application for the recognition of a court decision as stipulated by Article 638 of the Civil Procedure Law, and this application form has also a different content than that of Article 638 of the Civil Procedure Law. Application form according to Annex VI of the Regulation No.4/2009 shall be submitted to a court in Latvia only if a person living in another Member State will have turned to the central authority of Regulation No.4/2009 in his/her residence state and this central authority will have transmitted such application to the central authority of Regulation No.4/2009 in Latvia, which in turn will submit this application for review to the relevant court in Latvia. Application, which is filled in according to Annex VI of the Regulation No.4/2009, shall include at least information according to Article 57 of the Regulation No.4/2009 and the identity number, should it be known. In the second case, if the person wishes to achieve declaration of enforceability of a court decision taken by another Member State in a maintenance case, avoiding the central authorities of Regulation No.4/2009, he/ she shall submit an application to a Latvian court according to the one stipulated by Article 638 of the Civil Procedure Law. In either case (should the person wish to achieve declaration of enforceability of a court decision taken by another Member State in a maintenance case via or avoiding a central authority) Article 28 of the Regulation No.4/2009 lists documents, which shall be attached to the application on the declaration of enforceability.

The list is exhaustive and no other documents may be requested by the court. Article 28(1) of the Regulation No.4/2009 stipulates the following:

“1. The application for a declaration of enforceability shall be accompanied by the following documents:

(a) a copy of the decision which satisfies the conditions necessary to establish its authenticity;

(b) an extract from the decision issued by the court of origin using the form set out in Annex II, without prejudice to Article 29;

(c) where necessary, a transliteration or a translation of the content of the form referred to in point (b) into the official language of the Member State of enforcement or, where there are several official languages in that Member State, into the official language or one of the official languages of court proceedings of the place where the application is made, in accordance with the law of that Member State, or into another language that the Member State concerned has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Union other than its own which it can accept for the completion of the form.”

As regards to the language of the application and supporting documents, it shall be noted that the application, which filled in according to Annex VI of the Regulation No.4/2009, shall be submitted to a court in Latvia in Latvian only, same refers to the extract from the decision (point (b)), making use of the application form contained within Annex II of the Regulation No.4/2009. The decision or the copy of the decision may be requested by the Latvian court in Latvian only if an appeal was lodged. Any translation shall be done by a person qualified to do translations in one of the Member States (not only in Latvia). According to Article 29 of the Regulation No.4/2009 it is allowed not to request an extract of the decision taken by a court of origin, making use of the application form contained within Annex II of the Regulation No.4/2009, i.e. Article 29 of the Regulation No.4/2009 stipulates that, in case the aforementioned extract from the decision is not submitted, the court may specify a time for its production or accept an equivalent document or, if it considers that it has sufficient information before it, dispense with its production. Note that the applicant, pursuant to Article 64 of the Regulation No.4/2009, may also be a public body and in such case the application shall be extended with the documents listed under Article 64(4) of the Regulation No.4/2009.

6.4. PROVISIONS ON ENFORCEMENT OF NOTARIAL ACTS OR AUTHENTIC INSTRUMENTS

Although currently in Latvia (at least not at the time drafting the present document, i.e. April 2012) notarial acts or authentic instruments are not enforceable (although it is discussed, whether a notarial act drafted by a notary public in Latvia should be assigned with the validity of a executive document in future), in other Member States enforceable authentic instruments are drafted in maintenance cases, which in turn may be presented in Latvia to achieve their enforcement in Latvia. As regards to authentic instruments, Article 48 “Application of this Regulation to court settlements and authentic instruments” of the Regulation shall be addressed; the Article stipulates the following:

“1. Court settlements and authentic instruments which are enforceable in the Member State of origin shall be recognised in another Member State and be enforceable there in the same way as decisions, in accordance with Chapter IV.

2. The provisions of this Regulation shall apply as necessary to court settlements and authentic instruments.

3. The competent authority of the Member State of origin shall issue, at the request of any interested party, an extract from the court settlement or the authentic instrument using the forms set out in Annexes I and II or in Annexes III and IV as the case may be.”

Thus Article 48(1) allows concluding that authentic instruments in another Member State, where the authentic instrument is not drafted, are enforced in the same way as court decisions according to Chapter IV “Recognition, enforceability and enforcement of decisions” of the Regulation No.4/2009. This means that the aforementioned about the enforcement “fast track” and “traditional route” depending whether a Member State is bound by The Hague Protocol and whether it applies it, shall refer also to authentic instruments.

Thus authentic instruments in maintenance cases in a Member State bound by the Hague Protocol shall be automatically recognized and enforceable in other Member States without special procedure on the recognition and declaration of enforceability, i.e. they become valid “executive documents of the European Union” from the date, when an authentic instrument is enforceable in its State of origin or, referring to P.R.Beaumont, these authentic instruments take the “fast track”. According to Article 48(3) of the Regulation No.4/2009 the competent authority of the Member State of origin shall issue, at the request of any interested party, for such authentic instrument an extract from the authentic instrument using the form set out in Annex III – “The extract from the authentic instrument in matters relating to maintenance obligations not subject to proceedings for recognition or a declaration of enforceability”. The extract as per Annex III of the Regulation No.4/2009, via or avoiding the central authority of Latvia of the Regulation No.4/2009, together with the documents listed under Article 20 “Documents for the purposes of enforcement” of the Regulation No.4/2009 (except for the copy of court decision and its extract – Annex I of the Regulation No.4/2009, which is now replaced by copy and extract from an authentic instrument – Annex III of the Regulation No.4/2009) may reach a sworn bailiff of Latvia for enforcement thereof. Already during introduction of the Regulation No.4/2009 in Latvia, the Article 540 “Execution documents” of the Civil Procedure Law was amended by extending this Article with a new clause, i.e. Clause 14, which stipulates that also an extract from an authentic instrument issued by a competent foreign authority according to Article 48 of the Regulation No.4/2009 may be deemed an “execution document” in Latvia. Since the notary publics of Latvia do not draft enforceable notarial acts or the authentic instruments in maintenance cases, only an extract from an enforceable authentic instrument in maintenance case issued by a foreign, i.e. by another Member State, shall be deemed as execution document in Latvia.

As regards to enforceable authentic instruments by other Member States, which are not bound by the Hague Protocol, it shall be noted that these authentic instruments shall first be declared enforceable in other Member States to become valid there or which, referring to P.R.Beaumont, take the “traditional route”. As regards to authentic instruments by other Member States in maintenance cases, which are not bound by the Hague Protocol, it shall be noted that the procedure for the declaration of enforceability thereof is similar to that of the court decisions. Note that in practise this refers to authentic instruments drafted in maintenance cases in the United Kingdom and Denmark. According to Article 48(3) of the Regulation No.4/2009 the competent authority of the Member State of origin shall issue, at the request of

any interested party, for such authentic instrument an extract from the authentic instrument using the form set out in Annex IV – “Extract from the authentic instrument in matters relating to maintenance obligations subject to proceedings for recognition and a declaration of enforceability”. The extract as per Annex IV of the Regulation No.4/2009, via or avoiding the central authority of Latvia of the Regulation No.4/2009, together with the documents listed under Article 28 of the Regulation No.4/2009 (except for the copy of the court decision and its extract – Annex II of the Regulation No.4/2009, which is now replaced by copy and extract from an authentic instrument – Annex IV of the Regulation No.4/2009) and together with an application to declare enforceability may reach courts in Latvia in order to declare the respective authentic instrument enforceable in Latvia.

7. PUBLIC BODIES AS APPLICANTS

Already when the Hague Convention was elaborated it was established that in many countries there are authorities, which are similar to the Administration of the Maintenance Guarantee Fund in Latvia, i.e. in many countries there are authorities, which follow similar functions like the Administration of the Maintenance Guarantee Fund in Latvia. Administration of the Maintenance Guarantee Fund in Latvia provides maintenance for children according to the minimum extent stipulated by the Cabinet of Ministers, but no more than determined in the court decision on the recovery of maintenance, if the sworn bailiff has recognized that recovery of maintenance from the parent of the child is impossible, or if the parent of the child pays the maintenance according to the decision, but not in full amount, which pursuant to Article 179(5) of the Civil Procedure Law has been stipulated by the Cabinet of Ministers. In fact the Maintenance Guarantee Fund replaces the one of the parents of the child, who does not pay the maintenance, and the maintenance for the child is paid from the budget means of the of the Maintenance Guarantee Fund. Whereas the one of the parents of the child, who does not pay the maintenance and on behalf of whom the Maintenance Guarantee Fund paid maintenance, becomes debtor of the Maintenance Guarantee Fund. The debt to the Maintenance Guarantee Fund is a special debt, since the limitation period is indefinite. This means that it will be possible to initiate recovery of debts from his/ her assets during the whole period of live of the debtor. A similar system to that described here as regards to the Maintenance Guarantee Fund exists also in other countries, and probably a public body replaces not only the debtor of maintenance for child, but also other maintenance debtors, if the debtor shall pay maintenance arising from other relations than the relations of parents towards a child.

Thus, considering the needs of authorities in several countries as described above, already in the Hague Convention Article 36 was included aiming to provide aid to such public bodies by other countries, to which the maintenance debtor has travelled, in order to retrieve maintenance or comparable benefits paid on behalf of that debtor. Article 36 of the Hague Convention was taken over in Article 64 “Public bodies as applicants” of the Regulation No 4/2009. Article 64(1) of the Regulation No.4/2009 stipulates that for the purposes of an application for recognition and declaration of enforceability of decisions or for the purposes of enforcement of decisions, the term “creditor” shall include a public body acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits provided in place of maintenance. Thus it can be concluded from this Article that also the authorities described above may benefit from the mechanism of recognition, declaration of enforceability or enforcement and the mechanism of central authorities stipulated by the Regulation No 4/2009. According to Regulation No.4/2009 the maintenance creditors shall be made available such applications, the aim of which is decision-taking on the recovery of maintenance in another state, for example, in a state, which is the habitual residence of the maintenance debtor; still Article 64(1) of the Regulation No.4/2009 does not include such applications. Nevertheless it shall be noted that in case of the Administration of the Maintenance Guarantee Fund this would not be necessary, since the Maintenance Guarantee Fund turns against the maintenance

debtor according to law, i.e. it does not need a special decision in order to recover the paid maintenance from the debtor, while in other countries similar authorities would need such a decision, because they take individual decisions on the recovery of paid maintenance from the debtor. As may be concluded from the Explanatory Report of the Hague Convention, experts elaborating the Hague Convention were of the opinion that such public bodies would most probably wish to take the decision on the recovery of maintenance paid on behalf of maintenance debtors in their own jurisdiction and only afterwards will seek a way, how the decision may be enforced in the state, where the respective debtor lives. Thus already within the Hague Convention it was decided that such public bodies should be excluded from the term “creditor” in relation to application which are aimed at decision-taking on the recovery of maintenance in another country.*

Article 64(2) of the Regulation No.4/2009 is due to the nature of public bodies, i.e. it stipulates that the right of a public body to act in place of an individual to whom maintenance is owed or to seek reimbursement of benefits provided to the creditor in place of maintenance shall be governed by the law to which the body is subject.

Article 64(3) of the Regulation No.4/2009 stipulates that a public body may seek recognition and a declaration of enforceability or claim enforcement of:

- a) a decision given against a debtor on the application of a public body which claims payment of benefits provided in place of maintenance;
- b) a decision given between a creditor and a debtor to the extent of the benefits provided to the creditor in place of maintenance.

Administration of the Maintenance Guarantee Fund shall be subject to point (b), since Administration of the Maintenance Guarantee Fund does not take a separate decision against the maintenance debtor, which would provide for the debtor obligation to reimburse the maintenance paid by the Maintenance Guarantee Fund. Powers of Latvian Administration of the Maintenance Guarantee Fund in such cases derives from law and the court decision on the recovery of maintenance, which is taken between the creditor and the debtor.

Nevertheless it cannot be excluded that Latvia receives decisions for recognition and declaration of enforceability or enforcement from other Member States according to Article 64(3a) of the Regulation No.4/2009, i.e. decisions given against a debtor on the application of a public body which claims payment of benefits provided in place of maintenance; whereas such decisions may refer not only to maintenance for children, but also to other forms of maintenance.

Article 64(4) of the Regulation No.4/2009 is rather technical by nature; it stipulates that the public body seeking recognition and a declaration of enforceability or claiming enforcement of a decision shall upon request provide any document necessary to establish its right under Article 64(2) of the Regulation No.4/2009 and to establish that benefits have been provided to the creditor.

* See Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. Available at <http://hchc.net/upload/exp138e.pdf> (reviewed at 10.04.2012), p.116

8. TRANSITIONAL PROVISIONS

Article 75 of the Regulation No.4/2009 stipulates special transitional provisions, which let conclude that decisions taken after 18 June 2011 (date from which the Regulation No.4/2009 shall apply), but related proceedings of which are initiated prior to that date, as well as decisions taken prior to 18 June 2011, but the recognition and declaration of enforceability of which shall apply after that date, shall be applied Section 2 and Section 3 of the Chapter IV of the Council Regulation. Due to that the said decisions are not automatically recognized and enforceable without a special procedure, although they have been taken by a Member State bound by the Hague Protocol. Therefore it shall be noted that only decisions, the proceedings of which are initiated after 18 June 2011 (date from which the Regulation No.4/2009 shall apply) are automatically enforceable and become valid as “executive documents of the European Union” as from the date they enter into force or are taken (decisions to be enforced immediately). This is related to the fact that only from 18 June 2011 (date from which the Regulation No.4/2009 shall apply) the Hague Protocol will be started to be applied in Member States, and therefore only decisions, the proceedings of which are initiated and the Hague Protocol was applied to which, become valid as “executive documents of the European Union”. The aforementioned *mutatis mutandis* refers also to approved or concluded court settlements and such authentic instruments (which are executive documents in the State of origin), which are issued in Member States.

Similar also to decisions taken by Latvian courts it shall be noted that Article 541⁴(4³) of the Civil Procedure Law will apply only to decisions, which are taken within proceedings, which are initiated by a Latvian court after 18 June 2011. Thus the extract from decision as per Article 541⁴(4³) of the Civil Procedure Law referring to Article 20 (1b) of the Regulation No.4/2009, which becomes valid as an executive document in any Member State without special formalities, shall be issued only, if the decision, in relation to which the extract is issued, is taken within proceedings, which are initiated by a Latvian court after 18 June 2011.

9. USEFUL LINKS

- Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:007:0001:0079:LV:PDF>
- Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:331:0017:0023:LV:PDF>
- Section of the ATLAS on the application of the Regulation No.4/2009, which includes also user-friendly tool for filling in the forms – http://ec.europa.eu/justice_home/judicialatlascivil/html/mo_information_lv.htm
- Explanatory Report of the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations – <http://hcch.net/upload/exp139e.pdf>
- Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (in English) – http://hcch.net/index_en.php?act=conventions.text&cid=131
- Explanatory Report of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (in English) – <http://hcch.net/upload/exp138e.pdf>

10. ANNEX 10 – TOOL FOR FILLING IN THE FORMS OF THE REGULATION NO.4/2009

Chapter I. **Filling in the application forms of Annex I and II.** These forms are filled in by a court in Latvia (*Annex I is filled in, where a claim is lodged with the court after 18/06/2011; Annex II is filled in, where a claim is lodged with the court prior to 18/06/2011*), if the person wants Latvian court decision in a maintenance obligations' case to be recognized, declared enforceable or enforced in another Member State.

Language. On the website of the European Judicial Atlas in Civil Matters information on the languages, which shall be used for filling in of the forms contained within Regulation No.4/2009, is provided. In order to find out, in which language the forms shall be filled in depending on the Member State, which will be the recipient of that form, you shall:

- 1) Open the website of the European Judicial Atlas in Civil Matters:
http://ec.europa.eu/justice_home/judicialatlascivil/html/index_lv.htm;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Communications of the Member States*;
- 4) Select the relevant Member State;
- 5) Click on *Accepted languages*;
- 6) The form shall be filled in using the language(s) indicated in *Accepted languages for translations of documents*.

Filling in the form. In order to fill in the form:

- 1) Open the website of the European Judicial Atlas in Civil Matters;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Forms 1 to 9*;
- 4) Select the relevant Member State;
- 5) Click on *Extract from a decision/court settlement in matters relating to maintenance obligations not subject to proceedings for recognition or a declaration of enforceability* (in case form contained within Annex I is filled in) or *Extract from a decision/court settlement in matters relating to maintenance obligations subject to proceedings for recognition and a declaration of enforceability* (in case form contained within Annex II is filled in);
- 6) Fill in the form using the accepted language by the relevant Member State;
- 7) After you have filled in the form click on the button on the left at the bottom of the page. Make sure the menu above the button has automatically included the relevant language. After you have clicked on the button the programme will generate a document, which translates the basic text of the form into the accepted language;
- 8) Print, sign, stamp and bind the document.

Help in filling the form. The Administration of the Maintenance Guarantee Fund (hereinafter – AMGF) provides assistance in relation to the application of the Regulation No.4/2009 and

recovery of maintenance from defendants/ debtors. Should you need assistance by AMGF, please contact the AMFG employees by phone: +37167830630 or +37167814980 (every working day from 8:30 am till 5:00pm).

Please study carefully the template of a filled-in form of Annex II (see below). The template may be used also by filling in the form of Annex I.

Case: the applicant Aiga Berzina has 2 minor children. Inga Berzina is more than 7 years old, while Nauris Berzins has turned 7 after the decision was taken. They live in Latvia, while Alvis Berzins, her ex-husband and the father of the children, is currently living and working in the United Kingdom. Alvis Berzins does not pay maintenance for their children, although it was stipulated by the court decision No.C1234567 of 23/02/2010 (Riga District Court). According to the decision Alvis Berzins shall pay maintenance for the children until the children come of age in the following amount:

- LVL 45/ month, but no less than 25% of the minimum wage in Latvia until the age of 7;
 - LVL 54/ month, but no less than 30% of the minimum wage in Latvia after the age of 7.
- Aiga Berzina wishes the decision be recognized in the United Kingdom.

ANNEX II

**EXTRACT FROM A DECISION/COURT SETTLEMENT IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS
SUBJECT TO PROCEEDINGS FOR RECOGNITION OR A DECLARATION OF ENFORCEABILITY**

(ARTICLE 28 AND ARTICLE 75(2) OF COUNCIL REGULATION (EC) No 4/2009 OF 18 DECEMBER 2008
ON JURISDICTION, APPLICABLE LAW, RECOGNITION AND ENFORCEMENT OF DECISIONS AND COOPERATION
IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS)

IMPORTANT

**TO BE ISSUED BY THE COURT OF ORIGIN TO BE ISSUED ONLY IF THE DECISION OR COURT SETTLEMENT IS
ENFORCEABLE IN THE MEMBER STATE OF ORIGIN MENTION ONLY INFORMATION WHICH IS GIVEN IN THE DECISION
OR COURT SETTLEMENT OR OF WHICH THE COURT OF ORIGIN HAS BEEN MADE AWARE**

1. **NATURE OF THE DOCUMENT** DECISION COURT SETTLEMENT

DATE AND REFERENCE NUMBER: *23/02/2010, Nr.C1234567*

2. **COURT OF ORIGIN**

2.1. NAME: *Rīgas rajona tiesa (Riga District Court)*

1. Indicate the nature of document

2. Provide information about the court

"Rīgas rajona tiesa" shall be translated / indicated in English

From here on – pay attention to the date format: DD/MM/YYYY



2.2. ADDRESS:

2.2.1. STREET AND NUMBER/PO BOX: *Aiviekstes str. 5*

2.2.2. PLACE AND POSTAL CODE: *Rīga, LV-1003*

2.2.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND
 GREECE SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG
 HUNGARY MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA
 SLOVENIA SLOVAKIA FINLAND SWEDEN

"Aiviekstes iela 5" shall be translated / indicated in English. In order to avoid further misunderstandings, indicate the address in English also if the form shall be filled in using another official EU language

2.3. TELEPHONE/FAX/E-MAIL:
+371 67812255 (phone), +371 67113307 (fax), Rīgas_RT@court.gov.lv

From here on - indicate the surname before the name. Indicate "Ms" for women and "Mr" for men. (Indicate the name and surname in brackets without diacritics)

3. CLAIMANT(S)**

3.1. PERSON A

3.1.1. SURNAME AND GIVEN NAME(S): *Ms Bērziņa Aiga (Bērziņa Aiga)*

3.1.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *26/04/1983, Cēsis (Cēsis)*

3.1.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER: *260483-12345*

3.1.4. ADDRESS:

3.1.4.1. STREET AND NUMBER/PO BOX: *Ilmajas str. 10/4*

3.1.4.2. PLACE AND POSTAL CODE: *Rīga, LV-1011*

3.1.4.3. COUNTRY: *Latvia*

3.1.5. HAS BENEFITED FROM

3.1.5.1. LEGAL AID: YES NO

3.1.5.2. EXEMPTION FROM COSTS AND EXPENSES: YES NO

3.1.5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED

IN ANNEX X OF REGULATION (EC) No 4/2009: YES NO

Indicate the address as it was during the proceedings

If the claimant did receive legal aid during the proceedings, which is approved by a decision of the Legal Aid Administration, tick "Yes"

In Latvia claimants in cases of the recovery of maintenance are exempt from covering the court expenses

3.2. PERSON B

3.2.1. SURNAME AND GIVEN NAME(S):

3.2.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:

3.2.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER:

3.2.4. ADDRESS:

3.2.4.1. STREET AND NUMBER/PO BOX:

3.2.4.2. PLACE AND POSTAL CODE:

3.2.4.3. COUNTRY:

3.2.5. HAS BENEFITED FROM

3.2.5.1. LEGAL AID: YES NO

3.2.5.2. EXEMPTION FROM COSTS AND EXPENSES: YES NO

3.2.5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED

IN ANNEX X OF REGULATION (EC) No 4/2009: YES NO

3.3. PERSON C

3.3.1. SURNAME AND GIVEN NAME(S):

3.3.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:

3.3.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER:

* If the parties are not the claimant or defendant in the decision/court settlement, they should be identified as either the claimant or the defendant without distinction.

** If the decision/court settlement concerns more than three claimants or three defendants, attach an additional sheet.

3. Provide information about the claimant

You may use the English and internationally known name of the country also if the form shall be filled in using another official EU language

- 3.3.4. ADDRESS:
- 3.3.4.1. STREET AND NUMBER/PO BOX:
- 3.3.4.2. PLACE AND POSTAL CODE:
- 3.3.4.3. COUNTRY:
- 3.3.5. HAS BENEFITED FROM
- 3.3.5.1. LEGAL AID: Yes No
- 3.3.5.2. EXEMPTION FROM COSTS AND EXPENSES: Yes No
- 3.3.5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED
IN ANNEX X OF REGULATION (EC) No 4/2009: Yes No

4. **DEFENDANT(S) *,****

4. Provide information about the defendant

4.1. **PERSON A**

- 4.1.1. SURNAME AND GIVEN NAME(S): *Mr Bērziņš Alvis (Berzins Alvis)*
- 4.1.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *27/03/1980, Riga (Riga)*
- 4.1.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER: *270380-12345*
- 4.1.4. ADDRESS:
- 4.1.4.1. STREET AND NUMBER/PO BOX: *Brivibas str. 24/2 - 4*
- 4.1.4.2. PLACE AND POSTAL CODE: *Riga, LV-1010*
- 4.1.4.3. COUNTRY: *Latvia*
- 4.1.5. HAS BENEFITED FROM
- 4.1.5.1. LEGAL AID: Yes No
- 4.1.5.2. EXEMPTION FROM COSTS AND EXPENSES: Yes No
- 4.1.5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED
IN ANNEX X OF REGULATION (EC) No 4/2009: Yes No

Indicate the address as it was during the proceedings

4.2. **PERSON B**

- 4.2.1. SURNAME AND GIVEN NAME(S):
- 4.2.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:
- 4.2.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER:
- 4.2.4. ADDRESS:
- 4.2.4.1. STREET AND NUMBER/PO BOX:
- 4.2.4.2. PLACE AND POSTAL CODE:
- 4.2.4.3. COUNTRY:
- 4.2.5. HAS BENEFITED FROM
- 4.2.5.1. LEGAL AID: Yes No
- 4.2.5.2. EXEMPTION FROM COSTS AND EXPENSES: Yes No
- 4.2.5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED
IN ANNEX X OF REGULATION (EC) No 4/2009: Yes No

4.3. **PERSON C**

- 4.3.1. SURNAME AND GIVEN NAME(S):
- 4.3.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:
- 4.3.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER:
- 4.3.4. ADDRESS:

* If the parties are not the claimant or defendant in the decision/court settlement, they should be identified as either the claimant or the defendant without distinction.

** If the decision/court settlement concerns more than three claimants or three defendants, attach an additional sheet.



- 4-3-4.1. STREET AND NUMBER/PO BOX:
- 4-3-4.2. PLACE AND POSTAL CODE:
- 4-3-4.3. COUNTRY:
- 4-3-5. HAS BENEFITED FROM
- 4-3-5.1. LEGAL AID: YES NO
- 4-3-5.2. EXEMPTION FROM COSTS AND EXPENSES: YES NO
- 4-3-5.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED
IN ANNEX X OF REGULATION (EC) NO 4/2009: YES NO

5. Provide information about the decision

5. **TERMS OF THE DECISION/COURT SETTLEMENT**

- 5.1. CURRENCY
- EURO (EUR) BULGARIAN LEV (BGN) CZECH KORUNA (CZK)
- ESTONIAN KROON (EEK) HUNGARIAN FORINT (HUF) LITHUANIAN LITAS (LTL)
- LATVIAN LATS (LVL) POLISH ZLOTY (PLN) ROMANIAN LEU (RON)
- SWEDISH KRONA (SEK) OTHER (PLEASE SPECIFY ISO CODE):

5.2. MAINTENANCE CLAIM*

5.2.1. **MAINTENANCE CLAIM A**

- 5.2.1.1. THE MAINTENANCE IS TO BE PAID
- By *Mr Bērziņš Alvis (Bērziņš Alvis)* (SURNAME AND GIVEN NAME(S))
- To *Ms Bērziņa Alga (Bērziņa Alga)* (SURNAME AND GIVEN NAME(S) OF THE PERSON TO WHOM THE SUM MUST ACTUALLY BE PAID)

PERSON FOR WHOM MAINTENANCE IS OWED:

Ms Bērziņa Inga (Bērziņa Inga) (SURNAME AND GIVEN NAME(S))

- 5.2.1.2. AMOUNT TO BE PAID IN ONE SUM
- PERIOD COVERED, WHERE APPLICABLE:
-
- (FROM DATE (DD/MM/YYYY) TO DATE (DD/MM/YYYY) OR EVENT)
- DUE DATE: (DD/MM/YYYY)

- 5.2.1.3. AMOUNT:
- AMOUNT TO BE PAID IN INSTALMENTS

DUE DATE (DD/MM/YYYY)	AMOUNT

- 5.2.1.4. SUM TO BE PAID REGULARLY
- ONCE A WEEK
- ONCE A MONTH
- OTHER (STATE FREQUENCY):
- AMOUNT: *30% of the minimum monthly wage of Latvia – 54 LVL (15/07/2009-31/12/2010), 60 LVL (01/01/2011-...)*
- FROM: *15/07/2009* (DD/MM/YYYY)
- DUE DAY/DATE:

Translate/ indicate "30% no Latvijas minimālās mēnešalgas" in English

* If the decision/court settlement concerns more than three maintenance claims, attach an additional sheet.

IF APPLICABLE, UNTIL (DATE (DD/MM/YYYY) OR EVENT):

24/03/2015 (majority age)

"Pīngadība"
in English

IF THE MAINTENANCE CLAIM IS SUBJECT TO INDEXATION, PLEASE INDICATE HOW THAT INDEXATION

IS TO BE CALCULATED:

15/07/2009-31/12/2010 30% of 180 LVL = 54 LVL
(minimum monthly wage 180 LVL)

01/01/2011-... 30% of 200 LVL = 60 LVL
(minimum monthly wage 200 LVL)

Minimum wages in Latvia:
01/01/2004-31/12/2005=80 LVL
01/01/2006-31/12/2006=90 LVL
01/01/2007-31/12/2007=120 LVL
01/01/2008-31/12/2008=160 LVL
01/01/2009-31/12/2010=180 LVL
01/01/2011- till now... = 200 LVL

INDEXATION APPLICABLE AS FROM: (DD/MM/YYYY)

5.2.1.5. AMOUNT DUE RETROACTIVELY

PERIOD COVERED: NO (DD/MM/YYYY) līdz (DD/MM/YYYY)

AMOUNT:

FORM OF PAYMENT:

5.2.1.6. INTEREST (IF SPECIFIED IN THE DECISION/COURT SETTLEMENT)

IF THE MAINTENANCE CLAIM IS SUBJECT TO INTEREST, PLEASE INDICATE THE RATE:

INTEREST DUE AS FROM: (DD/MM/YYYY)

5.2.1.7. PAYMENT IN KIND (PLEASE SPECIFY):

5.2.1.8. OTHER FORM OF PAYMENT (PLEASE SPECIFY):

5.2.2. **MAINTENANCE CLAIM B**

5.2.2.1. THE MAINTENANCE IS TO BE PAID

By Mr Bērziņš Alvis (Berzins Alvis) (SURNAME AND GIVEN NAME(S))

To Ms Bērziņa Aiga (Berzina Aiga)

(SURNAME AND GIVEN NAME(S) OF THE PERSON TO WHOM THE SUM MUST ACTUALLY BE PAID)

PERSON FOR WHOM MAINTENANCE IS OWED:

Mr Bērziņš Nauris (Berzins Nauris) (SURNAME AND GIVEN NAME(S))

5.2.2.2. AMOUNT TO BE PAID IN ONE SUM

PERIOD COVERED, WHERE APPLICABLE:

(FROM DATE (DD/MM/YYYY) TO DATE (DD/MM/YYYY) OR EVENT)

DUE DATE: (DD/MM/YYYY)

AMOUNT:

5.2.2.3. AMOUNT TO BE PAID IN INSTALMENTS

DUE DATE (DD/MM/YYYY)	AMOUNT

5.2.2.4. SUM TO BE PAID REGULARLY

ONCE A WEEK

ONCE A WEEK

OTHER (STATE FREQUENCY):

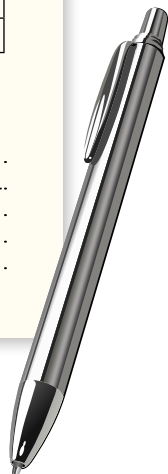
"25% no Latvijas minimālās mēnešalgas līdz 04/01/2012 un 30% no Latvijas minimālās mēnešalgas no 05/01/2012 līdz 05/01/2023" in English

AMOUNT: 25% of the minimum monthly wage of Latvia till 04/01/2012

and 30% of the minimum monthly wage of Latvia from 05/01/2012 till 05/01/2023.

45 LVL (15/07/2009-31/12/2010), 50 LVL (01/01/2011-04/01/2012),

60 LVL (05/01/2012-...)



FROM: 15/07/2009 (DD/MM/YYYY)

DUE DATE:

IF APPLICABLE, UNTIL (DATE (DD/MM/YYYY) OR EVENT):

04/01/2023 (majority age)

IF THE MAINTENANCE CLAIM IS SUBJECT TO INDEXATION, PLEASE INDICATE HOW THAT INDEXATION IS TO BE CALCULATED::

15/07/2009–31/12/2010 25% of 180 LVL = 45 LVL
(minimum monthly wage 180 LVL)
01/01/2011–04/01/2012 25% of 200 LVL = 50 LVL
(minimum monthly wage 200 LVL)
05/01/2012–... 30% of 200 LVL = 60 LVL
(minimum monthly wage 200 LVL)

INDEXATION APPLICABLE AS FROM: (DD/MM/YYYY)

5.2.2.5. AMOUNT DUE RETROACTIVELY

PERIOD COVERED: ((DD/MM/YYYY) TO (DD/MM/YYYY))

AMOUNT:

FORM OF PAYMENT:

5.2.2.6. INTEREST (IF SPECIFIED IN THE DECISION/COURT SETTLEMENT)

IF THE MAINTENANCE CLAIM IS SUBJECT TO INTEREST,

PLEASE INDICATE THE RATE:

INTEREST DUE AS FROM: (DD/MM/YYYY)

5.2.2.7. PAYMENT IN KIND (PLEASE SPECIFY):

5.2.2.8. OTHER FORM OF PAYMENT (PLEASE SPECIFY):

5.2.3. **MAINTENANCE CLAIM C**

5.2.3.1. THE MAINTENANCE IS TO BE PAID

By (SURNAME AND GIVEN NAME(S))

To

(SURNAME AND GIVEN NAME(S) OF THE PERSON TO WHOM THE SUM MUST ACTUALLY BE PAID)

PERSON FOR WHOM MAINTENANCE IS OWED:

..... (SURNAME AND GIVEN NAME(S))

5.2.3.2. AMOUNT TO BE PAID IN ONE SUM

PERIOD COVERED, WHERE APPLICABLE:

(FROM DATE (DD/MM/YYYY) TO DATE (DD/MM/YYYY) OR EVENT)

DUE DATE: (DD/MM/YYYY) AMOUNT:

5.2.3.3. AMOUNT TO BE PAID IN INSTALMENTS

DUE DATE (DD/MM/YYYY)	AMOUNT

5.2.3.4. SUM TO BE PAID REGULARLY
 ONCE A WEEK
 ONCE A MONTH
 OTHER (STATE FREQUENCY):

AMOUNT:

SĀKOT NO (DD/MM/YYYY)

DUE DAY/DATE:

IF APPLICABLE, UNTIL (DATE (DD/MM/YYYY) OR EVENT):

.....

IF THE MAINTENANCE CLAIM IS SUBJECT TO INDEXATION, PLEASE INDICATE HOW THAT INDEXATION IS TO BE CALCULATED:

INDEXATION APPLICABLE AS FROM: (DD/MM/YYYY)

5.2.3.5. AMOUNT DUE RETROACTIVELY
PERIOD COVERED: ((DD/MM/YYYY) TO (DD/MM/YYYY))
AMOUNT:

FORM OF PAYMENT:

5.2.3.6. INTEREST (IF SPECIFIED IN THE DECISION/COURT SETTLEMENT)
IF THE MAINTENANCE CLAIM IS SUBJECT TO INTEREST, PLEASE INDICATE THE RATE:

INTEREST DUE AS FROM: (DD/MM/YYYY)

5.2.3.7. PAYMENT IN KIND (PLEASE SPECIFY):

5.2.3.8. OTHER FORM OF PAYMENT (PLEASE SPECIFY):

5.3. COSTS AND EXPENSES
THE DECISION/COURT SETTLEMENT PROVIDES THAT
..... (SURNAME AND GIVEN NAME(S))
MUST PAY THE SUM OF
TO (SURNAME AND GIVEN NAME(S))

IF ADDITIONAL PAGES HAVE BEEN ATTACHED, STATE THE NUMBER OF PAGES:

DONE AT: *Rīga, Latvia* **ON:** *26/01/2012* (DD/MM/YYYY)

SIGNATURE AND/OR STAMP OF THE COURT OF ORIGIN:

Indicate here the litigation costs, which were covered by the claimant, but which shall be covered by the defendant according to a court decision

6. Indicate the place and date when the form has been filled in. Check it, print, sign, stamp and bind the form

Chapter II. Filling in the application forms of Annex IV. This form is filled in by an individual, if individual wants a court decision in a maintenance obligations' case to be recognized, declared enforceable or enforced in another Member State.

Language. On the website of the European Judicial Atlas in Civil Matters information on the languages, which shall be used for filling in of the forms contained within Regulation No.4/2009, is provided. In order to find out, in which language the forms shall be filled in depending on the Member State, which will be the recipient of that form, you shall:

- 1) Open the website of the European Judicial Atlas in Civil Matters:
http://ec.europa.eu/justice_home/judicialatlascivil/html/index_lv.htm;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Communications of the Member States*;
- 4) Select the relevant Member State;

- 5) Click on *Accepted languages*;
- 6) The form shall be filled in using the language(s) indicated in *Accepted languages for translations of documents*.

Filling in the form. You shall fill in Part B of the application form only. Part A shall be filled in by the Administration of the Maintenance Guarantee Fund (hereinafter – AMGF). Information and the application form itself shall be drafted in the language as accepted by the relevant Member State. You shall take the following steps in filling in the application form:

- 1) Open the website of the European Judicial Atlas in civil matters;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Forms 1 to 9*;
- 4) Select the relevant Member State;
- 5) Click on *Application form with a view to the recognition, declaration of enforceability or enforcement of a decision in matters relating to maintenance obligations*;
- 6) Fill in the form using the accepted language by the relevant Member State;
- 7) After you have filled in the form click on the button on the left at the bottom of the page. Make sure the menu above the button has automatically included the relevant language. After you have clicked on the button the programme will generate a document, which translates the basic text of the form into the accepted language;
- 8) Print and sign the document.

Help in filling the form. The Administration of the Maintenance Guarantee Fund (hereinafter – AMGF) provides assistance in relation to the application of the Regulation No.4/2009 and recovery of maintenance from defendants/ debtors. Should you need assistance by AMGF, please contact the AMFG employees by phone: +37167830630 or +37167814980 (every working day from 8:30 am till 5:00pm). Should you need personal assistance, the visiting hours of AMFG are every working day from 9:00 am till 4:00pm (visit shall be announced by calling the AMGF in advance).

Should the applicant have obtained status of low-income and needy person, he/she has the right to submit the application in Latvian. AMGF shall carry out the translation based on Clause 10 of the *Cabinet of Ministers Regulations No.571 “Procedure, how the Administration of the Maintenance Guarantee Fund as the central authority carries out its functions in respect to cross-border maintenance cases”* of 19 July 2011.

Please study carefully the template of a filled-in form (see below). Case: *the applicant Aiga Berzina has 2 minor children. Inga Berzina is more than 7 years old, while Nauris Berzins has turned 7 after the decision was taken. They live in Latvia, while Alvis Berzins, her ex-husband and the father of the children, is currently living and working in the United Kingdom. Alvis Berzins does not pay maintenance for their children, although it was stipulated by the court decision No.C1234567 (Riga District Court). The claim was lodged with a court in Latvia prior to 18/06/2011 (would the claim have been lodged prior to 18/06/2011, a different way of filling in this application form would be applied) Aiga Berzina wishes the decision be recognized in the United Kingdom.*

ANNEX VI

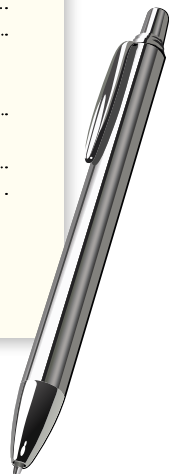
APPLICATION FORM WITH A VIEW TO THE RECOGNITION, DECLARATION OF ENFORCEABILITY OR ENFORCEMENT OF A DECISION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS

((ARTICLES 56 AND 57 OF COUNCIL REGULATION (EC) No 4/2009 OF 18 DECEMBER 2008 ON JURISDICTION, APPLICABLE LAW, RECOGNITION AND ENFORCEMENT OF DECISIONS AND COOPERATION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS))

You shall not fill in Part A. Part A shall be filled in by the AMGF

PART A: TO BE COMPLETED BY THE REQUESTING CENTRAL AUTHORITY

1. APPLICATION
 APPLICATION FOR RECOGNITION OR FOR RECOGNITION AND DECLARATION OF ENFORCEABILITY OF A DECISION (ARTICLE 56(1)(A))
 'APPLICATION FOR RECOGNITION OF A DECISION (ARTICLE 56(2)(A))
 'APPLICATION FOR ENFORCEMENT OF A DECISION GIVEN OR RECOGNISED IN THE REQUESTED MEMBER STATE (ARTICLE 56(1)(B))
2. **REQUESTING CENTRAL AUTHORITY**
 - 2.1. NAME:
 - 2.2. ADDRESS:
 - 2.2.1. STREET AND NUMBER/PO BOX:
 - 2.2.2. PLACE AND POSTAL CODE:
 - 2.2.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN
 - 2.3. TELEPHONE:
 - 2.4. FAX:
 - 2.5. E-MAIL:
 - 2.6. REFERENCE NUMBER OF THE APPLICATION:
APPLICATION TO BE HANDLED WITH THE APPLICATION(S) BEARING THE FOLLOWING REFERENCE NUMBER(S):
 - 2.7. PERSON RESPONSIBLE FOR FOLLOWING UP THE APPLICATION:
 - 2.7.1. SURNAME AND GIVEN NAME(S):
 - 2.7.2. TELEPHONE:
 - 2.7.3. E-MAIL:
3. **REQUESTED CENTRAL AUTHORITY**
 - 3.1. NAME:
 - 3.2. ADDRESS:
 - 3.2.1. STREET AND NUMBER/PO BOX:
 - 3.2.2. PLACE AND POSTAL CODE:



3.2.3.

MEMBER STATE

- BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
- SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
- MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
- SLOVAKIA FINLAND SWEDEN

4.

DOCUMENTS ATTACHED* TO THE APPLICATION IN THE CASE OF A DECISION MADE IN A MEMBER STATE

- A COPY OF THE DECISION/COURT SETTLEMENT/AUTHENTIC INSTRUMENT
- AN EXTRACT FROM THE DECISION/COURT SETTLEMENT/AUTHENTIC INSTRUMENT USING THE FORM SET OUT IN ANNEX I, ANNEX II, ANNEX Y OR ANNEX Z
- A TRANSLITERATION OR TRANSLATION OF THE CONTENTS OF THE FORM SET OUT IN ANNEX I, ANNEX II, ANNEX Y OR ANNEX Z
- WHERE APPROPRIATE, A COPY OF THE DECISION ON THE DECLARATION OF ENFORCEABILITY
- A DOCUMENT SHOWING THE AMOUNT OF ANY ARREARS AND THE DATE SUCH AMOUNT WAS CALCULATED
- A DOCUMENT INDICATING THAT THE APPLICANT HAS BENEFITED FROM LEGAL AID OR FROM EXEMPTION FROM COSTS AND EXPENSES
- A DOCUMENT INDICATING THAT THE APPLICANT HAS BENEFITED FROM FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY IN THE MEMBER STATE OF ORIGIN, AND CONFIRMING THAT THE APPLICANT FULFILLS THE FINANCIAL REQUIREMENTS TO QUALIFY FOR LEGAL AID OR EXEMPTION FROM COSTS AND EXPENSES
- A DOCUMENT ESTABLISHING THE RIGHT OF THE PUBLIC BODY TO APPLY FOR REIMBURSEMENT OF BENEFITS PAID TO THE CREDITOR AND JUSTIFYING THE PAYMENT OF SUCH BENEFITS
- OTHER (PLEASE SPECIFY):

5.

DOCUMENTS ATTACHED* TO THE APPLICATION IN THE CASE OF A DECISION MADE IN A THIRD STATE

- THE COMPLETE TEXT OF THE DECISION
- A SUMMARY OF OR EXTRACT FROM THE DECISION DRAWN UP BY THE COMPETENT AUTHORITY OF THE STATE OF ORIGIN
- A DOCUMENT STATING THAT THE DECISION IS ENFORCEABLE IN THE STATE OF ORIGIN AND, IN THE CASE OF A DECISION BY AN ADMINISTRATIVE AUTHORITY, A DOCUMENT STATING THAT THE REQUIREMENTS OF ARTICLE 19(3) OF THE 2007 HAGUE CONVENTION ARE MET PROVISIONS AS PER CLAUSE 5.2.2.9
- IF THE DEFENDANT DID NOT APPEAR AND WAS NOT REPRESENTED IN THE PROCEEDINGS IN THE STATE OF ORIGIN, A DOCUMENT OR DOCUMENTS ATTESTING, AS APPROPRIATE, EITHER THAT THE DEFENDANT HAD PROPER NOTICE OF THE PROCEEDINGS AND AN OPPORTUNITY TO BE HEARD, OR THAT THE DEFENDANT HAD PROPER NOTICE OF THE DECISION AND THE OPPORTUNITY TO CHALLENGE IT OR APPEAL IT ON FACT AND LAW
- A DOCUMENT SHOWING THE AMOUNT OF ANY ARREARS AND THE DATE SUCH AMOUNT WAS CALCULATED
- A DOCUMENT PROVIDING THE INFORMATION NECESSARY TO MAKE APPROPRIATE CALCULATIONS IN THE CASE OF A DECISION PROVIDING FOR AUTOMATIC ADJUSTMENT BY INDEXATION
- A DOCUMENT SHOWING THE EXTENT TO WHICH THE APPLICANT RECEIVED FREE LEGAL ASSISTANCE IN THE STATE OF ORIGIN
- OTHER (PLEASE SPECIFY):

TOTAL NUMBER OF DOCUMENTS ATTACHED TO THE APPLICATION FORM:

DONE AT: **ON:** (DD/MM/YYYY)

* Please put a cross in the boxes which apply and number the documents in the order in which they are attached

You shall start filling the form in from here on

NAME AND SIGNATURE OF THE AUTHORISED OFFICIAL OF THE REQUESTING CENTRAL AUTHORITY:

PART B:

TO BE COMPLETED BY THE APPLICANT OR, AS APPROPRIATE, BY THE PERSON/AUTHORITY AUTHORISED IN THE REQUESTING MEMBER STATE TO COMPLETE THE FORM ON THE APPLICANT'S BEHALF

6. APPLICATION

6.1. APPLICATION FOR RECOGNITION OR FOR RECOGNITION AND DECLARATION OF ENFORCEABILITY OF A DECISION. THE APPLICATION IS BASED ON:

6.1.1. CHAPTER IV, SECTION 2, OF REGULATION (EC) No 4/2009

6.1.2. THE 2007 HAGUE CONVENTION

6.1.2.1. INDICATE THE BASIS FOR RECOGNITION AND ENFORCEMENT UNDER ARTICLE 20 OF THE 2007 HAGUE CONVENTION:

6.1.2.2. THE DEFENDANT HAS APPEARED OR BEEN REPRESENTED IN THE PROCEEDINGS IN THE STATE OF ORIGIN: JĀ NĒ

6.1.3. THE NATIONAL LAW OF THE REQUESTED MEMBER STATE

6.1.4. OTHER (PLEASE SPECIFY):

6.2. APPLICATION FOR ENFORCEMENT OF A DECISION

GIVEN OR RECOGNISED IN THE REQUESTED MEMBER STATE

7. DECISION

7.1. DATE AND REFERENCE NUMBER: *23/02/2010, Nr.C1234567*

7.2. NAME OF THE COURT OF ORIGIN: *Rīgas rajona tiesa (Riga District Court)*

8. APPLICANT

8.1. NATURAL PERSON

8.1.1. SURNAME AND GIVEN NAME(S): *Ms Bērziņa Aiga (Berzina Aiga)*

8.1.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *26/04/1983, Cēsis (Cesis)*

8.1.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER*: *260483-12345*

8.1.4. NATIONALITY: *Latvia*

8.1.5. PROFESSION: *housewife*

8.1.6. MARITAL STATUS: *divorced* "Mājsaimniece" in English

8.1.7. ADDRESS: "šķiries" in English

8.1.7.1. c/o (SURNAME AND GIVEN NAME(S)**

8.1.7.2. STREET AND NUMBER/PO BOX: *Ilmājas str. 10/4*

8.1.7.3. PLACE AND POSTAL CODE: *Rīga, LV-1011*

8.1.7.4. MEMBER STATE

- BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN

8.1.8. TELEPHONE/E-MAIL: *+371 62123456, aiga.berzina@inbox.lv*

Person of trust and its address shall be indicated, if the person does not wish for the debtor to find out its place of residence. For example, in cases related to earlier family violence

* If available

** In cases of family violence (see Article 57(3) of Regulation (EC) No 4/2009).

"Ilmājas iela 10/4" in English. In order to avoid further misunderstandings, indicate the address in English also if the form shall be filled in using another official EU language

1. Indicate the nature of document

This clause shall be ticked, if a claim would be lodged with a court in Latvia after 18/06/2011 or if the decision would be taken not in Latvia, but in the country, to which this form will be sent

From here on – pay attention to the date format: DD/MM/YYYY

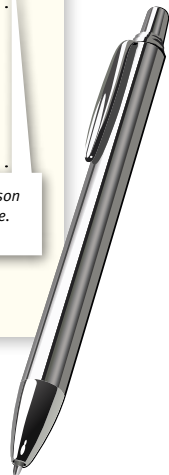
From here on – indicate the surname before the name. Indicate "Ms" for women and "Mr" for men. (Indicate the name and surname in brackets without diacritics)

Indicate your date of birth as in passport

You may use the English and internationally know name of the country also if the form shall be filled in using another official EU language

"Rīgas rajona tiesa" shall be translated/indicated in English

2. Provide information about the decision



8.1.9. HAS BENEFITED FROM: YES NO
 8.1.9.1. LEGAL AID: YES NO
 8.1.9.2. EXEMPTION FROM COSTS AND EXPENSES: YES NO
 8.1.9.3. FREE PROCEEDINGS BEFORE AN ADMINISTRATIVE AUTHORITY LISTED IN ANNEX IX TO REGULATION (EC) No 4/2009: YES NO
 8.1.10. WHERE APPROPRIATE, SURNAME, GIVEN NAME(S) AND DETAILS OF APPLICANT'S REPRESENTATIVE (LAWYER, ETC.):

If you have received legal aid during the proceedings, which is approved by a decision of the Legal Aid Administration, tick "Yes"

In Latvia claimants in cases of the recovery of maintenance are exempt from covering the court expenses

8.2. PUBLIC BODY:
 8.2.1. NAME:

8.2.2. ADDRESS:
 8.2.2.1. STREET AND NUMBER/PO BOX:

8.2.2.2. PLACE AND POSTAL CODE:

8.2.2.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN

8.2.3. TELEPHONE/FAX/E-MAIL:

8.2.4. NAME OF THE PERSON REPRESENTING THE BODY IN THE PROCEEDINGS*:
 8.2.5. PERSON RESPONSIBLE FOR FOLLOWING UP THE APPLICATION:
 8.2.5.1. SURNAME AND GIVEN NAME(S):

8.2.5.2. TELEPHONE:

8.2.5.3. FAX:

8.2.5.4. E-MAIL:

If you dont know exact place of birth as it is given in the passport, indicate state, where he/she was born, should you know that

4. Provide information about the debtor

9. DEFENDANT
 9.1. SURNAME AND GIVEN NAME(S): *Mr Bērziņš Alvis (Berzins Alvis)*
 9.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *27/03/1980, Latvia*
 9.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER*: *270380-12345*
 9.4. NATIONALITY**: *Latvia*
 9.5. PROFESSION**: *driver*
 9.6. MARITAL STATUS**: *married*
 9.7. ADDRESS**:
 9.7.1. STREET AND NUMBER/PO BOX: *Bradford, BD5 7LX*
 9.7.2. PLACE AND POSTAL CODE: *Manchester*
 9.7.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN UNITED KINGDOM

"soferis" in English

"precējies" in English

From here on – if such information is not available, indicate “-” or “n/a”

If the place of residence of the debtor is the United Kingdom or Denmark, type the state of residence by yourself after printing the application form

10. ANY OTHER INFORMATION THAT MAY HELP LOCATE THE DEFENDANT:
Person has indicated on Facebook that he works for the company TESCO in Manchester

"Persona Facebook lapā ir norādījusi, ka strādā Mančestrā kompānijā TESCO" in English

* If relevant
 ** If available

11. PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED*
- 11.2. THE PERSON IS THE SAME AS THE APPLICANT NAMED IN POINT 8
- 11.3. THE PERSON IS THE SAME AS THE DEFENDANT NAMED IN POINT 9
- 11.4. THE APPLICANT THE DEFENDANT

5. Indicate persons, for whom maintenance is owed

IS THE REPRESENTATIVE** DEFENDING THE INTERESTS OF THE FOLLOWING PERSON(S):

This section shall include information about children, to whom maintenance is owed

11.3.1. **PERSON A**

- 11.3.1.1. SURNAME AND GIVEN NAME(S): *Ms Bērzina Inga (Bērzina Inga)*
- 11.3.1.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *25/03/1997, Rīga (Rīga)*
- 11.3.1.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER***: *250397-12345*
- 11.3.1.4. NATIONALITY***: *Latvia*
- 11.3.1.5. PROFESSION***: *pupil* "skolnieks" in English
- 11.3.1.6. MARITAL STATUS***:

11.3.2. **PERSON B**

- 11.3.2.1. SURNAME AND GIVEN NAME(S): *Mr Bērzins Nauris (Bērzins Nauris)*
- 11.3.2.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *05/01/2005, Rīga (Rīga)*
- 11.3.2.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER***: *050105-12345*
- 11.3.2.4. NATIONALITY***: *Latvia*
- 11.3.2.5. PROFESSION***: *-*
- 11.3.2.1. MARITAL STATUS***:

11.3.3. **PERSON C**

- 11.3.3.1. SURNAME AND GIVEN NAME(S):
- 11.3.3.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:
- 11.3.3.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER***:
- 11.3.3.4. NATIONALITY***:
- 11.3.3.5. PROFESSION***:
- 11.3.3.6. MARITAL STATUS***:

6. Indicate the debtor

12. **DEBTOR**

- 12.1. THE PERSON IS THE SAME AS THE APPLICANT NAMED IN POINT 8
- 12.2. THE PERSON IS THE SAME AS THE DEFENDANT NAMED IN POINT 9
- 12.3. THE APPLICANT THE DEFENDANT

IS THE REPRESENTATIVE** DEFENDING THE INTERESTS OF THE FOLLOWING PERSON:

- 12.3.1. SURNAME AND GIVEN NAME(S):
- 12.3.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:
- 12.3.3. IDENTITY NUMBER OR SOCIAL SECURITY NUMBER*:
- 12.3.4. NATIONALITY*:
- 12.3.5. PROFESĪJA*:
- 12.3.6. MARITAL STATUS*:

13. **INFORMATION REGARDING PAYMENT, IF THE APPLICATION IS MADE BY THE CREDITOR**

13.1. PAYMENT BY ELECTRONIC MEANS

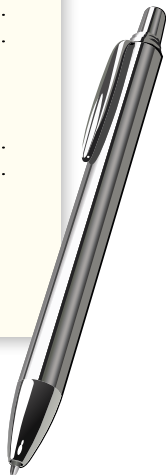
- 13.1.1. NAME OF THE BANK: *A/S Swedbank*
- 13.1.2. BIC OR OTHER RELEVANT BANK CODE: *HABALV2X*

7. Indicate your bank details

* If available

** For example the person with parental responsibility or the guardian of a protected adult

*** If this information is available and/or relevant



13.1.3. ACCOUNT HOLDER: *Ms Aiga Bērziņa (Aiga Berzina)*
 13.1.4. INTERNATIONAL BANK ACCOUNT NUMBER (IBAN): *LV56HABA123456789*
 13.2. PAYMENT BY CHEQUE
 13.2.1. CHEQUE PAYABLE TO:
 13.2.2. CHEQUE TO BE SENT TO
 13.2.2.1. SURNAME AND GIVEN NAME(S):
 13.2.2.2. ADDRESS:
 13.2.2.2.1. STREET AND NUMBER/PO BOX:
 13.2.2.2.2. PLACE AND POSTAL CODE:
 13.2.2.2.3. COUNTRY:
 14. ADDITIONAL INFORMATION (WHERE APPLICABLE):

8. Indicate the place and date when the form has been filled in. Check it, print and sign the form

DONE AT: *Riga, Latvia, 26/01/2012* ON: (DD/MM/YYYY)
 SIGNATURE OF APPLICANT: */Aiga Bērziņa/*
 AND/OR, WHERE APPROPRIATE:
 NAME AND SIGNATURE OF THE PERSON/AUTHORITY AUTHORISED IN THE REQUESTING MEMBER STATE
 TO COMPLETE THE FORM ON THE APPLICANT'S BEHALF:

Chapter III. **Filling in the application forms of Annex VII.** This form is filled in by an individual, if individual wants a court decision to be taken or modified in another Member State.

Language. On the website of the European Judicial Atlas in Civil Matters information on the languages, which shall be used for filling in of the forms contained within Regulation No.4/2009, is provided. In order to find out, in which language the forms shall be filled in depending on the Member State, which will be the recipient of that form, you shall:

- 1) Open the website of the European Judicial Atlas in Civil Matters: http://ec.europa.eu/justice_home/judicialatlascivil/html/index_lv.htm;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Communications of the Member States*;
- 4) Select the relevant Member State;
- 5) Click on *Accepted languages*;
- 6) The form shall be filled in using the language(s) indicated in *Accepted languages for translations of documents*.

Filling in the form. You shall fill in Part B of the application form only. Part A shall be filled in by the Administration of the Maintenance Guarantee Fund (hereinafter – AMGF). Information and the application form itself shall be drafted in the language as accepted by the relevant Member State. You shall take the following steps in filling in the application form:

- 1) Open the website of the European Judicial Atlas in civil matters;
- 2) Click on *Family law/ Maintenance obligations (Regulation 4/2009)*;
- 3) On the left click on *Forms 1 to 9*;
- 4) Select the relevant Member State;

- 5) Click on *Application form to obtain or have modified a decision in matters relating to maintenance obligations*;
- 6) Fill in the form using the accepted language by the relevant Member State;
- 7) After you have filled in the form click on the button on the left at the bottom of the page. Make sure the menu above the button has automatically included the relevant language. After you have clicked on the button the programme will generate a document, which translates the basic text of the form into the accepted language;
- 8) Print and sign the document.

Help in filling the form. The Administration of the Maintenance Guarantee Fund (hereinafter – AMGF) provides assistance in relation to the application of the Regulation No.4/2009 and recovery of maintenance from defendants/ debtors. Should you need assistance by AMGF, please contact the AMFG employees by phone: +37167830630 or +37167814980 (every working day from 8:30 am till 5:00pm). Should you need personal assistance, the visiting hours of AMFG are every working day from 9:00 am till 4:00pm (visit shall be announced by calling the AMGF in advance).

Should the applicant have obtained status of low-income and needy person, he/she has the right to submit the application in Latvian. AMGF shall carry out the translation based on Clause 10 of the *Cabinet of Ministers Regulations No.571 “Procedure, how the Administration of the Maintenance Guarantee Fund as the central authority carries out its functions in respect to cross-border maintenance cases”* of 19 July 2011.

Please study carefully the template of a filled-in form (see below). Case: the applicant Aiga Berzina has minor child (Nauris Berzins). She together with a child live in Latvia, while Alvis Krumins, the father of the child, is currently living and working in the United Kingdom. Aiga Berzina wishes the court decision on recovery of maintenance to be taken in the United Kingdom. Alvis Krumins do not recognize himself as a father of the child.

ANNEX VII

APPLICATION FORM TO OBTAIN OR HAVE MODIFIED A DECISION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS

(ARTICLES 56 AND 57 OF COUNCIL REGULATION (EC) No 4/2009 OF 18 DECEMBER 2008 ON JURISDICTION, APPLICABLE LAW, RECOGNITION AND ENFORCEMENT OF DECISIONS AND COOPERATION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS (1))

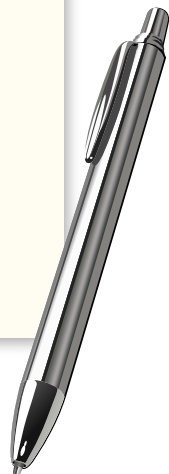
PART A: TO BE COMPLETED BY THE REQUESTING CENTRAL AUTHORITY

1.

APPLICATION

- APPLICATION TO OBTAIN A DECISION (ARTICLE 56(1)(C))
- APPLICATION TO OBTAIN A DECISION (ARTICLE 56(1)(D))
- APPLICATION FOR THE MODIFICATION OF A DECISION (ARTICLE 56(1)(E))
- APPLICATION FOR THE MODIFICATION OF A DECISION (ARTICLE 56(1)(F))
- APPLICATION FOR THE MODIFICATION OF A DECISION (ARTICLE 56(2)(B))
- APPLICATION FOR THE MODIFICATION OF A DECISION (ARTICLE 56(2)(C))

You shall not fill in Part A. Part A shall be filled in by the AMGF



2. **REQUESTING CENTRAL AUTHORITY**
- 2.1. NAME:
- 2.2. ADDRESS:
- 2.2.1. STREET AND NUMBER/PO BOX:
- 2.2.2. PLACE AND POSTAL CODE:
- 2.2.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN
- 2.3. TELEPHONE:
- 2.4. FAX:
- 2.5. E-MAIL:
- 2.6. REFERENCE NUMBER OF THE APPLICATION:
 APPLICATION TO BE HANDLED WITH THE APPLICATION(S) BEARING THE FOLLOWING REFERENCE NUMBER(S):
- 2.7. PERSON RESPONSIBLE FOR FOLLOWING UP THE APPLICATION:
- 2.7.1. SURNAME AND GIVEN NAME(S):
- 2.7.2. TELEPHONE:
- 2.7.3. E-MAIL:

3. **REQUESTED CENTRAL AUTHORITY**
- 3.1. NAME:
- 3.2. ADDRESS:
- 3.2.1. STREET AND NUMBER/PO BOX:
- 3.2.2. PLACE AND POSTAL CODE:
- 3.2.3. MEMBER STATE
 BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
 SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
 MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
 SLOVAKIA FINLAND SWEDEN

4. **DOCUMENTS ATTACHED* TO THE APPLICATION, AS APPROPRIATE**
- DECISION OF THE REQUESTED MEMBER STATE REFUSING RECOGNITION OR A DECLARATION OF ENFORCEABILITY
- COPY OF THE DECISION TO BE MODIFIED
- EXTRACT FROM THE DECISION TO BE MODIFIED
- DOCUMENT(S) PROVING A CHANGE IN INCOME OR ANY OTHER CHANGE IN CIRCUMSTANCES
- BIRTH CERTIFICATE(S) OR EQUIVALENT
- DEBTOR'S ACKNOWLEDGEMENT OF PARENTAGE
- DOCUMENT(S) PROVING BIOLOGICAL PARENTAGE
- DECISION BY A COMPETENT AUTHORITY IN RELATION TO PARENTAGE
- RESULTS OF GENETIC TESTS
- ADOPTION CERTIFICATE

* Please put a cross in the boxes which apply and number the documents in the order in which they are attached.

- CERTIFICATE OF MARRIAGE OR SIMILAR RELATIONSHIP
- DOCUMENT(S) PROVING THE DATE OF DIVORCE/SEPARATION
- DOCUMENT(S) PROVING THAT THE PARTIES LIVE TOGETHER
- CERTIFICATE(S) REGARDING SCHOOLING
- DOCUMENT(S) RELEVANT TO THE FINANCIAL SITUATION
- OTHER (PLEASE SPECIFY):

TOTAL NUMBER OF DOCUMENTS ATTACHED TO THE APPLICATION FORM:

DONE AT: ON (DD/MM/YYYY)

NAME AND SIGNATURE OF THE AUTHORISED OFFICIAL OF THE REQUESTING CENTRAL AUTHORITY:
.....

You shall start filling the form in from here on

PART B: TO BE COMPLETED BY THE APPLICANT OR, AS APPROPRIATE, BY THE PERSON/AUTHORITY AUTHORISED IN THE REQUESTING MEMBER STATE TO COMPLETE THE FORM ON THE APPLICANT'S BEHALF

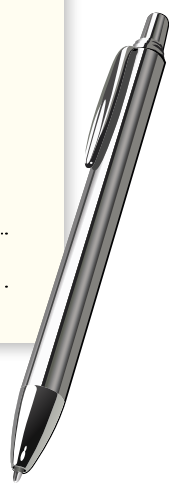
5. APPLICATION

- 5.1. APPLICATION TO OBTAIN A DECISION
- 5.1.1. PARENTAGE HAS NOT BEEN ESTABLISHED
- 5.1.2. NO DECISION EXISTS
- 5.1.3. RECOGNITION AND A DECLARATION OF ENFORCEABILITY OF AN EXISTING DECISION ARE NOT POSSIBLE
- 5.1.4. AMOUNT REQUESTED: *250 EUR per month*
- 5.2. APPLICATION FOR MODIFICATION OF A DECISION
- 5.2.1. THE DECISION WAS GIVEN IN THE REQUESTED MEMBER STATE
- 5.2.2. THE DECISION WAS GIVEN IN A STATE OTHER THAN THE REQUESTED MEMBER STATE
- 5.2.3. DATE (DD/MM/YYYY) AND REFERENCE NUMBER OF THE DECISION:
- 5.2.4. NAME OF THE COURT OF ORIGIN:
- 5.2.5. CHANGES IN CIRCUMSTANCES WHICH HAVE OCCURRED:
 - CHANGE IN INCOME:
 - OF THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE DEBTOR
 - CHANGE IN EXPENSES AND CHARGES:
 - OF THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE DEBTOR
 - CHANGE IN THE SITUATION OF THE CHILD/CHILDREN
 - CHANGE IN MARITAL STATUS:
 - OF THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED
 - OF THE DEBTOR
 - OTHER (PLEASE SPECIFY):
- 5.2.6. MODIFICATION(S) REQUESTED:
 - INCREASE IN THE AMOUNT OF MAINTENANCE (PLEASE SPECIFY):

1. Indicate the type of application and information on its nature

"250 eiro mēnesī" in English

This clause and the next clauses of Chapter 5.2. shall be ticked, if Latvian court or court of other state would have taken decision and applicant would want it to be modified. The name of court, number of the decision, changes in circumstances and information about the nature of modifications should be indicated below



3. Provide information about yourself

- REDUCTION IN THE AMOUNT OF MAINTENANCE (PLEASE SPECIFY):
- MODIFICATION OF THE FREQUENCY OF PAYMENTS (PLEASE SPECIFY):
- MODIFICATION OF THE ARRANGEMENTS FOR PAYMENT (PLEASE SPECIFY):
- MODIFICATION OF THE NATURE OF PAYMENTS (PLEASE SPECIFY):
- TERMINATION OF THE MAINTENANCE OBLIGATION (PLEASE SPECIFY):
- OTHER (PLEASE SPECIFY):

From here on – indicate the surname before the name. Indicate “Ms” for women and “Mr” for men. (Indicate the name and surname in brackets without diacritics)

6. **APPLICANT**

6.1. SURNAME AND GIVEN NAME(S): *Ms Bērziņa Aiga (Bērziņa Aiga)*

6.2. ADDRESS:

6.2.1. CARE OF: (SURNAME AND GIVEN NAME(S))*

6.2.2. STREET AND NUMBER/PO BOX: *Ilmājas str. 10/4*

6.2.3. PLACE AND POSTAL CODE: *Rīga, LV-1011*

6.2.4. MEMBER STATE

- BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
- SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
- MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
- SLOVAKIA FINLAND SWEDEN

„Ilmājas iela 10/4” in English. In order to avoid further misunderstandings, indicate the address in English also if the form shall be filled in using another official EU language

6.3. TELEPHONE/E-MAIL: *+371 62123456, aiga.berzina@inbox.lv*

Indicate your date of birth as in passport

6.4. DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *26/04/1983, Cēsis (Cēsis)*

6.5. IDENTITY/SOCIAL SECURITY NUMBER: *260483-12345*

6.6. NATIONALITY: *Latvia*

6.7. PROFESSION: *shop assistant*

“pārdevējs” in English

You may use the English and internationally known name of the country also if the form shall be filled in using another official EU language

6.8. MARITAL STATUS: *single*

6.9. IF APPLICABLE, SURNAME, GIVEN NAME(S) AND CONTACT DETAILS OF THE APPLICANT’S

REPRESENTATIVE (LAWYER, ETC.):

7. **DEFENDANT**

7.1. SURNAME AND GIVEN NAME(S): *Mr Krūmiņš Alvis (Krumins Alvis)*

7.2. ADDRESS**:

7.2.1. STREET AND NUMBER/PO BOX: *Bradford BD5 7LX*

7.2.2. PLACE AND POSTAL CODE: *Manchester*

7.2.3. MEMBER STATE

- BELGIUM BULGARIA CZECH REPUBLIC GERMANY ESTONIA IRELAND GREECE
- SPAIN FRANCE ITALY CYPRUS LATVIA LITHUANIA LUXEMBOURG HUNGARY
- MALTA NETHERLANDS AUSTRIA POLAND PORTUGAL ROMANIA SLOVENIA
- SLOVAKIA FINLAND SWEDEN UNITED KINGDOM

From here on – if such information is not available, indicate “-” or “n/a”

7.3. DATE (DD/MM/YYYY) AND PLACE OF BIRTH*: *27/03/1980, Latvia*

7.4. IDENTITY/SOCIAL SECURITY NUMBER: *270380-12345*

7.5. NATIONALITY*: *Latvia*

“šoferis” in English

7.6. PROFESSION*: *driver*

“neprecējies” in English

7.7. CURRENT MARITAL STATUS*: *married*

8. ANY OTHER INFORMATION THAT MAY HELP LOCATE THE DEFENDANT: *Person has indicated*

on Facebook that he works for the company TESCO in Manchester

If you don’t know exact place of birth as it is given in the passport, indicate state, where he/ she was born, should you know that

“Persona Facebook lapā norādījusi, ka strādā Mančestrā kompānijā TESCO” angļu valodā.

* For example, the person with parental responsibility or the guardian is available and/or relevant.

** If this information is available.

“neprecējies” in English

4. Provide information about the debtor

9.

PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED

9.1.

THE PERSON IS THE SAME AS THE APPLICANT NAMED IN POINT 6

9.2.

THE PERSON IS THE SAME AS THE DEFENDANT NAMED IN POINT 7

9.3.

THE APPLICANT THE DEFENDANT

IS THE REPRESENTATIVE* DEFENDING THE INTERESTS OF THE FOLLOWING PERSON(S):

9.3.1.

PERSON A

9.3.1.1.

SURNAME AND GIVEN NAME(S): *Mr Bērziņš Nauris (Berzins Nauris)*

9.3.1.2.

DATE (DD/MM/YYYY) AND PLACE OF BIRTH: *05/01/2005, Riga (Riga)*

9.3.1.3.

IDENTITY/SOCIAL SECURITY NUMBER**: *050105-12345*

9.3.1.4.

NATIONALITY**: *Latvia*

9.3.1.5.

PROFESSION**: *-*

9.3.1.6.

MARITAL STATUS**: *-*

9.3.1.7.

MAINTENANCE IS ON THE BASIS OF THE FOLLOWING RELATIONSHIP:

PARENTAGE (PLEASE SPECIFY RELATIONSHIP): *father - son*

"tēvs - dēls" in English

MARRIAGE

ANALOGOUS RELATIONSHIP TO MARRIAGE

ALLIANCE (PLEASE SPECIFY RELATIONSHIP):

OTHER (PLEASE SPECIFY):

9.3.2. PERSON B

9.3.2.1.

SURNAME AND GIVEN NAME(S):

9.3.2.2.

DATE (DD/MM/YYYY) AND PLACE OF BIRTH:

9.3.2.3.

IDENTITY/SOCIAL SECURITY NUMBER**:

9.3.2.4.

NATIONALITY**:

9.3.2.5.

PROFESSION**:

9.3.2.6.

MARITAL STATUS**:

9.3.2.7.

MAINTENANCE IS ON THE BASIS OF THE FOLLOWING RELATIONSHIP:

PARENTAGE (PLEASE SPECIFY RELATIONSHIP):

MARRIAGE

ANALOGOUS RELATIONSHIP TO MARRIAGE

ALLIANCE (PLEASE SPECIFY RELATIONSHIP):

OTHER (PLEASE SPECIFY):

9.3.3.

PERSON C

9.3.3.1.

SURNAME AND GIVEN NAME(S):

9.3.3.2.

DATE (DD/MM/YYYY) AND PLACE OF BIRTH:

9.3.3.3.

IDENTITY/SOCIAL SECURITY NUMBER**:

9.3.3.4.

NATIONALITY**:

9.3.3.5.

PROFESSION**:

9.3.3.6.

MARITAL STATUS**:

9.3.3.7.

MAINTENANCE IS ON THE BASIS OF THE FOLLOWING RELATIONSHIP:

PARENTAGE (PLEASE SPECIFY RELATIONSHIP):

MARRIAGE

ANALOGOUS RELATIONSHIP TO MARRIAGE

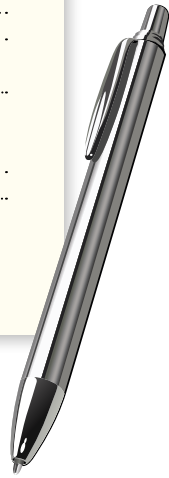
ALLIANCE (PLEASE SPECIFY RELATIONSHIP):

OTHER (PLEASE SPECIFY):

* For example, the person with parental responsibility or the guardian of a protected adult.

** If this information is available.

5. Indicate persons, for whom maintenance is owed



10. **DEBTOR**
- 10.1. THE PERSON IS THE SAME AS THE APPLICANT NAMED IN POINT 6
- 10.2. THE PERSON IS THE SAME AS THE DEFENDANT NAMED IN POINT 7
- 10.3. THE APPLICANT THE DEFENDANT

6. Indicate the debtor

IS THE REPRESENTATIVE* DEFENDING THE INTERESTS OF THE FOLLOWING PERSON:

- 10.3.1. SURNAME AND GIVEN NAME(S):
- 10.3.2. DATE (DD/MM/YYYY) AND PLACE OF BIRTH:
- 10.3.3. IDENTITY/SOCIAL SECURITY NUMBER**:
- 10.3.4. NATIONALITY**:
- 10.3.5. PROFESSION**:
- 10.3.6. CURRENT MARITAL STATUS**:
- 10.3.7. MAINTENANCE IS ON THE BASIS OF THE FOLLOWING RELATIONSHIP:
- PARENTAGE (PLEASE SPECIFY RELATIONSHIP):
- MARRIAGE
- ANALOGOUS RELATIONSHIP TO MARRIAGE
- AFFINITY (PLEASE SPECIFY RELATIONSHIP):
- OTHER (PLEASE SPECIFY):

11. **INFORMATION ON THE FINANCIAL SITUATION OF THE PERSONS CONCERNED BY THE APPLICATION (ONLY GIVE INFORMATION WHICH IS RELEVANT FOR THE PURPOSE OF OBTAINING OR MODIFYING A DECISION)**

- 11.1. CURRENCY
- EURO (EUR) BULGARIAN LEV (BGN) CZECH KORUNA (CZK) ESTONIAN KROON (EEK)
- HUNGARIAN FORINT (HUF) LITHUANIAN LITAS (LTL) LATVIAN LATS (LVL)
- POLISH ZLOTY (PLN) ROMANIAN LEU (RON) SWEDISH KRONA (SEK)
- OTHER (PLEASE SPECIFY ISO CODE):
- 11.2. THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED AND THE PERSON PRIMARILY RESPONSIBLE FOR THAT PERSON (THOSE PERSONS)
- 11.2.1. GROSS INCOME

7. Indicate your income and debtor's income, if it is known to you

<input checked="" type="checkbox"/> MONTHLY <input type="checkbox"/> ANNUAL	PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED	SPOUSE OR CURRENT PARTNER OF THE PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON A)	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON B)	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON C)
SALARY (INCLUDING PAYMENTS IN KIND), PENSIONS, DISABILITY PENSIONS, MAINTENANCE PAYMENTS, ALLOWANCES, ANNUITIES, UNEMPLOYMENT BENEFITS	320				
INCOME FROM NON-SALARIED OCCUPATIONS					
INCOME FROM SECURITIES/FLOATING CAPITAL/REAL PROPERTY					
OTHER SOURCES OF INCOME					
TOTAL	320				

* For example, the person with parental responsibility or the guardian of a protected adult.

** If this information is available.

11.2.2. EXPENSES AND CHARGES

<input checked="" type="checkbox"/> MONTHLY <input type="checkbox"/> ANNUAL	PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED	SPOUSE OR CURRENT PARTNER OF THE PERSON PRIMARILY RESPONSIBLE FOR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR OWED	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON A)	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON B)	PERSON FOR WHOM MAINTENANCE IS SOUGHT OR OWED (PERSON C)
TAXES					
INSURANCE PREMIUMS, MANDATORY SOCIAL SECURITY AND PROFESSIONAL CONTRIBUTIONS					
RENT/COST OF CO-OWNERSHIP, MORTGAGE PAYMENTS	120				
FOOD AND CLOTHING	90	150			
MEDICAL EXPENSES	20	40			
MAINTENANCE PAID TO A THIRD PARTY BY VIRTUE OF A LEGAL OBLIGATION AND/OR EXPENDITURE FOR OTHER DEPENDENT PERSONS NOT COVERED BY THE APPLICATION					
EDUCATION COSTS OF CHILDREN					
LOAN REPAYMENTS, OTHER DEBTS					
OTHER EXPENDITURE	50	100			
TOTAL	280	290			

11.2.3. OTHER ASSETS

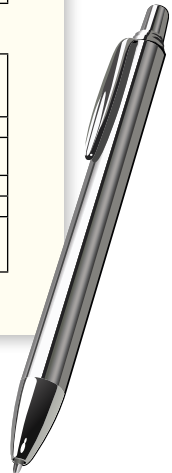
11.3. THE DEBTOR

11.3.1. GROSS INCOME

<input checked="" type="checkbox"/> MONTHLY <input type="checkbox"/> ANNUAL	DEBTOR	CURRENT SPOUSE OR PARTNER OF THE DEBTOR
SALARY (INCLUDING PAYMENTS IN KIND), PENSIONS, DISABILITY PENSIONS, ALIMONIES, ALLOWANCES, ANNUITIES, UNEMPLOYMENT BENEFITS	approx. 1500 EUR	
INCOME FROM NON-SALARIED OCCUPATIONS		
INCOME FROM SECURITIES/FLOATING CAPITAL/ REAL PROPERTY		
OTHER SOURCES OF INCOME		
TOTAL	approx. 1500 EUR	

11.3.2. EXPENSES AND CHARGES

<input type="checkbox"/> MONTHLY <input type="checkbox"/> ANNUAL	DEBTOR	CURRENT SPOUSE OR PARTNER OF THE DEBTOR
TAXES		
INSURANCE PREMIUMS, MANDATORY, SOCIAL SECURITY AND PROFESSIONAL CONTRIBUTIONS		
FOOD AND CLOTHING		
MEDICAL EXPENSES		
MAINTENANCE PAID TO A THIRD PARTY BY VIRTUE OF A LEGAL OBLIGATION AND/OR EXPENDITURE FOR OTHER DEPENDENT PERSONS NOT COVERED BY THE APPLICATION		



EDUCATION COSTS OF CHILDREN		
LOAN REPAYMENTS, OTHER DEBTS		
OTHER EXPENDITURE		
TOTAL		

"automašīna VW Golf" angļu valodā.

11.3.3. OTHER ASSETS: *Car VW Golf*

8. Indicate your bank details

12. **INFORMATION REGARDING PAYMENT, IF THE APPLICATION IS MADE BY THE CREDITOR**

12.1. PAYMENT BY ELECTRONIC MEANS

12.1.1. NAME OF THE BANK: *A/S Swedbank*

12.1.2. BIC OR OTHER RELEVANT BANK CODE: *HABALV2X*

12.1.3. ACCOUNT HOLDER: *Ms Aiga Bērziņa (Aiga Berzina)*

12.1.4. INTERNATIONAL BANK ACCOUNT NUMBER (IBAN): *LV56HABA123456789*

12.2. PAYMENT BY CHEQUE

12.2.1. CHEQUE PAYABLE TO:

12.2.2. CHEQUE TO BE SENT TO

12.2.2.1. SURNAME AND GIVEN NAME(S):

12.2.2.2. ADDRESS:

12.2.2.2.1. STREET AND NUMBER/PO BOX:

12.2.2.2.2. PLACE AND POSTAL CODE:

12.2.2.2.3. COUNTRY:

13. ADDITIONAL INFORMATION (WHERE APPLICABLE):

DONE AT: *Rīga, Latvia, 26/01/2012* **ON:** (DD/MM/YYYY)

SIGNATURE OF APPLICANT: */Aiga Bērziņa/*

AND/OR, WHERE APPLICABLE:

NAME AND SIGNATURE OF THE PERSON/AUTHORITY AUTHORIZED IN THE REQUESTING MEMBER STATE TO COMPLETE THE FORM ON THE APPLICANT'S BEHALF:

8. Indicate the place and date when the form has been filled in. Check it, print and sign the form