



Tieslietu ministrija 

Project No JUST/2010/JCIV/AG/0010-30-CE-0421163/00-50 „Enhancing quality of judicial cooperation in civil matters: the European Union civil proceedings and tools provided by regulations on taking evidence and service of documents”

Training course „Cross-border judicial cooperation in civil matters: tools provided by regulations on taking evidence and service of documents”

May 24 - 25, 2012



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Application of 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 in Latvia.

The training course is being implemented within the European Commission Specific Programme "Civil Justice" Project No JUST/2010/JCIV/AG/0010-30-CE-0421163/00-50 „Enhancing quality of judicial cooperation in civil matters: the European Union civil proceedings and tools provided by regulations on taking evidence and service of documents”



Pre-conditions for occurrence and application of the Regulation

- Position of Latvia

- political;

- public.



National rules I

- Section 79, Section 84 of the Civil Procedure Law.
- Legal procedure on taking of evidences and application of technical means.
- Other legal rules.



National rules II

- Not only taking, but also ensuring evidences.



National rules III

- Documents are accepted, if prepared in writing in the official language (Latvian) or in English.
- Documents are prepared for transmission in the language of the receiving state and in the language, which is declared by that state as acceptable for communication.



National rules IV

- Translation of documents ensured by
 - the Court
 - the Ministry of Justice
 - The Court Administration.



National rules V

- Latvian request for taking of evidences is signed by Judge and approved with court seal



National rules VI

- Way of acceptance and transmission
 - By mail;
 - By other available means of communication.



National rules VII

- Foreign request is decided by the district (city) court, where source of the evidence to be acquired is located or where the required technical means are available.
- There is right to order other court, if a part of evidences shall be taken within the territory of another court.



National rules VIII

- Decision on admissibility of execution
 - Type, form;
 - Receiving institution.



National rules IX

- Procedure for taking of evidence
 - According to the National Procedure;
 - On request of the Competent Authority – according to special procedure provided for by the law of the foreign state.



National rules X

- Process of execution:
 - to inform on the time, place, conditions of participation;
 - if required, to ensure interpreter;
 - to confirm identity of the persons involved and to ensure taking of evidences.



National rules XI

- Costs

may request competent court of the foreign country before execution of request of taking of evidence from abroad, to pay costs, which have to be paid to experts.

(Paragraph 3 of Article 18 of the Regulation)

National rules XII

○ Costs

may request foreign state after execution of its request:

- to cover costs for experts and interpreters;
- to cover costs in relation to application of foreign special procedure on taking of evidence;
- segt tehnisko līdzekļu izmantošanas izmaksas. (Regulas 18.panta otrā daļa)



Factors, having effect on basic provisions of application

- National procedural and organizational time limits.
- Comprehension of application.
- Financial opportunities.



Auxiliary application tools I

- Practice Guide for the Application of the Regulation on the taking of Evidence

http://ec.europa.eu/civiljustice/publications/docs/guide_taking_evidence_lv.pdf



Auxiliary application tools II

- European Judicial Network

http://ec.europa.eu/justice_home/judicialatlascivil/html/index_lv.htm?txtPageBack=te_filling_fr_lv.htm&countrySession=2&



Auxiliary application tools III

- European Judicial Network

https://e-justice.europa.eu/content_ejn_in_civil_and_commercial_matters-21-iv.do



Support in application

- Professional personnel
- Personal contacts
- Central Authority



Central Authority and its role

- Central Authority – Ministry of Justice of the Republic of Latvia
- Role:
 - formal;
 - informal.



Solution of organizational issues

- By assistance of the Central Authority
- By support of the Court Administration
- By own power.



Technical support

- court resources;
- Latvian – Switzerland cooperation project;
- assistance of CA;
- other options.



Significance of Human Factor

- Knowledge and education.
- Interest.
- Comprehension of the role.



Efficiency and procedural economy considerations

- Significance of evidences in the case.
- Opportunity to take the respective evidence.
- Information.



Achievement of objectives of the Regulation

- Simplicity
- Speed
- Efficiency




Recommendations

- To use communication with colleagues both in national and international environment.
- To maintain contacts with the Central Authority.
- To acquire knowledge.



Questions!?



Thank you for your
attention!

Mag. iur.Dzintra Balta
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