



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”

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Application of Regulation (EC) Nr. 1393/2007
on the service in the Member States of
judicial and extrajudicial documents in civil or
commercial matters
in Latvia

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Sources

- 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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R1393:EN:HTML>

- Chapter 81 of Civil Procedure Law “International cooperation regarding civil procedure on the service of documents in accordance with Regulation No 1393/2007 of the European Parliament and of the Council ” (Articles 656-665)

- Regulation on the organization of record-keeping in district (city) courts and regional courts
- European Judicial Atlas in Civil Matters
http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm
- Manual containing the information relating to the receiving agencies

For other states: in accordance with agreements, mainly the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

- Objectives of the Regulation
 - the free movement of persons
 - the proper functioning of the internal market
 - direct and rapid means for transmission
- The scope of application of the Regulation
- The countries covered by the Regulation
- The preceding Regulation (EC) Nr. 1348/2000

Transmitting and receiving agency in Latvia

- The Ministry of Justice of the Republic of Latvia
- Carried out in practice by the Department of Judicial Cooperation
- Functions, tasks and documents of the transmitting agency
- Functions, tasks and documents of the receiving agency
- Where to look for the transmitting and receiving agencies of other Member States

Service of Latvian documents

- Request for service of documents (the standard form)
- Other documents to be enclosed
- Language
 - of the request
 - of the enclosed documents
- Translation
- Number of copies
- The date of service of the document
- Time limits

Time limits in practice

(Information by the Ministry of Justice)

Time necessary for service of documents:

Austria, Estonia, Lithuania, Finland, Germany, Sweden – 3-4 months

Ireland, the United Kingdom – 3-5 months

Poland – 3-6 months

Portugal – 4-6 months

France – 5-8 months

Italy, Spain – 6-8 months

Time necessary for translation:

at least 1 month, without reference to the number of pages

Service of foreign documents in Latvia

- Executed by the district (city) court in accordance with the place of residence of the addressee, the place of location (legal address) of the addressee or the place (address) indicated in the request for service of documents
(Article 662(1) of Civil Procedure Law)
- The request is executed in accordance with Article 56 of Civil Procedure Law on service of summons and other judicial documents
(Article 662(2) of Civil Procedure Law)

- The standard form “Certificate of service or non-service of documents”
 - Letter addressed to the Ministry of Justice
 - Language
 - The date of service of the document
 - Time limits
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- All necessary steps should be taken to effect the service of the document

Refusal to accept a document by an addressee

- Reason: language
- Time limits for refusal
- The duty of the court to inform the addressee
- Annex II of the Regulation – the standard form “Information to the addressee about the right to refuse to accept a document”
(Article 8(1) of the Regulation)
- Possibility of the service of the document to be remedied

The consequences if the defendant fails to appear

- In the case the documents have been served
 - In the case the documents have not been served
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- * Preliminary measures
(Article 19(3) of the Regulation)
 - * Renewal of the expired time for appeal of the judgment
(Articles 19(4) and 19(5) of the Regulation)

- * Judgment of the Court of Justice of the European Union of 10 March 2012 in case C-292/10 *G. v. Cornelius de Visser*:

“European Union law must be interpreted as meaning that it does not preclude the issue of judgment by default against a defendant on whom, given that it is impossible to locate him, the document instituting proceedings has been served by public notice under national law, provided that the court seised of the matter has first satisfied itself that all investigations required by the principles of diligence and good faith have been undertaken to trace the defendant.”

Statistics

(Information by the Ministry of Justice)

2010

Requests from Latvian courts - 862

Requests from foreign courts - 365

2011

Requests from Latvian courts - 1064

Requests from foreign courts - 431

Typical mistakes

The Courts should consider that:

- The correct receiving agency should be indicated in the standard form “Request for service of documents”
- Transmitting agency, receiving agency, applicant and addressee should not be mixed up in the standard form “Request for service of documents”
- The need for a translation should be indicated in the letter addressed to the Ministry of Justice
- The time limits necessary for translation and service should be taken into consideration
- Each document should be signed by the judge and stamped by the stamp of the court
- No sanctions regarding failure to appear may be indicated in the writ of summons