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Kancelaria Radców Prawnych
Gabriela Morawska-Stanecka

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EU Document Service Regulations in Judicial Practice

■ Regulation 1393/2007 of the European Parliament and Council repealing Council Regulation (EC) 1348/2000 on the service of judicial and extrajudicial documents in civil or commercial matters in the Member States was enacted in order to increase the accessibility and legibility of provisions in this area.

The services in question are handled by so-called transmitting and receiving agencies. In Poland, the transmitting agencies are district courts, regional courts, courts of appeal, and the Supreme Court, and the receiving agencies are district courts. Documents destined for the receiving agencies may only be submitted by mail. Forms accompanying the submitted documents may be filled out not only in Polish, but also in English and German.

The regulation governs the service of judicial and extrajudicial documents, however it does not define these concepts. In judicial practice, a judicial document is any document relating to legal proceedings, including pleadings of the parties, calls, notices, copies of sentences, and instructions. Extrajudicial documents are documents served to protect, enforce or reject civil or commercial claims beyond the context of judicial proceedings and, therefore, deeds and extrajudicial settlements as well as those documents which, because of their nature and importance, should be delivered through official procedures.

With respect to extrajudicial documents, the European Court of Justice (ECJ) has ruled, in case C-14/08 (Roda Golf & Beach Resort SL), that despite the lack of an adequate definition in the

regulation, the term “extrajudicial document” is a community law and not national law concept, and that it should be understood as any document having a specific relationship with ongoing court proceedings or the launch of such proceedings.

Documents sent to other EU member states must be translated into the language of the country in question. Failure to comply with this requirement entitles the addressee to refuse to accept the letter and return it to the sender. The service will, however, be effective if the addressee is provided with a translation into a language that he or she understands, or into the official language of the Member State to which the documents are sent. Then the date of delivery will be the date of delivering the document along with the translation, under the laws of the member state to which the document is addressed.

The ECJ in case C-14/07 (Ingenieurbüro Michael Weiss und Partner GbR/Industrie- und Handelskammer Berlin, with the participation of Nicholas Grimshaw & Partners Ltd), ruled that the effectiveness of delivery of a claim to a party in another member state cannot depend on the translation of the annexes, if the subject and basis of the claim clearly result from the translated claim.

The regulation establishes alternative methods for delivering judicial documents abroad. First, it should be noted that the service may be made directly through judicial officers or other competent persons in the member state to



Marek Stańko

which the documents are addressed, if the law of that state permits such a method.

EU countries may also use postal services. In this case, the letter should be sent by registered mail with the acknowledgment of receipt, or an equivalent form should be used.

Other methods are the transmission of letters between the transmitting and receiving agencies appointed in the member state, and in “exceptional circumstances” through consular and diplomatic channels.

There is no hierarchy of the described methods of service or contraindications to apply these methods at the same time, if the sender deems it necessary in the light of the circumstances involved.

In the transmission of extrajudicial documents, the same methods as those used for judicial documents may be applied.

Marek Stańko, Ph.D.

The author works for the Faculty of Law and Administration at the University of Silesia in Katowice. He is also a solicitor with the G. Morawska-Stanecka, M. Stańko Sp.p. law firm in Katowice.