

## **Sending and receiving documents: easy to overlook, but extremely important**

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It is very rare to manage legal relationships without correspondence. Be it simple invoices or complex contracts, the vast majority of cases will involve sending documents to third parties. In legal court procedures, this principle applies to all documents, without exception.

The legal system provides several rules for the sending and receiving of documents in various circumstances. For example, effects of whatever rights or obligations prescribed in specific documents are not enforceable against third parties as long as such documents have not been properly delivered to the recipient, only the lawful communication of documents may determine the beginning of time limits for different legal actions or other legal effects (foreclosure, statute of limitation). The purpose of this article is to outline the most neglected aspects of document transmission.

### **Transmission, but with confirmation only**

In the EU, rules for sending and receiving documents are governed by an EU regulation<sup>1</sup> (the “**Regulation**”). In principle, the sending and receiving operates under the laws of the member state in which the transmission takes place, with the observance of the dispositions of the Regulation. In practice the regulation means that the provisions to be applied are those of the member state in which the recipient has its headquarters.

Every transmission must be traceable, documented by a receipt confirming delivery, for instance by the post office clerk or courier, the transmission confirmation of a fax machine or, in other cases the receipt or reading confirmation of an e-mail.

Lack of above-mentioned documents may result in a delivery not being acknowledged or being regarded as unfulfilled. In this situation, all consequences of receiving the documents (e.g. beginning of terms, the interruption of the statute of limitation etc.) shall not occur.

### **Language, copies and formal aspects**

Proof of transmission is not necessarily enough to create a legal effect. For communication to truly take place, the addressee must be able to receive the content of the transmitted documents. In other words, the content must be fully comprehensible to the recipient.

This condition is met if the documents are prepared in a language that the recipient understands or in the language of the member state in which the recipient lives/resides. If the documents are written in a different language, they must be accompanied by translations into one of the aforementioned languages.

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<sup>1</sup> Regulation (EC) 1348/ 2000 of the European Parliament and of the Government regarding the communication of judicial and extrajudicial documents in civil and commercial matters

A crucial point to mention is that if the documents are sent without a translation into an appropriate language, the recipient has the right to refuse delivery, or to return the documents to the delivery company or the sender within a week. In this case, the documents shall be considered as undelivered.

When it comes to judicial matters, parties involved in a dispute in Romania must prepare all documents in the Romanian language. Papers prepared in a foreign language, serving, for example, as proof of the argumentation, must be submitted with a certified translation into Romanian. The opponent may also ask for the documents to be translated into a language that he or she understands.

### **Consequences of the Regulation on the national legal system**

Numerous European states have adopted rules on speeding up the sending and receiving of documents. Within Romanian delivery procedures, the first transmission of documents must be carried out completely, meaning that the first official summons and related documents must be sent directly to the recipient. The first summons should also ask the recipient to indicate a delivery address in Romania. If such a delivery address does not exist, the date of the transmission of all subsequent documents will be the date on which the documents were handed to the delivery company.

### **Conclusion**

Although the sending and receiving of documents might not seem to be important, it is a crucial part of all judicial and extrajudicial procedures. To enforce (or be protected against) all relevant legal effects of the communication, it is advisable to understand the procedures for these circumstances and conditions.

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