

**QUESTIONNAIRE**  
**FROM THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW**  
**ACCOMPANYING THE PROVISIONAL VERSION OF THE NEW PRACTICAL**  
**HANDBOOK ON OPERATION OF THE HAGUE CONVENTION OF 15 NOVEMBER**  
**1965 ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL**  
**DOCUMENTS IN CIVIL AND COMMERCIAL MATTERS**

Response of the Republic of Poland

**PART I : QUESTIONS ADDRESSED TO NON PARTY – STATES**

The questions are not relevant to Poland; the Convention entered into force for Poland on September 1<sup>st</sup>, 1996.

**PART II : ADMINISTRATIVE INFORMATION AND UPDATES**

**1. Central Authority**

**3.1** The contact information relating to the Polish Central Authority and other authorities is not accessible on the Conference's website nowadays. There is only general information about Polish declarations in compliance with article 2, paragraph 1, article 9, paragraph 1 and article 18.

The complete contact information is as follows:

The Central Authority designated in compliance with article 2, paragraph 1 is The Ministry of Justice

The contact information relating to the The Ministry of Justice is:

The Ministry of Justice,  
Judicial Assistance and European Law Department,  
Al. Ujazdowskie 11,  
00-950 Warsaw,  
tel. +48(22) 52-12-381, tel/fax +48(22) 628-09-49

or in Polish:

Ministerstwo Sprawiedliwosci,  
Departament Współpracy Miedzynarodowej i Prawa Europejskiego,  
Aleje Ujazdowskie 11,  
00 – 950 Warszawa,  
tel. +48(22) 52-12-381, tel./fax: +48 (22) 628 0949

Other authorities designated in compliance with article 18 to receive requests for service are Presidents of the regional courts. The authorities designated in compliance with article 9 paragraph 1 are the regional courts ( sad okregowy ).

The contact information relating to the regional courts is:

Sad Okregowy w Warszawie  
00 – 951 WARSZAWA  
Al. Solidarnosci 127

Sad Okregowy w Bialymstoku  
15 - 950 BIALYSTOK  
ul. M. Curie-Sklodowskiej 1

Sad Okregowy w Bielsku – Bialej  
43 – 300 BIELSKO – BIALA  
ul. Cieszyńska 10

Sad Okregowy w Bydgoszczy  
85 – 128 BYDGOSZCZ  
ul. Waly Jagiellonskie 2

Sad Okregowy w Czestochowie  
42 – 201 CZESTOCHOWA  
ul. J. Dabrowskiego 23/35

Sad Okregowy w Elblagu  
82 –300 ELBLAG  
Pl. Konstytucji 1

Sad Okregowy w Gdansku  
80 – 958 GDANSK  
ul. Nowe Ogrody 30/34

Sad Okregowy w Gliwicach  
44 – 100 GLIWICE  
ul. Kosciuszki 15

Sad Okregowy w Gorzowie Wielkopolskim  
66 – 400 GORZÓW WIELKOPOLSKI  
ul. Mieszka I 33

Sad Okregowy w Jeleniej Górze  
58 – 500 JELENIA GÓRA  
ul. Wojska Polskiego 56

Sad Okregowy w Kaliszu  
62 – 800 KALISZ  
Al. Wolnosci 13

Sad Okregowy w Katowicach  
40 – 957 KATOWICE  
ul. Andrzeja 16/18

Sad Okregowy w Kielcach  
25 – 372 KIELCE  
ul. Seminaryjska 12a

Sad Okregowy w Koszalinie  
75 – 541 KOSZALIN  
ul. Warynskiego 7

Sad Okregowy w Krakowie  
30 – 965 KRAKÓW  
ul. Przy Rondzie 7

Sad Okregowy w Krosnie  
38 – 400 KROSNO  
ul. H. Sienkiewicza 12

Sad Okregowy w Legnicy  
59 – 220 LEGNICA  
ul. Zlotoryjska 40

Sad Okregowy w Lublinie  
20 – 076 LUBLIN  
ul. Krakowskie Przedmiescie 43a

Sad Okregowy w Lodzi  
90 – 921 LÓDZ  
Pl. Dabrowskiego 5

Sad Okregowy w Lomzy  
18 – 400 LOMZA  
ul. Dworna 16

Sad Okregowy w Nowym Saczu  
33 – 300 NOWY SACZ  
ul. Pijarska 3

Sad Okregowy w Olsztynie  
10 – 959 OLSZTYN  
ul. Dabrowszczaków 44

Sad Okregowy w Opolu  
45 – 064 OPOLE  
Pl. Daszynskiego 1

Sad Okregowy w Ostrolece  
07 – 400 OSTROLEKA  
ul. Kosciuszki 19

Sad Okregowy w Piotrkowie Trybunalskim  
97 – 300 PIOTRKÓW TRYBUNALSKI  
ul. J. Slowackiego 5

Sad Okregowy w Plocku  
09 – 404 PLOCK  
Pl. Narutowicza 4/6

Sad Okregowy w Poznaniu  
60 – 967 POZNAN  
ul. Marcinkowskiego 32

Sad Okregowy w Radomiu  
26 – 600 RADOM  
ul. Marszalka Pilsudskiego 10

Sad Okregowy w Rzeszowie  
35 – 959 RZESZÓW  
Pl. Sreniawitów 3

Sad Okregowy w Siedlcach  
08 – 110 SIEDLCE  
ul. J. Pilsudskiego 18

Sad Okregowy w Slupsku  
76 – 200 SLUPSK  
ul. Zamenhofa 7

Sad Okregowy w Suwalkach  
16 – 400 SUWALKI  
ul. L. Warynskiego 45

Sad Okregowy w Szczecinie  
70 – 952 SZCZECIN  
ul. Kaszubska 42

Sad Okregowy w Swidnicy  
58 – 100 SWIDNICA  
Pl. Grunwaldzki 14

Sad Okregowy w Tarnobrzegu  
39 – 400 TARNOBRZEG  
ul. H. Sienkiewicza 27

Sad Okregowy w Tarnowie  
33 – 100 TARNÓW  
ul. J. Dabrowskiego 27

Sad Okregowy w Toruniu  
87 – 100 TORUN  
ul. Piekary 51

Sad Okregowy we Wloclawku  
87 – 800 WLOCLAWEK  
ul. Wojska Polskiego 22

Sad Okregowy we Wroclawiu  
50 950 WROCLAW  
ul. Sadowa 1

Sad Okregowy w Zamosciu  
22 – 400 ZAMOSC  
ul. Akademicka 1

Sad Okregowy w Zielonej Górze  
65 – 958 ZIELONA GÓRA  
pl. Slowianski 1

### **3.2**

The members of staff in The Ministry of Justice speak English, French, German and Russian

### **3.3**

We do not have statistical information relating to the number and source of requests directed at the Central Authority.

## **4. Case - law and reference works**

### **4.1**

We do not have in our disposal any Polish Courts judgements which explicitly refers to the 1965 Convention.

## 4.2

The 1965 Convention is dealt with the following reference works:

ERECINSKI T., CISZEWSKI J. *Miedzynarodowe Postepowanie Cywilne ( International Civil Procedure )*, Warsaw 2000, section VIII, p.216-240

MEIJKNECHT P. *Doreczanie dokumentów w obrocie miedzynarodowym; europejska konwencja z 1997 r. ( The service of documents in the international proceedings: 1997 European Convention )* w: *Kwartalnik Prawa Prywatnego*, Year VIII: 1999, vol. 4, p.797-810

## PART III : INFORMATION RELATING TO APPLICATION OF THE CONVENTION

### 5 Handbook

#### 5.1

It would be very useful to find on the Hague Conference's website information about reservations made by States and information if particular States made any reservations. The information if particular States would assert reciprocity of the objections to the service of documents through postal channels seems to be useful as well.

#### 5.2,3

The structure of the Handbook's provisional version is clear and user friendly.

#### 5.4

Nowadays there are no any websites regarding service of documents and application of the 1965 Convention in Poland.

### 6 Scope of the Convention

#### 6.1-4

We have not observed any changes in interpretation of problems connected with the 1965 Convention's scope since Polish accession in 1996.

As regards the problem of the exclusivity of the Convention we would like to mention that the Polish courts assume that they have the discretion to choose the ground of request – the Convention or bilateral agreement - if Poland is bound by bilateral agreements in respect to international service with States – Parties to the Convention.

## **6.5**

We have not noticed difficulties in interpretation of terminology used in the Convention in connection with changes in Polish law.

## **7 Forwarding authority**

### **7.1**

Only courts are competent to forward a request for service to the foreign Central Authority under Article 3.

### **7.2**

We consider that cooperation between Central Authorities to determine the competence of the forwarding authority should be encouraged in broader circumstances; in all cases when Central Authority has got reasonable doubt about competence of the forwarding authority.

## **8 Methods for service used by the Central Authority**

### **8.1**

The Polish Central Authority is not directly involved in the service of documents. Documents are sent to competent courts. These courts may use for formal service the post, a bailiff or the court's service officials. The formal service may also be conducted by directly handing addressee a document in the court registry.

Informal delivery within the meaning of Article 5(2) may be conducted only by directly handing addressee a document in the court registry.

Service by a particular method requested by the applicant may be conducted, for example, by police officers or by notary.

### **8.2**

The document, which is to be served under Article 5(1) of Convention, should be generally translated into Polish. According to Article 1132, paragraph 2 of the Polish Code Civil Procedure, if a court or other authority of a foreign state applies to a Polish court for the service of document on a person staying in Poland, without attaching a translation of the document into Polish, the document is served on the addressee if he chooses to accept it.

The only one exception is provided by Agreement of July 5<sup>th</sup>, 1987 between Poland and China, which allows to enclose translation of judicial documents into English. However in practice, documents from China which are delivered to Polish authority with translation into English should be translated into Polish by the Central Authority or by competent regional court.

### **8.3**

According to paragraph 4, section 2 of Regulation of the Minister of Justice of 28 January 2002 on the court acts with regard to international civil and criminal procedure,

the court acts within the scope of international legal assistance shall be given priority, especially if a request has been marked as “urgent” by the requesting authority. In our opinion the above-mentioned provision is duly observed by the relevant courts.

#### **8.4**

The costs include the postage, which is not regained by courts.

### **9 Translation requirement**

#### **9.1**

We consider that general declaration by a State that its authorities will perform formal service only if the document to be served is drafted in or translated into its official language or languages would not make judicial assistance substantially more cumbersome in practice, because it would be known in advance that translation is needed. However, there is a number of cases where the translation requirement imposed by such declaration seems to be unnecessary, because of the fact, that the addressee is expected to have a good command of the language of the requesting state or the other language in which the document is drawn up. Moreover above-mentioned declaration without necessity enforces translation of the document into language which sometimes is not known by addressee at all.

#### **9.2**

We consider that it might be appropriate to adopt a Recommendation that the Central Authority of the State addressed should not call for a translation if it has reasons to believe that a document drafted in a language of the requesting State is understandable to the addressee.

#### **9.3**

We believe that in some States – Parties of the Convention it would be enough to apply “good practice” for implementation above-mentioned Recommendation. In the Polish law it would be necessary to revise provision of Article 1132, paragraph 2 of the Polish Code Civil Procedure. As it was mentioned in point 8.2 of this questionnaire, if a court or other authority of a foreign state applies to a Polish court for the service of document on a person staying in Poland, without attaching a translation of the document into Polish, the document is served on the addressee if he chooses to accept it.

#### **9.4**

In our opinion if the translation of the document is demanded by the Central Authority, the full translation of the document to be served should be prepared.



## **10 Timing**

The Polish courts usually perform requests for service in 2 –3 months. However in the exceptional cases the longer period is needed– even 6 months.

Differences between States addressed are substantial – from 2 months to above one year.

## **11 Alternative transmission channels**

### **11.1**

Consular and diplomatic channels are rarely used in practice.

### **11.2**

We have not noticed in practice of Polish courts difficulties in interpretation and application of Article 10(a). Poland has opposed to the methods of service specified in Article 10.

### **11.3 a,b,c,d,**

Poland does not use the transmission method described under Article 10(b) and has objected to the use this method within its territory.

### **11.3 e**

Polish barristers and legal counsels are not authorised to perform service from abroad.

### **11.4**

Poland declared an opposition to the transmission method described under Article 10 (c ) and in practice we do not observe difficulties in interpretation of this provision.

## **12 Judicial and extrajudicial documents**

### **12.1**

Polish legislation makes a distinction between judicial documents producing procedural effects and those that do not. The Convention is applied to both classes of judicial documents.

### **12.2**

We do not have statistical information relating to the volume of extrajudicial documents forwarded abroad under the Convention.

### **13 Date of service – double date**

**13.1** The dual - dating system might be useful only if a national procedural law requires the service to be performed within certain time and simultaneously if the same law provides rules allowing to determine the date of service abroad, for the applicant's purposes. The same effect may be achieved without dual-dating system, only by rules in national law allowing to determine the date of service abroad, for the special applicant's purposes.

#### **13.2**

Polish law does not provide for a system to determine the date of service abroad for the special applicant's purposes.

### **14 Exequatur**

It would be possible, that Polish court might deny enforcement of a foreign judgement on the grounds that the service has not been translated, even though the service has been performed by the methods provided for under Convention. The grounds of that refusal would not be the breach of public policy but the depriving of the right of defence - if the addressee would not know the language in which document would be drawn up.

### **15 Exclusion of application of the Convention between the parties**

The Polish law does not provide for a possibility to exclude application of the Convention by agreement or contract between parties.

### **16 Fax and electronic mail**

#### **16.1**

Polish authorities do not use fax or e-mail to forward request for service. It would be possible to accept requests forwarded to the Central Authority by fax or e-mail if it had not been needed to serve documents as a original or as a certified copy.

#### **16.2**

The service from abroad is not performed by fax or e-mail. The use of fax or e-mail, which in certain cases seems to be possible under below-mentioned Article 472 of The Polish Code of Civil Procedure ( point 16.4 of response ), is in fact restricted to the cases pending before Polish courts in the field of labour law and social insurance law. It is also restricted to writs of summons and orders aimed at the preparation of the hearing.

Moreover, the use of the above-mentioned forms of service is possible if the court deems the omission of the manners provided for by general provisions as necessary to expedite the examination of the case. However it would not be against the Polish law to perform the service of documents from abroad in all cases by fax or e-mail as by a particular method requested by the applicant – according to Article 5(1 b) of the Convention.

The service of documents by e-mail or fax in the State addressed would be acceptable under the Polish law if it had been a method prescribed by the internal law of the State addressed for service of documents in domestic actions – according to Article 5(1a) of the Convention.

### **16.3**

By this time the Polish Central Authority and courts do not use e-mail and fax for the sending of the certificate of due performance of service. Nowadays the receipt by e-mail or fax of a certificate of service abroad would not be acceptable.

### **16.4**

Generally – according to Article 131 paragraph 1 of The Polish Code of Civil Procedure - the courts effect service through the post, a bailiff or the court's service officials. Additionally according to Article 142, paragraph 1 of above-mentioned code, the person receiving a pleading shall acknowledge the receipt and the date thereof with a signature by hand. These provisions seem to rule out the use of e-mail or fax in service procedures. However there is one quite wide exception when the service by e-mail or fax is permitted. Under Article 472, paragraph 1 and 2 of The Polish Code of Civil Procedure, in cases in the field of labour law as well as of social insurance, the court may summon parties, witnesses, experts and other persons in the manner which it regards most purposeful, even omitting the manners provided for by general provisions, if the court deems that necessary to expedite the examination of the case. This shall also cover service and orders aimed at the preparation of the hearing, particularly the demands to present personal dossiers and other documents indispensable for deciding the case. The summons and service performed in the above manner has the effects as provided in the code if it is beyond any doubt that it has been brought to the knowledge of the addressee.

### **16.5**

The use of e-mail or fax in service procedures under article 472 of The Polish Code of Civil Procedure is not connected with specific security requirements.

### **16.6**

The clause for service whereby parties to a contract agree in advance to receipt of service of any document by electronic channels is not used in practice.

## **17 Model forms**

We consider that amendment of the Request Form, to provide for a specific box for a description and declaration of the capacity and competence of the forwarding authority would be desirable.

In our opinion the broadening of information in the “Summary of the document to be served” seems to be unnecessary. It is up to national law which addition information about procedure should be sent to parties.

## **18 Reservations and reciprocity**

Poland has declared an opposition to the methods of service specified in Articles 8 and 10.

## **19 Article 25: Bilateral and multilateral agreements**

Poland is bound by bilateral agreements in respect to international service with following Contracting States: Belarus, Bulgaria, People’s Republic of China, Czech Republic, Egypt, Estonia, Finland, France, Germany. Greece, Italy, Latvia, Lithuania, Russian Federation Turkey, Ukraine.