How to bring a case to court

Letonia

1 Do I have to go to court or is there another alternative?

In Latvia, a person may go to a law court or, if the parties have mutually agreed and concluded an arbitration agreement, to a court of arbitration (except for certain disputes that are not open to arbitration).

2 Is there any time limit to bring a court action?

Time limits for bringing court actions vary depending on the particular case. To clarify questions of time limits, please consult a lawyer or a public information agency.

There are various general time limits laid down in civil law. They can be affected by the subject-matter and circumstances of the claim, and have to be determined from case to case, taking into account the following:

Family law

Actions arising from an engagement to be married must be brought within a period of one year calculated from the day when the engagement is cancelled or when one of the parties withdraws from it, or where the fiancée is pregnant from the day when the child is born, if at such time the engagement has already been cancelled or the party has withdrawn from it.

Actions arising from the property relations between spouses must be brought within one year with respect to a transaction concluded by the other spouse.

The husband of a child's mother may contest a presumption of paternity within two years of the day he discovers that the child is not his. The mother of a child has the same right to contest a presumption of paternity. A child may himself or herself contest a presumption of paternity within two years after reaching the age of majority.

Actions arising from recognition of paternity must be brought within two years of the time when the party becomes aware of the circumstances that exclude the paternity, or of the child reaching the age of majority if the claim is brought by the child himself or herself

Actions arising from the relations between a guardian and a minor must be brought within one year of the minor's reaching the age of majority or the occurrence of other circumstances laid down in the law.

Property law

Actions for interference with possession or deprivation of possession must be brought within one year of the time the party becomes aware of the interference or deprivation.

Actions against a person who is in possession of a property and who may acquire it by prescription must be brought within 10 years of the time the other party becomes aware of the possession.

Actions brought by a new owner arising from augmentations formed as a result of natural processes must be brought within two years.

The law of obligations

Rights under the law of obligations are time barred if the person entitled does not duly exercise them within the period specified by law.

Actions arising from rights under the law of obligations for which the law does not specify a shorter term must be brought within 10 years; all such rights for which the law does not specify a shorter term are time barred if the person entitled does not exercise them within 10 years, except for some rights that cannot be time barred.

The right to request annulment of a purchase contract owing to excessive loss is barred if the claim has not been brought within one year of the conclusion of the contract.

Actions regarding losses resulting from pouring, throwing or falling must be brought within one year.

Commercial cases

Actions arising from a commercial transaction must be brought within three years, unless another limitation period is specified by law.

Actions arising from a commercial agency contract must be brought within four years of the end of the calendar year in which the claim arose.

Actions against an individual trader arising from the conduct of his or her business must be brought within three years after his or her removal from the commercial register, unless the claim is subject to a shorter limitation period.

Actions arising from a prohibition imposed on a member of a partnership preventing that member from concluding transactions in the same line of business as the partnership, or from being a member with full liability in another partnership which carries on the same line of business without the consent of the rest of the members, must be brought within three months of the day when the other members of the partnership become aware of the breach of the ban on competition, but no later than within five years of the time when the breach is committed.

Actions against a member of a partnership arising from the obligations of the partnership must be brought within three years of the day that the termination of the partnership is entered in the register, unless the claim against the partnership is subject to a shorter limitation period.

Actions against the founders of a company regarding obligations undertaken by the company before its establishment must be brought within three years of the day when the company is entered in the commercial register.

Actions against the founders regarding specific losses to the company and to third parties which have occurred during the establishment of the company must be brought within five years of the day when the company is entered in the commercial register. This time limit also applies to persons who facilitated the occurrence of such losses.

Actions arising from the rights against a company of a creditor who cannot obtain the satisfaction of his or her claim from the company and turns to the persons liable under the law (founders, third parties, etc.) must be brought within five years of the day that the claim arose.

Actions arising from a breach of a competition prohibition imposed on members of the board of a company must be brought within five years of the day of the breach.

Actions arising from losses caused during a reorganisation of a company to the company, its members or its creditors must be brought within five years of the day the reorganisation takes effect.

Actions against a forwarder must be brought within three years.

Actions against a forwarder regarding freight, unless the forwarder has acted in bad faith or has permitted gross negligence, and actions against a warehousekeeper, unless the warehousekeeper has acted in bad faith or has permitted gross negligence, must be brought within one year.

3 Should I go to a court in this Member State?

See factsheet on 'Jurisdiction of the courts'.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

See factsheet on 'Jurisdiction of the courts – Latvia'.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

See factsheet on 'Jurisdiction of the courts – Latvia'.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

An application may be submitted by the plaintiff himself or herself or by an authorised person. The authorisation may be attached to the application. It is not obligatory to use a lawyer or another legal adviser.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

An application must be submitted to the court of first instance that has jurisdiction.

The application must be submitted to the registry (*kanceleja*) of the court by the applicant or authorised person. Applications may also be sent by post, and should be addressed to the respective court.

Applications are accepted during working hours by an employee appointed by the president of the court – usually this is the assistant to the president of the court or an employee of the registry.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

Under the Law on Civil Procedure (*Civilprocesa likums*), parties must submit any foreignlanguage documents with a translation into the official language, Latvian, certified in accordance with the procedures laid down. No translation needs to be attached by a person who is exempted from covering court costs.

A court may accept certain procedural steps in another language if any party so requests and all the parties agree. The minutes of hearings and the decisions of the court are drawn up in Latvian.

An action is brought by submitting a written application to a court. The application may be submitted by the plaintiff in person or by a person authorised by the plaintiff, and may be sent by post, but not by fax or e-mail.

It should be added that documents certified with a secure electronic signature may be used to bring any kind of application unless the law lays down a specific procedure for initiating proceedings. Electronic documents are not accepted for certain types of contracts concerning real estate, family and succession and certain types of guarantee contracts.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

An application must be in writing. For most claims there is no set form. There are, however, specific forms for small claims (*maza apmēra prasības*, Chapter 30.3 of the Law on Civil Procedure); enforcement of obligations on court notice (*saistību piespiedu izpildīšana brīdinājuma kārtība*, Chapter 50.1 of the Law); and applications for provisional protection against violence (*pagaidu aizsardzība pret vardarbību*, Chapter 30.5 of the Law).

When there is no set form, the minimum information and data to be indicated in the application are laid down in the Law on Civil Procedure. Under the Law on Civil Procedure, the application must indicate following:

the name of the court to which the application is submitted;

the given name, surname, personal identity number and registered place of residence, or failing that, the *de facto* place of residence of the plaintiff; in the case of a legal person, the name, registration number and registered office; if the plaintiff agrees to communicate with the court by electronic means or if they are included among the persons/entities listed under Section 56(23) of the Law on Civil Procedure, an e-mail address and, where they are registered in the online system for correspondence with the court, the registration reference should also be indicated. The plaintiff may also indicate another address for correspondence with the court;

the given name, surname, personal identity number, registered place of residence and any declared additional address of the defendant or interested party, or failing that a *de facto* place of residence; for a legal person, the name, registration number and registered office. The personal identity number or registration number of the defendant is to be indicated if known;

the given name, surname, personal identity number and address for correspondence with the court of the representative of the plaintiff, if the action is brought by a representative, or in the case of a legal person, the name, registration number and registered office; if the representative of the plaintiff, with a registered place of residence or an address for correspondence in Latvia, agrees to communicate with the court by electronic means, an e-mail address and, where they are registered in the online system for correspondence with the court, the registration reference should also be indicated. If the registered place of residence or the address for correspondence of the representative of the plaintiff is outside Latvia, the e-mail address or the reference for their registration in the system for correspondence with the court is to be indicated too. If the plaintiff's representative is a lawyer, the e-mail address of their chambers should be added;

the name of a credit institution and the account number to which the recoverable amounts are to be paid and the legal costs reimbursed;

the subject-matter of the claim;

the amount of the claim, if the claim can be assessed in terms of money, showing the manner of calculation of the amount being recovered or disputed;

the facts on which the plaintiff bases his or her claim, and evidence which corroborates such facts;

the law on which the claim is based;

any reports on mediation attempted before bringing action before the court;

the claims of the plaintiff;

a list of the documents appended to the application;

the date on which the application was drawn up, and any other information that may be relevant. The plaintiff may indicate his or her telephone number, if he /she agrees to communicate with the court by phone.

Further information is required by the Law on Civil Procedure for applications of particular kinds (e.g. for divorce) and for special types of proceeding (e.g. confirmation or annulment of adoption, protection of inheritance and guardianship).

The application must be signed by the plaintiff or his or her representative, or by the plaintiff together with the representative if the court so requires, except where the law provides otherwise. If the representative is to act on the plaintiff's behalf, a power of attorney (*pilnvara*) or another document certifying the representative's right to conduct the action must be attached to the application.

The application must be submitted to court in as many copies as there are defendants and third parties in the case.

As provided for in the European Union legislation and international conventions, an application for maintenance must be made using the forms indicated in the relevant legislation and may be submitted or sent via the Latvian central authorities designated for the purposes of cooperation.

The application must also be accompanied by documents which:

show that State fees (*valsts nodevas*) and other court costs have been paid in accordance with the procedures laid down by law and in the correct amounts;
confirm that the procedures for preliminary extrajudicial examination of the matter have been followed, where such examination is required by law;
attest to facts on which the claim is based.

On the Latvian courts portal, under *E-Pakalpojumi* ('e-services'), *E-veidlapas* ('e-templates'), there are a number of templates for procedural documents. The templates may be downloaded and completed and submitted in printed form.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Court costs have to be paid before the application is submitted (State fee (*valsts nodeva*), registry fee (*kancelejas nodeva*), and expenses necessitated by the consideration of the case (*ar lietas izskatīšanu saistītie izdevumi*)); this can be done at a bank. When the court rules in favour of a party it will order the unsuccessful party to pay the successful party all the court costs they have incurred. If a claim has been satisfied in part, the court costs will be awarded in proportion. If a plaintiff discontinues an action or a case remains unadjudicated, the plaintiff must reimburse the defendant's court costs (except in cases laid down by law where a claim is related to the issuance of the certificate provided for in Regulation (EC) No 1896/2006 of the European Parliament and of the Council). In that case the defendant does not reimburse the court costs paid by the plaintiff, but if a plaintiff discontinues the action because the defendant voluntarily satisfies the claim after the application is submitted, the court may at the plaintiff's request order the defendant to pay the plaintiff's court costs. Similarly, the costs of conducting the case (lawyer's fees, expenses of attendance at court and expenses related to the gathering of evidence) will be awarded against the defendant in the plaintiff's favour if the plaintiff's claim is allowed in whole or in part, or if the plaintiff discontinues the action because the defendant voluntarily satisfies the claim after the application is submitted. If an action is dismissed, the court will order the plaintiff to reimburse the defendant for the costs of conducting the defence.

The fees payable to a lawyer or legal adviser are determined by agreement between the client and the lawyer or legal adviser.

11 Can I claim legal aid?

See the factsheet on 'Legal aid'.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

Documents received by post, or during customer service hours, are registered by the court in a register of incoming correspondence on the day of their receipt. An application is considered to be brought on the day it is received. A time limit for any procedural step to be carried out in court expires at the time when the court ceases work. If an application, appeal or other postal consignment is delivered to a communications operator by 24:00 on the final date of the time allowed, it is considered to have been submitted within the time limit.

If an application is not drawn up correctly, or any of the necessary documents are missing, a judge will take a reasoned decision finding that no action should be taken on the application. A copy of that decision is sent to the plaintiff with a time limit for the rectification of the deficiencies. This time limit cannot be shorter than 20 days starting from the day of posting of the decision. If the plaintiff rectifies the deficiencies within the time limit set, the application is considered to have been submitted on the day when it was first received by the court. If the plaintiff fails to rectify the deficiencies within the time limit set, the application is considered never to have been submitted, and is returned to the plaintiff. The fact that an application has been returned does not prevent the plaintiff from submitting it to the court again.

Specific confirmation that an application is correctly presented: if an application is correctly drawn up, and all the necessary documents are appended thereto, a judge will take a decision within seven days of receipt of the application at the court accepting the application and initiating the proceedings.

When proceedings are initiated the application and copies of documents attached thereto are sent to the defendant with a time limit for submission of written observations. Upon receipt of the observations the judge sends a copy thereof to the plaintiff and interested third parties. The judge may require the plaintiff to comment on the observations. Once the observations have been received, or the time limit for the receipt of observations has expired, the judge sets a date for the court hearing. The court clerk sends the parties a court summons. If the case is to be adjudicated by written procedure, no date is set for a hearing, and no court summons is sent to the parties.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

The parties to a case receive a court summons giving notice of the time and place of the court hearing or other procedural action. The court summons is sent to a person's registered place of residence, but a person may also indicate another address for correspondence with the court.

If the defendant does not have a registered place of residence in Latvia and the plaintiff, for objective reasons, has not succeeded in establishing the defendant's place of residence outside Latvia, the court, upon a reasoned application by the plaintiff, may make use of the procedures for tracing the defendant's address provided for in the international agreements binding on Latvia or in European Union legislation.

If the defendant's address cannot be traced using the procedures provided for in the international agreements binding on Latvia or in the EU legislation, or if it proves impossible to send the documents to the defendant at the address established by the plaintiff, or if it proves impossible to send the documents to the defendant by the procedures provided for in European Union legislation, or by the procedures provided for in the international agreements binding on Latvia, or by the procedure provided for in the Civil Procedure Law for international cooperation in civil proceedings, a defendant who has no declared place of residence in Latvia is summoned to the court by a notice published in the official gazette, *Latvijas Vēstnesis*.

On the Latvian courts portal, under *E-pakalpojumi* ('e-services') and *Tiesvedības gaita* ('progress of legal proceedings'), information can be obtained on the progress of legal proceedings by the number of the case or summons.

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