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Latvian

Taking of evidence

Latvia

1 The burden of proof

A party is responsible for proving the facts on which that party's claims or objections are based. The plaintiff must substantiate his or her claims and the defendant must substantiate his or her objections.

1.1 What are the rules concerning the burden of proof?

Evidence is submitted by the parties to the case and by other interested parties. If a party to the case or other interested party is unable to produce certain evidence, and makes a reasoned request to that effect, the court may require the evidence to be produced.

1.2 Are there rules which exempt certain facts from the burden of proof? In which cases? Is it possible to produce evidence in order to prove that a specific legal presumption is not valid?

If the court acknowledges a fact to be common knowledge, it need not be proved.

Facts established in a judgment that has taken legal effect in one civil dispute need not be proved again in other civil disputes involving the same parties.

A court judgment which has taken legal effect in a criminal case is binding on a court adjudicating a case regarding the civil liability of the person who was the subject of the criminal judgment, but only with respect to the question whether there was a criminal act, or failure to act, and the question whether it was committed or permitted by that person.

Facts which are deemed to be established by law need not be proved. Such presumptions may be rebutted in accordance with the ordinary procedure.

A party need not prove facts which are not disputed by the other party in accordance with the procedures laid down in the Law on Civil Procedure.

1.3 To what extent must the court be convinced of a fact in order to base its judgment on the existence of that fact?

A court must assess the evidence to its own satisfaction, on the basis of evidence that has been thoroughly, completely and objectively examined in court, and in accordance with a judicial approach founded on logical principles, scientific findings and observations drawn from every-day experience. A court must set out in its judgment why it has given preference to one item of evidence in preference to another, and has found certain facts to be proven and others not.

No evidence has a predetermined effect binding upon the court.

2 The taking of evidence

2.1 Does the taking of evidence always require the application by a party, or can the judge in certain cases also take evidence on his/her own initiative?

The Law of Civil Procedure states that the parties are responsible for submitting evidence, but it also provides for certain cases where the court may require evidence on its own initiative (for instance where the interests of a child are involved). If the court finds that no evidence has been submitted to substantiate a fact or facts on which a party's claims or objections are based, it notifies the parties accordingly, and if necessary sets a timelimit within which the evidence can be submitted.

2.2 If the application by a party concerning the taking of evidence is approved, what steps follow?

Written and material evidence is submitted to the court by the parties. Where the parties make reference to oral evidence the court invites the witnesses indicated by the parties to a court hearing to hear their testimony. The court adds the evidence to the case file.

2.3 In which cases can the court reject an application by a party to obtain evidence?

The court allows only evidence that is provided for by law and of relevance to the case. The court may refuse to accept evidence submitted later than 14 days prior to the court hearing, unless the judge has set a different timelimit for the submission of evidence. While a case is being adjudicated, evidence may be submitted at the reasoned request of a party to the dispute or another interested party, if this does not delay the adjudication of the case, or the court has accepted that there are valid reasons why the evidence was not submitted in good time, or the evidence concerns facts that have come to light in the course of the proceedings.

Witness testimony based on information from unknown sources, or on information obtained from other persons, unless such persons have been examined, are not admissible in evidence.

2.4 What different means of proof are there?

Observations submitted by parties to the dispute and by interested third parties which include information about facts on which their claims or objections are based, if corroborated by other evidence verified and assessed at a court hearing;

the testimony of witnesses and experts;.

written evidence, consisting of documents or other texts in which information on facts that are relevant to the matter is recorded by means of letters, figures and other written symbols or other technical means, and any corresponding recording media (audio or video tapes, diskettes, etc.);

material evidence;

expert reports;

expert opinion;

reports by public bodies.

2.5 What are the methods of obtaining evidence from witnesses and do these differ from the means employed to obtain evidence from expert witnesses? What are the rules in relation to the submission of written evidence and expert reports/opinions?

There is no substantial difference: the testimony of experts and other witnesses is evidence, and written statements by experts are also evidence. A witness or an expert has to appear in court when summoned by the court to provide true testimony regarding the circumstances known to them (witnesses) or to provide an objective opinion in their own name regarding the scientific, technical, artistic or other facts they have investigated.

2.6 Are certain methods of proof stronger than others?

No evidence has a predetermined effect binding upon the court, but in its judgment the court has to explain why it has given preference to some evidence over other evidence, and has found certain facts to be proven and others not.

2.7 In order to prove certain facts, are certain methods of proof obligatory?

Yes. Facts which by law can be proved only by certain forms of evidence cannot be proved using any other form of evidence.

The court admits only the forms of evidence provided for by law.

2.8 Are witnesses obliged by law to testify?

A witness who has been summoned to court does not have the right to refuse to give evidence except in cases provided for by law.

2.9 In which cases can they refuse to give evidence?

The following persons may refuse to testify:

relatives in the direct line and of the first or second degree in a collateral line, spouses, relatives by marriage of the first degree, and family members of the parties;

guardians and trustees of parties, and persons under the guardianship or trusteeship of the parties;

persons involved in litigation in another matter against one of the parties.

2.10 Can a person who refuses to testify be sanctioned or forced to give evidence?

A witness who has reached 14 years of age who refuses to testify for reasons which the court finds to be invalid, or who intentionally gives false testimony, commits an offence under the Criminal Law.

If a witness, without proper cause, fails to appear in response to a summons by a court or a judge, the court may impose a fine not exceeding EUR 60 or have the witness compelled to come to court.

2.11 Are there persons from whom evidence cannot be obtained?

Ministers of religion are not required to give evidence regarding facts that have come to their knowledge through hearing confessions, and persons whose position or profession does not permit them to disclose certain information entrusted to them are not required to give evidence regarding such information;

minors are not required to testify regarding facts which constitute evidence against their parents, grandparents, brothers or sisters;

persons whose physical or mental deficiencies render them incapable of properly assessing circumstances relevant to the case are not required to give evidence;

children under the age of seven are not required to give evidence.

2.12 What is the role of the judge and the parties in the hearing of a witness? Under what conditions can a witness be heard via videoconferencing or other technical means?

A person summoned as a witness must appear in court and give true testimony regarding any fact of which they have knowledge. A witness must answer questions asked by the court and the parties. A court may question a witness at the witness's place of residence, if the witness is unable to attend pursuant to a court summons because of illness, old age or invalidity or for another valid reason. A witness may also be questioned by videoconference in court, depending on the witness's whereabouts, or at a place specially equipped for such a purpose.

3 The evaluation of the evidence

3.1 Where evidence has not been obtained legally by a party, are there restrictions placed on the court in reaching its judgment?

The parties to a dispute may dispute the veracity of written evidence.

Written evidence may not be disputed by the person who himself or herself has signed such evidence. Such a person may dispute the evidence by bringing a separate action, if their signature was obtained under the influence of duress, threat or fraud. A party may also submit a substantiated application alleging forgery of written evidence. If the court finds that the evidence has been forged, it will exclude the evidence and notify a public prosecutor of the forgery. In order to examine an application alleging forgery of written evidence, the court may order an expert report or require other evidence. If the court finds that a party has initiated a dispute regarding the forgery of written evidence without good cause, it may impose a fine.

The Law on Civil Procedure requires a person summoned as a witness to appear in court and give true testimony regarding any fact of which they have knowledge. If a party wants to prove certain circumstances by witness testimony, the party must in their request to the court seeking to have the witness questioned indicate what important aspects of the case the witness would be able to confirm.

3.2 As a party to the case, will my own statement count as evidence?

Observations by parties to the dispute and third parties which include information about the facts on which their claims or objections are based are admitted as evidence if corroborated by other evidence that is verified and assessed at a court hearing. If one party admits the facts on which the claims or objections of the other party are based, a court may find such facts to be proven, provided the court has no doubt that the admission was not made as a result of fraud, violence, threat or error, or in order to conceal the truth.

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