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BEZUSPEŠNO DOSTAVLJANJE TUŽBE PRAVNOM LICU NA ADRESU IZ REGISTRA, ODBACIVANJE TUŽBE I POSTAVLJANJE PRIVREMENOG ZASTUPNIKA

Ukoliko sud tuženom i statutarnom zastupniku ne može da uruči tužbu (tuženi - privredno društvo se nalazi na adresi upisanoj u registar kod APR, ali u sedištu privrednog društva nema nikog, privredno društvo ne radi a statutarni zastupnik se nalazi u inostranstvu - nepoznato prebivalište) a tužilac ne predlaže da sud postavi privremenog zastupnika, kakva su ovlašćenja suda za postupanje u predmetu?

Iz pitanja proizlazi da se dostavljanje vrši pravnom licu i da je adresa tog lica tačna (saglasna sa podacima iz APR-a), a da **dostavljanje nije uspešno**, jer u prostorijama nema nikog (pa ni lica ovlašćenog za prijem pismena). Dostavljanje je pokušano statutarnom zastupniku, a navodi se da je on u inostranstvu. To znači da je njegova **adresa** takođe tačna (tako se očigledno saznalo da je lice u inostranstvu). U smislu člana 137. Zakona o parničnom postupku, ako se utvrdi da je lice kome se pismeno ima dostaviti odsutno i da mu lica iz člana 135. st. 1. i 2. ovog zakona ne mogu pismeno na vreme predati, pismeno će se **vratiti sudu** uz naznačenje gde se odsutni nalazi. Sud će dostavljanje **pokušavati iznova** sve dotle dok pismeno ne uruči. Dok god se radi o tačnim adresama, **tužbu ne može odbaciti**.

(Odgovor utvrđen na sednicama Odeljenja za privredne sporove Višeg trgovinskog suda od 28.10.2009. i 24.11.2009. godine i Odeljenja za privredne prestupe i upravno-računske sporove od 29.10.2009. godine)
- Naslove priredio: dr Vladimir Kozar, docent na Pravnom fakultetu za privredu i pravosuđe Univerziteta Privredna akademija u Novom Sadu

If the court cannot serve a lawsuit upon the defendant or their statutory agent (defendant - business company is located at the address registered with the Business Registers Agency, but there is no one present at the at the main offices of the concerned business company, the business company is closed, and the statutory agent is abroad - unknown place of residence), and the prosecutor does not recommend the court to appoint a temporary agent, what are the discretions of the court for acting upon the case file?

It may be concluded from the question that the lawsuit is to be served upon a legal entity, and that the address of that legal entity is correct (pursuant to the data of the Business Registers Agency), but that **the delivery was, nevertheless, unsuccessful**, because there was no one present on the premises (not even the person authorized to receive written documents). Attempt was made to serve the document upon the relevant statutory agent, and it was stated that the agent is abroad. This implies that **the agent's address** is also **correct** (this is how it was discovered that the agent was abroad). In accordance with Article 137 of the Law on Litigation, if it is determined that the person that needs to be served a written document is absent and that the persons stipulated in Article 135, Paragraphs 1 and 2 of that Law cannot be served that written document in due time, the document is to be **returned to the court**, with the accompanying note as to where the absentee is located. The court is to **try the delivery again**, until the concerned written document is served. As long as the concerned addresses are correct, **the lawsuit cannot be dismissed**.

(Reply determined at the sessions of the Commercial Disputes Department of the High Commercial Court, as of 28.10.2009 and 24.11.2009, and the Department for Business Offences and Administrative-Accounting Disputes as of 29.10.2009) - Titles prepared by: Vladimir Kozar, PhD, Assistant Professor at the Business Academy's School of Law in Novi Sad

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UNSUCCESSFUL DELIVERY OF A LAWSUIT TO A LEGAL ENTITY AT THE ADDRESS STATED IN THE REGISTER; DISMISSAL OF A LAWSUIT, AND APPOINTMENT OF A TEMPORARY AGENT