Service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)

2005/0126(COD) - 28/06/2007 - Council position

The Council’s common position was adopted by unanimity. It remains faithful to the text agreed between the European Parliament and the Council and thus also to a large extent to the Commission's amended proposal. Only where the text of the amended proposal diverged from the agreed text or where amendments were necessary for other reasons have changes been made.

The main changes made in the common position concern the following issues:

- the common position is a coordinated and comprehensive version of the Regulation incorporating the amendments adopted by the European Parliament (and not a mere amendment of Regulation (EC) 1348 /2000);

- express exclusion of liability of the State for actions or omissions in the exercise of state authority ("acta iure imperii") from the scope (Article 1(1));

- a new paragraph is inserted to highlight the non participation of Denmark (new paragraph 3 in Article 1). The Council has equally as a consequence of the exclusion of Denmark made the appropriate adjustments in the Annexes;

- comitology: regulatory procedure with scrutiny instead of advisory procedure (Articles 17 and 18);

- publication of information communicated by Member States in the Official Journal of the European Union with the exception of the addresses and other contact details of the agencies and of the central bodies and the geographical areas in which they have jurisdiction (article 23(2)).

- new Annex II (information of the addressee about his right to refuse to accept a document).

Other amendments are of a more formal nature and have been made to render the text easier to read.

- Article 2(2)(b): the European Parliament and the Council had agreed on the insertion of a new recital (EP amendment 7). The Commission in its amended proposal had duly inserted this new recital (Recital 8), but had also inserted a provision in Article 2(2)(b). As such a new provision had not been agreed between the European Parliament and the Council, the Council has deleted the added provision. The common position thus follows the agreed approach;

- Article 19 (Defendant not entering an appearance): the wording the Commission's amended proposal diverged slightly from that of Article 19 of Regulation No 1348/2000 in the sense that there was no longer any mentioning of a document being "delivered" to the defendant. Since no amendment of Article 19 had been agreed between the European Parliament and the Council, the Council has reverted to the previous text in its common position.