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

2018/0204(COD) - 08/01/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Sergio Gaetano COFFERATI (S&D, IT) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Objective of the Regulation

Members specified that the Regulation shall improve the effectiveness and speed of judicial procedures by simplifying and streamlining procedures for the notification or communication of judicial and extrajudicial documents at Union level, while at the same time helping to reduce delays and costs for individuals and businesses and encourage individuals and businesses to engage in cross-border transactions.

Exchange of documents by electronic means

Members considered that the Regulation shall improve and speed up the exchange and service of judicial and extrajudicial documents in civil and commercial matters between Member States, while ensuring a high level of security and protection of the transmission of such documents, preserving the procedural rights of the recipient and protecting privacy and personal data.

The decentralised IT system to be established pursuant to Regulation (EC) No 1393/2007 should be based on the eCODEX system and should be managed by eu-LISA. The Commission shall submit as soon as possible, and in any event before the end of 2019, a proposal for a Regulation on cross-border communication in judicial proceedings (eCODEX).

The operating procedures of the decentralised computer system shall be defined by means of delegated acts. Any processing of personal data of natural persons under the Regulation shall be undertaken in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC.

Protection of the defendant's interests

In order to preserve the defendant's rights, Members considered it necessary to ensure that the addressee explicitly accepts the method of service by electronic means. Where documents are served or transmitted electronically, the possibility should be available to provide an acknowledgement of receipt of such documents.

Where the defendant has not appeared and no certificate of service or delivery has been received, the judge shall still be able to give judgement, subject to certain limitations and provided that various requirements for the safeguard of the interests of the defendant have been complied with. In those cases, it is essential to ensure that all reasonable efforts are made to inform the defendant that court proceedings

have been initiated against her or him. For that purpose, the court shall send alert messages through all available known channels of communication which are likely to be accessible in a manner that is exclusive to the addressee, including, for example, by means of that person's telephone number, e-mail address or private social media account.

Parties domiciled in another Member State

Where a document instituting the proceedings has already been served upon the defendant and the defendant has not refused to accept such document, the law of the forum Member State shall offer parties who are domiciled in another Member State the possibility of appointing a representative for the purpose of service of documents on them in the forum Member State, provided that the party concerned has been duly informed about the consequences of that choice and has explicitly accepted such option.

Time limits

Members proposed inserting certain deadlines to ensure that the transmission of documents and communications between transmitting agencies, receiving agencies and central agencies is carried out effectively. However, these deadlines shall not apply when the transmission is made by alternative means due to an unforeseen and exceptional disruption of the decentralised IT system.