Civil and commercial judicial cooperation: transmission and service of documents between the Member States, Brussels and The Hague conventions

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PURPOSE : to improve and expedite the transmission of judicial and extrajudicial documents within the internal market. CONTENT : by basing itself on the new provisions of the Amsterdam Treaty, this proposal for a Directive marks the first instance of exercise of the right of initiative in the area of judicial cooperation in civil matters, now brought within the Community framework; its purpose is to improve and expedite the transmission of judicial and extrajudicial documents in civil or commercial matters for service between Member States. It takes in most of the contents of the Convention of 26 May 1997 by insuring the continuity of the results obtained in the framework of its negotiation. As this Convention has not been ratified, its provisions are not applicable. Like the Convention it is to replace, the Directive is consistent with the 1965 Hague Convention, to which it owes a number of solutions, while introducing innovations in four main areas. Firstly, in order to avoid delays building up between successive intermediaries downstream of a document's transmission, it makes provision for establishing more direct channels between the persons or authorities responsible transmitting a document and those serving it or ensuring it. Next, it provides for certain practical means to be used to ease the practioners' task, including modern means of document transmission, a complete, user-friendly form and directories of Member States' designated receiving agencies. In addition, in order to safeguard the rights of the parties, it also introduces innovative rules on the translation of documents. It also establishes an advisory committee to assist the Commission with the implementing provisions. The Directive replaces the system for the service of documents referred to in Article IV of the Protocol to the Brussels Convention of 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters and in the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, for the purposes of relations between the Member States that are parties thereto.