Basic information

2005/0126(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) Repealing Regulation (EC) No 1348/2000 1999/0102(CNS) Amended by 2018/0204(COD) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	GAUZÈS Jean-Paul (PPE-DE)	10/07/2007

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	GAUZÈS Jean-Paul (PPE-DE)	15/09/2005

Former committee for opinion	Former rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2794	2007-04-19
Justice and Home Affairs (JHA)	2732	2006-06-01
Environment	2812	2007-06-28

European Commission

Commission DG	Commissioner
Justice and Consumers	FRATTINI Franco

Key events

Date	Event	Reference	Summary
07/07/2005	Legislative proposal published	COM(2005)0305	Summary
06/09/2005	Committee referral announced in Parliament, 1st reading		
31/01/2006	Vote in committee, 1st reading		Summary
02/02/2006	Committee report tabled for plenary, 1st reading	A6-0024/2006	
01/06/2006	Debate in Council		Summary
04/07/2006	Decision by Parliament, 1st reading	T6-0288/2006	Summary
04/07/2006	Results of vote in Parliament		
01/12/2006	Modified legislative proposal published	COM(2006)0751	Summary
28/06/2007	Council position published	08703/5/2007	Summary
12/07/2007	Committee referral announced in Parliament, 2nd reading		
04/10/2007	Vote in committee, 2nd reading		Summary
08/10/2007	Committee recommendation tabled for plenary, 2nd reading	A6-0366/2007	
24/10/2007	Decision by Parliament, 2nd reading	T6-0446/2007	Summary
24/10/2007	Results of vote in Parliament		
13/11/2007	Final act signed		
13/11/2007	End of procedure in Parliament		
10/12/2007	Final act published in Official Journal		

Technical information

Procedure reference	2005/0126(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 1348/2000 1999/0102(CNS) Amended by 2018/0204(COD)
Legal basis	EC Treaty (after Amsterdam) EC 067-p5 EC Treaty (after Amsterdam) EC 061-
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/51520

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE367.857	11/01/2006	

Committee report tabled for plenary, 1st reading/single reading		A6-0024/2006	02/02/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0288/2006	04/07/2006	Summary
Committee draft report		PE392.291	30/07/2007	
Committee recommendation tabled for plenary, 2nd reading		A6-0366/2007	08/10/2007	
Text adopted by Parliament, 2nd reading		T6-0446/2007	24/10/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	08703/5/2007	28/06/2007	Summary
Draft final act	03661/2007/LEX	13/11/2007	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0305	07/07/2005	Summary
Commission response to text adopted in plenary	SP(2006)3801	28/08/2006	
Modified legislative proposal	COM(2006)0751	01/12/2006	Summary
Commission communication on Council's position	COM(2007)0400	10/07/2007	Summary
Follow-up document	COM(2013)0858	04/12/2013	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0231/2006	14/02/2006	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Regulation 2007/1393
OJ L 324 10.12.2007, p. 0001

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

2005/0126(COD) - 04/12/2013 - Follow-up document

The Commission presents a report on the application of 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 report recalls that co-operation between the judicial authorities of the Member States of the European Union is a keystone for a European area of freedom, security and justice. Such cooperation is particularly necessary in order to ensure an efficient transmission of judicial and extrajudicial documents for purposes of service between the Member States.

Prior to any Union action on this matter, the cross-border service of documents between Member States was mainly governed by the 1965 Hague Convention on the service of documents.

On 29 May 2000, the European Union adopted Regulation (EC) No 1348/20002 laying down procedural rules to facilitate the cross-border transmission of documents.

On 1 October 2004, the European Commission adopted a report on the application of the 2000 Regulation which concluded that that the level of knowledge of those involved in the application of the Regulation, in particular local bodies, needed to be improved.

Thus, the Commission proposed an amendment in 2005 and as of 13 November 2008, the 2000 Regulation was replaced by Regulation (EC) No 1393 /2007 of the European Parliament and the Council.

The 2007 Regulation stipulated that no later than 1 June 2011 and every five years thereafter the Commission should review the application of the Regulation and propose amendments if necessary. This Report presents the **Commission's first assessment of the application of the 2007 Regulation** for the period running from 2008 to 2012.

The application of the 2007 Regulation: in general, it may be concluded that the Regulation operates well and has reached its objective to increase legal certainty in cross-border service of documents as well as speed and efficiency in transmission between Member States. Nevertheless, some points merit attention in order to evaluate whether and how the system of service between Member States may be further improved. The report notes that the increasing judicial integration of Member States has brought to light the limits of the current text of the Regulation. In the light of the role of the Regulation in the entire framework of judicial cooperation in civil justice matters, particularly in the light of the abolition of exequatur, **a deeper integration within the Union, for instance by way of minimum standards on service, may be considered**. Furthermore, even if the delays for cross-border service have been progressively reduced, an efficient conduct of judicial proceedings in Europe requires **further progress to be made**.

The report focuses, in particular, on the following issues:

- Electronic service of documents: electronic service is an emerging method to serve documents within Member States. In most systems where such method of service exists, citizens (usually commercial or financial institutions) register with the courts, thus permitting to be served directly by electronic means. Currently, the Regulation does not mention electronic service. The question has been raised in certain Member States whether foreign citizens could register into the national electronic service system and whether a service effected on such foreigners should be considered a cross-border service for purposes of the application of the Regulation. **The answer to this question has important consequences, such as whether the right to refuse a document which is not written in one of the languages foreseen** in Article 8 of the Regulation applies. It should be considered whether electronic service should be available at cross-border level and if and how the Regulation should apply in such a case.

- Abolition of exequatur: the gradual abolition of exequatur raises the question on the **need of a higher degree of harmonisation concerning national civil procedural rules, in general**, and concerning rules on service of documents, in particular. As a result of disparities between Member States, it is uncertain currently in which circumstances the protection ensured by the Regulation actually applies. In particular, it is not sure that foreign defendants will be protected, where appropriate, by the Regulation's rules on the right to refuse to accept a document, the date of service, and the rights of the defence in the event of default. The question arises to what extent such disparities between Member States' laws and the resulting lack of legal certainty for citizens are appropriate in the context of judicial cooperation in the European Union, particularly in the light of the abolition of exequatur where the protection of the rights of the defense is a crucial element to be safeguarded across borders.

Several questions have been raised with respect to the **scope of the Regulation**. A satisfactory operation of the Regulation may require clarification regarding the scope of the instrument at Union level. It may be appropriate now to consider the need to address this legal uncertainty, in particular by way of common minimum standards on which **documents should be served on foreign parties, on whom such service may take place, and at which moment in time service should take place**. In this way, a more uniform protection of defendants across the Union would be ensured and would without any doubt enhance legal certainty and the **protection of the rights of the defence**.

The report also highlights the following:

- the problems relating to the speed of transmission and service,

- the jurisdiction of the transmitting agencies,
- the issue of language and of the right to refuse the act if it is not drafted in an official language of the place where service is effected or in a language which the addressee understands,
- the costs of the service of documents,
- the transmission procedures (direct transmission).

Next steps: this report will serve to encourage a **broad public debate** on the role of the Service Regulation in the Union's civil justice area and how in particular the service of documents may be further improved.

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

2005/0126(COD) - 01/12/2006 - Modified legislative proposal

All amendments adopted by the European Parliament are accepted by the Commission in their entirety.

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

2005/0126(COD) - 07/07/2005 - Legislative proposal

PURPOSE: transmission and service in the Member States of judicial and extrajudicial documents.

LEGISLATIVE ACT: Regulation of the European Parliament and of the Council.

CONTENT: On 29 May 2000, the Council adopted Regulation 1348/2000/EC on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. The Regulation aims at expediting the transmission of documents which is to be made directly between local bodies (transmitting and receiving agencies) designated by the Member States. Since the entry into force of Regulation 1348/2000/EC on 31 May 2001, the Commission has sought to receive as much information as possible about the application of the Regulation.

The Commission has therefore gathered information and discussed the application of the Regulation on various occasions. Furthermore, a Study on the application of the Regulation has been made by a contractor of the Commission. Lastly, the Commission adopted the Report on the Application of the Regulation foreseen in Article 24 of the Regulation.

The Report concludes that since its entry into force in 2001, the application of the Regulation has generally improved and expedited the transmission and the service of documents between Member States. Nevertheless, in the period of adaptation which is still ongoing, many persons involved in the application of the Regulation, in particular local bodies, still do not have sufficient knowledge about the Regulation. Furthermore, the application of certain provisions of the Regulation is not fully satisfactory.

The Commission Report indicates that – compared with the situation under the 1965 Hague Convention on the Service of Documents - the application of the Regulation has made the transmission and the service of documents faster. While the amount of time required for transmission and service has generally been reduced to 1 to 3 months, in some cases up to 6 months are still required. Such delays for the transmission and service of documents between Member States are unacceptable in a European area of justice in civil and commercial matters.

This proposal amends several paragraphs of Articles 7, 8, 9, 11, 14, 15, 17 and 23 of Regulation 1348/2000/EC. The following are the main proposed amendments:

- In Art 7, it introduces an obligation to effect the service of a within one month of receipt of the document by the receiving agency. It also provides that the receiving agency shall inform the transmitting agency immediately, if it has not been possible to effect service.

- In view of divergent approaches in the Member States with respect to a time limit for the refusal to accept a document, a common time limit of one week within which the addressee can refuse to accept the document by returning it is introduced. It should also be clarified that the addressee may exercise his right also immediately at the time of service directly with the person serving the document. Furthermore, an obligation to inform the addressee in writing about his right to refuse to accept the document is introduced since the Commission Report indicates that currently the addressee is not always informed of his right to refuse to accept the document. The receiving agency shall inform the addressee about his right using the standard form in the Annex.

- Art 8(3): In view of the fact that the Regulation does not expressly provide for a rule concerning the legal consequences of a justified refusal to accept the document in accordance with Art 8 (1), there is currently a case pending at the European Court of Justice with respect to that question. For reasons of legal certainty, the Regulation itself should provide for an explicit rule for such cases.

- Currently, several Member Stateshave invoked derogations in accordance with Article 9 (3), on the basis that the double-date system is not known in their national procedural laws. Those Member States do, however, have equivalent rules in order to protect the rights of the applicant (e.g. by providing that prescription is interrupted through the seizure of the court).

- Art 11 (4): In order to facilitate access to justice, this paragraph provides that costs occasioned by the employment of a judicial officer or of a person competent under the law of the Member State addressed shall correspond to a fixed fee laid down by that Member State in advance which respects the principles of proportionality and non-discrimination.

- Article 14: This amendment aims at further facilitating the application of the Regulation by introducing a uniform rule for all Member States concerning postal services. Currently, the identification of the conditions applicable in a specific Member State is not user-friendly. The paragraph provides for a uniform requirement (registered letter with acknowledgement of receipt or equivalent) which is applicable already in many Member States. This requirement guarantees with sufficient certainty that the addressee has received the document, and that there is sufficient proof thereof.

- Article 15: The deletion of paragraph 2 which provides for a possibility for Member States to oppose themselves to direct service will further facilitate the application of the Regulation by introducing a uniform rule for all Member States.

- Article 15a: In order to improve legal certainty for the applicant and the addressee and for reasons of consistency, this paragraph provides – as a clarification - that the rules concerning the refusal to accept the document (Article 8), and the rules concerning the date of service (Article 9), shall apply to the means of transmission and service provided for in this section (i.e. Articles 12 to 15). This modification clarifies also that the language rules of Article 8 also apply for service by postal services.

- Articles 17 and 23: The requirement for the adoption of the manual of receiving agencies and the glossary by a Commission Decision (Article 17) should be deleted as well as the requirement of the publication of the information communicated by Member States in the Official Journal (Article 23). Instead, this paragraph provides that a rule equivalent to Articles 19 and 22 of Council Regulation 1206/2001/EC on cooperation between the courts of the Member States in the taking of evidence in civil or commercial mattersis introduced since Articles 17 and 23 unnecessarily complicate making available the information communicated by Member States.

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

2005/0126(COD) - 13/11/2007 - Final act

PURPOSE: to improve and expedite the transmission of judicial and extrajudicial documents in civil or commercial matters for service between the Member States.

LEGISLATIVE ACT: 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), and repealing Council Regulation (EC) No 1348/2000.

CONTENT: Since its entry into force in 2001, Council Regulation (EC) No 1348/2000 has generally improved and expedited the transmission and the service of documents between Member States. Nevertheless, the application of certain provisions of the Regulation is not fully satisfactory.

This Regulation repeals Regulation (EC) No 1348/2000 and aims to further improve the transmission and service of documents and to strengthen legal security for both the applicant and the addressee.

The Regulation shall apply in civil and commercial matters where a judicial or extrajudicial document has to be transmitted from one Member State to another for service there. It shall not extend in particular to revenue, customs or administrative matters or to liability of the State for actions or omissions in the exercise of state authority (*acta iure imperii*). In addition, the Regulation shall not apply where the address of the person to be served with the document is not known.

The main amendments contained in the new Regulation are as follows:

- A provision by which the receiving agency shall itself serve the document, in any event within one month of receipt;

- A new form aiming to inform the addressee that he may refuse to accept a given document within one week of the document being served;
- A provision establishing that the costs occasioned by recourse to a judicial officer or to a person competent under the law of the Member State addressed shall correspond to a single fixed fee laid down by that Member State in advance, which respects the principles of proportionality and non-discrimination;
- Standard conditions regarding the service of judicial documents by postal services (by registered letter with acknowledgement of receipt or equivalent);
- The use of the regulatory procedure with scrutiny relating to the updating or to the making of technical amendments to the standard forms set out in Annexes I and II.

The Commission will publish, in the Official Journal of the European Union, the information communicated by the Member States in accordance with the Regulation, 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.

No later than 1 June 2011, and every five years thereafter, the Commission shall present a report on the application of this Regulation. The report shall be accompanied, if need be, by proposals for adaptations of this Regulation in line with the evolution of notification systems.

Denmark does not take part in the adoption of this Regulation and is not bound by it or subject to its application.

ENTRY INTO FORCE: 30/12/2007.

APPLICATION: from 13/11/2008, with the exception of Article 23 (communication and publication) which applies from 13/08/2008.

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

2005/0126(COD) - 04/07/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a report by Jean-Paul **GAUZÈS** (EPP-ED, FR) and made some amendments to the proposal. (Please see the summary of 31/01/2006.) The main ones are as follows:

-The addressee should be informed in writing that he or she may refuse to accept the document to be served at the time of service or by sending the document to the receiving agency within one week if it is not either in a language which he or she understands or in an official language of the place of service. This rule should also apply to the subsequent service once the addressee has exercised his or her right of refusal. These rules on refusal should also apply to service by diplomatic or consular agents, service by postal services and direct service.

-The receiving agency should continue to take all necessary steps to serve the document also in cases where it has not been possible to effect service within the month, for example because the defendant has been away from his or her home on holiday or away from his or her office on business. Furthermore, in order to avoid an open-ended obligation for the receiving agency to take steps to serve a document, the transmitting agency should be able to specify a deadline in the standard form after which service is no longer required.

-The Commission should draw up a manual containing information relevant for the proper application of this Regulation, which should be published in the European Judicial Network in civil and commercial matters. The Commission and the Member States should do their utmost to ensure that this information is up to date and complete, especially as regards the contact details of receiving and transmitting agencies.

-A review clause has been added, requiring the Commission to consider amending the Regulation by June 2011 and every five years thereafter.

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

2005/0126(COD) - 10/07/2007 - Commission communication on Council's position

The Commission can accept the common position which, although modifying some specific features of the Commission’s original proposal as amended following Parliament’s opinion, remains faithful to the objective of further improving and expediting the transmission and service of documents for service between the Member States.

All amendments of Parliament were included in the amended proposal of the Commission and also in the common position.

The Commission accepts the common position in the light of the fact that it includes the key elements included in its initial proposal (in particular the important amendment to Article 11 (costs) and Parliament’s amendments as incorporated into its amended proposal.

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

2005/0126(COD) - 01/06/2006

The Council agreed on a general approach on a proposal for a Regulation on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, pending the European Parliament's opinion at first reading.

This proposal is aimed at Regulation 1348/2000/EC of 29 May 2000 with a view to improving and expediting the transmission and service of this kind of documents between the Member States, simplifying the application of certain provisions of the Regulation and improving legal certainty for the applicant and for the addressee.

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

2005/0126(COD) - 24/10/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Jean-Paul **GAUZES** (EPP-ED, FR), and approved the Council common position on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ("Service of documents").

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.