Basic information

2018/0204(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Service of judicial and extrajudicial documents in civil or commercial matters (service of documents) Amending Regulation (EC) No 1393/2007 2005/0126(COD) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	ROBERTI Franco (S&D)	24/07/2019
	Shadow rapporteur SCHREINEMACHER Liesje (Renew) LAGODINSKY Sergey (Greens/EFA) BUXADÉ VILLALBA Jorge (ECR)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	COFFERATI Sergio Gaetano (S&D)	24/09/2018

Council of the European Union

European Commission

Commission DG	Commissioner
Justice and Consumers	JOUROVÁ Věra

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary

31/05/2018	Legislative proposal published	COM(2018)0379	Summary
10/09/2018	Committee referral announced in Parliament, 1st reading		
10/12/2018	Vote in committee, 1st reading		
08/01/2019	Committee report tabled for plenary, 1st reading	A8-0001/2019	Summary
13/02/2019	Decision by Parliament, 1st reading	T8-0104/2019	Summary
13/02/2019	Results of vote in Parliament		
09/01/2020	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
13/01/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 73)		
10/09/2020	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations		
06/11/2020	Council position published	09890/2/2020	
13/11/2020	Committee referral announced in Parliament, 2nd reading		
16/11/2020	Vote in committee, 2nd reading		
18/11/2020	Committee recommendation tabled for plenary, 2nd reading	A9-0222/2020	
23/11/2020	Decision by Parliament, 2nd reading	T9-0309/2020	Summary
23/11/2020	End of procedure in Parliament		
25/11/2020	Act approved by Council, 2nd reading		
25/11/2020	Final act signed		
02/12/2020	Final act published in Official Journal		

Technical information

Procedure reference	2018/0204(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1393/2007 2005/0126(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 081-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/02017

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary

Committee draft report		PE628.483	01/10/2018	
Amendments tabled in committee		PE629.638	30/10/2018	
Amendments tabled in committee		PE629.639	31/10/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0001/2019	08/01/2019	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0104/2019	13/02/2019	Summary
Committee draft report		PE660.172	05/11/2020	
Committee recommendation tabled for plenary, 2nd reading		A9-0222/2020	18/11/2020	
Text adopted by Parliament, 2nd reading		T9-0309/2020	23/11/2020	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	04444/2020	04/11/2020	
Council position	09890/2/2020	06/11/2020	
Draft final act	00047/2020/LEX	25/11/2020	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2018)0379	31/05/2018	Summary
Document attached to the procedure	SWD(2018)0286	31/05/2018	
Document attached to the procedure	SWD(2018)0287	31/05/2018	
Commission response to text adopted in plenary	SP(2019)354	16/04/2019	
Commission communication on Council's position	COM(2020)0695	05/11/2020	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2018)0379	25/09/2018	
Contribution	PT_PARLIAMENT	COM(2018)0379	19/10/2018	
Contribution	RO_SENATE	COM(2018)0379	09/11/2018	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES3992/2018	17/10/2018	

EDPS	Document attached to the procedure	N9-0021/2020 OJ C 370 31.10.2019, p. 0024-0027	13/09/2019	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act

Corrigendum to final act 32020R1784R(08)
OJ OJ L 18.02.2026

Corrigendum to final act 32020R1784R(04)
OJ L 000 26.10.2023, p. 0000

Corrigendum to final act 32020R1784R(05)
OJ L 000 02.02.2024, p. 0000

Regulation 2020/1784
OJ L 405 02.12.2020, p. 0040

Corrigendum to final act 32020R1784R(03)
OJ L 188 27.07.2023, p. 0061

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

2018/0204(COD) - 31/05/2018 - Legislative proposal

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

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: since 2008, Regulation (EC) No 1393/2007 on the service of documents provides for fast-track channels and uniform procedures for transmitting documents from one Member State to another. Together with Council Regulation (EC) No 1206/2001 on cooperation in the taking of evidence, it is a crucial instrument in the regulation of judicial assistance in civil and commercial matters between the Member States.

In 2018, approximately **3.4 million civil and commercial court proceedings in the EU have cross-border implications**. In most of these cases (namely in those where at least one party resides in another Member State than the one where the proceedings takes place), courts often apply the Regulation on service of documents several times in the course of the proceedings. This is because additional documents often have to be served formally (such as the decisions closing the proceedings), in addition to the document instituting the proceedings.

In 2017, to support the analysis of the practical application of the Regulation, the Commission undertook a regulatory fitness (REFIT) evaluation,

On the **traditional channel of transmission** of a document to another Member State for purposes of service there - transmission through the so-called transmitting and receiving agencies - the evaluation revealed that this workflow is underperforming in that it still works more slowly and less efficiently than expected.

The deadlines proposed in the Regulation are regularly exceeded and modern channels of communication are in practice not used.

The evaluation also concluded that as regards the alternative methods of transmission and service of documents providing direct channels to serve documents in the territory of other Member States, the evaluation concluded that although they provide smoother solutions to assist cross-border

judicial proceedings, there are ways in which they could be improved : service by post under the Regulation is a popular, quick and relatively cheap way of delivering the document to the addressee, but it is not very reliable and has a high failure rate. The so-called direct service provides a reliable solution but access to it is limited.

This proposal is closely linked to the proposal amending the Regulation on the taking of evidence. The two proposals are presented together by the Commission, and constitute a package for the modernisation of judicial cooperation in civil and commercial matters.

IMPACT ASSESSMENT: as part of the preferred package, the effectiveness of the current regulation would be improved, mainly by reducing costs and delays. In particular, the impact assessment identified two changes that should be useful: mandatory electronic communication between the agencies and the facilitation of electronic and direct service.

CONTENT: the proposal to amend Regulation (EC) No 1393/2007 sets up a framework of judicial cooperation aligned with the digital single market strategy. It will help improve the speed and efficiency of cross-border proceedings by reducing the time spent on sending documents between agencies and by reducing reliance on paper-based communication.

Specifically, the proposal:

- provides that the communication and exchange of documents between sending and receiving authorities is carried **electronically**, through a decentralised IT system made up of national IT systems interconnected by a secure and reliable communication infrastructure;
- ensures that **alternative (traditional) means of communication** are used in cases of unforeseen and exceptional disruption of the IT system;
- requires Member States to provide **assistance in locating the whereabouts of a recipient** in another Member State if the initiator of the service of the document either does not have any such information ('whereabouts unknown') or if the information at his/her disposal turns out to be incorrect;
- improves the procedure on the **right of the addressee to refuse** to accept the document if it is not drawn up or translated into an appropriate language;
- obliges the postal service providers to use a **specific return slip** (acknowledgement of receipt) when serving documents by post under the Regulation;
- introduces a minimum standard concerning persons to be regarded as eligible '**substituting recipients**' if the postal service provider cannot hand over the document on the addressee in person;
- introduces a new measure to **facilitate access to the direct service of documents**, by extending the scope of application of the Regulation. Allowing direct service both for (i) transmitting agencies or (ii) the courts seised with the proceedings in the Member State of origin and in the territory of all Member States would lead to more direct and speedy transmission of documents compared to the baseline;
- introduces the electronic service of documents as an additional alternative method of service under the Regulation;
- requires the court seised with the proceedings to send an alert message about the initiation of the proceedings or about the default judgment to the available user account of the defendant in absentia and sets the time period for the availability of the extraordinary review to **two years** as of the issuance of the default judgment.

BUDGETARY IMPLICATIONS: the proposal will not impose significant costs on national administrations, but rather lead to **savings**. The main costs for Member States will come from the implementation of electronic communication as mandatory for transmitting and receiving agencies.

The main EU funding opportunities under the current financial programmes are the Justice programme and the Connecting Europe Facility (CEF). The Multiannual Financial Framework (MFF) package for the digital transformation priority, as unveiled on 2 May 2018, includes **EUR 3 billion** for a digital strand of the CEF, to finance digital connectivity infrastructure.

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

2018/0204(COD) - 13/02/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 563 votes to 27, with 9 abstentions, a legislative resolution 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 European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal as follows.

Objective of the Regulation

Parliament 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.

The fundamental rights and freedoms of all persons concerned, in particular the right to the protection of personal data and privacy, shall be fully observed and respected.

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 transmission of documents, requests, confirmations, receipts, certificates and any other communication between the transmitting agencies and receiving agencies, between those agencies and the central bodies, or between the central bodies of the different Member States shall be carried out through a decentralised IT system composed of national IT systems interconnected by a communication infrastructure enabling the secure reliable and in real time cross-border exchange of information between the national IT systems.

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 the general Regulation on data protection (Regulation (EU) 2016/679 and Directive 2002/58/EC).

Electronic signatures

Where documents require a seal or handwritten signature, the amended text provides for the possibility of using instead the appropriate ‘qualified electronic seals’ and ‘qualified electronic signatures’ as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council may be used instead, provided that it is fully ensured that the person on whom the aforementioned documents are served has obtained knowledge of the documents in sufficient time and in a lawful manner.

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.

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).

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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.

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

2018/0204(COD) - 23/11/2020 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution approving the Council's position at first reading with a view to the adoption of a regulation 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) (recast).

The proposal for the revision of Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service of documents aims to adapt the cooperation mechanisms and transmission workflows provided for in the existing Regulation to technical developments related to the digital transition and the use of information technology (IT).

In particular, the Commission proposal provides for the establishment of a decentralised IT system and mandatory use for the exchange of requests and documents between Member States' authorities.

Another important objective which is based on IT development is to strengthen the mechanisms of direct cross-border service by allowing secure electronic service, while securing procedural safeguards for the parties.