



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.7.2007
COM(2007) 400 final

2005/0126 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

common position of the Council on 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")

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council (document COM(2005)305 final – 2005/0126 (COD): 07.07.2005.

Date of the opinion of the European Economic and Social Committee: 14.02.2006.

Date of the opinion of the European Parliament, first reading: 04.07.2006.

Date of transmission of the amended proposal: 01.12.2006

Date of adoption of the common position: 28.06.2007

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The objective of this Regulation is to further improve and expedite the transmission and service of judicial and extrajudicial documents in civil or commercial matters for service between the Member States, to simplify the application of certain provisions of the Regulation and to improve legal certainty for the applicant and for the addressee.

3. COMMENTS ON THE COMMON POSITION

3.1. General comment

The Council's common position was adopted by unanimity. It preserves the essentials of the Commission's initial proposal (in particular the important modification of Article 11 (costs)) as modified by the amended proposal.

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));
- 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.

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.

3.2. Outcome of Parliament's amendments

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

4. CONCLUSION

The Commission accepts the common position in the light of the fact that it includes the key elements included in its initial proposal and Parliament's amendments as incorporated into its amended proposal.