



TEXTS ADOPTED

P8_TA(2019)0104

Service in the Member States of judicial and extrajudicial documents in civil or commercial matters *I**

European Parliament legislative resolution of 13 February 2019 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) (COM(2018)0379 – C8-0243/2018 – 2018/0204(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0379),
 - having regard to Article 294(2) and Article 81 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0243/2018);
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 17 October 2018¹
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0001/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 62, 15.2.2019, p. 56.

P8_TC1-COD(2018)0204

Position of the European Parliament adopted at first reading on 13 February 2019 with a view to the adoption of Regulation (EU) .../... 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 AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

² OJ C 62, 15.2.2019, p. 56.

³ Position of the European Parliament of 13 February 2019.

Whereas:

- (1) In the interests of the proper functioning of the internal market ***and the development of an area of civil justice in the Union***, it is necessary to further improve and expedite the transmission and service between the Member States of judicial and extrajudicial documents in civil and commercial matters, ***while ensuring a high level of security and protection in the transmission of such documents, safeguarding the rights of the addressee and the protection of privacy and personal data.*** [Am. 1]
- (2) Regulation (EC) No 1393/2007 of the European Parliament and of the Council⁴ lays down rules on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.
- (3) The increasing judicial integration of Member States, where the abolition of exequatur (intermediate procedure) has become a general rule, has brought to light the limits of the rules in Regulation (EC) No 1393/2007.

⁴ Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 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 (OJ L 324, 10.12.2007, p.79).

- (4) In order to ensure *effectively* the speedy transmission of documents to other Member States for the purposes of service there, all appropriate means of modern communication technology should be used, provided that certain conditions as to the integrity and reliability of the document received are observed ***and that respect for procedural rights, a high level of security in the transmission of such documents and the protection of privacy and personal data are ensured***. For that purpose, all communication and exchanges of documents between the agencies and bodies designated by the Member States should be carried out through a decentralised IT system composed of national IT systems. [Am. 2]
- (4a) ***The decentralised IT system to be established pursuant to Regulation (EC) No 1393/2007 should be based on the e-CODEX system and should be managed by eu-LISA. Adequate resources should be made available to eu-LISA for such a system to be introduced and kept operational, as well as to provide technical support to transmitting and receiving agencies and central bodies in the event of problems in the operation of the system. The Commission should 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 (e-CODEX).*** [Am. 3]

- (4b) *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 should 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. [Am. 4]*
- (5) The receiving agency should, in all circumstances and with no margin of discretion in that regard, inform the addressee *in good time* in writing using the standard form that he or she may refuse to accept the document to be served if it is not ~~either~~ in a language which he or she understands ~~or in the official language or one of the official languages of the place of service~~. This rule should also apply to any subsequent service once the addressee has exercised his or her right of refusal. The right of refusal should also apply in respect of service by diplomatic or consular agents, service by postal *or courier* services and direct service. It should be possible to remedy the service of the refused document by serving a *an official* translation of the document on the addressee. [Am. 5]

- (6) If the addressee has refused to accept the document, the court or authority seized with the legal proceedings in course of which the service became necessary, should verify whether that refusal was justified. For that purpose, that court or authority should take into account all the relevant information on the file ~~or at its disposal~~ in order to determine the actual language skills of the addressee. When assessing the language skills of the addressee, the court could take into account factual elements such as documents written by the addressee in the language concerned, whether the addressee's profession involves such language skills (~~for example, teacher or interpreter~~), whether the addressee is a citizen of the Member State where the judicial proceedings take place, or whether the addressee previously resided in that Member State for ~~some~~ *an extended period of* time. ~~Such an assessment should not take place, if the document was drawn up or translated into the official language or one of the official languages of the place of service.~~ **[Am. 6]**

(7) Efficiency and speed in cross-border judicial proceedings requires direct, expedited ***and secure*** channels for serving documents on persons in other Member States. Consequently, it should be possible for a person interested in a judicial proceeding or a court or authority seized with a legal proceeding to effect service of documents directly through electronic means to ~~the digital user account of~~ an addressee who is domiciled in another Member State. ~~The conditions for the use of~~ Such type of direct electronic service should ~~ensure that electronic user accounts are used for the purpose of service of documents,~~ ***however, be permitted*** only if there are appropriate safeguards for the protection of the interests of the addressees, ~~either by way of~~ ***including*** high technical standards ~~or in form of~~ ***and*** an explicit consent given by the addressee. ***Where documents are served or transmitted electronically, the possibility should be available to provide an acknowledgement of receipt of such documents.***

[Am. 7]

- (8) ***Given the need to improve the framework provisions for judicial cooperation in the Union and update public legal administrative procedures in order to increase cross-border interoperability and facilitate interaction with citizens***, the already existing direct channels for transmission and service of documents should be improved so that they provide ***rapid***, reliable, ***more secure*** and generally accessible alternatives to the traditional transmission via the receiving agencies. For this purpose, postal service providers should use a specific acknowledgement of receipt when performing service by post under Article 14 of Regulation (EC) No 1393/2007. Similarly, it should be possible for any person interested in a judicial proceeding and for courts or authorities seized with a legal proceeding to effect service of documents in the territory of all Member States directly through the judicial officers, officials or other competent persons of the Member State addressed. **[Am. 8]**

- (8a) *Where the defendant has not appeared and no certificate of service or delivery has been received, the judge should 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 should 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. [Am. 9]*
- (9) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect of the rights of defence of the addressees, which derive from the right to a fair trial, enshrined in Article 47 of the Charter of Fundamental Rights. *Similarly, by guaranteeing equal access to justice, the Regulation serves to promote non-discrimination (Article 18 TFEU), and respects existing Union rules on the protection of personal data and privacy. [Am. 10]*

(9a) It is important to ensure that this Regulation is applied in compliance with Union data protection law and respects the protection of privacy as enshrined in the Charter of Fundamental Rights of the European Union. It is also important to ensure that any processing of the personal data of natural persons under this Regulation is undertaken in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC. Personal data provided under this Regulation should be processed only for the specific purposes set out in this Regulation. [Am. 11]

- (10) ~~In order to enable a swift adaptation of the Annexes to Regulation (EC) No 1393/2007~~ ***In order to define the detailed arrangements for the functioning of the decentralised IT system for communication and exchange of documents between the agencies and bodies designated by the Member States, and in order to determine the detailed arrangements for the functioning of the qualified electronic registered delivery services which will be used for the purpose of service of documents through electronic means, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to Annexes I, II and IV to that Regulation. Such delegated acts should guarantee effective, reliable and smooth transmission of the relevant data, as well as a high level of security in the transmission, the protection of privacy and personal data and, with regard to electronic service of documents, equal access for person with disabilities. Furthermore, in order to enable a swift adaptation of the Annexes to Regulation (EC) No 1393/2007, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to Annexes I, II and IV to that Regulation.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. **[Am. 12]**

⁵ OJ L 123, 12.5.2016, p. 1.

- (11) In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission should evaluate this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Regulation and the need for any further action.
- (12) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the creation of a legal framework ensuring the expedite and efficient transmission and service of judicial and extrajudicial documents across the Member States, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

- (12a) *This Regulation seeks to 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. In addition, greater legal certainty, coupled with simpler, streamlined and digitalised procedures can encourage individuals and businesses to engage in cross-border transactions, thereby boosting trade within the Union and hence the functioning of the internal market. [Am. 13]*
- (13) In accordance with Article 3 and Article 4a(1) of protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the [United Kingdom] [and] [Ireland] [have/has notified their/its wish to take part in the adoption and application of the present Regulation] [are/is not taking part in the adoption of this Regulation and is not bound by it or subject to its application].
- (14) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (15) Regulation (EC) No 1393/2007 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1393/2007 is amended as follows:

(1) Article 1 is replaced by the following:

"Article 1

Scope and definitions

1. This Regulation shall apply in civil and commercial matters to the service of:

- (a) judicial documents on persons domiciled in a Member State other than the one where the judicial proceedings take place ;
- (b) extrajudicial documents that have to be transmitted from one Member State to another.

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*).

2. With the exception of Article 3c, this Regulation shall not apply where the address of the person to be served with the document is not known.
- ~~3. This Regulation shall not apply to service of a document on the party's authorised representative in the Member State where the proceedings are taking place regardless of the place of residence of that party. [Am. 14]~~
4. For the purposes of this Regulation, the following definitions shall apply:
 - (a) 'Member State' means the Member States with the exception of Denmark;
 - (b) 'the forum Member State' means the Member State where the judicial proceedings take place.";

(2) in Article 2 (4), point (c) is replaced by the following:

"(c) the means of receipt of documents available to them for the cases set out in Article 3a~~(6)~~(4)"; [Am. 15]

(3) the following Articles 3a, 3b and 3c are inserted:

"Article 3a

Means of communication to be used by transmitting and receiving agencies, and central bodies

1. ***The transmission of*** documents, requests, ***including the requests drawn up using the standard forms in Annex I***, confirmations, receipts, certificates and any ***other*** communication ~~carried out on the basis of the standard forms in Annex I~~ 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 ~~transmitted~~ ***carried out*** through a decentralised IT system composed of national IT systems interconnected by a communication infrastructure enabling the secure, ~~and~~ reliable ***and in real time*** cross-border exchange of information between the national IT systems. ***Such decentralised IT system shall be based on e-CODEX and it shall be supported by Union funding.*** [Am. 16]
2. The general legal framework for the use of ***qualified*** trust services set out in Council Regulation (EU) No 910/2014* shall apply to the documents, requests, confirmations, receipts, certificates and any communication transmitted through the decentralised IT system referred to in paragraph 1. [Am. 17]

3. Where the documents, requests, confirmations, receipts, certificates and other communication referred to in paragraph 1 require or feature a seal or handwritten signature, *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.*** [Am. 18]
4. If transmission in accordance with paragraph 1 is not possible due to an ~~unforeseen~~ and ***unforeseen circumstances or an*** exceptional disruption of the decentralised IT system, transmission shall be carried out by the swiftest possible alternative means, ***guaranteeing the same high level of efficiency, reliability, security and protection of privacy and personal data.*** [Am. 19]
 - 4a. ***The fundamental rights and freedoms of all persons involved, and in particular the right to the protection of personal data and privacy, shall be fully observed and respected.*** [Am. 20]

4b. The Commission is empowered to adopt delegated acts in accordance with Article 18 in order to supplement this Regulation by establishing the detailed arrangements for the functioning of the decentralised IT system. When exercising that power, the Commission shall ensure that the system guarantees an effective, reliable and smooth exchange of the relevant information, as well as a high level of security in the transmission and the protection of privacy and personal data in line with Regulation (EU) 2016/679 and Directive 2002/58/EC. [Am. 21]

Article 3b

Costs of establishing the decentralised IT system

1. Each Member State shall bear the costs of the installation, operation and maintenance of its communication infrastructure access points interconnecting the national IT systems in the context of the decentralised IT system referred to in Article 3a.
2. Each Member State shall bear the costs of establishing and adjusting its national IT systems to make them interoperable with the communication infrastructure, as well as the costs of administering, operating and maintaining those systems.
3. Paragraphs 1 and 2 shall be without prejudice to the possibility to apply for grants to support activities referred to in those paragraphs under the Union's financial programmes.

Article 3c

Assistance in address enquiries

1. Where the address of the person to be served with the judicial or extrajudicial document in another Member State is not known, Member States shall provide assistance, *without undue delay and in any case within 10 working days*, by one or more of the following means: **[Am. 22]**
 - (a) judicial assistance to determine the address of the person to be served by designated authorities upon the request of the court of the Member State seized with a proceeding;
 - (b) the possibility for persons from other Member States to submit requests for information on addresses directly to domicile registers or other publicly accessible databases including electronically, by means of a standard form via the European e-justice Portal;
 - (c) detailed practical guidance, *which is accessible online*, on the mechanisms available for the determination of the addresses of persons within the framework of the European Judicial Network in civil and commercial matters and with a view to making the information available to the public. **[Am. 23]**

2. Each Member State shall provide the Commission with the following information:
 - (a) the ~~method~~ *methods* of assistance which the Member State will provide in its territory pursuant to paragraph 1; [**Am. 24**]
 - (b) where applicable, the names and addresses of the authorities referred to in paragraph (1) (a) and (b);
 - (c) Member States shall notify the Commission of any subsequent modification of that information.

* Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).";

- (4) Article 4 is replaced by the following:

"Article 4

Transmission of documents

1. Judicial documents shall be transmitted directly and as soon as possible between the agencies designated pursuant to Article 2.

2. The document to be transmitted shall be accompanied by a request drawn up using the standard form set out in Annex I. The form shall be completed in the official language of the Member State addressed or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected, or in another language which that Member State has indicated it can accept. Each Member State shall indicate the official language or languages of the Union other than its own which is or are acceptable to it for completion of the form.

3. ***This Regulation shall be without prejudice to any requirements under national law, relating to the accuracy, authenticity and due legal form of documents.*** The documents that are transmitted through the decentralised IT system referred to in Article 3a shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that they are in an electronic form. If ~~a paper document~~ ***document is*** transformed into electronic form for the purpose of transmission through the decentralised IT system, the electronic ~~copies~~ ***copy*** or their ~~printouts~~ ***its printout*** shall have the same effect as the original ~~documents~~ ***document, unless the national law of the Member State addressed requires such document to be served in original and paper version. In that case, the receiving agency shall issue a paper version of the document received in electronic form. Where the original documents featured a seal or handwritten signature, the issued document shall feature a seal or handwritten signature. The document issued by the receiving agency shall have the same effect as the original document.***"; [Am. 25]

(5) Article 6 is replaced by the following:

"Article 6

Receipt of documents by receiving agency

1. On receipt of a document, an automatic receipt of delivery shall be sent *immediately* to the transmitting agency via the decentralised IT system referred to in Article 3a. **[Am. 26]**
2. Where the request for service cannot be fulfilled on the basis of the information or documents transmitted, the receiving agency shall contact *immediately and in any event within four working days* the transmitting agency in order to secure the missing information or documents. **[Am. 27]**
3. If the request for service is manifestly outside the scope of this Regulation or if non-compliance with the formal conditions required makes service impossible, the request and the documents transmitted shall be returned, on receipt, to the transmitting agency, *immediately and in any event within four working days*, together with the notice of return using the standard form set out in Annex I. **[Am. 28]**

4. A receiving agency receiving a document for service but not having territorial jurisdiction to serve it shall forward it, as well as the request, ***immediately and in any event within four working days*** through the decentralised IT system referred to in Article 3a to the receiving agency having territorial jurisdiction in the same Member State if the request complies with the conditions laid down in Article 4(2) and shall ***at the same time*** inform the transmitting agency accordingly using the standard form set out in Annex I. Upon receipt of the document and the request by the receiving agency having territorial jurisdiction in the same Member State, an automatic receipt of delivery is sent ***immediately*** to the transmitting agency, via the decentralised IT system referred to in Article 3a. [Am. 29]
- 4a. ***Paragraphs 1 to 4 shall apply mutatis mutandis to situations referred to in paragraph 4 of Article 3a. However, in those cases, the deadlines defined in paragraphs 1 to 4 of this Article shall not apply, but the relevant operations shall be carried out as soon as possible.***; [Am. 30]

(6) The following Article 7a is inserted:

"Article 7a

~~Obligation to appoint~~ ***Appointment of*** a representative for the purpose of service in the forum Member State [Am. 31]

1. Where a document instituting the proceedings has ***already*** been served upon the defendant ***and the defendant has not refused to accept such document in accordance with Article 8***, the law of the forum Member State ~~may impose an obligation upon~~ ***shall offer to*** parties who are domiciled in another Member State ~~to appoint~~ ***the option of appointing*** a representative for the purpose of service of documents on them in the forum Member State. ***If the party concerned has been duly informed of the consequences of choosing to avail of this option and has expressly chosen it, the service of documents shall be effected on the party's authorised representative in the forum Member State, in accordance with the laws and practices of that Member State for the proceedings.*** [Am. 32]

2. Where a party fails to comply with the obligation to appoint a representative in accordance with paragraph 1 and has not expressed his or her consent to use an electronic ~~user account~~ **address** for service in accordance with point (b) of Article 15a, any method of service permitted under the law of the forum Member State may be used for service of documents during the proceedings, provided that the party concerned has been duly informed about this consequence ***by the time the document instituting the proceedings was served.***; [Am. 33]

(7) Article 8 is replaced by the following:

"Article 8

Refusal to accept a document

1. The receiving agency shall inform the addressee, using the standard form set out in Annex II, that he or she may refuse to accept the document to be served if it is not written in, or accompanied by a ***an official*** translation into, ~~either of the following languages:~~

(a) — a language which the addressee understands;

or

(b) — ~~the official language of the Member State addressed or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected.~~

[Am. 34]

2. The addressee may, ***based on reasonable grounds***, refuse to accept the document at the time of service or within two weeks by returning the standard form set out in Annex II to the receiving agency. **[Am. 35]**
3. Where the receiving agency is informed that the addressee refuses to accept the document in accordance with paragraphs 1 and 2, it shall immediately inform the transmitting agency by means of the certificate provided for in Article 10 and return the request ***and the document in respect of which a translation is requested***. **[Am. 36]**
4. If the addressee has refused to accept the document in accordance with paragraphs 1 and 2, the court or authority seized with the legal proceedings, in the course of which service was carried out, shall verify, ***at the earliest possible opportunity***, whether the refusal was well founded. **[Am. 37]**

5. The service of the document may be remedied through the service on the addressee, in accordance with the provisions of this Regulation of the document accompanied by a *an official* translation into a language provided for in paragraph 1. In that case, the date of service of the document shall be the date on which the document accompanied by ~~the~~ *an official* translation is served in accordance with the law of the Member State addressed. However, where according to the law of a Member State, a document has to be served within a particular period, the date to be taken into account with respect to the applicant shall be the date of the service of the initial document determined pursuant to Article 9(2). **[Am. 38]**
6. Paragraphs 1 to 5 shall apply to the other means of transmission and service of judicial documents provided for in Section 2.
7. For the purposes of paragraph 1, the diplomatic or consular agents, where service is effected in accordance with Article 13, or the authority or person, where service is effected in accordance with Article 14 or 15a, shall inform the addressee that he or she may refuse to accept the document and that any document refused must be sent *immediately* to those agents or to that authority or person respectively." **[Am. 39]**

(8) in Article 10, paragraph 1 is replaced by the following:

"1. When the formalities concerning the service of the document have been completed, a certificate of completion of those formalities shall be drawn up in the standard form set out in Annex I and addressed to the transmitting agency.";

(9) Articles 14 and 15 are replaced by the following:

"Article 14

Service by postal *or courier* services [Am. 40]

1. Service of judicial documents may be effected directly by postal *or courier* services on persons domiciled in another Member State by registered letter *or bundle* with acknowledgement of receipt. [Am. 41]
2. For the purpose of this Article, service by post *or courier* shall be carried out by using the specific acknowledgement of receipt set out in Annex IV. [Am. 42]

3. Irrespective of the law of the Member State of origin, service by post *or courier* shall be considered as validly effected also, if the document was delivered at the addressee's home address on adult persons who are living in the same household as the addressee or are employed there by the addressee, and who have the ability and are willing to accept the document. [Am. 43]

Article 15

Direct service

1. Service of judicial documents may be effected on persons domiciled in another Member State directly through the judicial officers, officials or other competent persons of the Member State addressed.
2. Each Member State shall provide the Commission with the information on the type of professions or competent persons who are permitted to carry out service under this Article in their territory. *That information shall be accessible online.*"; [Am. 44]

(10) The following Article 15a is inserted:

"Article 15a

Electronic service

1. Service of judicial documents may be effected directly on persons domiciled in another Member State through electronic means to ~~user-accounts~~ **electronic addresses** accessible to the addressee, provided that ~~one~~ **both** of the following conditions ~~is~~ **are** fulfilled: **[Am. 45]**
 - (a) the documents are sent and received using qualified electronic registered delivery services within the meaning of Regulation (EU) No 910/2014 of the European Parliament and of the Council, **and [Am. 46]**
 - (b) after the commencement of legal proceedings, the addressee gave express consent to the court or authority seized with the proceedings to use that particular ~~user-account~~ **electronic address** for purposes of serving documents in course of the legal proceedings. **[Am. 47]**

1a. The Commission is empowered to adopt delegated acts in accordance with Article 18 in order to supplement this Regulation by establishing the detailed arrangements for the functioning of the qualified electronic registered delivery services which are to be used for the purpose of service of judicial documents by electronic means. When exercising that power, the Commission shall ensure that such services guarantee an effective, reliable and smooth transmission of the relevant documents, as well as a high level of security in the transmission, equal access for persons with disabilities and the protection of privacy and personal data in line with Regulation (EU) 2016/679 and Directive 2002/58/EC.”; [Am. 48]

(11) Articles 17 and 18 are replaced by the following:

"Article 17

Amendment of the Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 18 to amend Annexes I, II and IV to update the standard forms or to make technical changes to those forms.

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article *3a, in Article 15a and in Article 17* shall be conferred on the Commission for ~~an indeterminate~~ *a* period of ~~time~~ *five years* from ... [the date of entry into force of this Regulation]. [**Am. 49**]
3. The delegation of power referred to in Article 17 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making*.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to *Article 3a, Article 15a or* Article 17 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of ~~two~~ *three* months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. [Am. 50]

* OJ L 123, 12.5.2016, p. 1.”;

(12) ~~the following Articles 18a and 18b are inserted:~~

~~"Article 18a~~

~~Establishment of the decentralised IT system~~

~~The Commission shall adopt implementing acts establishing the decentralised IT system as referred to in Article 3a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18b (2). [Am. 51]~~

~~Article 18b~~

~~Committee procedure~~

- ~~1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.~~
- ~~2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.”; [Am. 52]~~

(13) Article 19 is replaced by the following:

"Article 19

Defendant not entering an appearance

1. Where a document instituting the proceedings has had to be transmitted to another Member State for the purpose of service under the provisions of this Regulation and the defendant has not appeared, judgment shall not be given until it is established that the service or the delivery was effected in sufficient time *and in a lawful manner* to enable the defendant to defend and that:

[Am. 53]

- (a) the document was served by a method prescribed by the internal law of the Member State addressed for the service of documents in domestic actions upon persons who are within its territory; or
- (b) the document was actually delivered to the defendant or to his residence by another method provided for by this Regulation;

2. Notwithstanding the provisions of paragraph 1, the judge may give judgment even if no certificate of service or delivery has been received, where all the following conditions are fulfilled:
 - (a) the document was transmitted by one of the methods provided for in this Regulation;
 - ~~(b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document; [Am. 54]~~
 - (c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities or bodies of the Member State addressed.
3. Where the conditions set out in paragraph 2 are met, reasonable efforts shall be made to inform the defendant through ~~any~~ **all** available channels of communication, including means of modern **remote** communication technology, for which an address or an ~~account~~ **electronic address** is known to the court seized, that court proceedings have been instituted against him or her. **[Am. 55]**
4. Notwithstanding paragraphs 1 and 2, the judge may, in **justified** cases of urgency, order any provisional or protective measures. **[Am. 56]**

5. Where a document instituting the proceedings has had to be transmitted to another Member State for the purpose of service under the provisions of this Regulation and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiry of the time for appeal from the judgment where both of the following conditions are fulfilled:
- (a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time *and/or in a lawful manner* to defend, or knowledge of the judgment in sufficient time to appeal; [**Am. 57**]
 - (b) the defendant has disclosed a prima facie defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Such application shall not be entertained if it is filed more than two years following the date of the judgment.

6. After the expiry of the period of two years following the date of the judgment referred to in paragraph 2, the provisions of national law allowing for an extraordinary relief from the effects of the expiry of the time for appeal may not be applied in the context of challenging the recognition and enforcement of that judgment in another Member State.
7. Paragraphs 5 and 6 shall not apply to judgments concerning the status or capacity of persons.";

(13a) in Article 22, the following paragraph is inserted before paragraph 1:

“-1. Any processing of personal data carried out pursuant to this Regulation shall be done in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC.”; [Am. 58]

(13b) in Article 22, paragraph 1 is replaced by the following:

“1. Information, including in particular personal data, transmitted under this Regulation shall be used by *transmitting agencies*, receiving *agencies and central bodies* only for the *specific purposes set out in this Regulation*. *Personal data which are not relevant for the purposes of this Regulation shall be immediately deleted.*”; [Am. 59]

(13c) in Article 22, paragraph 2 is replaced by the following:

“2. **Transmitting agencies, receiving agencies and central bodies** shall ensure the confidentiality of such information, in accordance with **Union and** national law.”; [Am. 60]

(13d) in Article 22, paragraph 3 is replaced by the following:

“3. Paragraphs -1, 1 and 2 shall not affect **Union and** national laws enabling data subjects to be informed of the use made of information transmitted under this Regulation.”; [Am. 61]

(13e) in Article 22, paragraph 4 is replaced by the following:

“4. **Any processing of information carried out by Union institutions and bodies in the framework of this** Regulation shall be **undertaken in accordance with Regulation (EU) No 2018/1725.**”; [Am. 62]

(14) in Article 23, paragraph 1 is replaced by the following:

"1. Member States shall communicate to the Commission the information referred to in Articles 2, 3, 3c, 4, 10, 11, 13, and 15. Member States shall communicate to the Commission if, according to their law, a document has to be served within a particular period as referred to in Articles 8(3) and 9(2).";

(15) The following Article 23a is inserted:

"Article 23a

Monitoring

1. By ... [~~two years~~ **one year** after the date of ~~application~~ **entry into force**] at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation. [**Am. 63**]
2. The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence are to be collected. It shall specify the action to be taken by the Commission and by the Member States in collecting and analysing the data and other evidence.
3. Member States shall provide the Commission with the data and other evidence necessary for the monitoring.";

(16) Article 24 is replaced by the following:

"Article 24

Evaluation

1. No ~~sooner~~ **later** than ... [~~five~~ **four** years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee, ***accompanied, where appropriate, by a legislative proposal.*** [Am. 64]
 2. Member States shall provide the Commission with the information necessary for the preparation of that report.";
- (17) A new Annex IV, as set out in the Annex to this Regulation is added.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ... [18 months after the entry into force of the Regulation].

However:

- (a) point (14) of Article 1 shall apply from ... [12 months after its entry into force] and
- (b) points (3), (4) and (5) in Article 1 shall apply from ... [24 months after its entry into force]. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

The President

For the Council

The President

ANNEX

"ANNEX IV

Acknowledgment of receipt to be used for service by post under Article 14

ACKNOWLEDGMENT OF RECEIPT for the service by post of judicial or extrajudicial documents <i>(Art. 14 of Regulation (EU) No 1393/2007)</i>		UNIQUE CONSIGNMENT REFERENCE:	
SENDER: Name:	ADDRESSEE: Name	Name of the recipient:	
		Signature of the recipient:	
RECEIPT SHOULD BE RETURNED TO THE FOLLOWING ADDRESS: Street: Nr. City: ZIP Code: State:	DELIVERY ADDRESS: Street Nr. City ZIP Code State:	DATE OF DELIVERY/ RETURN OF THE DOCUMENT: dd mm yyyy	
		DELIVERED to: Addressee: <input type="checkbox"/>	RETURNED due to: Address <input type="checkbox"/> not known:
For the postal service provider:		Representative: <input type="checkbox"/>	Addressee <input type="checkbox"/> unknown:
		Adult person living on the same address: <input type="checkbox"/>	Unclaimed: <input type="checkbox"/> Acceptance refused
		Employee of the addressee: <input type="checkbox"/>	Addressee <input type="checkbox"/> moved:

"