



Practical exercises in implementing the judicial cooperation instruments in civil matters

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

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context

- **Correct service of documents is of fundamental importance in judicial proceedings.**
- **Failure of service can seriously jeopardize the parties' legal interest.**
- **Service of documents on parties in other States has in the past been the cause of many difficulties in cross-border litigation cases.**
- **Simple and practical cross-border service rules are among the most important conditions for a well functioning European civil procedural system.**



Article 1 - scope

Paragraph 1 - „civil and commercial matters”.

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*)

Autonomous notion



Article 1 - scope

Case C-325/11 Alder, ECJ judgment from 19 December 2012:

„Article 1(1) of Regulation (EC) No 1393/2007 must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that judicial documents addressed to a party whose place of residence or habitual abode is in another Member State are placed in the case file, and deemed to have been effectively served, if that party has failed to appoint a representative who is authorised to accept service and is resident in the first Member State, in which the judicial proceedings are taking place”.



Article 1 - scope

Paragraph 2 - „shall not apply where the address of the person to be served with the document is not known”.

Case C-292/10 G v. Cornelius de Visser, ECJ judgment from 15 March 2012



Transmitting and receiving agencies

- **„transmitting agencies”** - competent for the transmission of judicial or extrajudicial documents to be served in another Member State.
- **„receiving agencies”** - competent for the receipt of judicial or extrajudicial documents from another Member State.



Central body

- The principle is the direct cooperation between the transmitting agencies and receiving agencies.
- The central body seeks solutions to any difficulties which may arise during transmission of documents for service.
- Only in exceptional cases, at the request of a transmitting agency, will forward a request for service to the competent receiving agency.



Article 4 - Transmission of documents

- **Case C-473/04 Plumex v. Young Sports NV, ECJ judgment from 9 February 2006**

„Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters must be interpreted as meaning that it does not establish any hierarchy between the method of transmission and service under Articles 4 to 11 thereof and that under Article 14 thereof and, consequently, it is possible to serve a judicial document by one or other or both of those methods”.



Article 7 - Service of documents

- The receiving agency shall take all necessary steps to effect the service of the document as soon as possible, and in any event *within one month of receipt*.
- If it has not been possible to effect service within one month of receipt, the receiving agency shall:
 - (a) immediately inform the transmitting agency by means of the certificate in the standard form set out in Annex I, which shall be drawn up under the conditions referred to in Article 10(2); and
 - (b) continue to take all necessary steps to effect the service of the document, unless indicated otherwise by the transmitting agency, where service seems to be possible within a reasonable period of time.



Article 8 - Refusal to accept a document

- **Case C-14/07 Ingenieurbüro Michael Weiss und Partner GbR, ECJ judgment from 8 May 2008**
- **Case C-443/03 Götz Leffler v. Berlin Chemie AG, ECJ judgment from 8 November 2005**
- **Paragraph 3 - novelty**



Article 9 - Date of service

- 1. Without prejudice to Article 8, the date of service of a document pursuant to Article 7 shall be the date on which it is served in accordance with the law of the Member State addressed.**

- 2. 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 that determined by the law of that Member State.**



Article 19 - Defendant not entering an appearance

- Paragraph 1 - „... the defendant has not appeared, judgment shall not be given until it is established that: (a) or (b) and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend”.
- Paragraph 3 - „... the judge may order, in case of urgency, any provisional or protective measures”.



Article 19 - Defendant not entering an appearance

Paragraph 4

- „...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 if the following conditions are fulfilled: (a) and (b)”.
- An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.
- Each Member State may make it known, in accordance with Article 23(1), that such application will not be entertained if it is filed after the expiry of a time to be stated by it in that communication, but which shall in no case be less than one year following the date of the judgment.



Article 19 - Defendant not entering an appearance

Paragraph 5

Paragraph 4 *shall not apply* to judgments concerning
the status or capacity of persons.



Thank you for your attention!

Any questions?

