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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: 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)

- Outcome of the European Parliament's first reading,
(Strasbourg, 11 to 14 February 2019)

I. INTRODUCTION

The rapporteur, Sergio Gaetano COFFERATI (S&D, IT), presented a report on the proposal for a Regulation on behalf of the Committee on Legal Affairs. The report contained 64 amendments to the proposal. No other amendments were tabled.

II. VOTE

When it voted on 13 February 2019, the plenary adopted amendments No 1 to 64 to the proposal for a Regulation.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

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 2018²
 - 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.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) In the interests of the proper functioning of the internal market, 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.

Amendment

(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.***

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In order to ensure 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. 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

Amendment

(4) In order to ***effectively*** ensure 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

national IT systems.

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.

Amendment 3

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(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).

Amendment 4

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(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.

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The receiving agency should, in all circumstances and with no margin of discretion in that regard, inform the addressee 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 services and direct service. It should be possible to remedy the service of the refused document by serving *a* translation of the document on the addressee.

Amendment

(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 in a language which he or she understands. 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 *an official* translation of the document on the addressee.

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) If the addressee has refused to accept

Amendment

(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* 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.*

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 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, 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 *an extended period of* time.

Amendment 7

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Efficiency and speed in cross-border judicial proceedings requires direct, expedited 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*

Amendment

(7) Efficiency and speed in cross-border judicial proceedings requires direct, expedited *and secure* channels for serving documents on persons in other Member States. 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 an addressee who is domiciled in another Member State. Such type of direct electronic service should, *however, be permitted* only if there are appropriate safeguards for the protection of the

purpose of service of documents only if there are appropriate safeguards for the protection of the interests of the addressees, *either by way of* high technical standards *or in form of* an explicit consent given by the addressee.

interests of the addressees, *including* high technical standards *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.*

Amendment 8

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The already existing direct channels for transmission and service of documents should be improved so that they provide reliable 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 seised 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.

Amendment

(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 seised 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.

Amendment 9

Proposal for a regulation

Recital 8 a (new)

(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.

Amendment 10

Proposal for a regulation

Recital 9

Text proposed by the Commission

(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.

Amendment

(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.***

Amendment 11

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(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.

Amendment 12

Proposal for a regulation Recital 10 – introductory part

Text proposed by the Commission

Amendment

(10) 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

(10) 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

April 2016 on Better Law-Making*. 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.

Union should be delegated to the Commission. ***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-Making*. 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.

Amendment 13

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(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.

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EC) No 1393/2007

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

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.

deleted

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EC) No 1393/2007

Article 2 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) the means of receipt of documents available to them for the cases set out in

(c) the means of receipt of documents available to them for the cases set out in

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 1

Text proposed by the Commission

1. Documents, requests, confirmations, receipts, certificates and any 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*** through a decentralised IT system composed of national IT systems interconnected by a communication infrastructure enabling the secure ***and*** reliable cross-border exchange of information between the national IT systems.

Amendment

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 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. ***Such decentralised IT system shall be based on e-CODEX and it shall be supported by Union funding.***

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 2

Text proposed by the Commission

2. The general legal framework for the use of 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.

Amendment

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.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 3

Text proposed by the Commission

3. Where the documents, requests, confirmations, receipts, certificates and other communication referred to in paragraph 1 require **or feature** a seal or handwritten signature, ‘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.

Amendment

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.**

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 4

Text proposed by the Commission

4. If transmission in accordance with paragraph 1 is not possible due to ***an unforeseen and*** exceptional disruption of the decentralised IT system, transmission shall be carried out by the swiftest possible alternative means.

Amendment

4. If transmission in accordance with paragraph 1 is not possible due to ***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.***

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3a – paragraph 4 b (new)

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.

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3c – paragraph 1 – introductory part

Text proposed by the Commission

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 by one or more of the following means:

Amendment

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:

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3c – paragraph 1 – point c

Text proposed by the Commission

(c) detailed practical guidance 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.

Amendment

(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.

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1393/2007

Article 3c – paragraph 2 – point a

Text proposed by the Commission

(a) the ***method*** of assistance which the Member State will provide in its territory pursuant to paragraph 1;

Amendment

(a) the ***methods*** of assistance which the Member State will provide in its territory pursuant to paragraph 1;

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EC) No 1393/2007

Article 4 – paragraph 3

Text proposed by the Commission

3. The documents that are transmitted

Amendment

3. ***This Regulation shall be without***

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 paper **documents are** transformed into electronic form for the purpose of transmission through the decentralised IT system, the electronic **copies** or **their printouts** shall have the same effect as the original **documents.**";

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 is** transformed into electronic form for the purpose of transmission through the decentralised IT system, the electronic **copy** or **its printout** shall have the same effect as the original 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.***";

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 1393/2007

Article 6 – paragraph 1

Text proposed by the Commission

1. On receipt of a document, an automatic receipt of delivery shall be sent to the transmitting agency via the decentralised IT system referred to in Article 3a.

Amendment

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.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 1393/2007

Article 6 – paragraph 2

Text proposed by the Commission

2. Where the request for service cannot be fulfilled on the basis of the information or documents transmitted, the receiving agency shall contact the transmitting agency in order to secure the missing information or documents.

Amendment

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.

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 1393/2007

Article 6 – paragraph 3

Text proposed by the Commission

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, together with the notice of return using the standard form set out in Annex I.

Amendment

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.

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 1393/2007

Article 6 – paragraph 4

Text proposed by the Commission

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, 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 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 to the transmitting agency, via the decentralised IT system referred to in Article 3a.” ;

Amendment

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.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 1393/2007

Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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.”;

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1393/2007

Article 7a – title

Text proposed by the Commission

Obligation to appoint a representative for the purpose of service in the forum Member State

Amendment

Appointment of a representative for the purpose of service in the forum Member State

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1393/2007

Article 7a – paragraph 1

Text proposed by the Commission

1. Where a document instituting the proceedings has been served upon the defendant, the law of the forum Member State **may impose an obligation upon** parties who are domiciled in another Member State to appoint a representative for the purpose of service of documents on them in the forum Member State.

Amendment

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 **shall offer to** parties who are domiciled in another Member State **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.*

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1393/2007

Article 7 a – paragraph 2

Text proposed by the Commission

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** 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.";

Amendment

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 **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.**";

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EC) No 1393/2007

Article 8 – paragraph 1

Text proposed by the Commission

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** 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.***

Amendment

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, ***an official*** translation into a language which the addressee understands;

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EC) No 1393/2007

Article 8 – paragraph 2

Text proposed by the Commission

2. The addressee may 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.

Amendment

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.

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Article 8 – paragraph 3

Text proposed by the Commission

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.

Amendment

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.***

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EC) No 1393/2007

Article 8 – paragraph 4

Text proposed by the Commission

4. If the addressee has refused to accept the document in accordance with paragraphs 1 and 2, the court or authority seised with the legal proceedings, in the course of which service was carried out, shall verify whether the refusal was well founded.

Amendment

4. If the addressee has refused to accept the document in accordance with paragraphs 1 and 2, the court or authority seised 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.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Article 8 – paragraph 5

Text proposed by the Commission

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** 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** 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).

Amendment

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 **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 **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).

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EC) No 1393/2007

Article 8 – paragraph 7

Text proposed by the Commission

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 to those agents or to that authority or person

Amendment

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

respectively.";

authority or person respectively.";

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 1393/2007

Article 14 – title

Text proposed by the Commission

Article 14
Service by postal services

Amendment

Article 14
Service by postal *or courier* services

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 1393/2007

Article 14 – paragraph 1

Text proposed by the Commission

1. Service of judicial documents may be effected directly by postal services on persons domiciled in another Member State by registered letter with acknowledgement of receipt.

Amendment

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.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 1393/2007

Article 14 – paragraph 2

Text proposed by the Commission

2. For the purpose of this Article, service by post shall be carried out by using the specific acknowledgement of receipt set out in Annex IV.

Amendment

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.

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 1393/2007

Article 14 – paragraph 3

Text proposed by the Commission

3. Irrespective of the law of the Member State of origin, service by post 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.

Amendment

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.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EC) No 1393/2007

Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

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.”;

under this Article in their territory. ***That information shall be accessible online.***”;

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1393/2007

Article 15a – paragraph 1 – introductory part

Text proposed by the Commission

Service of judicial documents may be effected directly on persons domiciled in another Member State through electronic means to ***user accounts*** accessible to the addressee, provided that ***one of*** the following conditions ***is*** fulfilled:

Amendment

Service of judicial documents may be effected directly on persons domiciled in another Member State through electronic means to ***electronic addresses*** accessible to the addressee, provided that ***both*** of the following conditions ***are*** fulfilled:

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1393/2007

Article 15a – paragraph 1 – point a

Text proposed by the Commission

(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

Amendment

(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***

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1393/2007

Article 15a – paragraph 1 – point b

Text proposed by the Commission

b) after the commencement of legal proceedings, the addressee gave express consent to the court or authority seised with the proceedings to use that particular **user account** for purposes of serving documents in course of the legal proceedings.";

Amendment

b) after the commencement of legal proceedings, the addressee gave express consent to the court or authority seised with the proceedings to use that particular **electronic address** for purposes of serving documents in course of the legal proceedings.";

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1393/2007

Article 15a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1393/2007

Article 18 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 17 shall be conferred on the Commission for *an indeterminate* period of *time* from [the date of entry into force of this Regulation].

Amendment

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 *a* period of *five years* from [the date of entry into force of this Regulation].

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1393/2007

Article 18 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to 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* 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

Amendment

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 *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

not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.;

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;

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 1393/2007

Article 18a

Text proposed by the Commission

Amendment

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

deleted

‘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).

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 1393/2007

Article 18b

Text proposed by the Commission

Amendment

Article 18b

deleted

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.;** ’

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 1393/2007

Article 19 – paragraph 1

Text proposed by the Commission

Amendment

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 to enable the defendant to defend and that:

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:

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 1393/2007

Article 19 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(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;

deleted

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 1393/2007

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the conditions set out in paragraph 2 are met, reasonable efforts shall be made to inform the defendant through **any** available channels of communication, including means of modern communication technology, for which an address or an **account** is known to the court seised, that court proceedings have been instituted against him or her.

3. Where the conditions set out in paragraph 2 are met, reasonable efforts shall be made to inform the defendant through **all** available channels of communication, including means of modern **remote** communication technology, for which an address or an **electronic address** is known to the court seised, that court proceedings have been instituted against him or her.

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 1393/2007

Article 19 – paragraph 4

Text proposed by the Commission

4. Notwithstanding paragraphs 1 and 2, the judge may, in case of urgency, order any provisional or protective measures.

Amendment

4. Notwithstanding paragraphs 1 and 2, the judge may, in **justified** cases of urgency, order any provisional or protective measures.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 1393/2007

Article 19 – paragraph 5 – point a

Text proposed by the Commission

(a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal;

Amendment

(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;

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 13 a (new)

Regulation (EC) No 1393/2007

Article 22 – paragraph -1 (new)

Text proposed by the Commission

Amendment

***(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.

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 13 b (new)

Regulation (EC) No 1393/2007

Article 22 – paragraph 1

Text proposed by the Commission

1. Information, including in particular personal data, transmitted under this Regulation shall be used by *the* receiving agency only for the *purpose for which it was transmitted*.

Amendment

(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*.

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 13 c (new)

Regulation (EC) No 1393/2007

Article 22 – paragraph 2

Text proposed by the Commission

Amendment

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

2. **Receiving** agencies shall ensure the confidentiality of such information, in accordance with **their** national law.

2. **Transmitting agencies, receiving agencies and central bodies** shall ensure the confidentiality of such information, in accordance with **Union and** national law.

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 13 d (new)

Regulation (EC) No 1393/2007

Article 22 – paragraph 3

Text proposed by the Commission

3. Paragraphs 1 and 2 shall not affect national laws enabling data subjects to be informed of the use made of information transmitted under this Regulation.

Amendment

(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.

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 13 e (new)

Regulation (EC) No 1393/2007

Article 22 – paragraph 4

Text proposed by the Commission

4. **This** Regulation shall be **without prejudice to Directives 95/46/EC and 2002/58/EC**.

Amendment

(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

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 1393/2007

Article 23a – paragraph 1

Text proposed by the Commission

1. By [**two years** after the date of **application**] at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

Amendment

1. By [**one year** after the date of **entry into force**] at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1393/2007

Article 24 – paragraph 1

Text proposed by the Commission

1. No **sooner** than [**five** 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.

Amendment

1. No **later** than [**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.**
