

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

## CHAPTER IV

### FINAL PROVISIONS

#### *Article 17*

#### **Implementing rules**

Measures designed to amend non-essential elements of this Regulation relating to the updating or to the making of technical amendments to the standard forms set out in Annexes I and II shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

#### *Article 18*

#### **Committee**

- 1 The Commission shall be assisted by a committee.
- 2 Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

#### *Article 19*

#### **Defendant not entering an appearance**

1 Where a writ of summons or an equivalent document 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:

- 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;

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

2 Each Member State may make it known, in accordance with Article 23(1), that the judge, notwithstanding the provisions of paragraph 1, may give judgment even if no certificate of service or delivery has been received, if 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;

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**Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1393/2007 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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

4 When a writ of summons or an equivalent document 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 if the following conditions are fulfilled:

- 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; and
- 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.

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.

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

#### Article 20

##### **Relationship with agreements or arrangements to which Member States are party**

1 This Regulation shall, in relation to matters to which it applies, prevail over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member States, and in particular Article IV of the Protocol to the Brussels Convention of 1968 and the Hague Convention of 15 November 1965.

2 This Regulation shall not preclude individual Member States from maintaining or concluding agreements or arrangements to expedite further or simplify the transmission of documents, provided that they are compatible with this Regulation.

3 Member States shall send to the Commission:

- a a copy of the agreements or arrangements referred to in paragraph 2 concluded between the Member States as well as drafts of such agreements or arrangements which they intend to adopt; and
- b any denunciation of, or amendments to, these agreements or arrangements.

#### Article 21

##### **Legal aid**

This Regulation shall not affect the application of Article 23 of the Convention on civil procedure of 17 July 1905, Article 24 of the Convention on civil procedure of 1 March 1954 or Article 13 of the Convention on international access to justice of 25 October 1980 between the Member States party to those Conventions.

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## Article 22

### Protection of information transmitted

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.

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

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.

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

## Article 23

### Communication and publication

1 Member States shall communicate to the Commission the information referred to in Articles 2, 3, 4, 10, 11, 13, 15 and 19. 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).

2 The Commission shall publish the information communicated in accordance with paragraph 1 in the *Official Journal of the European Union* with the exception of the addresses and other contact details of the agencies and of the central bodies and the geographical areas in which they have jurisdiction.

3 The Commission shall draw up and update regularly a manual containing the information referred to in paragraph 1, which shall be available electronically, in particular through the European Judicial Network in Civil and Commercial Matters.

## Article 24

### Review

No later than 1 June 2011, and every five years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, paying special attention to the effectiveness of the agencies designated pursuant to Article 2 and to the practical application of Article 3(c) and Article 9. The report shall be accompanied if need be by proposals for adaptations of this Regulation in line with the evolution of notification systems.

## Article 25

### Repeal

1 Regulation (EC) No 1348/2000 shall be repealed as from the date of application of this Regulation.

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2           References made to the repealed Regulation shall be construed as being made to this Regulation and should be read in accordance with the correlation table in Annex III.

#### *Article 26*

#### **Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 13 November 2008 with the exception of Article 23 which shall apply from 13 August 2008.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulation partial repeal by [EUR 2020/1784](#) Regulation
- Regulation repeal by [EUR 2020/1784](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Regulation revoked by [S.I. 2018/1257 reg. 7](#)