



The case law of the CJEU on Regulation (EC) No 1393/2007 of 13 November 2007 in the light of Regulation (EU) No 2020/1784 of 25 November 2020

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Scope of application: art. 1

1) National mechanisms of fictive notification of judicial acts

CJEU, 19.12.2012, Krystyna Alder & Ewald Alder against Sabina Orlowska & Czeslaw Orlowski, C-325/11

→ Fictitious notification mechanisms are not in line with the Service Regulation.

It is noted that consideration 7 of the 2020 Regulation contains the statement that documents should not be served by a fictitious method of service, such as posting or placing the document in a file.

Scope of application: art. 1

2) Service of notarial acts outside of legal proceedings

CJEU, 25.06.2009, *Roda Golf & Beach Resort SL*, aC-14/08

→ Service of a notarial document, outside of judicial proceedings, clearly falls within the scope of Regulation 1348/2000. The solution is of course similar to that of Regulation 1393/2007.

The judgment is important because the definition of an extrajudicial act is not defined in the regulation.

Scope of application: art. 1

3) Notion of civil or commercial matter

CJEU, 11.06 2015, Stefan Fahrenbrock (C-226/13), Holger Priestoph (C-245/13), Matteo Antonio Priestoph (C-245/13), Pia Antonia Priestoph (C-245/13), Rudolf Reznicek (C-247/13), Hans-Jürgen Kickler (C-578/13), Walther Wöhlk (C-578/13), Zahnärztekammer Schleswig-Holstein Versorgungswerk (C-578/13) against Hellenische Republik (joint cases)

Notion of civil and commercial matter : large interpretation

Refusal to accept a judicial act: art. 8

1) Informing the addressee of the document of his right to refuse receipt

CJEU, 8.11.2005, *Götz Leffler against Berlin Chemie AG*, C-443/03

CJEU, 16.09.2015, *Alpha Bank Cyprus Ltd against Dau Si Senh and other*, C-519/13

CJEU, 28.04.2016, *Alta Realitat SL against Erlock Film ApS and Ulrich Thomsen*, C-384/14

CJEU, 02.03.2017, *Andrew Marcus Henderson against Novo Banco SA*, C-354/15

CJEU, 06.09.2018, *Catlin Europe SE against O.K. Trans Praha spol. s r.o.*, C-21/17

Refusal to accept a judicial act: art. 8

- 1) Informing the addressee of the document of his right to refuse receipt
 - The information of the addressee of the act must imperatively be carried out by using the dedicated standard form
 - The court sets out the legal consequences of a failure to use the form to inform the addressee of the document of his right to refuse.

Recognises the principle that the default of the receiving agency may be corrected.

Refusal to accept a judicial act: art. 8

- 2) Scope of the right of the addressee of the document to refuse to accept it: the case of attachments.

CJEU, 8.05.2008, Ingenieurbüro Michael Weiss und Partner GbR against Industrie und Handelskammer Berlin, C-14/07

→ The court considers that “documents which have a purely evidential function and are not necessary for the purpose of understanding the subject-matter of the claim and the cause of action do not form an integral part of the document instituting the proceedings”.

Important to respect the delicate balance between, on the one hand, the protection of the rights of the defence and, on the other hand, the effectiveness of the transmission of procedural documents

Date of service: art. 9

CJEU, 9.02.2006, *Plumex against Young Sports NV*, C-473/04

- The Court of Justice confirms the principle of the equivalence of the methods of transmission and service provided by the Regulation.
- In the event of a combination of several validly made notifications, the one made first must be taken into account with regard to the addressee.

NO HIERARCHY BETWEEN THE DIFFERENT METHODS

Transmission and service of extrajudicial documents: art. 16

CJEU, 25.09.2009, Roda Golf & Beach Resort SL, C-14/08

CJEU, 11.11.2015, Tecom Mican SL and José Arias Domínguez, C-223/14

→ The formal transmission of these private documents (extra judicial) to their addressee living abroad must be "necessary for the exercise, proof or safeguarding of a legal right or claim in civil or commercial matters".

This formula is repeated in consideration 8 of the service Regulation 2020.

The defendant not attending: art. 19

CJEU, 07.07.2016, *Emmanuel Lebek against Janusz Domino*, C-70/15

→ The Court ruled that the last subparagraph of Article 19(4) of Regulation (EC) No 1393/2007 is to be interpreted as excluding the application of provisions of national law concerning the system of applying for relief where the period for filing such applications, as specified in the communication of a Member State to which that provision refers, has expired.

AUTONOMNOUS CONCEPT

THANK YOU FOR YOUR ATTENTION

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