The relationships between natural persons or legal entities residing in different European countries often require the service of documents between them. Insofar as the transmission of papers takes place within the European Union, persons can use the special procedure laid down in Regulation (EC) No 1393/2007 which is aimed at improving and expediting the transmission of certain types of documents with a view to ensuring the proper functioning of the internal market. This article makes an overview of this service of documents.

The service of documents under Regulation (EC) No 1393/2007 may be effected in all Member States of the European Union with regard to judicial and extrajudicial documents in civil or commercial matters where the address of the person to be served with the document is known.

"Civil and commercial matters" is an independent concept in the *acquis communautaire* and it is to be interpreted by referring to the objectives of the Regulation, whereby it suffices that the court hearing the case concludes that it is not manifest that the action brought before it falls outside the scope definition of civil and commercial matters (judgment in Joined Cases C-226/13, C-245/13, C-247/13 and C-578/13 *Stefan Fahnenbrock and Others v Hellenische Republik*, paragraphs 39-49). The scope of the Regulation explicitly excludes revenue, customs or administrative matters or liability of the State for actions or omissions in the exercise of state authority (*acta iure imperii*). It is still an open issue whether labour law and social security matters are included within the scope of the Regulation.

The procedures laid down in the Regulation make it possible to service documents both in the context of and in the absence of legal proceedings. The case law of the Court of Justice of the European Union recognizes that the concept "extrajudicial documents" should be understood in a broad sense and could not be limited only to documents that may be required in the course of legal proceedings (judgment in Case C-14/08 *Roda Golf & Beach Resort*, paragraphs 56-59). Furthermore, the Regulation encompasses not only documents drawn up or certified by a public authority or official, for example a notary, but also private documents of which the formal transmission to an addressee residing abroad is necessary for the purposes of exercising, proving or safeguarding a right or a claim in civil or commercial law (judgment in Case C-223/14 *Tecom Mican SL*, paragraph 46).

CR legal DL 2018. Всички права запазени.

For the purposes of Regulation (EC) No 1393/2007, each Member State designates its transmitting and receiving agencies, competent for the transmission of judicial or extrajudicial documents to be served in another Member State. The details of these competent authorities are submitted regularly to the European e-Justice Portal.

In Bulgaria, the transmitting agency for judicial documents is the court before which the case has been brought, whereas the transmitting agency for extrajudicial documents is the district court at the current or permanent address of the person requesting the service of these documents or at the place of their permanent establishment. In the case of documents certified by a notary the transmitting agency may also be the district court encompassing the practice area of the notary. The receiving agency in Bulgaria is the relevant district court in the area of which the documents are to be served.

The service procedure is identical for both judicial and extrajudicial documents. It starts with the submission of a standard form (Annex I to Regulation (EC) No 1393/2007) by the person concerned to the competent transmitting agency with a detailed description of the sender, addressee, transmitting agencies, documents to be served, and the means of receipt. It is important to provide information on the address of service which is as complete and updated as possible because Member States have diverse practices in cases of incomplete details and the service might even prove irregular.

The form to be transmitted is to be completed in the official language of the Member State addressed to in another language which that Member State has indicated it can accept for the purposes of the Regulation. If the Member State addressed is Bulgaria, for instance, the form may be completed in Bulgarian, English or French. The documents to be transmitted have to be drawn up in a language which is understandable to the addressee or the official language of the Member State addressed or the other location where the service will take place or to be accompanied by a translation in that language. Otherwise the addressee is entitled to refuse acceptance of the document.

In the request to the transmitting authority, any person interested in a judicial proceeding is to indicate the specific means of transmission and service at his or her choice. The Regulation provides for the following options: transmission through transmitting and

CR legal DL 2018. Всички права запазени.

receiving agencies, transmission by consular or diplomatic channels, service by postal services, or direct service (through the judicial officers, officials or other competent persons of the Member State addressed) but only where such direct service is permitted under the law of that Member State. If no specific means of transmission and service has been selected, the service is effected in accordance with the laws of the Member State addressed.

Regardless of the means, the service is to be effected within one month of receipt by the receiving agency. The date of service is considered to be the date on which it is served in accordance with the law of the Member State addressed. A certificate of service or refusal is drawn up by the receiving authority in the prescribed form and sent to the transmitting authority.

CR legal DL 2018. Всички права запазени.