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# Service of Documents in European Order for Payment and European Small Claim Procedures

The European Small Claims Procedure &  
The European Order for Payment Procedure

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# Service of Documents in EOPP

- Regulation on EOPP (Art. 12(5))

The court shall ensure that the order is served on the defendant in accordance with national law by a method that shall meet the minimum standards laid down in Articles 13, 14 and 15.



# Service in Regulation on EOPP

Service **with proof of receipt** by the defendant

Art. 13 of the Regulation on EOPP

In accordance with the national law of the State in which the service is to be effected, by one of the following methods:

- (a) personal service with acknowledgement of receipt, including the date of receipt and signed by the defendant;
- (b) personal service attested by a document signed by the competent person and dated;
- (c) postal service with an acknowledgement of receipt, including the date of receipt and signed and returned by the defendant;
- (d) service by electronic means, with an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant.



# Service in Regulation on EOPP

Service **without proof of receipt** by the defendant

Art. 14 of the Regulation on EOPP

- (a) personal service at the defendant's personal address to members of the defendant's household or employees;
- (b) in the case of a self-employed defendant or a legal person, personal service at the defendant's business premises to employees;
- (c) deposit of the order in the defendant's mailbox;
- (d) deposit of the order at a post office or with competent public authorities and the placing a written notification in the defendant's mailbox;
- (e) postal service without proof where the defendant has his address in the Member State of origin;
- (f) electronic means attested by an automatic confirmation of delivery, with acceptance of this method in advance made expressly.



# Service in Regulation on EOPP

## Service **without proof** of receipt by the defendant

### Regulation on EOPP, Art. 20

- One of the grounds for application for a review in exceptional cases:  
the order for payment was served by one of the methods provided for in Article 14,  
and  
service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his part.



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# Service in Regulation on EOPP

Service on a representative (Art. 15 of the Regulation on EOP)

- Service pursuant to Articles 13 or 14 may also be effected on a defendant's representative.

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# Invalid service of documents – Regulation on EOPP

- *C-119/13, eco cosmetics and Raiffeisenbank St. Georgen*

Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure must be interpreted as meaning that the procedures laid down in Articles 16 to 20 thereof are not applicable where it appears that a European order for payment has not been served in a manner consistent with the minimum standards laid down in Articles 13 to 15 of that regulation.

Where it is only after a European order for payment has been declared enforceable that such an irregularity is exposed, the defendant must have the opportunity to raise that irregularity, which, if it is duly established, will invalidate the declaration of enforceability.



# Service in Regulation on ESCP

**Before amendments** introduced with the Regulation (EU) 2015/2421

- Art. 13 of the Regulation on ESCP

service by postal service attested by an acknowledgement of receipt including the date of receipt,

or if that is not possible,

any of the methods provided for in Articles 13 or 14 of Regulation (EC) No 805/2004.







# Service in Regulation on ESCP

**After amendments** introduced with the Regulation (EU) 2015/2421

- Rules for claim form (and supporting evidence), response, counterclaim, response to a counterclaim, judgment, Art. 13(1)
- Postal service + attested by an acknowledgment of receipt including the date of receipt
- Electronic means (if available under national procedural rules of the MS where the ESCP is conducted and MS of the party to be served and the party expressly accepted in advance such service or is legally obliged to do so under procedural rules of the MS of the party) + attested by an acknowledgment of receipt including the date of receipt
- Subsequently, service with and without proof of receipt under Regulation on EOPP



# Service in Regulation on ESCP

- **After amendments** introduced with the Regulation (EU) 2015/2421
  - Rules for other written communication, Art. 13(2)
- Electronic means attested by an acknowledgment of receipt (if available under national procedural rules of the MS where the ESCP is conducted and MS of the party/person and the party expressly accepted in advance such service or is legally obliged to do so under procedural rules of the MS of the party/person)
- Subsequently, any other method of communication admissible under the law of the Member State in which the European Small Claims Procedure is conducted



# Service in Regulation on ESCP

**Before amendments** introduced with the Regulation (EU) 2015/2421

Art. 18, Regulation on ESCP

- One of the grounds for the review of the judgment given in European Small Claims Procedure:

the claim form or the summons to an oral hearing were served by a method without proof of receipt by him personally, as provided for in Article 14 of Regulation (EC) No 805/2004;

and

service was not effected in sufficient time to enable him to arrange for his defence without any fault on his part



# Service in Regulation on ESCP

**After amendments** introduced with the Regulation (EU) 2015/2421

Art. 18 of the Regulation on ESCP

- One of the grounds for the review of the judgment given in European Small Claims Procedure:

the defendant was not served with the claim form,

or, in the event of an oral hearing, was not summoned to that hearing, in sufficient time and in such a way as to enable him to arrange for his defence;

unless the defendant failed to challenge the judgment when it was possible for him to do so



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# Refusal of enforcement?

Enforcement of European order for payment and judgment given in European Small Claims **cannot be refused** based on service related reasons (Art. 22 of the Regulation on EOPP and Art. 22 of the Regulation on ESCP)

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# Service in Regulation on ESCP

- Art. 25 of the Regulation on ESCP

Information to be provided by the MS:

(b) the means of communication accepted for the purposes of the European Small Claims Procedure and available to the courts or tribunals (commencement of the procedure)

(d) the means of electronic service and communication technically available and admissible under their procedural rules

(e) the persons or types of professions, if any, under a legal obligation to accept service of documents or other written communications by electronic means



# Service in Regulation on ESCP

Slovenia	Italy	France	Croatia
Post, secure email, bailiff, in the court or in another manner provided by law (service by a legal or natural person who serves documents professionally)	Post/Electronic service and communication may, however, be used for cases before the ordinary courts	Post, electronic service is not authorised	Documents are served by mail or by a specific judicial officer, i.e. an employee of a court, via a competent judicial authority or notary public or directly in court, or by electronic means in accordance with a specific act

E-Justice: [https://e-justice.europa.eu/354/EN/small\\_claims](https://e-justice.europa.eu/354/EN/small_claims)





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# Relationship with the Service Regulation

Art. 27 of the Regulation on EOPP

The rules on the Service Regulation No 1393/2007 are not affected

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# Cross-border service of documents in the EU

Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

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

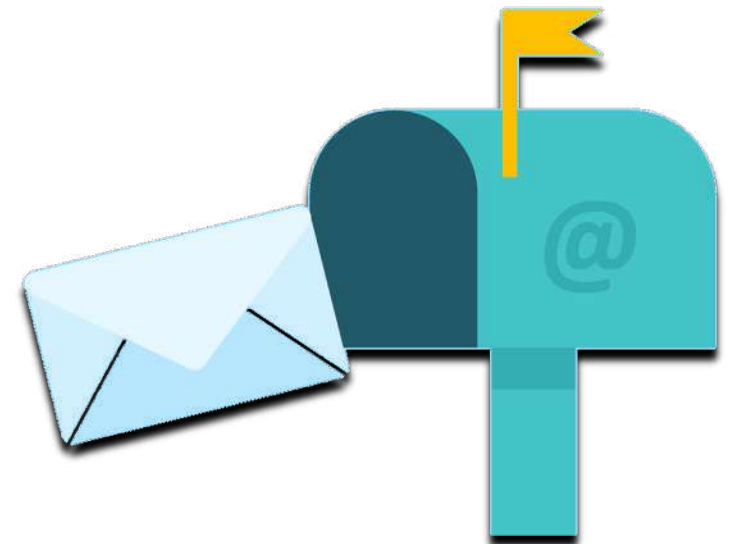
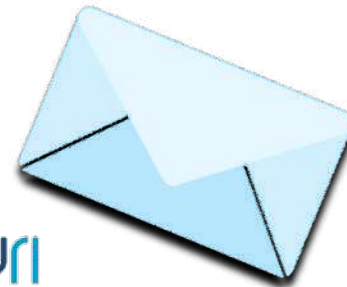
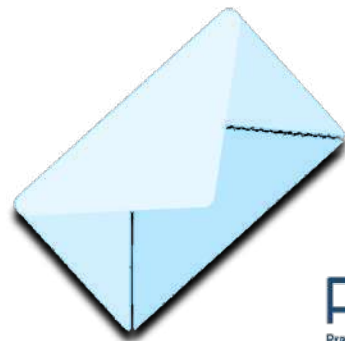
Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000



# Service Regulation

Service systems:

1. Service through transmitting and receiving agencies
2. Service by consular and diplomatic channels
3. Service by diplomatic and consular agents
4. Service by postal services
5. Direct service





# Service Regulation

- One of the the greatest problem in practice - the lack of an address of the person/entity to be served

- Service is not possible if the address is not known

*C-325/11, Alder*, EU:C:2012:824



# Service Regulation Amendments



Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast)

- Applicable from 1 July 2022
- Most significant amendments:
  - E-Codex (Art. 5)
  - Electronic signatures (Art. 5(3))
  - Assistance in address inquiries (Art. 7)
  - Language of the form informing the addressee on the right to refuse to accept the document (Art. 12)
  - Electronic service (Art. 19)



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Thank you for your attention!

