



Questionnaire for National Reports

On the Cross-border Service of Documents

This questionnaire addresses practical and theoretical aspects regarding the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. Each partner should provide substantive answers for their respective Member State (or additional Member State, if specifically stipulated by the coordinator). Where the term "Regulation" is used below, it refers to Regulation (EU) 2020/1784 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.

For useful information please refer (among other sources) to:

- 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) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1784>)
- Impact assessment of 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) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:287:FIN>)
- Opinion of the European Economic and Social Committee on a) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (COM[2018] 378 final — 2018/203 [COD]) and on b) 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] 379 final — 2018/204 [COD]) (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uris-erv%3A0J.C_.2019.062.01.0056.01.ENG&toc=OJ%3AC%3A2019%3A062%3ATOC)
- The provided information in the European Judicial Atlas in civil matters on the service of documents (https://e-justice.europa.eu/38580/EN/serving_documents_recast)
- Briefing of the European Parliamentary Research Service (EPRS) on the reform of the service of documents regulation (2019) ([https://www.europarl.europa.eu/Reg-Data/etudes/BRIE/2019/642240/EPRS_BRI\(2019\)642240_EN.pdf](https://www.europarl.europa.eu/Reg-Data/etudes/BRIE/2019/642240/EPRS_BRI(2019)642240_EN.pdf))
- Other *travaux préparatoires* of the Recast Taking of Evidence Regulation (see e.g. <https://www.europeansources.info/record/proposal-for-a-regulation-amending-regulation-ec-no-1393-2007-on-the-service-in-the-member-states-of-judicial-and-extrajudicial-documents-in-civil-or-commercial-matters-service-of-documents/>)

The structure of each individual report should follow, to the utmost extent possible, the list of questions enumerated below and the given structure. If authors choose to address certain issues elsewhere within the questionnaire, they are urgently requested to make cross-references and specify where they have provided an answer for the respective question (e.g. “the/an answer to this question is already provided in 1.6.”). Following the structure of the questionnaire will enable and ease comparisons between the various jurisdictions.



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*Digital communication and safeguarding the parties' rights:
challenges for European civil procedure – DIGI-GUARD*

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The list of questions is not to be regarded conclusive. It might be that important issues in certain jurisdictions are not mentioned. Please address such issues on your own initiative where appropriate. On the other hand, questions that are of no relevance for your legal system can be left aside; in this case, you are requested to add a reference to the lack of relevance.

Please provide representative references to court decisions and literature. You are also asked to illustrate important issues by providing examples from court practice. If possible, please include empirical and statistical data. **Where the answer would be “no” or “not applicable”, because something is not regulated in your national legal order, if possible please specify how you think it should be regulated.**

Please do not repeat the full questions in your text. There is no limitation as to the length of the reports.

Language of national reports: English.

Deadline: 31 March 2023.

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NATIONAL SERVICE OF DOCUMENTS

- 1. What is the legal basis for service of documents in your Member State? Is there a special act regulating the service of documents within your national legal system.**
(e.g. in Germany: The Code of Civil Procedure (hereafter: ZPO) offers a legal basis for service of documents. Section 2 of the third chapter gives a general overview on the procedure for the service of records or documents. The ZPO differentiates between service ex officio (sub-section 1, §§ 166 et seq. ZPO) and service of records or documents at the instigation of the parties (sub-section 2, §§ 191 et seq. ZPO).)
- 2. Explain the term "service" as used in your national legal system. If there is a legal definition, please quote it.**
(e.g. in Germany: We do have a legal definition in § 166 (1) ZPO, "(1) The term "service" designates the issuance of a document to a person in the form stipulated in the present Title" Service means to enable a person to be inform about a document. For the service itself and its legal validity a documentation of the service is not necessary. The documentation is regulated in a separate paragraph, 182 ZPO. The definition of service applies for service which is carried out ex officio, § 166(2) ZPO. The effectiveness of service requires intent.¹ A notarisation of delivery is no longer a constitutive part of service,² it only has an evidentiary function.)
- 3. How do you define "civil and commercial matters" in your national legal system? Does this definition differ from the term of the Regulation, and if so, in what way?**
(e.g. Germany does not use this term in pure domestic cases.)
- 4. For what purpose does your legal system define the concept "civil and commercial matters"?**
(As we [in Germany] do not use the term in your legal system, we only use the definition for the application of European Law.)
- 5. How are the concepts "judicial and extrajudicial documents" defined in your legal system? Does your national legal system distinguish between judicial and extrajudicial documents in the context of (official) service? If yes, please define these categories and give examples.**
(e.g. in Germany: Extrajudicial service is understood as the service of a document outside of a court proceeding and not only the service of documents related to a court proceeding.)
- 6. What is the purpose of service of documents? Are there overarching principles of procedures that are intertwined with the service of documents in your Member State?**
*(e.g. in Germany: The purpose of service is to give the addressee (§ 182 II Nr. 1 ZPO) the opportunity to take notice of the document and to prepare his legal defence or prosecution thereon.³ This purpose is a consequence of the **right to be heard**, which is considered as a fundamental right, Article 103(1) of the German Constitution.⁴ Hence, the purpose of service is based on the **rule of law** for the area of judicial proceedings. Furthermore, the right to service promotes the course of*

¹ BGH NJW 1956, 1878; MüKoBGB/Häublein/Müller, § 166 para. 3.

² MüKoBGB/Häublein/Müller, § 166 para. 3.

³ BVerfG NJW 1984, 2567, 2568.

⁴ BVerfG NJW 1984, 2567, 2568.



proceedings and thus relieves the process, which serves the principle of **effective access to justice** (Article 19(4) of the German Constitution).⁵ In addition, **legal certainty** is to be established.)
(e.g. in Austria: The continuance of the trial, the right to be heard, ...)

7. Who is responsible for the service of documents?

(e.g. in Germany: “The court registry shall perform service of documents pursuant to §§ 173 to 175, § 168(1) ZPO. Hence, the court is responsible for sending the documents but the claimant is responsible for enabling the court to do so by providing enough/sufficient information.)

(e.g. in Austria: The court is generally responsible for transmitting the documents and is obligated to monitor the service process. The recipient of the documents has a duty to collaborate.)

7.1. If the court is responsible for service: What can be done if the court has failed to act? Can one sue the state and claim damage? Or can one sue the court to initiate the service?

7.2. If the parties are responsible for service: Within what time frame must service be affected?

7.3. If the responsibility of service is shared between the court and the parties: Under your Member State's law, how is it determined who is responsible for the service of documents?

7.4. What are the national requirements for a valid service of documents in your Member State?

8. What documents must be sent to the respondent? Who prepares the documents?

(e.g. in Germany: The claim must be sent to the respondent (prepared by the claimant) in pursuance with § 253 ZPO as well as an information form prepared by the court to inform the respondent about their procedural rights [§ 499 ZPO])

9. What information or other aspects must be included in the documents?

(e.g. in Germany: Formally, the claimant has to provide the name, address, and other information necessary to identify the respondent. Materially, the claimant has to provide the facts that are necessary to establish the legal claim [§ 253 ZPO]. Furthermore, the form in which a document is to be served (original, copy, transcript) is not governed by the law on service but by the substantive law [e.g. § 132 (1) in conjunction with § 2296 (2) cl. 2 of the German Civil Code (hereafter: BGB)] or other procedural law (§§ 377, 402). Without special provisions, the delivery of a certified copy is sufficient.⁶)

9.1. Please provide the definition of the term “address for service” under your national legal system.

⁵ cf. VGH München NJW 2012, 950, 951.

⁶ MüKoBGB/Häublein/Müller, § 166 para. 9.



9.2. Provide definitions of other (mandatory) aspects mentioned in Question 9.

- 10. How are documents without a cross-border element served in your national jurisdiction? What is the usual method of service? Please explain the different methods of service in detail.** (e.g. in Germany: National service of documents is done in accordance with §§ 168-176 ZPO, in practice mainly via postal services or fax. Following § 177 ZPO: “The document may be physically submitted to the person on whom it is to be served at any location at which the person is found”. § 175(1) ZPO: “A document may be served on the persons referred to in § 173 (2) against receipt (e.g. lawyers, notaries, bailiffs as well as public authorities, corporations or institutions under public law).” It has to be noted, that service of electronic documents [§ 173 (1) ZPO] has only been recently allowed through safe communication methods. Since the change of the ZPO lawyers, notaries, and bailiffs as well as public institutions have to be attainable through such a safe communication method, § 173(2) ZPO, [a specialised e-mail system] while other persons have to explicitly agree to electronic communication methods, § 173(4) ZPO.) (e.g. in Austria: Documents are mainly served via the Austrian Postal Service.)

10.1. Does the method of service differ from the cross-border service of documents within the scope of the Regulation?

10.2. Are there several alternative methods of service in your Member State?

10.3. Does your national legal system provide for special means for the service of documents for professionals (e.g., lawyers, notaries etc.) or state authorities? How do the methods of service relate to each other? (e.g. of equal rank, subordinate)

10.4. What considerations must the deciding court take into account when choosing the method of service?

10.5. Have the methods of service laid down in your national legal system been extended for domestic service after the entry into force of the Regulation?

11. How is service in third-party countries regulated?

(e.g. in Germany: § 183 (1) cl. 1 ZPO regulates the service in EU-countries, whereas § 183 (1) cl. 2 ZPO states: “Insofar as the aforementioned provisions do not apply to service abroad, paragraphs 2 to 6 shall apply to service abroad”. § 183 (2) ZPO regards delivery via post or through authorities of the other country. When there are no international agreements, § 182(4) ZPO is applicable in pursuance to § 183 (3) ZPO. § 183 (6) ZPO recognises the jurisdiction of the local court of the respondent’s domicile or habitual residence in regards to the service of documents abroad.)

12. Are there special methods of service for certain types of documents – regardless of whether they qualify as judicial or extrajudicial? Please provide examples.

13. What is the usual time frame of the service of documents in your Member State?



(e.g. in Germany: A fax and an electronic service of documents via the secure communication methods is considered immediate; postal service takes 1-3 days with the exception that there is no postal service on Sundays.)

(e.g. in Austria: Service via the Austrian Postal Service takes around 1-2 days, service within the platform for the electronic service of documents is more or less instantaneous.)

14. At what moment is a document considered to be served according to the national law of your Member State?

(e.g. in Germany: A document is in general served once it is handed over to the respondent; actual knowledge is not important and, in some cases, service is even fictitious, §§ 180 cl. 2, 181 (1) cl. 4; 184 (2) cl. 1, 188 ZPO.)

(e.g. in Austria: a document is generally served once it is handed over to the respondent who thereby takes notice of the service.)

14.1. If and if so, under what circumstances is a document considered to be served according to the national law of your Member State when the recipient is served at an address they either do not use or do not know of?

(This question refers to the service to an official or known address of the recipient, but one which is not (anymore) used by the recipient. Please elaborate on national treatment of negligent behaviour (of the recipient who might have forgotten to de-register the address or to make arrangements to be informed about service of documents to this address), multiple places of residence, service to a “wrong” address (either unknowingly by the competent institution or maliciously of the opponent by providing/using the wrong address), and differences of the relevant address regarding the determination of jurisdiction (domicile) and the address used for the service of documents.)

14.2. Please elaborate in this regard, how the national law of your Member State treats the following scenario: The claim contains the official, duly registered address of the respondent. However, when the postman (or responsible person of service) wishes to serve the document at that address, it is clear that the recipient does not live there any longer (i.e., the post-box has a different name, neighbours confirm that the person has moved or a new tenant opens the door and confirms that the recipient has moved there some months ago and he neither has any relation with the former tenant nor does he know where they live now).

15. With what electronic methods can a claim be filed in court?

(e.g. in Germany: Only lawyers can electronically a claim through a specialised lawyer's electronic communication system, BEA. Usual method of filing a claim at court is via postal service or through personally hand the document in at court.)

(e.g. in Austria: Parties can also file a claim themselves, if certain requirements are fulfilled.)

16. What is the procedure under the national law of your Member State if the exact whereabouts of the recipient are unknown?

(e.g. in Germany: The service by publication means that a notice of service is hanging on the courts bulletin board or an electronic equivalent; we do not know a central public register for publication of service. In an addition to the bulletin board the court can order that the notice of service by publication must be published in the Official Gazette (Bundesanzeiger). We only publish basic information like the person on whose behalf the document is served, the last known address or number of the document, but not the document to be served itself.)



- 16.1. Is a substitute method of service available under the national law of your Member State? If so, what factors does the deciding court have to take into account when assessing the admissibility of such service?**
- 16.2. Is there a possibility of using fictitious methods of service in your Member State? Please elaborate.**
- 16.3. If yes: When does a fictitious method of service unfold its effects? Are these equivalent to the effects of service where the document is served directly to the recipient?**
- 16.4. Service of publication frequently do not assure that the document was actually made known to the recipient. Does your system try to ensure that the document was actually made known?**
(e.g. in the USA: A Court can order to publish a whole page in a newspaper.)
- 16.5. Does the system include special remedies if actual knowledge was not obtained by the defendant?**
- 16.6. Please explain whether fictitious methods of service may in certain circumstances be in conflict with national procedural principles (e.g. right to a fair trial, right to be heard). If so, how is this issue dealt with?**
- 16.7. Are different actions taken if the person's whereabouts are presumed to be within the country or abroad?**
- 17. What is the procedure in your national jurisdiction if the recipient is responsible for a failure to serve?**
(e.g. in Germany: The German ZPO provides rules for cases in which the acceptance of the document to be served is refused without justification [§ 179 ZPO]. It then should be left at the residence or business premises, in cases without such residences or business premises, the document shall be returned and is deemed served notwithstanding the refusal of acceptance.)
- 18. What language is to be used for domestic service?**
(e.g. in Germany: Documents must be written in German, as this is the official language of the court, § 184 of the Courts Constitution Act [hereafter: GVG].)
- 19. Are there specific claim forms to be used for domestic service in your Member State? If so, explain their content and the information required.**
(e.g. in Germany: There are regularly no claim forms to be used with the exception of European orders for payments or other European forms such as in small claim procedures.)
- 20. How are the costs of service regulated in your Member State?**



(e.g. in Germany: For services at the instigation of the parties, the law on costs of judicial officers [hereafter: GVKostG] governs the costs [Annex to § 9 GVKostG].)

LEGAL IMPLICATIONS OF SERVICE

21. What are the legal (minimum) requirements of an effective service? Please list them.

22. What are the legal consequences (procedurally and, if applicable, materially) of the proper service of documents?

(e.g. in Germany: *Lis pendens*, procedural effects: § 261 ZPO: As long as the dispute is pending, none of the parties may bring the dispute before another court or tribunal and jurisdiction of the court hearing the case will not be affected by any change to the circumstances giving rise to its competence. Material effects, Interest during legal proceedings.)

(e.g. in Austria: The time period for appeals starts from the date of service of the document and is therefore necessary so that later *res judicata* and enforceability occurs)

23. What are the consequences of the respondent's failure to appear in the proceedings under the national law of your Member State?

(e.g. in Germany: There is the threat of a default judgment or a decision according to the state of the files. § 331 ZPO concerns default judgements against the respondent.)

(e.g. in Austria: The court can render a verdict in favour of the appearing party.)

23.1. What are the possibilities of legal remedy if the respondent claims incorrect service?

24. What are the consequences of the claimant's failure to appear in the proceedings under the national law of your Member State? (e.g. due to the absence of a summons to the preparatory hearing)

(e.g. in Germany: If the claimant does not appear at the hearing, a default judgment may be issued against the claimant at the request of the respondent, § 330 ZPO. In the context of a default judgment, the action is then dismissed.)

24.1. What are the possible legal remedies if the claimant claims incorrect service?

25. What are the consequences of improper service in your national jurisdiction?

25.1. What is the procedure if the recipient nevertheless had the opportunity to prepare and therefore the principle of equality of arms was not affected?

25.2. Can a deficiency in service be cured in your national jurisdiction? If so, how?

(e.g. in Germany: The service is ineffective if mandatory service provisions have been violated [for example if the recipient of service is not a part of the group of persons defined in § 178 ZPO]. Ineffective service can be remedied by retroactive approval, in accordance with



§ 189 ZPO and by waiver of objection, § 295 ZPO. The ineffectiveness of the earlier service can also be overcome by reperformance. However, the new service has no retroactive effect.⁷)

- 25.3. Please explain whether such a cure may in certain circumstances be in conflict with national procedural principles (e.g. right to a fair trial, right to be heard). If so, how is this issue dealt with?**
- 25.4. Do the consequences of improper service differ within the scope of the Regulation due to the provisions in Art. 22 of the Regulation? If so, how?**
- 25.5. Has your Member State made use of the option in Art. 22 No. 2 of the Regulation?**
- 25.6. How is the possibility of reinstatement in Art. 22 No. 4 of the Regulation regulated in your Member State? What is the deadline for filing an application for *restitutio in integrum*?**
(e.g. in Austria there is a 14-day period to file the application after the obstacle has ceased to exist.)
- 26. Can a decision be revoked due to incorrect service in your Member State even after it has become *res judicata*?**
- 27. How is the service of documents proven or documented? How is the date of service determined in the national law of your Member State?**
(e.g. in Germany: according to § 182 ZPO the proof of service is done through a separate certificate. The minimum requirements of that certificate are set out in § 182(2) ZPO. Following this, the record of service shall for example include: the designation of the person on whom service is to be made; the designation of the person to whom the letter or the document was physically submitted; in the case of § 171 ZPO, the certificate of the power of lawyer; the note that the day of service was noted on the envelope containing the document to be served; the place, the date and, should the court registry so have instructed, also the time of service; the surname, given name, and signature of the person serving the documents as well as the name of the company contracted for service, or the public authority charged with this task.)
(e.g. in Austria: A proof of service is not always necessary; the proof of service itself is regulated in § 22 Zustellgesetz (Austrian Act on the service of documents.)
- 28. Except for the mentioned respondent, are there other authorised recipients, i.e. (temporary) representatives or persons authorised? Please provide the corresponding regulations within your national legal system.**
(e.g. in Germany: § 170 ZPO [service on statutory representatives]; § 171 ZPO [service on authorised agents]; § 172 ZPO [service on legal representatives], etc.)

⁷ BeckOK ZPO/Dörndorfer, § 166 para. 5.



29. What are the legal consequences of an improper service of documents?

(e.g. in Germany, if there is no proof of receipt in accordance to § 182 ZPO, a cure for defects in the service is the actual perusal, § 189 ZPO)

(e.g. the Austrian civil procedure code contains numerous rules regarding the consequences of service defects. The general rule is that as soon as the document reaches the party, service defects are considered immaterial.)

30. What is considered a timely service of documents?

31. Who bears the risk of an untimely service of documents?

CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION

32. Which bodies are considered to be “transmitting agencies” according to Art. 3 No. 1 of the Regulation in your Member State? If there are several transmitting agencies in your Member State, please describe their local jurisdiction.

(e.g. in Germany: § 183 ZPO regulates the service abroad. For the purposes of implementing the Regulation, §§ 1067 (1), 1069 (1), 1070 and 1071 ZPO shall apply according to § 183 (1) ZPO. § 1069 (1) no. 1 ZPO provides the German court which is in charge of the service with competence for the service of judicial documents and no. 2 declares that generally, the court at the residence or habitual residence is competent for extrajudicial documents.)

(e.g. in Austria: The trial courts are considered transmitting agencies.)

33. Which bodies are considered to be “receiving agencies” according to Art. 3 No. 2 of the Regulation in your Member State? If there are several receiving agencies in your Member State, please describe their local jurisdiction.

(e.g. in Germany: § 1069 (2) ZPO regulates which bodies are considered to be “receiving agencies”, Within the meaning of Article 3 (2) of the Regulation the office of the local court in whose district the document is to be served shall be the receiving agency, § 1069 (2) cl. 1 ZPO. The state governments may assign the duties of receiving agency to a district court for the districts of several district courts by statutory order, § 1069 (2) cl. 2 ZPO.)

(e.g. in Austria: The district courts are considered receiving agencies.)

34. What means of communication is accepted by the receiving agencies when receiving documents?

(e.g. in Germany: The following means of communication are available for receiving and sending: mail and private delivery services, fax; and for informal communications: telephone and e-mail.⁸)

35. Which public institution is the “central body” according to Art. 4 of the Regulation in your Member State?

(e.g. in Germany: The state governments “determine by statutory order the body responsible in the respective state as the German central office pursuant to Article 4 of Regulation [... It] shall be the Federal Office of Justice”, § 1069(3) and (4) ZPO.)

⁸ https://e-justice.europa.eu/content_serving_documents-373-de-de.do?member=1.



(e.g. in Austria: The Federal Ministry of Justice)

36. **How is it decided which method of service will be used by the authorities in your Member State?**
37. **What are the costs of service under the Regulation if your Member State is the receiving State?**
(e.g. in German: Expenses may be up to 20.50 EURO under ordinary circumstances. They are calculated according to the type of service requested in accordance with the Judicial Costs Acts.⁹)
38. **How are incomplete or insufficient requests for service to be dealt with?**
39. **In which languages can the standardised forms be completed (according to Art. 3 No. 4 lit. d of the Regulation) in your Member State?**
(e.g. in Germany: According to § 1070 ZPO, requests for service, certificates of service and other notices pursuant to the Regulation received from abroad must be in German or in English or accompanied by a translation into German or English.)
40. **To what extent does your Member State support address tracing according to Art. 7 of the Regulation? Please describe the process in detail.**
(e.g. in Austria: The “Zentrales Melderegister” [Central Register of Residents] can be consulted by various official bodies. Only a small administrative fee is charged.)
41. **Has your Member State lodged a national reservation concerning the service by consular or diplomatic agents provided for in Art. 17 of the Regulation?**
(e.g. in Germany: “Service pursuant to Article 17 of Regulation (EU) 2020/1784 by the competent German diplomatic mission or consular post abroad shall only be effected in justified exceptional cases. Service pursuant to sentence 1 on an addressee who is not a German national shall only be admissible if the Member State in which service is to be effected has not excluded this by a declaration pursuant to the first sentence of Article 33(1) of Regulation (EU) 2020/1784. Service pursuant to Article 17 of Regulation (EU) 2020/1784 to be effected in the Federal Republic of Germany shall be admissible only if the addressee of the document to be served is a national of the transmitting State”, § 1067 ZPO.)
42. **Is the direct service method provided for in Art. 20 of the Regulation compatible with the national law of your Member State?**
43. **Is there a bilateral or multilateral agreement within the meaning of Art. 29 of the Regulation between your Member State and one or more other Member States? If yes, please give reference to the agreement and elaborate. Please leave out the generally applicable agreement between the EU and the Kingdom of Denmark of 19 October 2005 on the service of judicial and extrajudicial documents in civil or commercial matters.**

⁹ https://e-justice.europa.eu/content_serving_documents-373-de-de.do?member=1.



- 44. Has your Member State exercised the option for early use of the decentralised IT system as defined in Art. 33 No. 2 of the Regulation?**

RIGHT OF REFUSAL

- 45. Is there a possibility under your national law to refuse to accept a document?**

45.1. On what grounds can the acceptance of a document be refused?

45.2. How can the acceptance of documents served electronically be refused?

45.3. What factors does the deciding court have to take into account when assessing the admissibility of the refusal to accept?

45.4. What are the consequences of such a refusal? Please distinguish between justified and unjustified refusals when responding.

- 46. How do the courts in your Member State review the admissibility of the refusal to accept a document under Art. 12 of the Regulation?**

ELECTRONIC METHODS OF SERVICE

- 47. Does your Member State's national law allow documents to be served electronically? If so, how?**

(e.g., in Germany: Court documents may only be served electronically on addressees in the Federal Republic of Germany in accordance with Article 19 (1) (a) of the Regulation, § 1068 ZPO. In addition to that, § 173 ZPO regulates the general service of electronic documents.)

47.1. If dedicated internet portals are used for this purpose: Please describe the platform. Do users have to register beforehand?

47.2. How is the e-identification (and possibly e-signature) of electronically served documents executed in the national legal system of your Member State?

47.3. How is it ensured that the right person receives the documents? How is the identity of the user verified?

47.4. How is the time of service determined?



- 48. Is electronic service dependent on the consent of the person concerned in your Member State?**
- 48.1. If consent is required, can it be given universally or must consent be obtained for each individual case?**
- 48.2. If universal consent is permissible, can certain matters (e.g. family law disputes) be exempted from the consent?**
- 49. Is every citizen obliged to accept electronic service of documents in your Member State?**
(e.g. in Austria: Not everyone is obligated to accept electronic service via dedicated internet portals.)
- 49.1. If yes: What provisions does your Member State's national law provide in case the recipient has no possibility to receive electronic deliveries? (e.g. for elderly people)**
- 50. Is there a central body responsible for electronic service in your Member State?**
(e.g. in Austria the "Bundesrechenzentrum" (Federal Computing Centre) is responsible)
- 51. What measures are taken in your Member State to ensure the security of electronic service?**
- 52. What measures are taken in your Member State to ensure the efficiency of electronic service?**
- 53. What are the consequences if electronic service is not possible? (e.g. disrupted internet access)**
- 54. What are the costs of electronic service?**
- 55. What measures does your Member State take with regard to data protection in connection with electronic service?**
- 56. How could the rules on service in your national law be improved in order to facilitate cross-border service and to avoid legal uncertainty?**
- 57. Please explain how the E-CODEX system operates if your Member State took part in the E-CODEX project concerning procedures in the case of European Small Claims and European Payment Order.**



PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE

58. **What national issues arise out of the service of documents in your member state?**

59. **What European issues arise out of the service in your member state?**

60. **How could the provisions on service in your national legislation be improved in order to facilitate cross-border service and prevent legal uncertainty?**

61. **Please list national cases in which problems occurred regarding the cross-border service of documents. If possible, please shortly summarise the respective issues and decision.**



Instructions for contributors

1. References

As a rule, specific references should be avoided in the main text and, preferably, should be placed in the footnotes. Footnote numbers are placed after the final punctuation mark when referring to the sentence and directly after a word when referring to that word only. We humbly invite our authors to examine carefully our sample references which are preceded by [-]. These sample references put the theory of our authors' guidelines into practice and we believe that they may serve to further clarify the preferred style of reference.

1.1. Reference to judicial decisions

When citing national judicial authorities, the national style of reference should be respected. References to decisions of European courts should present the following form:

[Court] [Date], [Case number], [Party 1] [v] [Party 2], [ECLI] (NB: the “v” is not italicised)

- ECJ 9 April 1989, Case C-34/89, Smith v EC Commission, ECLI:EU:C:1990:353.
- ECtHR 4 May 2000, Case No. 51 891/9, Naletilic v Croatia.

1.2. Reference to legislation and treaties

When first referring to legislation or treaties, please include the article to which reference is made as well as the (unabbreviated) official name of the document containing that article. The name of a piece of legislation in a language other than English, French or German should be followed by an italicised English translation between brackets. In combination with an article number, the abbreviations TEU, TFEU, ECHR and UN Charter may always be used instead of the full title of the document to which the abbreviation refers. If the title of a piece of legislation constitutes a noun phrase, it may, after proper introduction, be abbreviated by omission of its complement. Thus:

- Art. 2 Protocol on Environmental Protection to the Antarctic Treaty (henceforth: the Protocol).
- Art. 267 TFEU.
- Art. 5 Uitleveringswet [Extradition Act].

1.3. Reference to literature

1.3.1 First reference

Any first reference to a book should present the following form: [Initial(s) and surname(s) of the author(s)], [Title] [(Publisher Year)] [Page(s) referred to]

- J.E.S. Fawcett, *The Law of Nations* (Penguin Press 1968) p. 11.

If a book is written by two co-authors, the surname and initials of both authors are given. If a book has been written by three or more co-authors, ‘et al.’ will follow the name of the first author and the other authors will be omitted. Book titles in a language other than English, French or German are to be followed by an italicised English translation between brackets. Thus:

- L. Erades and W.L. Gould, *The Relation Between International Law and Municipal Law in the Netherlands and the United States* (Sijthoff 1961) p. 10 – 13.



- D. Chalmers et al., *European Union Law: cases and materials* (Cambridge University Press 2010) p. 171.
- F.B. Verwayen, *Recht en rechtvaardigheid in Japan* [Law and Justice in Japan] (Amsterdam University Press 2004) p. 11.

1.3.2 Subsequent references

Any subsequent reference to a book should present the following form (NB: if more than one work by the same author is cited in the same footnote, the name of the author should be followed by the year in which each book was published):

[Surname of the author], [supra] [n.] [Footnote in which first reference is made], [Page(s) referred to] Fawcett, supra n. 16, p. 88.

- Fawcett 1968, supra n. 16, p. 127; Fawcett 1981, supra n. 24, p. 17 – 19.

1.4. Reference to contributions in edited collections

For references to contributions in edited collections please abide by the following form (NB: analogous to the style of reference for books, if a collection is edited by three or more co- editors only the name and initials of the first editor are given, followed by 'et al.'):

[Author's initial(s) and surname(s)], ['Title of contribution'], [in] [Editor's initial(s) and surname(s)] [(ed.) or (eds.)], [Title of the collection] [(Publisher Year)] [Starting page of the article] [at] [Page(s) referred to]

- M. Pollack, 'The Growth and Retreat of Federal Competence in the EU', in R. Howse and K. Nicolaidis (eds.), *The Federal Vision* (Oxford University Press 2001) p. 40 at p. 46.

Subsequent references follow the rules of 1.3.2 supra.

1.5. Reference to an article in a periodical

References to an article in a periodical should present the following form (NB: titles of well- known journals must be abbreviated according to each journal's preferred style of citation):

[Author's initial(s) and surname(s)], ['Title of article'], [Volume] [Title of periodical] [(Year)] [Starting page of the article] [at] [Page(s) referred to]

- R. Joseph, 'Re-Creating Legal Space for the First Law of Aotearoa-New Zealand', 17 *Waikato Law Review* (2009) p. 74 at p. 80 – 82.
- S. Hagemann and B. Høyland, 'Bicameral Politics in the European Union', 48 *JCMS* (2010) p. 811 at p. 822.

Subsequent references follow the rules of 1.3.2 supra.

1.6. Reference to an article in a newspaper

When referring to an article in a newspaper, please abide by the following form (NB: if the title of an article is not written in English, French or German, an italicised English translation should be provided between brackets):

- [Author's initial(s) and surname(s)], ['Title of article'], [Title of newspaper], [Date], [Page(s)]: T. Padoa-Schioppa, 'Il carattere dell' Europa' [The Character of Europe], *Corriere della Serra*, 22 June 2004, p. 1.



1.7. Reference to the internet

Reference to documents published on the internet should present the following form: [Author's initial(s) and surname(s)], ['Title of document'], [<www.example.com/[...]>], [Date of visit]

- M. Benlolo Carabot, 'Les Roms sont aussi des citoyens européens', <www.lemonde.fr/idees/article/2010/09/09/les-roms-sont-aussi-des-citoyens-europeens_1409065_3232.html>, visited 24 October 2010. (NB: 'http://' is always omitted when citing websites)

2. Spelling, style and quotation

In this section of the authors' guidelines sheet, we would like to set out some general principles of spelling, style and quotation. We would like to emphasise that all principles in this section are governed by another principle – the principle of consistency. Authors might, for instance, disagree as to whether a particular Latin abbreviation is to be considered as 'common' and, as a consequence, as to whether or not that abbreviation should be italicised. However, we do humbly ask our authors to apply the principle of consistency, so that the same expression is either always italicised or never italicised throughout the article.

2.1 General principles of spelling

- Aim for consistency in spelling and use of English throughout the article.
- Only the use of British English is allowed.
- If words such as member states, directives, regulations, etc., are used to refer to a concept in general, such words are to be spelled in lower case. If, however, the word is intended to designate a specific entity which is the manifestation of a general concept, the first letter of the word should be capitalised (NB: this rule does not apply to quotations). Thus:
- [...] the Court's case-law concerning direct effect of directives [...]
- The Court ruled on the applicability of Directive 2004/38. The Directive was to be implemented in the national law of the member states by 29 April 2006.
- There is no requirement that the spouse, in the words of the Court, 'has previously been lawfully resident in another Member State before arriving in the host Member State'.
- Avoid the use of contractions.
- Non-English words should be italicised, except for common Latin abbreviations.

2.2. General principles of style

- Subdivisions with headings are required, but these should not be numbered.
- Use abbreviations in footnotes, but avoid abbreviations in the main text as much as possible.
- If abbreviations in the main text improve its legibility, they may, nevertheless, be used. Acronyms are to be avoided as much as possible. Instead, noun phrases are to be reduced to the noun only (e.g., 'the Court' for 'the European Court of Human Rights'). If this should prove to be problematic, for instance because several courts are mentioned in the text (e.g., the Court of Justice and the European Court of Human Rights), we ask our authors to use adjectives to complement the noun in order to render clear the distinction between the designated objects (e.g., the Luxembourg Court/the European Court and the Strasbourg Court/the Human Rights Court). As much will depend on context, we offer considerable liberty to our authors in their use of abbreviations, insofar as these are not confusing and ameliorate the legibility of the article.



- In English titles, use Title Case; in non-English titles, use the national style.

2.3. General principles of quotation

- Quotations are to be placed between single quotation marks, both in the main text and in the footnotes (thus: 'aaaaa').
- When a quotation forms part of another quotation, it is to be placed between double quotation marks (thus: 'aaaaa "bbbbbb" aaaaa').
- Should a contributor wish to insert his own words into a quotation, such words are to be placed between square brackets.
- When a quotation includes italics supplied by the contributor, state: [emphasis added].