

New Service Regulation Applicable in EU - In Denmark, as well?

Starting from yesterday, 13 November 2008, new Regulation No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (see our previous posts here and here) **is applicable in the Member States** (see its Art. 26).

Pursuant to Art. 25 of the new Service Reg., **“Regulation (EC) No 1348/2000 shall be repealed as from the date of application of this Regulation”** and “[r]eferences made to the repealed Regulation shall be construed as being made to this Regulation and should be read in accordance with the correlation table in Annex III”.

While **the new rules are applicable in the United Kingdom and Ireland**, since these two States took part in the adoption of the Regulation (see Recital no 28), **the position of Denmark appears at the moment quite controversial**.

The latter State, as it is the rule in respect of measures taken under Title IV of the TEC, did not take part in the adoption of the new Service Regulation and “is not bound by it or subject to its application” (see Recital no 29). Nonetheless, **in the two “parallel” agreements concluded between the European Community and the Kingdom of Denmark** to extend to the latter the provisions of Reg. No 44/2001 and Reg. No 1348/2000, **a simplified procedure was established in order to implement future amendments** to such instruments also in respect of Denmark: according to Art. 3(2) of the Agreement on the service of documents

Whenever amendments to Council Regulation (EC) No 1348/2000 are adopted, Denmark shall notify to the Commission of its decision whether or not to implement the content of such amendments. Notification shall be given at the time of the adoption of the amendments or within 30 days thereafter.

As stated by this document available on the European Judicial Atlas in Civil Matters (*emphasis added*)

*In accordance with Article 3(2) of the Agreement, **Denmark has by***

letter of 20 November 2007 notified the Commission of its decision to implement the contents of Regulation (EC) No 1393/2007. In accordance with Article 3(6) of the Agreement, the Danish notification creates mutual obligations between Denmark and the Community. Thus, Regulation (EC) 1393/2007 constitutes amendment to the Agreement and is considered annexed thereto.

In accordance with Article 3(4) of the Agreement, the necessary administrative measures will take effect on the date of entry into force of Regulation (EC) No 1393/2007.

Quite surprisingly, **this important document seems not to have been published in the OJ**; furthermore, **the related pages of the European Judicial Atlas in English, French, Italian and German version** are out-of-date, and **contain no mention of it (while the Spanish one does**, as pointed out by our friend Federico Garau over at the Conflictus Legum blog).

It is thus questionable whether, at the moment, the provisions of Reg. No 1393/2007 are applicable in Denmark (at least, if one refers to the official text of it). Any further information is welcome.