Fictitious Service of Process in the EU – Requiem for a Nightmare?

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Abstract. Fictitious forms of service have dominated for decades the notification of documents abroad. The insecurity caused by these means of service led to the ratification of the 1965 Hague Service Convention by a significant number of countries. Still, the problem has not been solved, because the Convention did not dare to take the steps towards abolition of fictitious service. The sole exception being, stipulated under Article 19, for documents instituting proceedings. The EU-Service Regulation followed the same path. For nearly 10 years, fictitious service was not discarded by national courts in all cases. However, a recent judgment of the ECJ interpreted the Service regulation as banning all forms of fictitious service. This ruling led to a shift in national jurisprudence. However, at the same time it triggered reactions.

The purpose of this paper is to contribute to the discussion surrounding the ECJ ruling, by highlighting its repercussions both within the framework of the Service Regulation, and potentially in the ambit of the multilateral Hague Service Convention.