



Press and Information

Court of Justice of the European Union

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Judgment in Case C-223/14

Tecom Mican SL. and José Arias Domínguez

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**The Court defines for the first time the concept of extrajudicial documents of which the formal transmission to addressees residing in another Member State is necessary**

*The competent national authorities must transmit such documents automatically where the documents satisfy the conditions laid down by EU law*

According to an EU Regulation,<sup>1</sup> the proper functioning of the internal market entails the need to improve and expedite the transmission of judicial and extrajudicial documents in civil or commercial matters for service between the Member States. Efficiency and speed in judicial procedures require that those documents be transmitted (served) directly and by rapid means between the bodies designated by the Member States. In Spain, the judicial officers of the national courts (Secretario Judicial) are competent for the transmission of judicial or extrajudicial documents in another Member State.

MAN Diesel, a German company, and Tecom Mican ('Tecom'), a Spanish company, concluded an agency contract in November 2009. Subsequently, MAN Diesel unilaterally terminated that contract. Following termination of the contract, Tecom asked the competent judicial officer to effect service of a letter of demand on MAN Diesel, through the competent German authority, seeking payment of an amount to which Tecom considered itself to be entitled under Spanish law. That letter stated, in addition, that the same demand had already been addressed to MAN Diesel in a previous letter of demand certified for official purposes by a Spanish notary. On the basis that no legal proceedings had been brought requiring the judicial assistance sought to be granted, the judicial officer refused to grant the application made by Tecom. Tecom thus brought an application for review of that refusal. However, the judicial officer dismissed that application, stating that it was not possible to consider that every private document constitutes an 'extrajudicial document' of which 'service' could be effected within the meaning of the regulation.

Tecom brought an action against the decision of the judicial officer before the Juzgado de Primera Instancia No. 7 de Las Palmas de Gran Canaria (Court of First Instance No 7, Las Palmas de Gran Canaria), which, in turn, referred several questions on the concept of an extrajudicial document within the meaning of the regulation to the Court of Justice for a preliminary ruling.

In today's judgment, the Court states at the outset that the concept of an extrajudicial document within the meaning of that regulation must be regarded as an autonomous concept of EU law. Nevertheless, taking into account its context, objectives and the preparatory work leading to the regulation's adoption, the Court holds that **the concept of an extrajudicial document encompasses** not only documents drawn up or certified by a public authority or official **but also private documents of which the formal transmission to an addressee residing in another Member State is necessary for the purposes of exercising, proving or safeguarding a right or a claim in civil or commercial law.** The Court notes that the transmission of such documents between the Member States contributes to reinforcing the proper functioning of the internal market

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<sup>1</sup> 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 (OJ 2007 L 324, p. 79).

in civil and commercial matters and in establishing progressively an area of freedom, security and justice in the European Union.

The Court adds that **service of an extrajudicial document** pursuant to the detailed rules laid down by the regulation **can always be effected even where the document has already been served through a means of transmission not provided for in the regulation, or through another of the means of transmission put in place by it.**

The Court also finds that, **where the conditions for the application of the regulation are satisfied**, it is not necessary to ascertain, on a case-by-case basis, whether the service of an extrajudicial document has cross-border implications and is necessary for the proper functioning of the internal market. In that case, **the competent national authorities must transmit the relevant documents automatically.** The Court notes, first, that the cross-border implications of the transmission of a judicial or extrajudicial document constitute an objective condition for the applicability of the regulation: those implications must therefore without exception be considered to be satisfied where the service of a document falls within the scope of the regulation, since its transmission must be effected in accordance with the system established by the regulation. Second, in so far as all the means of transmission of judicial and extrajudicial documents laid down by the regulation have been put in place expressly in order to ensure the proper functioning of the internal market, it is reasonable to consider that the service of such documents necessarily contributes to that objective where the conditions for the application of those means of transmission are satisfied.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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