European Commission

Regulation 1393/2007 on the service of documents in civil and commercial matters

DG Justice and Consumers

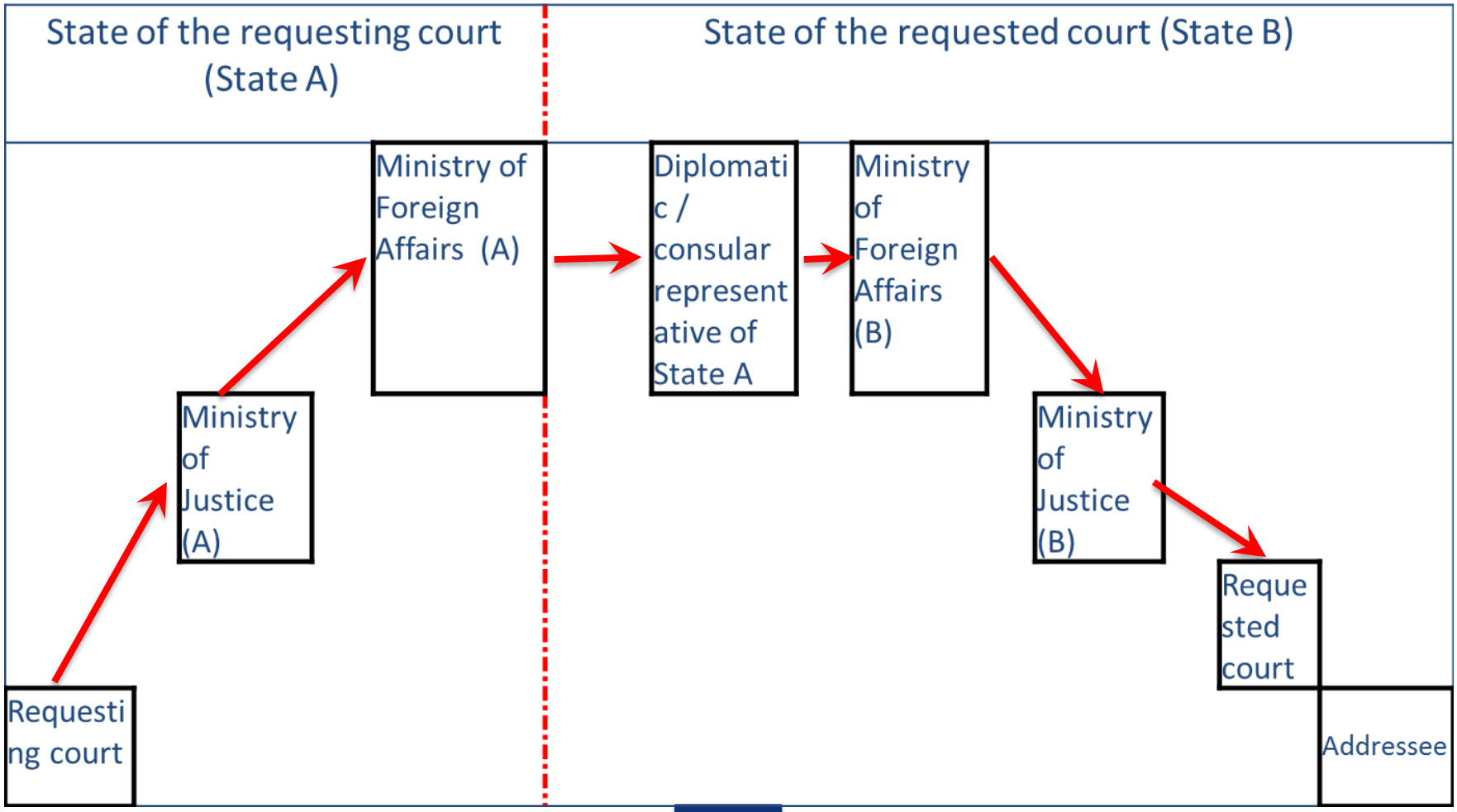
Unit A.1 Civil Justice

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

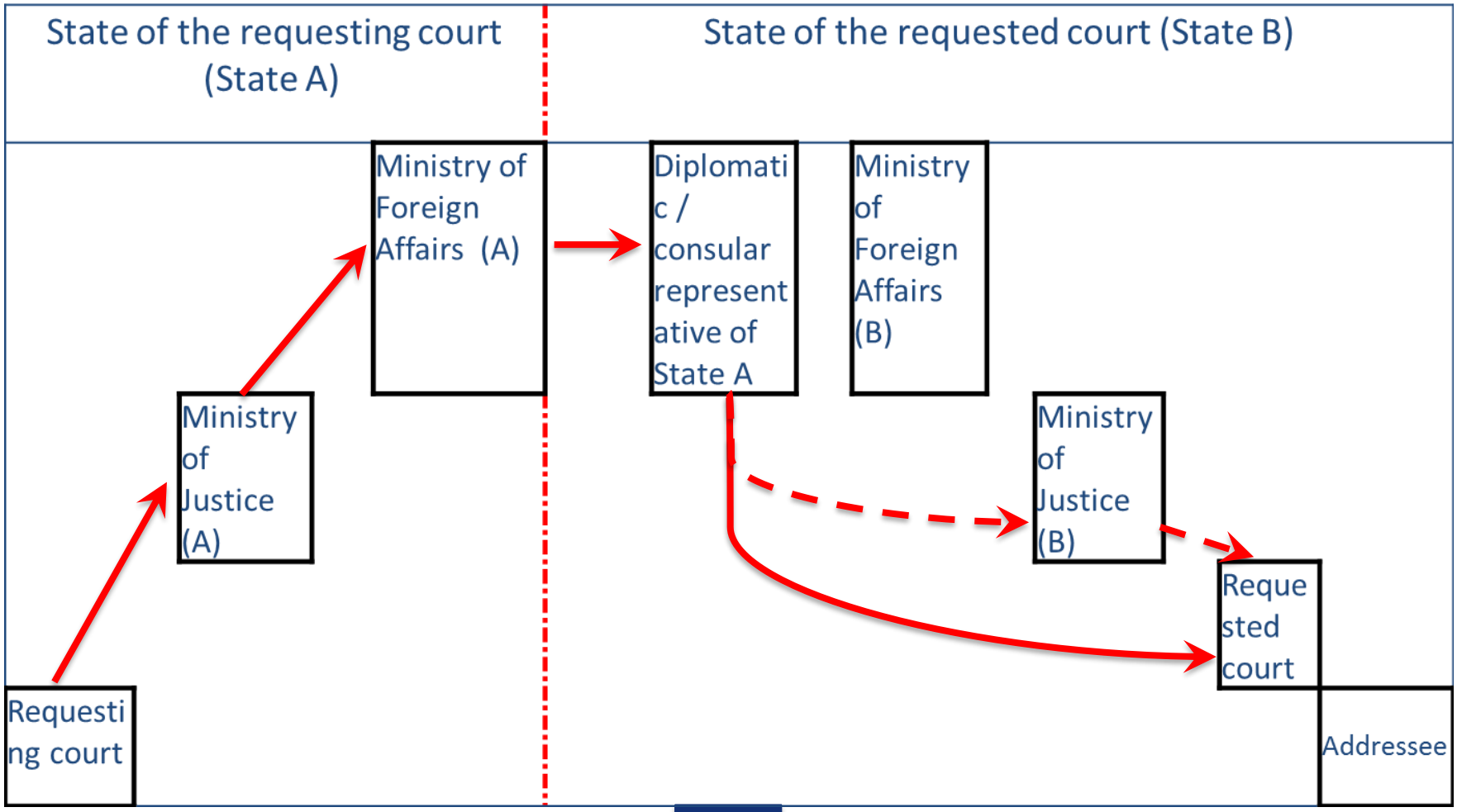
International judicial assistance I.

- *Aid offered by the judicial tribunal of one state to the judicial tribunal of a second state, upon request of the latter, for the purpose to assist current judicial proceedings taking place in the state requesting the cooperation of the foreign court.*
- *Aid (in a narrow sence) consists of the performance of a judicial action, usually service of documents or taking of evidence.*
- *Legal basis in rules of international law:*
- *Jurisdiction force of a state („facultas jurisdictionis") is limited to its territory, courts may not perform procedural actions abroad.*

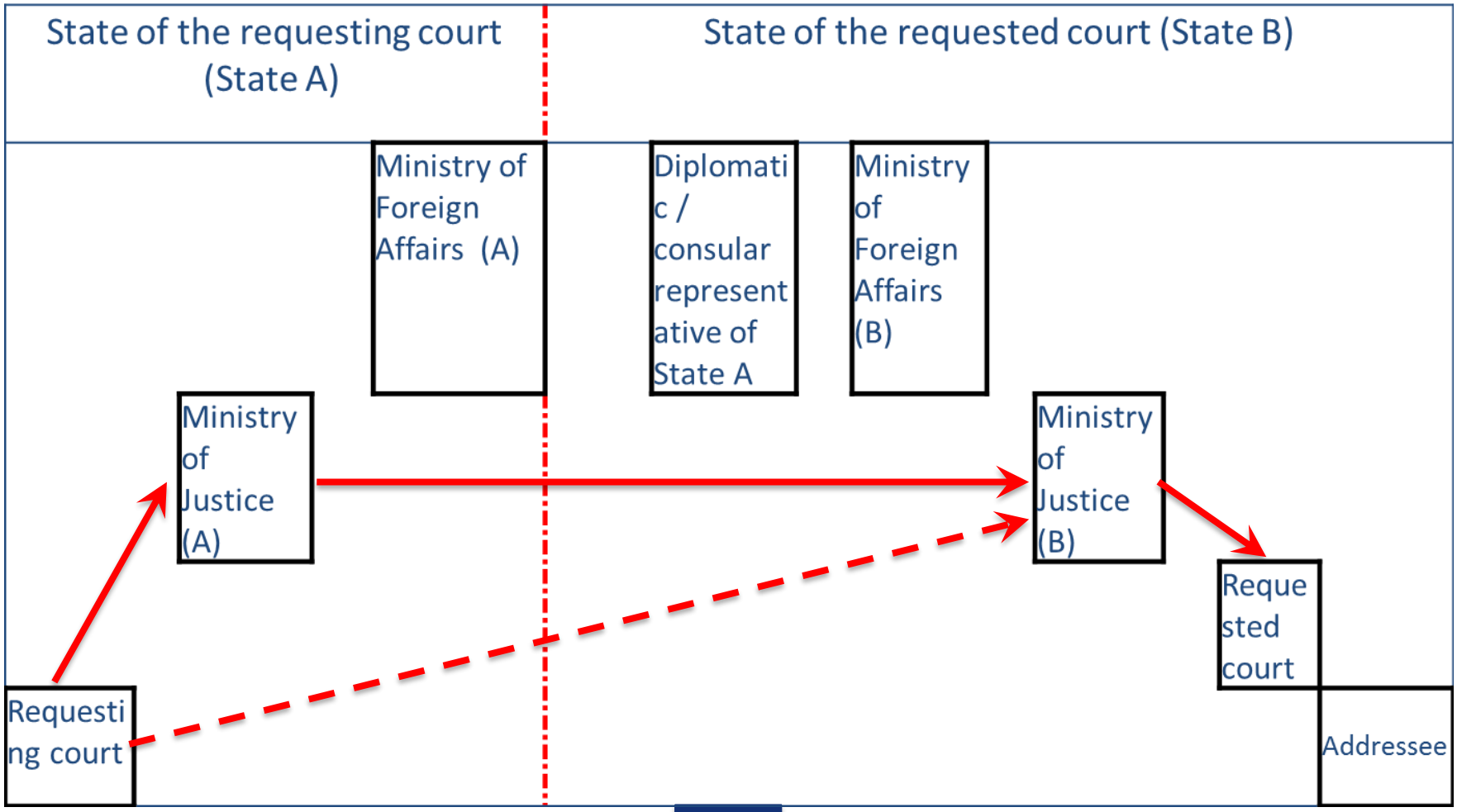
International judicial assistance II. diplomatic channel of transmission



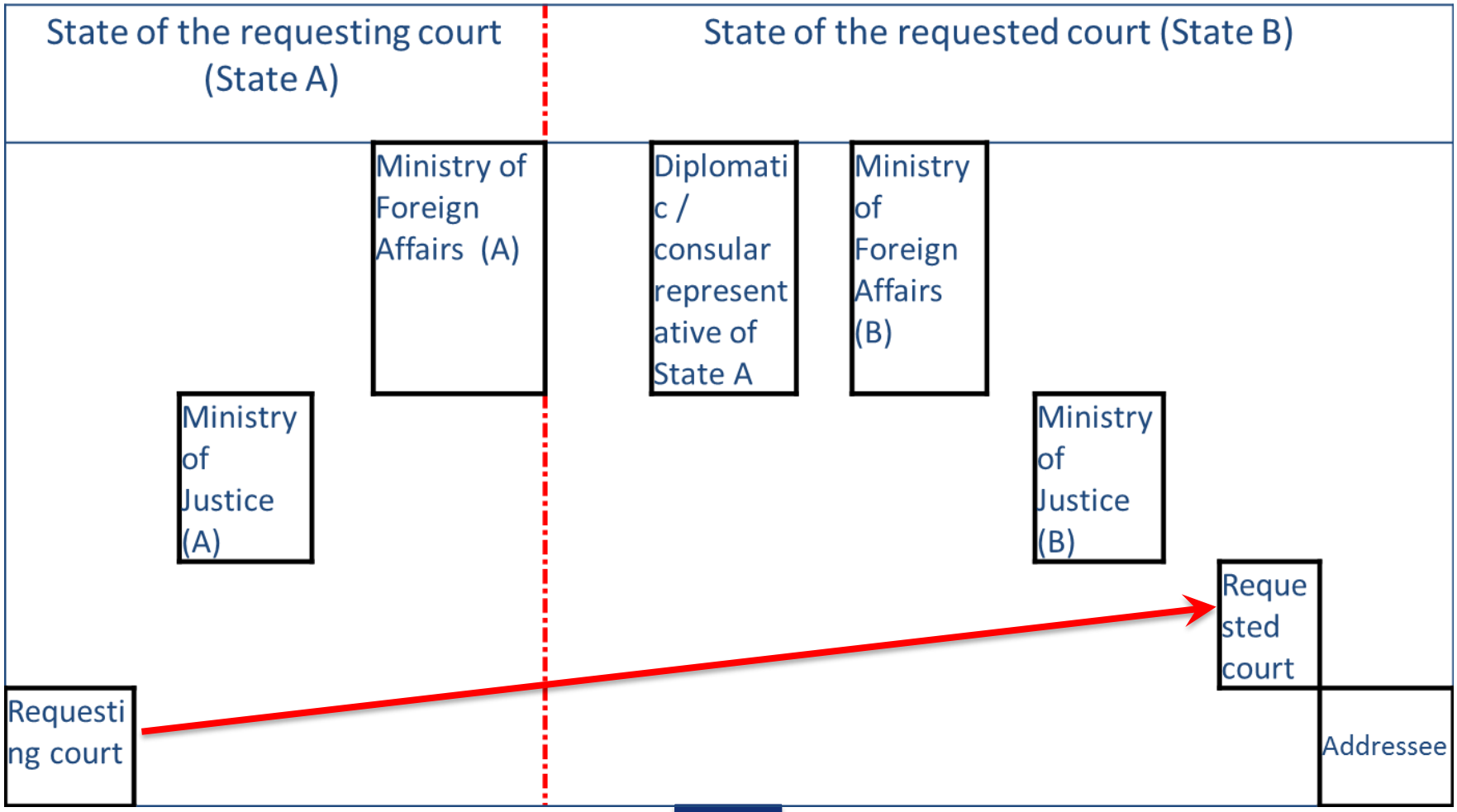
International judicial assistance III. consular channel of transmission



International judicial assistance IV. transmission via central authorities



International judicial assistance V. direct communication



EU Regulation 1393/2007

Legal Basis:

Treaty on the Functioning of the European Union

Article 81 Treaty (Title V)

Replaces

1965 Hague Convention on service of documents, *as well as* ***Chapter I of 1954 Hague Convention on civil procedure***

between MS

Introduces

- *Direct court-to-court dealings*
- *Uniform standard forms*
- *New language rules*
- *Postal service*

Scope (Art. 1)

- *Service of* judicial *or* extrajudicial *document*

  meaning under the EU Reg.=> See Case C-14/08 (Roda Golf): notarial deed; Case C 223/14 (Tecom Mican): purely private documents
- *In* civil *or* commercial *matters*
- *"abroad" (*cross-border*)*
- *Address of person to be served should be known*

Main transmission channel:

- *EU Regulation 1393/2007:*
  - Direct court to court communication
  - Transmitting Agencies - TA (Art. 2 I) <> Receiving Agencies - RA (Art. 2 II) – usually lower instance courts

    Manual of RAs:

    http://ec.europa.eu/justice_home/judicialatlascivil//html/ds_information_en.htm

    https://e-justice.europa.eu/content_serving_documents-373-en.do
  - Central Bodies (Art. 3)

    Supply information to TA, seek solutions to difficulties

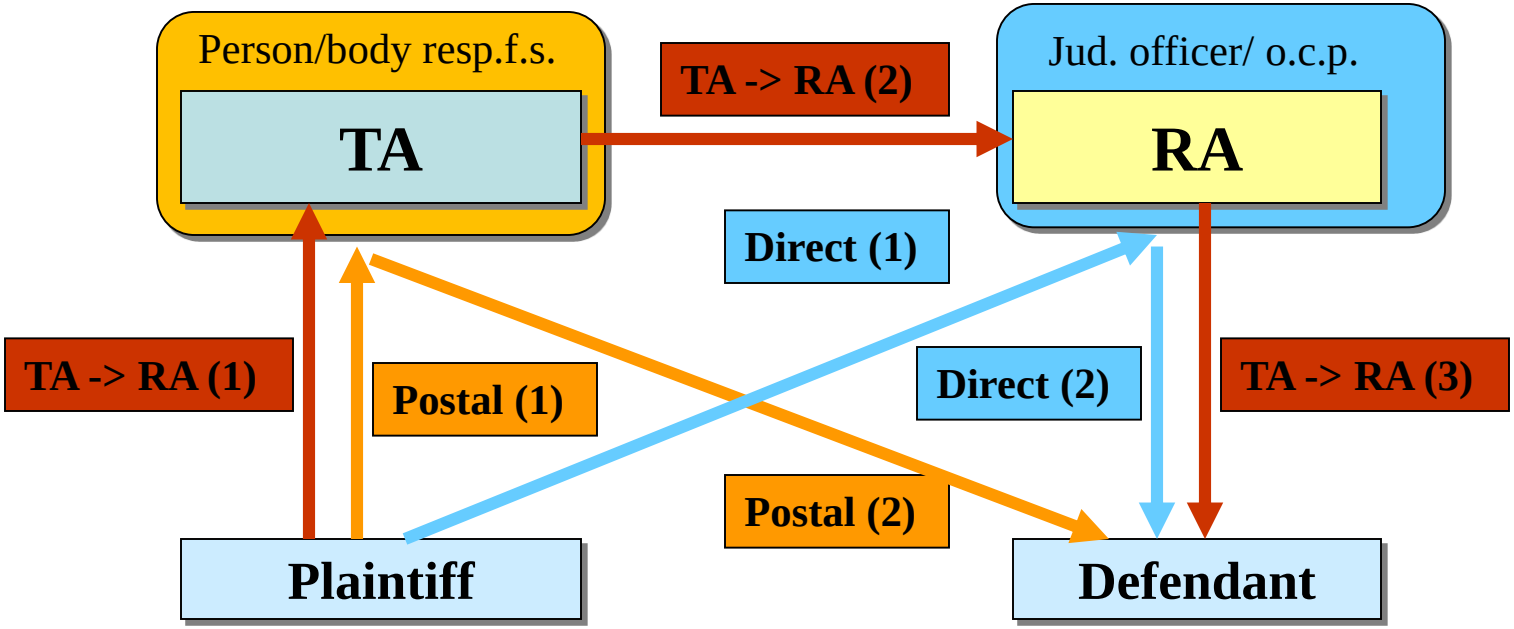
Methods of Transmission I

EU Regulation 1393/2007

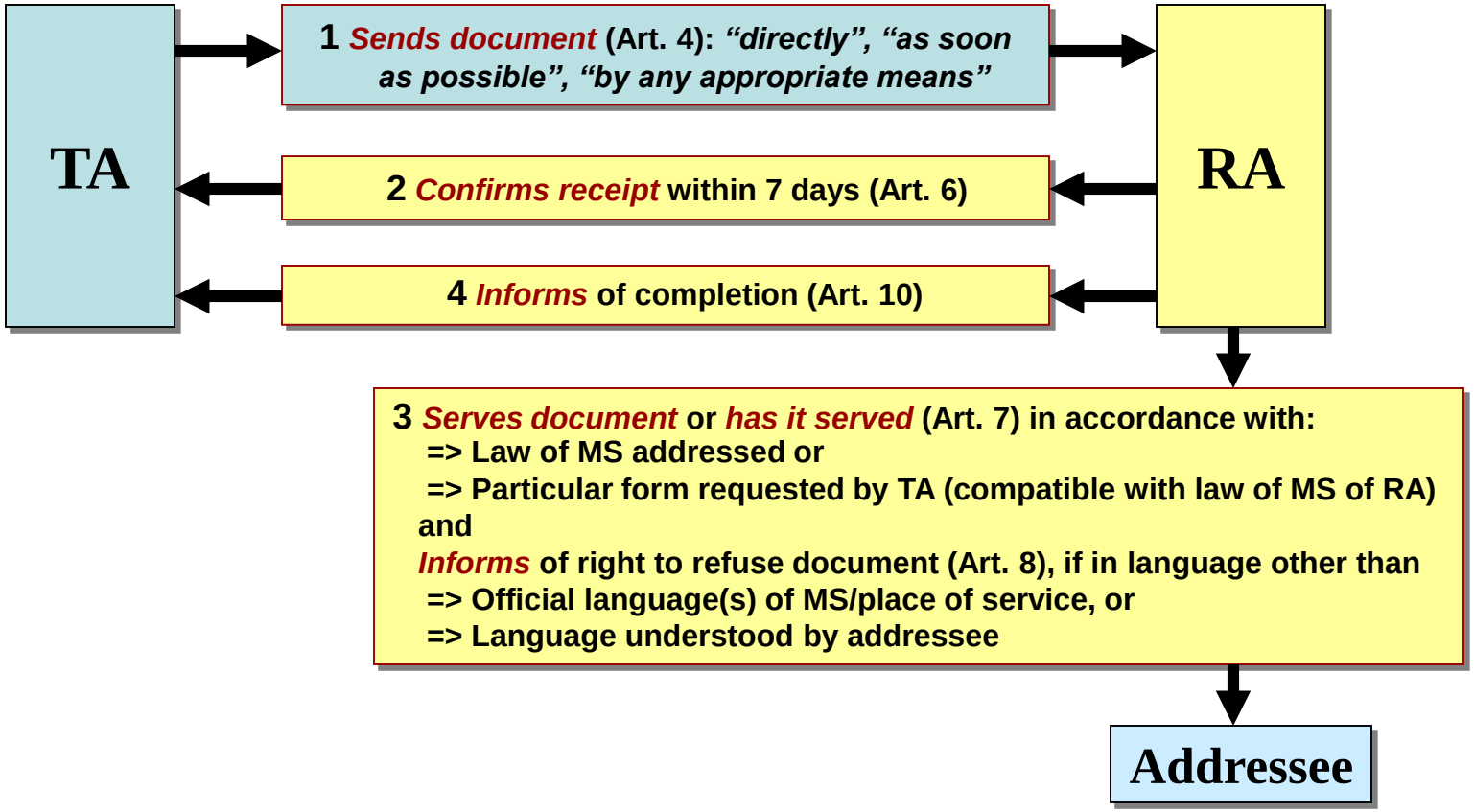
- *Service through TA and RA, Art. 4-11*
- *Direct Service, Art. 15*
- *Service by Post, Art. 14*
- *Diplomatic/Consular Service, Art. 12-13*

Methods of Transmission II

Under the EU Regulation 1393/2007



Service between TA – RA under the EU Regulation



Service by Post within the EU

Person/body responsible for service (TA) can also send document *by post directly to addressee*

=> Not to RA

Condition: Registered letter with acknowledgement of receipt

Direct Service within the EU

Any person interested in judicial proceeding can also effect service *directly through judicial officer or other copetent person of the MS addressed*

=> No involvement of TA

But: this must be allowed under law of MS addressed:

⇒ See *Communications of MS*:
http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_en.jsp

Standard Forms under the EU Regulation 1393/2007

Request for Service of Documents

Acknowledgement of Receipt

Notice of Return of Request and Document

Notice of Retransmission of Request and Document to appropriate RA

Notice of Receipt by appropriate RA having territorial jurisdiction to TA

Notice of right to refuse to accept document

Certificate of Service or Non-service of Documents

Language of the document to be served II.

EU Regulation 1393/2007

Article 8 - Refusal to accept a document

the addressee may refuse to accept the document to be served… if it is not written in, or accompanied by a translation into, either of the following languages:

(a) a language which the addressee understands;

or

(b) the official language of the Member State addressed or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected.

Protection of the right of the defence in case of default

Art. 19 EU Regulation 1393/2007

- *Same as Artt. 15-16 of 1965 Hague Convention*
- *limits the possibility for the court to give judgment against a defendant who has not appeared and who was to be served abroad*
- *enables the judge to free the defendant who has not appeared from the effects of the expiry of the time for appeal against a default judgment given against him/her.*

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Thank you!