

1 What does the legal term "service of documents" mean in practical terms? Why are there specific rules regarding the "service of documents"?

The service of documents in legal proceedings is the method laid down by the legislature for notifying the parties and the other participants in legal proceedings of judicial acts in written form.

Service gives the participants in legal proceedings an opportunity to acquaint themselves with the progress thereof in good time and in accordance with the law, thereby guaranteeing that proceedings are fair and equitable.

The purpose of service is that the recipient should actually be notified of the proceedings in progress or at least be guaranteed every opportunity to be notified. The essence of the service of documents is thus to enable the recipients to acquaint themselves with the content of the documents; whether they actually do so is left to their own discretion and personal choice.

The key feature of service is that the server should certify the time and method of service and the identity of the person on whom service is performed so that service can be deemed to have been duly performed from the standpoint of legal certainty. In principle, a summons executed under the procedure provided for in the law and drawn up by the serving official is an authentic official document as regards the facts to which it attests.

2 Which documents need to be served formally?

Summonses to appear in court are served on participants in the proceedings.

The court is bound to serve the parties with a duplicate copy of the instruments that are subject to a stand-alone appeal (Article 7(2) of the Civil Procedure Code (Grazhdanski protsesualen kodeks (GPK)). Judicial decisions, rulings and orders are served on the parties to the proceedings, third parties taking part at the court stage and any third parties enjoined by the court to execute its order.

Applications and appeals by the parties are served on the opposing party.

Communications from the court are also served on the parties to the proceedings.

Enforcement orders (Article 418(5) of the GPK) and notices of voluntary compliance (Article 428 of the GPK) are served by bailiffs.

All other documents in the cases where so required by the law, including service on government institutions and bodies, natural or legal persons.

3 Who is responsible for serving a document?

The following persons, as referred to in Article 42 of the Civil Procedure Code, are competent to serve communications, summons and other documents: court officers: process servers and court registrars (in the cases where the person presents himself or herself at the court registry or is notified by telephone, fax or email, with the registrar noting the name of the person on the list of persons for summoning;

postal workers or couriers: where the documents are served by registered mail or by courier service with acknowledgement of receipt,

the mayors of the municipalities concerned, where there is no judicial institution in the locality where service is to be performed;

private bailiffs, by order of the court when an express request is made by a party, who in this case also bears the costs of service.

4 Address inquiries**4.1 Under 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, does the requested authority in this Member State on its own initiative, try and establish the whereabouts of the addressee of the documents to be served if the addressee no longer resides at the address known to the requesting authority?**

Under Article 38 of the GPK, the communication is served at the address named in the case.

Where a natural-person respondent does not present himself or herself to collect the papers, the court, acting on its own motion, verifies his or her registered address in the Population National Database. If the address given is not the party's permanent, current address, the court orders service at the current or permanent address. Acting on its own motion, the court also verifies the respondent's place of employment and orders service at the place of employment or, respectively, the place of civil service or the place where economic activity is carried out.

If documents have to be served on a trader or legal person, the address can be established by searching, free of charge, the electronic commercial register, entering the exact name of the trader (legal person), part of that name or the uniform identification number (EIK).

4.2 Do foreign judicial authorities and/or parties to judicial proceedings have access to registers or services in this Member State enabling the establishment of the person's current address? If yes, which registers or services exist and what procedure must be followed? What fee, if any, should be paid?

The Commercial Register and the Register of Non-Profit Legal Persons are public and accessible online at <http://www.brra.bg>.

The database containing the recorded circumstances about traders and non-profit legal persons is freely accessible to the general public at no charge.

The registered office of a trader or legal person can be found by searching the register at no charge.

The Registry Agency provides registered access, against payment of a statutory fee, to a trader's file and the documents it contains (e.g. articles of association).

Under Article 16d of the Schedule of Statutory Fees Collected by the Registration Agency, an annual fee of BGN 100 is payable for access to the full Commercial Register database, including updates.

The National Population Database (NPD) is an electronic database comprising the personal registration records of all Bulgarian citizens. It also contains information about foreign nationals who are long-term or permanent residents in Bulgaria and persons who have been granted refugee status, humanitarian status or asylum in the Republic of Bulgaria. This is Bulgaria's largest database, containing the personal data of natural persons (names, date of birth, personal identification number (EGN) or foreigner's identification number (LNCh), place of birth, registration of birth, family status and kinship, identity document, etc.). The NPD is maintained by the Directorate-General for Civil Registration and Administrative Services within the Ministry of Regional Development and Public Works).

The Civil Registration Act (ZGR) specifically regulates the cases where data stored in the NPD can be made available and specifies the persons who may be provided with such data.

1. These are primarily the natural persons (Bulgarian and foreign citizens) to whom the data relate and third parties (natural persons) for whom such data are of importance with regard to the occurrence, existence, amendment or termination of their lawful rights and interests;

2. Government authorities and institutions also have a right of access in accordance with their statutory powers, i.e. within the sphere of their competencies;
3 Legal persons (Bulgarian and foreign) may also be granted access to the database, where provided for in a specific law or judicial act (court order) or authorised by the Commission for Personal Data Protection.

In practice, foreign judicial authorities and/or parties to judicial proceedings may use the information in the Population National Database by approaching the court before which specific proceedings have been instituted and stating the need to establish the address of the person concerned.

4.3 How do the authorities in this Member State deal with a request sent under the 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 aimed at discovering a person's current address?

The standard procedure for examining a request for the taking of evidence under 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 applies (Articles 614 to 618 of the Civil Procedure Code).

5 How is the document normally served in practice? Are there alternative methods which may be used (other than substituted service referred to in point 7 below)?

Most summonses and communications are normally served by court officers and postal staff of the relevant delivery service.

Article 43 of the Civil Procedure Code provides for the following methods of service:

personal service;

service via another person;

service by affixing a notification at the permanent or current address of the respondent;

service by publication in the State Gazette;

service on witnesses, expert witnesses or third parties not participating in the case is performed by depositing a communication in the letterbox or affixing a notification.

Personal service: Service is performed on the person at the address for service as specified in the particular case. If the addressee is not found at the specified address, the communication is served at the current address and, failing that, at the permanent address (Article 38 of the Civil Procedure Code).

Where the party has named a person for service of communications in the seat of the court or where the party has an attorney-in-fact for the case, that person or the attorney-in-fact is served. Where the addressee is procedurally incapacitated, the communication is served on his or her legal representative. Service on a representative is deemed equivalent to personal service under Article 45 of the Civil Procedure Code.

Service via another person: This is done where the communication cannot be served personally on the addressee and the other person consents to accept it.

The other person may be any adult belonging to the addressee's family or living at the address or a worker, employee or employer at the address. The person via whom service is performed signs the acknowledgement of receipt and undertakes to hand the summons to the addressee.

The court excludes from the group of other persons who may accept the communication those involved in the case as an opposing party, anyone with an interest in the outcome of the case or expressly mentioned in a written statement by the addressee.

Under Article 46 of the Civil Procedure Code, receipt of the communication by the other person is deemed to constitute service on the addressee.

The place of service on a trader and on a legal person which is entered in the relevant register is the last address named in that register. If the person has left his or her address and his or her new address is not entered in the register, all communications are placed in the case file and are deemed to have been duly served: Article 50(2) of the GPK.

Traders and legal persons are served at their offices, and service may be effected on any office or factory worker who is willing to accept it.

Government institutions and municipalities are bound to designate an official to accept communications within normal business hours.

A party to the case who is absent for more than one month from the address which that party has named in the case or at which a communication has once been served on that party is bound to notify the court of his or her new address. The same obligation applies to the legal representative, the guardian and the attorney-in-fact of any such party. In the event of failure to comply with this obligation, all communications are placed in the case file and are deemed to have been served (Article 41 of the GPK).

6 Is electronic service of documents (service of judicial or extrajudicial documents through remote means of electronic communication, such as e-mail, internet based secured application, fax, sms etc.) permitted in civil proceedings? If so, for which types of proceedings is this method foreseen? Are there restrictions with regard to the availability/access of this method of service of documents depending on who the addressee is (legal professional, legal person, company or other business actor, etc.)?

Communications may also be served on a party at an electronic address specified by that party. Such communications are deemed to have been served once they have been received in the information system specified (Article 42(4) of the Civil Procedure Code). Service at an electronic address is confirmed by a copy of the associated electronic record. There are no restrictions with regard to the type of proceedings or capacity of the party. The only restriction is that parties must have provided the electronic address themselves, whereupon consent is deemed to have been given to this method of service.

Where the communication has not been served in another manner, the court may order, as an exception, that a court officer should serve the communication by telephone, telex, fax, or by telegram. Service by telephone or by fax is confirmed in writing by the server, service by telegram is confirmed by an advice of delivery of the telegram, and service by telex is confirmed by a written confirmation of delivery of the message, which are returned to the court immediately after they are drawn up.

7 'Substituted' service

7.1 Does the law of this Member State allow for other methods of service in cases where it has not been possible to serve the documents to the addressee (e.g. notification to the home address, to the bailiff office, by postal service, or by poster advertising)?

Service by affixing a notice: Under Article 47 of the Civil Procedure Code, if the respondent cannot be found at the address specified for the case for one month and no other person can be found who is willing to accept the communication, the server affixes a notice to the addressee's front door or letterbox or, if they inaccessible, to the building's main entrance or a visible place in its vicinity. Where the letterbox is accessible, the server deposits a notice in it as well. The fact that the respondent cannot be found at the address named in the case is ascertained by at least three visits to that address, each at least one week apart from the other, with at least one of these visits being made on a non-working day. This rule does not apply if the server has been advised by the managing agent of the apartment block or by the local mayor or has otherwise obtained information that the defendant does not reside at that address and certifies that fact by stating the source of the information.

The notice states that the papers have been left at the office of the court, where service is effected by a court officer or a private bailiff, or at the municipality, where service is effected by a municipal official, and that the papers can be claimed there within two weeks of the notification.

The communication is deemed to have been served upon expiry of the time limit for claiming it from the office of the court or the municipality.

When the judge establishes that the communication has been duly served, he orders it to be added to the case file and appoints a special representative of the respondent at the plaintiff's expense.

Affixing a notice is also the method used for serving communications on assisting parties.

When legal persons have to be served, if the officer does not obtain access to the office or does not find a person willing to accept the communication, the officer affixes a notice. A second notice is not affixed. The party is deemed to have been notified on expiry of the two-week time limit.

The procedure of affixing a notice also applies to service on witnesses, expert witnesses or third parties not taking part in the case is performed by depositing the communication in the letterbox or, if access to the letterbox is not possible, by affixing a notice.

Service by publication: Service by publication is governed by Article 48 of the Civil Procedure Code.

If, when the case is brought, the respondent has no registered permanent or current address, the plaintiff can apply for service to be performed by publication in the non-official section of the State Gazette at least one month before the court hearing. Service may only be performed in this way if the plaintiff certifies, by a statement of search of records, that the respondent has no registered address and the plaintiff confirms by means of a declaration that he does not know the respondent's address abroad. If, in spite of publication, the respondent fails to appear in court when the case is heard, the court appoints a special representative for him at the plaintiff's expense.

7.2 If other methods are applied, when are the documents deemed to have been served?

When service is carried out by affixing a notification, the communication is deemed to have been served in due time upon expiry of the time limit for claiming it.

In any case, service is deemed to have been effected upon confirmation:

- where service is by telephone or by fax, it is confirmed in writing by the server;
- service by telegram is certified by notice of its delivery;
- service by telex is certified by written confirmation of the communication sent;
- service by post is certified by acknowledgment of receipt;
- service at an electronic address is attested by a copy of the electronic record of service.

7.3 If another method of service is the deposit of the documents in a particular place (e.g. at a post office) how is the addressee informed of that deposit?

Where service is by affixing a notice, the notice itself states that the papers have been left at the office of the court, where service is effected by a court officer or a private enforcement agent, or at the municipality, where service is effected by a municipal official, and that the papers can be claimed there within two weeks of notification.

7.4 If the addressee refuses to accept service of the documents, what are the consequences? Are the documents regarded as effectively served if the refusal wasn't legitimate?

A refusal to accept service is not regarded as legitimate or illegitimate, the decisive factor being observance of the service procedure rather than the party's reasons for accepting or not accepting the process. A refusal to accept a communication must be noted on the acknowledgment of receipt and certified by the server's signature. If the recipient refuses to accept a communication, its service will nevertheless be deemed to have been duly performed.

When service is carried out by affixing a notice, the documents are deemed to have been duly served if the established procedure for affixing the notice has been complied with and the time limit for claiming the documents has expired. If the party fails to appear within the set time limit to claim the documents and if the judge establishes that the communication has been duly served, he orders it to be added to the case file and appoints a special representative of the respondent at the plaintiff's expense

8 Postal service from abroad (Article 14 of the Service Regulation)

8.1 If the postal service delivers a document sent from abroad to an addressee in this Member State in a situation where acknowledgment of receipt is required (Article 14 of the Service Regulation), does the postal service deliver the document only to the addressee himself/herself or may it, in accordance with national rules of postal delivery, deliver the document also to another person at the same address?

Under Article 5(1) of the Common Rules for the Conditions for Delivery of Postal Items and Postal Parcels (adopted by Decision No 581 of the Communications Regulation Commission of 27 May 2010), the recipient's signature is required upon delivery of items sent by registered mail. Items sent by registered mail may be delivered to a person who is a household member, has attained the age of 18 years and lives at the specified delivery address. A signature must be provided upon receipt and an identity document presented.

8.2 Under the rules of postal delivery in this Member State how can the service of documents from abroad, under Article 14 of the Service Regulation No. 1393/2007, be effected if neither the addressee nor any other person authorised to receive the delivery (if possible under national rules of postal delivery – see above) has been reached at the address of delivery?

If a postal item cannot be delivered during a visit to the address owing to the absence of the addressee or another person via whom service can be effected, a formal notification in writing will be left in the letter box, requesting the addressee to appear at the post office and collect the item by a deadline specified by the postal service provider, which may not be less than 20 days or more than 30 days from the date of receipt at the post office for delivery. The number of formal notifications and the deadline for claiming are set by postal service providers in the general terms and conditions of their contract with users; in all cases, at least two formal notifications must be sent.

8.3 Does the post office allow a specific period of time for collection of the documents before sending the documents back as undelivered? If yes, how is the addressee informed that there is mail for him to collect at the post office?

See answer to 8.2.

9 Is there any written proof that the document has been served?

When service has been performed an acknowledgment of receipt is completed by the relevant member of staff. It serves as evidence of notification. The acknowledgment of receipt must contain all the requisite particulars proving that service has been duly performed. These are:

- the name of the person to whom the communication is addressed;
- the name of the person on whom it is served;
- the person performing service: court official, post-office employee or courier, mayor or private bailiff.

Where service is performed on a person other than the addressee, it is always specified that that other person is obliged to deliver the communication to the addressee.

Article 44 of the Civil Procedure Code specifies the following methods of certifying that service has been performed:

- the server certifies with his signature the date and method of service and the identity of the person on whom the communication is served;
- a refusal to accept a communication must be noted on the acknowledgment of receipt and certified by the server's signature; service will nevertheless be deemed to have been duly performed; Notwithstanding such refusal, service will be deemed to have been duly performed.
- service by telephone or by fax is certified by the server in writing;
- service by telegram is certified by notice of delivery;
- service by telex is certified by written confirmation of the communication sent;
- service by post is certified by acknowledgment of receipt;
- service at an electronic address is attested by a copy of the electronic record of service.

The receipt for the performance of service must be added to the case file as soon as it has been drawn up.

10 What happens if something goes wrong and the addressee does not receive the document or the service is effected in violation of the law (e.g. the document is served on a third person)? Can the service of the document nevertheless be valid (e.g. can violations of the law be remedied) or must a new effort to serve the document be made?

If the addressee does not receive the communication or the communication is not served on him in the manner prescribed by law, such service does not give rise to any legal consequences. Where a party to a case has not been duly summonsed to the court hearing, Article 46 of the Civil Procedure Code provides for the hearing to be postponed and for a new summons to be served. The party may, however, appear in person and apply orally or in writing to appear before the court, stating that he has been notified of the hearing and wishes the case to be heard. In that case, the summons is deemed to have been duly served.

Where the parties have been duly summonsed but the case is postponed for reasons of evidence, there is no need for a new summons to be served.

If a party argues that it has missed a time limit established by the law or set by the court because it has not been duly notified, it may request a restart of that time limit if it proves that the time limit was missed due to special unforeseen circumstances that it was unable to overcome (Article 63 et seq. of the GPK).

The interested party may request the reversal of an enforceable decision under the procedure of Article 303 of the GPK where, consequent to a breach of the relevant rules, it has been deprived of the opportunity to participate in the case or has not been duly represented, or has been unable to appear in person or through counsel due to special unforeseen circumstances that it was unable to overcome.

If the debtor argues that he or she has been deprived of the opportunity to contest a receivable for which an enforcement order has been issued, the debtor may lodge an objection with the court of appeal under the procedure of Article 423 of the GPK.

11 Do I have to pay for service of a document, and if so, how much?

The statutory fees collected by courts in the Republic of Bulgaria for examining a case cover all costs of the summons, where effected by a court officer, by a postal worker or by the mayor of the municipality concerned.

No fees are normally payable for service of documents under Regulation (EC) No 1393/2007.

Where a party applies for the court to order communications to be served by a private bailiff, Article 42(2) of the Civil Procedure Code provides for that party to bear the costs of service. In this case, the fee for service of papers is BGN 20.

Where service is effected by publication in the non-official section of the State Gazette, the following fees are payable:

- for a length of up to 1/2 standard page: BGN 20;
- for a length of up to 1 standard page (30 lines, 60 characters per line): BGN 40;
- for a length of over 1 standard page: BGN 40 and BGN 35 for each additional page.

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