

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

Formal service (*signification*) is a form of service performed by a bailiff.

Article 651 of the Code of Civil Procedure (*Code de procédure civile*) provides that '*Documents shall be brought to the knowledge of the interested parties by service thereof.*'

Service may take the form of '*signification*', which means service by bailiff's deed (second paragraph), or the simple form of '*notification*', without the intervention of a bailiff.

The regularity of formal service is ensured by compliance with strict general conditions concerning the hours and days on which service may be effected and the formal requirements provided for in Articles 653 *et seq.* of the Code of Civil Procedure.

Link to the provisions of the Code of Civil Procedure on service: click [HERE](#)

2 Which documents need to be served formally?

All the important documents of a case must be served on the other party. A procedural document is that which allows legal proceedings to be brought, conducted, suspended or terminated or a judgment to be enforced (for example: summons, findings, statement of case, service of a judgment).

The Code of Civil Procedure has adopted a mixed system for the service of procedural documents: service can always be undertaken by formal service (Article 651, third paragraph of the Code of Civil Procedure), even if it is permissible by law in another form. Conversely, where provision is made by law for formal service, recourse to another form is irregular.

3 Who is responsible for serving a document?

Bailiffs have a monopoly on formal service in the sense that they are the only officials authorised to effect service. In exercising their monopoly, they may call on the services of sworn clerks, for whom they retain civil liability,.

Ordinary service of documents may be undertaken by any person, who must state in the service his or her surname and first names or company or business name and domicile or registered office (Article 665 of the Code of Civil Procedure). Service may also be carried out at the instigation of a court registrar (in certain cases for summons to a hearing or service of a judgment).

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?**

Where a French authority (public prosecutor or bailiff) is required to serve a document from abroad and it has been established that the person no longer resides at the address indicated, it is for this authority to accomplish the necessary steps to discover the exact address of the domicile of the person concerned.

For this purpose, the public prosecutor may access various registers and in particular the social security registers. The information communicated relates to the debtor's address, the debtor's employer's address and the institutions with which an account has been opened in the debtor's name, to the exclusion of any other information.

In addition, under civil enforcement proceedings, [Article L. 152-1 of the Civil Enforcement Proceedings Code \(*Code des procédures civiles d'exécution*\)](#) provides for direct access by bailiffs to information held by government administrations or departments and public authorities and enterprises and bodies controlled by the administrative authority.

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?

Apart from information in the public domain (telephone directory, for example), foreign judicial authorities or parties to legal proceedings do not have access to registers containing personal data, such as, for example, the debtor's address.

Under French law, such access is possible only under civil enforcement proceedings or, in judicial proceedings, by decision of the court (see question 1.3.).

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?

There are no provisions in the Code of Civil Procedure capable of prohibiting recourse to Regulation (EC) No 1206/2001 to allow a person's address to be found. Nevertheless, this Regulation must respect the provisions of the Code. Under French law, civil courts do not have direct access to population registers, as in other Member States. Consequently, recourse to Regulation (EC) No 1206/2001 could be conceivable if a third party were to be in possession of a document stating the address of the person concerned. In this case, and in accordance with the provisions of Articles 138 *et seq.* of the Code of Civil Procedure, the judge could order this third party to produce the document in question, although this third party could invoke a legitimate impediment (e.g. lawyer-client privilege).

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)?

Service by ordinary procedure is done using a sealed envelope or letter (Article 667 of the Code of Civil Procedure) by post or by delivery against a signature or receipt. The service must contain all the particulars relating to the surname and first names or company or business name of the sender, as well as this person's domicile or registered office. The service must designate the addressee (Article 665 of the Code of Civil Procedure). All these particulars are required on pain of nullity of the service (Article 693 of the Code of Civil Procedure).

Where the addressee is a natural person, the service is made at his or her place of residence or in any other place if it is handed over personally or at the address for service if accepted or required by law. If the person concerned is a legal entity, service is effected at its place of business or, failing that, personally to one of its members authorised to receive it.

For the person effecting the service, the date is that on which the letter was sent, which is shown on the stamp of the issuing office. For the person on whom the service is effected, the date is that of receipt of the letter. In the case of a registered letter with acknowledgement of receipt, this date corresponds to that affixed by the postal administration when the letter is handed over to its addressee.

Service between lawyers is applicable when a lawyer has to serve a document on a colleague (Articles 671 to 673 of the Code of Civil Procedure). It always takes place within the courthouse in one of two ways: formal service (which requires the intervention of a bailiff who affixes his or her stamp and signature on the document and the copy) or direct service (which is undertaken by handing over two copies of the document to the lawyer to whom it is addressed, with the latter handing back one of the copies dated and stamped).

Formal service is effected by bailiffs within the jurisdiction of the Regional Court (*tribunal de grande instance*) of their place of residence. In practice, unless the judge gives permission, formal service may be carried only on working days and not before 06:00 or after 21:00. Article 663 of the Code of Civil Procedure lists a certain number of particulars which must appear on the two originals of bailiff's deeds. Any irregularity is subject to the penalty of nullity of the service (Article 693 of the Code of Civil Procedure). Formal service must be by personal service. If this form is not possible, service may be undertaken at the domicile or residence. If the conditions for use of this second method are not met, the formal service is undertaken by sending the addressee a certificate of service (service effected at the bailiff's office).

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.)?

Article 748-1 of the Code of Civil Procedure provides that dispatch, delivery and service of procedural documents, papers, notices, warnings or summonses, reports, official reports and copies and enforceable originals of court judgments may, under certain conditions, be effected electronically.

The introduction of new technologies in the justice system has led to specification of the terms and conditions for formal service by electronic means, effected by bailiffs.

Service between lawyers can also be effected by the Virtual Private Network for Lawyers (*Réseau Privé Virtuel Avocats*, RPVA), which is also used to conduct procedural exchanges between lawyers and courts.

In principle, the technical decrees which determine the concrete terms and conditions for carrying out electronic exchanges restrict electronic communication to certain professionals, notably lawyers and bailiffs.

Electronic communication is possible before most courts (Regional Courts (*tribunaux de grande instance*), Commercial Courts (*tribunaux de commerce*), Courts of Appeal (*cours d'appel*), Court of Cassation (*Cour de cassation*) and District Courts (*tribunaux d'instance*) in more limited cases).

In addition, in clearly defined cases and conditions, certain documents originating from the registry (notices of hearings or, for some legal entities, summonses) may be addressed to a party by e-mail (Articles 748-8 and 748-9 of the Code of Civil Procedure).

In all cases, the addressee of the document must give express consent to the use of electronic means of communication.

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)?

If simple service fails, formal service must be undertaken.

Formal service is effected 'either at the domicile or, in the absence of a known domicile, at the residence'. The bailiff must therefore endeavour to find the addressee's domicile, before handing over the document at the place of residence.

Where the addressee of the document has a known domicile or residence and the bailiff does not find the person there, valid service is possible only if the bailiff hands over a copy of the document to any person present at the domicile or residence. If personal service of the document is not possible, several formalities have to be completed for the purpose of protecting the interests of the addressee: certain information must appear on the copy handed over in a sealed envelope and a notice must be sent to the person concerned by ordinary letter.

Where the addressee of the document has no known domicile, residence or place of work, the bailiff may validly deposit the document at his or her office. For this, the bailiff draws up a record detailing precisely the steps taken to find the person concerned. On the same day or, at the latest, the next working day, the bailiff must send the addressee, at his or her last known address, a copy of the record and the document to be served, by registered letter with acknowledgement of receipt. On the same day, the bailiff notifies the addressee by ordinary letter that this formality has been completed.

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

The formal service is deemed to have taken place on the day it has been effected on the person, at the domicile or at the residence. Since formal service by handing over the document at the bailiff's office is 'effected at the domicile', it is the attempted delivery notice which determines the date of service and not the handing over of the copy at the bailiff's office. The rules for determining the date of formal service apply even if a notice has to be sent.

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?

In the event of absence when the postman calls to deliver a registered letter with acknowledgement of receipt, the addressee is informed by the attempted delivery notice that he or she can collect the copy of the document at the post office within a specified period.

If the bailiff is sure that the address on the proof of service is correct but personal service is not possible, the bailiff leaves an attempted delivery notice in the letterbox requesting the addressee to collect the copy of the document at the bailiff's office (Article 656 of the Code of Civil Procedure).

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?

The agreement of the person concerned, who is the addressee of the document, is not a requirement for handing over this document to this person, so if the addressee of the document does not wish to receive the document in question presented to him or her by the bailiff, the formal service is nevertheless effected personally to the person concerned. In fact, *it would be impossible* for the bailiff to force the addressee to take the document if that person refused to do so; it suffices for the bailiff to deposit the copy at the home of the addressee when he has found this person at home. In this way, the formal service is valid even if the addressee refuses the copy and, the bailiff places it on a piece of furniture (Paris Court of Appeal, 12 December 1906, S. 1907. 2.109).

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?

In the context of service by post, the person responsible for delivering the letter with acknowledgement of receipt may, in principle, deliver it only to the person to whom it is addressed, unless the addressee has authorised a third person to receive such documents.

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 the addressee of the document, or a person authorised to receive letters with acknowledgement of receipt, was unable to get hold of the document to be served by post, the service is not regular and must be repeated by formal service effected by a bailiff.

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?

Where the person responsible for delivery of the letter with acknowledgement of receipt has visited the domicile of the addressee of the document without this person (or the person authorised to receive registered letters with acknowledgement of receipt) having been present, the postman leaves an attempted-delivery notice in the letterbox of the person concerned. This attempted-delivery notice indicates that the letter is available to the person concerned at the post office and that this person can collect it within a period of fifteen days. If the person concerned does not collect the letter by this deadline, the letter is returned to the sender.

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

Where service is effected by registered letter with acknowledgement of receipt, the postman hands over the letter to the addressee against signature of the acknowledgement of receipt. This acknowledgement of receipt is sent to the sender as proof that the document has been handed over personally. If the addressee has not collected the letter at the post office or if the address is incorrect for example, after the expiry of a 15-day period following the notice of attempted-delivery the sender also receives the acknowledgement of receipt recording the failure to deliver the document.

If the document has been served, the bailiff indicates on the formal service report the steps taken to ensure the proper course of service pursuant to Article 655 of the Code of Civil Procedure, the second paragraph of which provides: 'The bailiff shall state in the document the steps he or she has taken to effect service on the addressee and the reasons for which such service was impossible.'

The bailiff also indicates in the report the person to whom he was able to deliver the document and informs the principal.

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?

The documents must in principle be served on the person. Nevertheless, the fact that they are served on third parties does not necessarily render the service irregular, on certain conditions.

Pursuant to the provisions of Article 670 of the Code of Civil Procedure, service by registered letter with acknowledgement of receipt is deemed to have been effected at the domicile or the residence if the acknowledgement of receipt is signed by a person with authorisation to do so. Such service may have effects on how the judgment is classified (the judgment is classified as deemed to have been given after hearing both parties or by default if the person is not present), but it is nonetheless in order.

In the other cases, i.e. if the address of the service by registered letter is incorrect or if the addressee has not collected the letter at the post office, the court registrar must ask the party to proceed to bailiff service, in accordance with the provisions of Article 670-1 of the same Code. This step makes it possible to regularise the service of the document.

Likewise, the bailiff can deliver the document to a person other than its addressee, for example to a member of the family present at the domicile. In this case, a copy of the document is left with the third party, in a sealed envelope, and the bailiff indicates on the service report the name of the person who has received the document (Articles 655 and 657 of the same Code).

If the bailiff can verify that the addressee does indeed live at the address indicated, he or she may also leave an attempted-delivery notice in the letterbox, requesting the addressee to collect the letter at the bailiff's office. In this case, the service has been duly performed and is deemed to have been effected at the domicile, with the consequences mentioned above with regard to the classification of the judgment (Article 656 of the same Code).

Finally, the voluntary presence of the defendant at the hearing before the District Court, the Commercial Court and the Employment Tribunal (*Conseil de prud'hommes*) allows the irregularity of service of the document instituting the proceedings to be disregarded, if the parties give their consent (Soc. 16 May 1990).

Apart from these cases, irregularity of service of the document means that it has no value and cannot give rise to any right. In particular, it does not allow time-limits for appeals to start to run.

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

The costs of service of a document by registered letter amount to the cost of sending a registered letter addressed from France to a destination in France, i.e. EUR 5.10 for a letter of up to 20 grams, which is the rate valid at 1 April 2017.

The cost of the service of documents by bailiff is established according to

[a Decree of 26 February 2016 fixing the regulated tariffs of judicial officers \(*Arrêté du 26 février 2016 fixant les tarifs réglementés des huissiers de justice*\)](#).

The cost of formal service varies according to the nature of the document and the sums in question, but generally does not exceed EUR 50.

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