

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

In practical terms, "service of documents" is a legal concept that requires documents in civil and commercial matters to be served on all parties to proceedings.

Items 6, 7 and 8 of the first paragraph of Article 4 of the Decree on Office Transactions (*Uredba o uredskom poslovanju*) (hereinafter: The Decree), *Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 7/09 provide that such a document may either be a submission or an official act.

- a submission is a document used by a party to initiate proceedings, supplement or amend an application or other legal claim or to refrain from pursuing that claim.

Article 14 of the Civil Procedure Act (Zakon o parničnom postupku) (NN Nos 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 123/08, 57/11, 148/11, 25/13 and 89/14; hereinafter: CPA) provides that if for particular actions the law does not specify in which form they may be undertaken the parties shall undertake procedural actions either in writing outside of hearing or orally at the hearing.

Article 106 of CPA stipulates that submissions - complaints, responses to complaints, legal remedies and other statements, motions and notifications given outside of trial shall be filed in writing.

Submissions are hence the documents which are issued by the main parties and the intervening parties in the proceedings in order to take procedural action.

- an act is a document issued by an authority wherein it decides on a matter, responds to a submission made by a party or determines, terminates or finalises official actions and engages in formal correspondence with other bodies or legal entities with public authority.

Service of documents as defined by law is the prescribed activity of competent authorities and persons whereby addressees are given access to the content of documents addressed to them. This is important because if by failing to serve a document on a party the party is prevented from being heard, this in any case constitutes a substantial violation of the provisions governing legal actions and may result in an extraordinary legal remedy.

The service of a complaint on a respondent is also a necessary requirement for litigation proceedings to be initiated and such proceedings commence from the time the complaint is served on the respondent (first paragraph of Article 194 CPA).

Accordingly, special rules apply to the serving of documents since it is a necessary requirement in litigation proceedings which stems from the principle of the right of parties to be heard; it means parties must be given access to information on the place and time of litigation proceedings and the material facts in a case. Moreover, complaint proceedings cannot be initiated at all unless a complaint has been served on a respondent in accordance with the applicable rules. Service of documents is important also because in certain cases the time limit for parties to take procedural action (response to a complaint, appeal) commences from the time a document is served, i.e. in the course of court proceedings it is necessary to take any action required for addressees to become apprised of the content of documents served on them (legal certainty principle and the principle of oral and written presentation). A document is deemed adequately served only if the rules governing service of documents are adhered to.

2 Which documents need to be served formally?

Legal actions, collection orders, court rulings and other court decisions that may be separately appealed and against which legal remedies may be sought must be served on the relevant party in person; this also applies to any other documents where required by law or where a court deems it necessary to take special precautionary measures, e.g. where identification documents are furnished in the original or for any other such reasons (first paragraph of Article 142 CPA).

3 Who is responsible for serving a document?

Title 11 of CPA includes provisions that regulate the service of documents.

The first paragraph of Article 133 of CPA prescribes the manner of service of documents, stipulating that documents must be served by mail or by a designated court official or court employee, a competent administrative body, a notary public or directly by the court, or alternatively, by electronic mail in accordance with separate law.

Article 133a of CPA provides that further to the request of a party who states that he/she is prepared to bear the costs incurred, the court may, by a ruling against which no appeal is permitted, order that the service of a document be assigned to a notary public. The notary public may be substituted in the performance of this task by a notary public assessor or a notary public advisor or an apprentice notary public.

Article 133b of CPA provides that if, before filing a complaint with the court, by written agreement concluded with the plaintiff, the respondent agrees to have documents relevant to disputes to which the agreement relates served to a specific address in the Republic of Croatia or through a specific person in the Republic of Croatia, the complaint and other court documents in the proceedings shall be served on the respondent, at the motion of the plaintiff, at that address or to that person. If the service cannot be effected the court shall issue a ruling requiring any further documents to be served on the respondent by posting them on the court bulletin board.

Article 133c of CPA provides that if the parties reach an agreement about this during the proceedings, the court shall decide for them to send submissions and other documents directly to each other, by registered mail with a return slip. If either of the parties is a legal person or a natural person with a registered occupation, the documents may be handed over directly at its head office with a certificate of taking possession of the document verified by its seal. In litigation where both parties are represented by lawyers or public prosecutors, the court may order the representatives of the parties to send submissions directly to one another – by mail with a return slip or for them to hand them in directly to the office or the registry office.

Article 134a provides that service shall be effected on a legal person who is registered in a specific court or other register at the address given in the complaint. If service at the address given in the complaint is not effected, service shall be effected at the address of the seat of that person written in the register. If service is not effected at that address either, it shall be effected by posting the document on the court's bulletin board. This shall also apply to natural persons who perform certain registered occupations (tradesmen, individual salesmen, notaries public, lawyers, doctors, etc.) when service is effected on these persons in relation to their occupation.

Article 134b of CPA provides that if, further to a specific person's request and the approval of the president of the court, service is effected on him/her at the court, the documents addressed to him/her by the court shall be placed in a post box in a room assigned by the court for this purpose. Service shall be effected by an official of the court. The president of the court may, by a ruling rendered in administrative proceedings, order that all lawyers who have their own registry offices and notaries public with head offices in the territory of his/her court shall receive court documents via the post boxes referred to.

Article 135 of CPA provides that summons shall be served on military personnel, members of the police force and people employed in land, river, maritime and air transport through their command or immediate superior. Other documents may also be served on them in this manner, if necessary.

Article 136 of CPA provides that when service is to be made on persons or institutions in a foreign country or on foreigners enjoying the right to immunity, it shall be made through diplomatic channels, except as otherwise provided in an international agreement or in the CPA (Article 146). If service of a document has to be made on citizens of the Republic of Croatia in a foreign country that may be done through the competent consular or diplomatic representative of the Republic of Croatia performing consular functions in the foreign country concerned. Such service shall be valid only if the person on whom the document is to be served agrees to receive it.

Article 137 of CPA provides that service shall be made on persons deprived of liberty through the management of the prison, penitentiary or correctional home.

The persons referred to in Articles 141 and 142 of CPA (natural person who does not perform a registered professional activity and natural person who does perform a registered professional activity, where the dispute is unrelated to that activity) may in certain cases have documents served on them again by having them posted on the court bulletin board.

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?

If the address of the person to whom the document is addressed and is to be served pursuant to the request of a competent foreign authority has changed in the meantime and the document cannot be served for that reason the Croatian Court is obliged under Article 143 of CPA to attempt service of the document to the person's place of residence in Croatia as indicated in the records of the Ministry of the Interior of the Republic of Croatia.

Provided proof is presented to confirm that a legal interest exists a request may be made to the police administration for information on the place of permanent or temporary residence of a person upon whom documents are to be served in civil proceedings.

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 Court Register of Business Entities in the Republic of Croatia is a free public service that allows foreign judicial bodies and/or parties to court proceedings to obtain all the information they need on Croatian companies at the following link: <https://sudreg.pravosudje.hr/registar/?p=150:1>

The addresses of natural persons are not publicly available and can only be accessed from the Ministry of the Interior of the Republic of Croatia.

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 set rules under Croatian law stipulating how courts should proceed when applying Council Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. It is evident from past experience however that the Croatian courts duly respond and deal with requests for a person's current address received pursuant to Council Regulation (EC) No 1206/2001.

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)?

Documents are normally served by post or an appointed court official. Alternative methods which may be applied are listed in Articles 133-137 of CPA. These include service of documents via a competent administrative body, a notary public or directly in court or else by electronic mail in accordance with separate laws. Documents may also in certain cases be served by being posted on the court bulletin board.

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.)?

Service of documents by phone, fax or electronic mail is permitted in the cases stipulated in the fifth paragraph of Article 193 of CPA and the seventh paragraph of Article 321 of CPA (a notification issued by a court of appeal to a court of first instance that an appeal has already been decided on and a notification of the court of first instance to a court of appeal on the withdrawal of an appeal or a decision by parties to reach a settlement).

Article 495 of CPA provides that in urgent cases a date for a hearing may be scheduled by phone, telegram or email in accordance with separate laws or in other appropriate ways. An official note shall be made about this if no other written proof exists that a hearing was scheduled.

Article 507o provides that forms under Regulation No 861/2007 and other requests or statements may be submitted in the form of submissions by fax or email. The Minister responsible for judicial affairs must issue separate rules for the submission of acts by fax or email and must also specify in the rules the date from which they are to be applied. Considering that the rules referred to have not been issued to date the technical conditions for using this type of communication are not yet satisfied.

In principle, however Articles 492a, 492b and 492c stipulate the method of service and the rules for serving submissions by electronic mail in proceedings before the commercial courts. If electronic means of communication are to be used it is necessary to issue rules that prescribe the content and structure of the form of such communications, the conditions under which submissions may be served by email, the records to be made when submissions are emailed (format of emails) and the organisation and functionalities of the information system. Considering that the stated rules have not been issued to date, the technical prerequisites for use of such communications are not yet in existence.

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)?

The second paragraph of Article 142 of CPA prescribes that where a document has to be served on a person and the person is not at the address stipulated in the complaint or the document, the official serving the document shall obtain information on when and where the addressee will be at the address and may leave with a person stipulated in the first, second or third paragraph of Article 141 of CPA a written notice requesting that the person be at their residential address or place of work at a certain date and time to receive the served document. If following such a notice the serving official still does not find the person on whom the document is to be served, he will proceed as stipulated in the provisions of Article 141 of CPA, depending on the manner of service of the document.

In relation to this, in practice, the provisions of Article 37 of the Postal Services Act (NN Nos 144/12 and 153/13) are applied as a substituted service. The Act provides that postal consignments, except ordinary postal consignments, must be delivered to the addressee, their legal representative or a person authorised by power of attorney. By derogation, where a postal package cannot be delivered to any of the listed persons the package may be handed to an adult in the household, a person employed permanently in the household or business premises of the addressee or an authorised person at the business premises of the legal entity or natural person where the addressee is in permanent employment. If the consignments cannot be handed over in the described manner a notice will be left in the post box of the addressee advising him when and where to collect the consignment. Normally the post will leave a note advising that the consignment can be collected in the designated post office within five days from the date the note is delivered. If the addressee fails to collect the consignment within that time the service provider will return the consignment to the sender.

As a method of last resort a document may be served on the court bulletin board (Article 133b, 134a, 134b, 143 and 144 of CPA).

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

If another method of service is used, the documents are deemed to have been served on the day they are handed to the addressee or person authorised to receive the document on behalf of the addressee or, where a document is served on the bulletin board, following the expiry of eight days from when the document was posted on the bulletin board.

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?

Article 37 of the Postal Services Act (NN Nos 144/12 and 153/13) provides that postal consignments, except ordinary consignments, are to be handed over to the addressee in person, their legal representative or a person authorised by power of attorney. By derogation, where a postal package cannot be delivered to any of the listed persons the package may be handed to an adult in the household, a person employed permanently in the household or the business premises of the addressee or an authorised person at the business premises of the legal entity or natural person where the addressee is in permanent employment. If the consignments cannot be handed over in the described manner a notice will be left in post box of the addressee advising him when and where to collect the consignments. If the addressee fails to collect the consignment within that time the service provider will return the consignment to the sender.

If, on the basis of a specific person's request and the approval of the president of the court, service is effected on him/her at the court, the documents addressed to him/her by the court shall be placed in a post box in a room assigned by the court for this purpose. Service shall be effected by an official of the court. The president of the court may order, by a ruling rendered in administrative proceedings, that all lawyers who have their own registry offices and notaries public and certain legal entities with head offices in the territory of his/her court shall receive court documents through the post boxes referred to (Article 134(b) of CPA). In those circumstances the listed persons are obliged to collect the documents within a time limit of eight days. If a document is not collected within that time frame the document will be posted on the court bulletin board. A document is deemed to have been served on the expiry of the eighth day from the time it was posted on the court bulletin board.

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?

If addressees refuse to sign the delivery note, the summons server will record this on the delivery note and record in writing the date of service and the document is then deemed to have been served (Article 149(3) of CPA).

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?

Article 507c provides that service of documents in accordance with the provisions of Article 14 of Regulation No 1393/2007 is proven by way of a return slip or an equivalent document. A document which a place of reception in the Republic of Croatia must serve or deliver within the meaning of the provisions of Article 7(1) of Regulation No 1393/2007 may also be served by registered post accompanied by a return slip.

The CPA does not stipulate that service of documents within the meaning of Article 14 of Regulation No 1393/2007 has to be effected to the addressee only and therefore the provisions of CPA governing personal delivery in effect provide for "substituted" service.

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?

The provisions of CPA governing "substituted" or alternative methods of personal delivery stipulate that documents may be posted on the court bulletin board as a last resort whereby service shall be deemed to have been effected in the Republic of Croatia.

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?

The second paragraph of Article 142 of CPA provides that if the person on whom a document must be served is not found in the stipulated place of service according to the information in the complaint or official records, the server shall be informed as to when and where he or she could find that person.

Furthermore, the server shall leave for him or her, with any of the persons referred to in the first, second and third paragraphs of Article 141 of CPA, a written notice indicating the day and hour when he or she should be in his or her dwelling or workplace in order to receive the document. If, after that, the server is still unable to find the person on whom the document is to be served, the provisions of Article 141 of CPA shall be applied and service shall be deemed to have been duly effected.

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

Article 149 of CPA provides that the certificate of service (bill of delivery) must be signed by the addressee, who must enter the date he or she received the bill of delivery. If a document is served on a state body, legal entity or natural person operating a registered business activity the addressee is required not only to sign it but also to place the official seal or stamp of that body or entity on it. If when a document is served on a body or entity they fail to affix their seal or stamp to it, the server is required to indicate the reasons on the bill of delivery. If the addressee is illiterate or unable to sign their name the server will write their name and surname, record, in letters, the date of service and affix a note stating why the addressee signature was not added. If the addressee refuses to sign the bill of delivery the server shall make a note thereof on the bill of delivery and write in letters the day of service and the document shall be deemed to have been served. If service is carried out pursuant to the provisions of the second paragraph of Article 142 of CPA the bill of delivery shall, along with a certificate of receipt of the document also indicate that a written notice preceded it. When in accordance with the provisions of this Act the document is delivered to another person and not the person to whom the document is addressed, the server shall indicate on the bill of delivery the type of relationship of the two persons. If a document is not being served on a state body or a legal entity the server who is serving the document on a person shall, if the person is unknown to them, ask the person to identify themselves to them. The server shall write the name and surname of the person to whom the document was delivered on the bill of delivery and indicate whether they know the person on whom it was served or alternatively state the ID card number provided to him to ascertain the person's identity and the issuer of that identification document. A server who is not a notary public is obliged to write in legible writing their

name and surname and title on the bill of delivery and to also affix their signature to it. If necessary, the server shall create a separate record on the delivery /service and attach it to the bill of delivery. If the wrong date has been affixed to the bill of delivery the service shall be deemed to have been completed on the day the document was handed over. If the bill of delivery has gone missing the service may be proven in another way.

The third and fourth paragraphs of Article 133a of CPA provide that the notary public shall produce records on the receipt of a document and the actions that were taken to serve the document. A certified copy of the record of receipt of the document to be served and a certificate of service together with a certified copy of the service record or a document that could not be served with a certified copy of the record on the actions that were taken shall be submitted by the notary public directly to the court without delay.

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 addressee or a person on whom the document may be served are authorised to refuse to receive the document only if the service is carried out at a time or place or by a means not prescribed by law. However, if addressees or persons obliged to receive a document nevertheless refuse to receive a document unlawfully or if they throw it away or destroy it before reading it such refusal shall not prejudice the legal consequences of the served document (VsSr Gzz 61 /73 – ZSO 4/76-140).

If an addressee refuses to sign the bill of delivery, the summons server will record this on the bill of delivery and record in letters the date of service and the document shall then be deemed to have been served (Article 149(3) of CPA).

Where service of a document has been refused the last resort for effecting service is to post the document on the court bulletin board. The document shall be deemed to have been served upon the expiry of the eighth day of it being posted on the court bulletin board.

In relation to service of documents on a third person it should be noted that where a document is handed over to a person other than the addressee the relationship between the two must be indicated on the bill of delivery (fifth paragraph of Article 149 of CPA). If a document is not being served on a state body or a legal entity the server serving the document on a person shall, if the person is unknown to them, ask the person to identify themselves to them. The server shall write the name and surname of the person to whom the document was delivered on the bill of delivery and indicate whether they know the person on whom it was served or alternatively state the ID card number provided to ascertain the person's identity and the issuer of that identification document. A server who is not a notary public is obliged to write in legible writing their name and surname and title on the bill of delivery and to also affix their signature to it. If necessary, the server shall create a separate record on the delivery/service and attach it to the bill of delivery. If the wrong date has been affixed to the bill of delivery the service shall be deemed to have been effected on the day the document was in fact handed over. If the bill of delivery has gone missing the service may be proven in another way.

Where the server does not serve the document with due diligence, resulting in a significant delay to proceedings, that person may be fined by the court.

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

Article 63 of the Regulation provides that the costs of postal delivery shall be charged for and accounted for in accordance with the rules governing postal services.

The fifth, sixth and seventh paragraphs of Article 133a of CPA provide that parties shall pay for any costs of notary public service by paying the notary public directly. Notaries public who do not receive advance payment to cover the cost of service shall not be required to serve the document. The notary public shall produce a record thereof and notify the court thereof directly. Parties shall not be liable to pay notary public fees for any actions undertaken to serve a document via a notary public. The costs of service via a notary public shall be incorporated in the legal costs if the court deems it necessary. Fees and compensation of a notary public for providing notary public services are governed by the Rules on the temporary notary public tariffs (NN Nos 97/01 and 115 /12).

The fifth paragraph of Article 146 of CPA provides that funds to cover the costs of establishing and operation of a representative of the respondent responsible for receipt of documents shall be paid in advance by the applicant pursuant to a ruling by the court which is not subject to appeal. Should the applicant fail to provide advance payment within the specified time limit, the action shall be dismissed.

In relation to the costs of service via an appointed court official the associated costs will be paid in advance in an amount determined by the court. This practice is provided for in the provisions of Article 49 of the Court Rules of Procedure (NN No 35/15) under which only those official actions can be carried out outside the court premises which are necessary to resolve a matter in accordance with law; Article 50 of the same Act provides that recovery of costs for out-of-court activities shall be handled pursuant to separate rules and that out-of-court activities applied for and borne by parties pursuant to a court ruling may in principle be undertaken only after the party concerned has deposited advance payment in the stipulated amount.

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