

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

2 Which documents need to be served formally?

Every document that has been sent to the requested authority under Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service of judicial and extrajudicial documents in civil or commercial matters.

3 Who is responsible for serving a document?

The bailiff has been designated in the Netherlands as the receiving and transmitting agency.

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?

The bailiff is required to check the domicile of the addressee in the Dutch population register (BRP). This mandatory verification will also show any new address if the addressee is no longer resident at the address indicated.

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?

No.

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?

In the Netherlands, the courts are the competent authority with respect to Regulation (EC) No 1206/2001 of 28 May 2001. However, the Dutch courts are not competent to retrieve a party's address (on request).

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 of the document is one of a bailiff's official duties (Article 2 of the Bailiffs Act (*Gerechtsdeurwaarderswet*)). After verification, as described under question 4.1, the bailiff must serve the document received for service to its addressee. In principle, documents are served in person. There are no alternative methods apart from the 'substituted service' referred to under question 7.

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.)?

Electronic service of documents is not authorised in the Netherlands.

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)?

No, or at least only if this specific form is not contrary to Dutch law. Service is also possible to an address other than that of the addressee's domicile, provided that the bailiff meets and speaks to the addressee in person. If the addressee has no known domicile or residence in the Netherlands, a document can be deposited at the public prosecutor's office.

Bailiffs do not serve documents by post, although the transmitting agency in another Member State can send the document to the addressee directly by post.

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

Not applicable.

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?

Not applicable.

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?

1. Refusal to accept the document

If the addressee refuses to accept the document served by the bailiff, the bailiff is entitled to leave the document at the registered address in a sealed envelope (Article 47 of the Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*)). Service is deemed to have been effected at that time.

2. Refusal on grounds of translation

If the addressee refuses to accept the document on grounds of translation (Article 8(1) of Regulation (EC) No 1393/2007), the bailiff must record this refusal in the certificate and designate it as non-service. According to the most recent European Court of Justice case law, it is for the court to decide to what extent a refusal is valid (*Novo Banco* judgment).

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?

The postal service may also deliver to another person. Identification will be requested depending on the chosen form of dispatch.

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 it has been sent by registered post, the document will be deposited at the post office for a specific period of time. The postman leaves notification of this in the addressee's letterbox.

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?

If a registered document cannot be delivered, the postman leaves a message that the addressee can collect the document at the post office indicated. The document is kept for three weeks. If it is not collected, it is returned to the sender.

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

Yes, in addition to the record of service, the requested authority (the bailiff) will also draw up a certificate of service (Article 10 of the Service Regulation) and send it together with the record to the requesting authority.

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?

Unlawful service of a document is not possible if a bailiff was involved. Nullity is possible, as referred to in Article 66 of the Code of Civil Procedure.

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

If the service took place via a requested authority in the Netherlands, the payment for service consists of a fixed amount of EUR 65 per service.

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