

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 court documents is a procedural task undertaken by courts in the course of judicial proceedings. A court serves various documents related to proceedings, on the parties to the proceedings, persons involved in the proceedings, and other persons (e.g., actions, summons, written rendering of a judgment, etc.).

In the interests of legal certainty and to protect the parties involved, service has serious procedural consequences. For example, only a duly served judgment can take legal effect, thereby having binding consequences for the legal relationships to which it pertains.

2 Which documents need to be served formally?

All communications the delivery of which has a legal effect are to be delivered formally. The need for formal delivery arises from the court's need to have evidence of the fact that a specific document has been served and that the requisite effects can be attributed to that service in the judicial proceedings concerned.

Pursuant to Act No 99/1963, Code of Civil Procedure (hereinafter referred to as 'CCP' or the 'Code of Civil Procedure'), judicial documents are served either by personal service or by 'regular' post, depending on the nature of the document. Personal service is used for documents for which this is prescribed by law (e.g., action, on the defendant; judgment, on the parties to the proceedings), or if ordered by the court. 'Regular' post is used for all other documents.

3 Who is responsible for serving a document?

The bodies that ensure the service of court documents are courts, which serve documents through service bodies (service bodies are court servers, Judicial Guard bodies, court bailiffs and postal service operators and, subject to certain conditions, for certain addressees, also the Prison Service authorities, institutional or protective education institutions, preventive detention facilities, regional military headquarters, the Ministry of the Interior, and the Ministry of Justice).

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 a request includes the addressee's address at which service was unsuccessful, because the addressee no longer resides at the address, the court conducts an investigation and attempts to discover, by consulting the Information System of the Czech Population Register, the address of the permanent residence/place of business of an individual, or the address of the registered seat/address of an organisational unit registered in the relevant register in the case of a legal entity.

According to the provisions of the Code of Civil Procedure, the address for service on an individual includes the address of the individual's permanent residence and the address of his place of business; for legal entities, it is the address of the entity's registered seat recorded in the relevant register and the address of the registered seat of an organisational unit. If the addressee has a data mailbox registered in the Czech Republic, a court delivers documents to his data mailbox through the public data network. Delivery to a data mailbox is deemed to constitute personal delivery. (Only legal entities are obliged to set up a data mailbox; for individuals, the setting up of a data mailbox is optional.)

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?

Information about the current whereabouts of natural persons in the Czech Republic may be obtained primarily from the Information System of the Czech Population Register. All courts in the Czech Republic have access to the system and may obtain excerpts from it subject to the conditions stipulated in Section 8 of Act No 133/2000 on the population register of inhabitants and on personal identification numbers (Population Register Act) and subject to the conditions stipulated in Act No 101/2000 on the protection of personal information and amending certain acts. As for requests from abroad, personal information from the information system is provided at the request of a person from abroad or of an embassy of a foreign state only if this is provided for in an international treaty by which the Czech Republic is bound (Section 8(9) of the Population Register Act). Courts in the Czech Republic also have access to an information system on foreigners maintained pursuant to Act No 326/1999 on the residence of foreigners in the Czech Republic.

Information about legal entities and individuals engaged in business, who reside or are engaged in business in the Czech Republic and apply for registration, is maintained in a public register pursuant to Act No 304/2013, on public registers of legal entities and individuals. A public register is a public list in which information prescribed by law is recorded with respect to legal entities and individuals engaged in business, and such a register includes a Collection of Documents. The register is accessible to both Czechs and foreigners and anyone may consult it and make copies or excerpts therefrom. The public register is maintained in electronic form and can consequently be accessed from a remote location, at the following address:

https://www.czso.cz/csu/res/business_register.

Information on the website is available free of charge. There is a fee of CZK 50 per page or part page for the making of a counterpart, duplicate, or a copy of a document deposited in the collection, including excerpts from the Commercial Register in Czech, if it is without verification, and of CZK 70 with verification.

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?

Under Czech law, an address inquiry does not constitute evidence. The practice established by the courts of the Czech Republic shows that courts are usually willing to submit a request pursuant to Regulation (EC) No 1206/2001, aimed at establishing the present whereabouts of a person and to carry out the investigation required, provided that the information is required for an ongoing civil lawsuit.

Nevertheless, if a bilateral agreement that contains explicit provisions about address inquiries has been concluded between the Czech Republic and another EU Member State, that bilateral agreement must be followed. [1]

As for the communication of an address of an individual engaged in business or of a legal entity (typically a business corporation), the laws of the Czech Republic do not provide for any special legislative requirements for the provision of that information. As stated above, access to information in a public register is in no way restricted.

[1] Address inquiries have been agreed in bilateral agreements with: Belgium, Bulgaria, Hungary, Poland, Greece, Slovakia, Slovenia, and Spain.

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)?

Under the laws of the Czech Republic, a court serves written documents during a hearing or in the course of another court action. If this method of service is not used, the court serves a document on the addressee through a public data network to his data mailbox. If a document cannot be delivered through a public data network, the court delivers it, at the addressee's request, to another address or an electronic address.

If a document cannot be served using these methods, a court orders service to be performed through a service body (for more information, see paragraph 3) or a party to the proceedings or its representative for document service (Sections 45, 46c, 47, and 48 CCP).

Subject to conditions precisely stipulated by law, a court may also serve a document by posting it on an official notice board (Section 50l CCP).

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 means service through a public data network to a data mailbox.

If this method of service is not possible, a court, at the addressee's request, may serve a document to an electronic address provided by the addressee, provided that the addressee has asked the court to serve the document by this means, or gave his consent to this type of service, and provided he appointed an accredited certification service provider who issued its qualified certificate and maintains a record thereof, or has presented a valid qualified certificate. If this method of service is employed, the court asks the addressee to confirm service to the court within three days of the sending of the documents, using a data message signed by the person's recognised electronic signature. If a document sent to an electronic address is returned to the court as undeliverable, or if the addressee does not confirm receipt of the document within three days of the day on which the document was sent, service is not effective.

No other methods of service of documents by electronic means are provided for by law.

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)?

With respect to this question, also see information above, in paragraph 5.

The Code of Civil procedure distinguishes between two types of service: **personal service**, and the service of other documents.

If documents are being served for which the law or a court determines that they are to be served personally, and the serving body is unable to reach the addressee, the document is stored at a post office outlet or at a court and a written notice is left for the addressee, requesting that he collect the document (see below, paragraph 7.2.).

If documents are being served for which personal service is not prescribed (known as service of other documents), the documents are placed in the addressee's mailbox if he cannot be reached, and the document is deemed served when placed in the mailbox. If a document cannot be placed in a mailbox, a court serves it by posting it on its official noticeboard (Section 50 CCP).

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

Documents to be served personally are deemed delivered on the tenth day after the day on which the document was ready for collection (i.e., from the date on which the document was deposited at a post office or at court, or when a notice requesting the collection of the document was posted on the court's official notice board, if a notice cannot be left at the place of delivery). A document is deemed served even if the addressee is not aware that the document has been deposited. If the ten-day period expires to no effect, the serving body places the document in the addressee's mailbox and, if there is none, it returns the document to the sending court and posts a notice to that effect on the court's official notice board. For some documents (primarily orders to pay a bill of exchange, orders for payment and European payment orders), substituted service is precluded by law or a decision of a court – after the expiration of the ten-day period, the documents are returned to the sending court without being deemed served (Section 49(5) CCP).

Documents served through a public data network are deemed to have been served personally. A document served to a data mailbox is considered delivered once a person who is, given the scope of his authorisation, entitled to access the document, logs into the mailbox. If that person does not log into the mailbox within 10 days of the day on which the document was served to the data mailbox, the document is deemed delivered on the tenth day; this is not the case if substituted service is ruled out for such a document (Section 17(3) and (4) of Act No 300/2008 on electronic actions and authorised document conversion). Other documents (that are not intended for personal service) are deemed served on the day they are placed in a mailbox or, if served by posting on the official notice board of a court, on the tenth day after posting.

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?

The addressee is informed about a document being deposited at a post office in a written notice requesting that he collect the document, which the serving authority leaves for him in an appropriate manner (usually, by placing it in his mailbox). If a notice cannot be left at the place where delivery was attempted, the serving authority returns the document to the sending court and the court posts a notice requesting the collection of the document on its official notice board.

A request must feature the particulars specified in the Act (Section 50h CCP), in particular a designation of the court, of the document being served, of the addressee and his address, of the serving authority and the names and surnames of the server, and his signature. If substituted service is not ruled out, the notice must also contain a warning about the legal consequences of a failure to collect the document. It also states with whom, where, and on what date the document will be ready for collection, and the date by which and the hours during which it can be collected.

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 refusal to accept service of documents is dealt with by Section 50c CCP, which stipulates that if an addressee or recipient refuses service of a document, the document is deemed served on the day when its service was refused. The addressee must be informed about the consequence. Under Czech law, the same fiction of service applies if the addressee refuses to show his identity or to provide other cooperation required for due service. In that case, a document is deemed served on the day when the showing of identity or the provision of cooperation were denied. Under Czech law, no examination is made as to whether the refusal was legitimate or not, and the fiction of service occurs automatically, upon the act of refusal.

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?

When serving items from abroad, Czech Post proceeds in a similar manner as with domestic delivery. That means that unless the envelope or delivery slip specifically states that the item may only be served personally, it can be served not only on the addressee, but also his agent, statutory representative, or an

agent of his statutory representative, subject to the same conditions as the addressee (i.e., he must show his identity and confirm receipt of the document by signing).

Furthermore, pursuant to the Postal Terms and Conditions, a postal item may be received at the place designated by the postal address by:

1. If the postal item is addressed to an individual:

- An individual spending time in the apartment, office, establishment, or other enclosed premises designated with the name and surname of the addressee or a surname identical to that of the addressee and who confirms receipt of the item by his signature;

2. If a postal item is addressed to a legal entity:

- An individual who confirms acceptance of the item by his signature and the addressee's stamp;
- An individual who confirms acceptance of the item by his signature and proves that he is an authorised person;
- An individual spending time in the office, establishment, or other enclosed premises designated with the name of the addressee who declares that the addressee does not use a stamp and who confirms receipt of the item by his signature and documents his name and surname.

If a document is not successfully handed over to any such person, the post office may give it to a suitable individual, in particular a neighbour of the addressee who agrees to hand the item over to the addressee and who confirms receipt of the item by his signature.

This is precluded if:

- a) The addressee has given Czech Post a statement declaring that he disagrees with this method of delivery;
- b) The addressee has given Czech Post a statement declaring that Czech Post may only deliver postal items to him;
- c) The price declared exceeds CZK 10,000 (Article 25(6) of the Postal Terms and Conditions).

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 document is being served pursuant to Article 14 of the Regulation (i.e., through the postal service, rather than through the receiving agency) and the postal item is not successfully handed over, the item is deposited and a notice left for the addressee in his house mailbox, requesting that he collect the postal item within a designated period of time at a specific post office. If he fails to collect it within the period designated, the postal item is returned to the sender as undeliverable.

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?

In the event of personal service using the postal services of another state, within the meaning of Article 14 of the Regulation, the addressee may collect the postal item within 15 days of the date on which the item was prepared for collection. The addressee is informed about the depositing of the postal item through a written notice requesting that he collect the article, which the serving body leaves in his house mailbox.

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

When a court is delivering a document in the course of a hearing or another court action of which court records are produced, those records will indicate this. Aside from other particulars (Section 40(6) CCP), the records must state the nature of the document. The protocol has to be signed by the person who serves it, and by the recipient.

For service through a public data network in a data mailbox, see above, paragraph 7.2.

If a document is served through a public data network to an electronic address, service is documented by a data message from the addressee signed with his recognised electronic signature, whereby he confirms receipt of the document.

If a court is serving a document in the course of an action of which no court records are produced, or through a serving body, the type of document is marked on the **service slip**. A service slip is a public document. Unless proven otherwise, data stated on a service slip is deemed correct.

A service slip must contain:

- a) the designation of the court that requested service of the document;
- b) the designation of the serving body;
- c) the designation of the type of document being served;
- d) the designation of the addressee and the address to which the document is to be served;
- e) a declaration from the serving body indicating the date on which the addressee was not reached, the date on which the document was handed over to the addressee or recipient, the date on which the document was ready for collection, the date on which service of the document was refused or on which cooperation required for the due service of the document was refused;
- f) the hour and minute of service, if the designation of the 'precise time of service' is requested;
- g) the first name and surname of the server, his signature, and an imprint of the official stamp of the serving body;
- h) the first name and surname of the person who accepted the document or rejected service or refused to provide the cooperation required for the due service of the document, if such information is known to the serving body, information about the person's relationship to the addressee if the document is received on behalf of the addressee, and the person's signature;
- i) information as to whether the placing of the document in a mailbox is precluded.

If a document has been deposited, the service slip must also feature information as to whether a notice was left for the addressee requesting that he collect the document.

If the addressee or recipient collects a deposited document, the service slip must also contain:

- a) the name and surname of the person who handed the document over, his signature, and an imprint of the official stamp of the serving body;
- b) a declaration from the serving body indicating the date on which the document was collected;
- c) the hour and minute of service, if the designation of the 'precise time of service' is requested;
- d) the name and surname of the person who collected the deposited document, and his signature.

If the addressee or recipient refuses to accept service of a document or fails to provide the cooperation required for the due service of a document, the service slip must also contain information about whether instructions were given, orally or in writing, about the consequences of the refusal of the service of the document or of the failure to provide cooperation, and about whether and how the refusal to accept service of the document was justified or about the nature of the failure to provide cooperation.

If a document is served using the 'usual method', and it is not served on the addressee or recipient, a service slip must also contain:

- a) a declaration from the serving body indicating the date on which the document was placed in a house mailbox or another mailbox used by the addressee;
- b) the hour and minute of service, if the designation of the 'precise time of service' is requested;
- c) the first name and surname of the server, his signature, and an imprint of the official stamp of the serving body.

If the recipient is unable to confirm service of a document by signing, an appropriate individual other than the server must confirm delivery to the recipient by signing the service slip.

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 laws of the Czech Republic do not provide for the possibility of remedying a defective method of service. If the statutory procedure was breached in serving a specific document, the document must be served again.

Given that the laws of the Czech Republic allow for 'substituted' service, and the fiction of service related thereto, there is the possibility of ineffective service in cases when the addressee was unable to become acquainted with the document on account of an **objective obstacle**.

Ineffective service is declared by the court having jurisdiction, solely at the request of the party that was the addressee of the specific document (with the exception of non-adversarial proceedings, when a court can also review the effects of service ex officio). An application must be submitted within 15 days of the day on which the addressee became acquainted with the document being served, or could have become acquainted with it. The court only declares the service ineffective if the addressee was unable to become acquainted with the document for an **excusable reason**. Hence, the party must identify evidence in his application that supports the timeliness (the above-mentioned 15-day period) and the justifiability of his application. Excusable reasons include illness, hospitalisation, etc., i.e., reasons involving an objective obstacle preventing the party from becoming acquainted with the document. Service cannot be declared ineffective if the addressee knowingly evaded service or if he does not reside permanently at the mailing address provided (parties are obliged to provide an address for service where they actually reside).

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

As a rule, the costs of service are borne by the court serving the document.

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