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### Service of documents: official transmission of legal documents

If you are involved in a legal proceeding and you need to send and/or receive legal or extrajudicial documents, you can find national information on how to proceed here.

**Council Regulation (EC) 1393/2007** of 13 November 2007 on the service in the member states of judicial and extrajudicial documents in civil or commercial matters regulates the service of judicial and extrajudicial documents between European Union member states. It provides a procedure for the service of documents via designated "transmitting agencies" and "receiving agencies" between EU countries, including Denmark.

The regulation refers to, for example, judicial documents such as the summons notifying that proceedings have begun, appeals, statements of defence, injunctions or extrajudicial documents such as notarised acts which need to be served in an EU country other than the one in which you are resident.

**Please select the relevant country's flag to obtain detailed national information.**

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### Service of documents - Belgium

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

Where cases are brought to court, communication is extremely important. It is absolutely vital for the parties to proceedings and the judge to be aware of the plaintiff's claims, the defendant's arguments, the course of proceedings and the court ruling. A party which does not accept the ruling and appeals to a higher court must inform the other parties of its decision by submitting or sending documents (e.g. summonses, applications, submissions to the court, judgments, appeals, etc.). We are not concerned here with the documents themselves but with the way in which they are remitted to the parties and, where appropriate, the court. The relevant rules are set out in Articles 32 to 47 of the Judicial Code [*code judiciaire*].

In Belgium a distinction is made between notification [*notification*] and service [*signification*].

In essence, service means issuing a document to another person via a government official. In Belgium that official is known as a bailiff. In practice, the bailiff serves a certified copy of the document on the person in question.

The bailiff may deliver various writs to you (referred to below as 'service' or 'record of service'). The best known are:

- summons to appear in court;
- service of a judgment (possibly with an order to pay);
- order to pay;
- order to vacate premises;
- seizure (e.g. from your personal property, accommodation);
- service of prior notice;
- ...

In contrast to service, notification is effected when a court document (original or copy) is sent by post, i.e. without the involvement of a government official. The date of service is significant.

In the case of summonses, certain timescales have to be adhered to between the time of service and the time at which the case is dealt with in the initial court hearing.

When a judgment is served, that date is the commencement date of the period for objections or any appeal that might be brought.

In general, documents are served. Notification is used in specific cases defined by law.

The writ [*l'exploit de signification*] must be signed by the executing bailiff and must indicate the following, as specified in Article 43 of the Judicial Code, failing which it shall not be valid:

- 1° day, month, year and place of service;
- 2° name, first name, occupation, domicile and, if applicable, capacity and listing on the commercial or trade register of the person at whose request the writ is being served;
- 3° name, first name, domicile, or, in the absence of domicile, residence and, if applicable, capacity of the addressee of the writ;
- 4° name, first name and, if applicable, capacity of the person to whom the copy has been given, or where a copy was left in the cases referred to in Article 38(1), or to where the writ has been posted in the cases referred to in Article 40;
- 5° name and first name of the bailiff and address of their office;
- 6° breakdown of the cost of the document.

The person to whom the copy is given endorses the original. If they refuse to sign, the bailiff notes the refusal on the notice.

According to Article 47 of the Judicial Code, the bailiff may not serve documents:

- 1° before 6 a.m. or after 9 p.m. in a place not open to the public;
- 2° on Saturdays, Sundays or public holidays (this restriction does not apply to service in criminal cases, see Court of Cassation case-law, Cass., 27 March 1984, R.W. 1984-1985, 1093; Antwerp, 2 October 1975, R.W. 1976-1977, 1834), except in urgent cases and with the permission of the magistrate [*juge de paix*] for summonses in cases to be brought before him or her, the judge who authorised the document for documents requiring prior authorisation and in all other cases the president of the Court of First Instance.

When the document is served, the person on whom it is served is given a copy of the document (service) and the bailiff retains the original whilst the case is ongoing at his office. In the case of summonses, the bailiff does not retain the original but sends it to the court to be added to the case list (notice of the summons to the court).

The copy of the notice must contain all the information on the original and be signed by the bailiff (Article 43 of the Judicial Code), failing which it shall not be valid.

#### 2 Which documents need to be served formally?

The law specifies which documents must be served or notified. However, they are too numerous to be listed in full. Examples include summonses, applications, judgments, appeals and objections.

### 3 Who is responsible for serving a document?

Documents are served by bailiff and must therefore be served by the bailiff themselves.

Notification is effected by the clerk of the court (on rare occasions by the public prosecutor's office) by judicial recorded delivery (a special type of registered letter with acknowledgement of receipt) or by ordinary or registered post. The rules governing judicial recorded delivery are set out in Article 46 of the Judicial Code.

### 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?**

Yes.

In the case of Belgium, the receiving agencies designated in accordance with Article 2(2) of 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 (service of documents) are bailiffs with territorial jurisdiction.

Under Article 1 of the Royal Decree of 16 May 1986 authorising access by bailiffs to the National Register of Natural Persons (*Arrêté royal du 16 mai 1986 autorisant l'accès des huissiers de justice au Registre national des personnes physiques*), for the performance of the tasks for which they have competence, bailiffs are allowed access to the information referred to in Article 3(1)(1) to (9) and Article 3(2) of the Law of 8 August 1983 establishing a National Register of Natural Persons (*loi du 8 août 1983 organisant un Registre national des personnes physiques*). The information includes, in particular, the address registered as the main address for each natural person in the population registers (domicile).

**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.

In principle only the Belgian persons, public authorities, public bodies and professions referred to in Article 5 of the Law of 8 August 1983 establishing a National Register of Natural Persons may be granted access to the information in the National Register.

The authorisation is given by the Sectoral Committee of the National Register (*Comité sectoriel du Registre National*) set up at the Commission for the Protection of Privacy (*Commission de la protection de la vie privée*) pursuant to Article 15 of the Law of 8 August 1983 establishing a National Register of Natural Persons.

**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?**

They cannot act on it unless finding the address is deemed to be an investigative measure for the purpose of obtaining evidence to be used in civil or commercial judicial proceedings, commenced or contemplated.

The concept of 'evidence' is not defined in 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. It covers, amongst other things, interviews of witnesses, parties or experts, the production of documents, investigations, establishing the facts, consulting family and child welfare specialists.

According to Article 1(2) of the aforementioned Regulation (EC) No 1206/2001, a request may not be made 'to obtain evidence which is not intended for use in judicial proceedings, commenced or contemplated'.

In principle, the address of a person for whom service or notification of a judicial or extrajudicial document is required cannot therefore be considered evidence within the meaning of Article 1 of Regulation (EC) No 2006/2001.

Furthermore, Article 4(1) of Regulation (EC) No 2006/2001 expressly states that the request must contain 'the names and addresses of the parties ...'.

**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)?**

(a) Service

The method of service is governed by Articles 32 to 47 of the Judicial Code and applies to both civil and criminal cases.

- Service in person (Articles 33 to 34 of the Judicial Code)

If the bailiff intends to serve a document, he will first endeavour to give the copy of the document to the addressee in person. That is service in person.

Documents may be served in person on the addressee wherever the bailiff finds them. This does not necessarily have to be at the addressee's place of residence; valid service may be effected, for example, at the addressee's place of work, on the street or at the bailiff's own office.

The condition is that the place of service must be within the bailiff's area of jurisdiction.

In the absence of any information on the whereabouts of the addressee, the bailiff goes directly to the addressee's domicile in the hope of finding them there.

If the bailiff locates the party (wherever that might be) and the party refuses to accept the copy of the document, the bailiff notes the refusal on the original (the copy is then attached to the original) and service is deemed to have been effected in person.

With regard to legal persons, service is deemed to have been effected in person when the copy of the document has been given to the agency or an employee authorised by law, by the articles of association or by due delegation to represent the legal person in judicial proceedings, even on a joint basis.

Thus in the case of a private limited company, for example, service is valid if effected on the manager, whether they are at the registered place of business or elsewhere, away from the registered place of business.

- Service at domicile/registered place of business (Article 35 of the Judicial Code)

If service cannot be effected in person, it is effected at the domicile of the addressee. 'Domicile' means the place listed as the main address for the addressee in the population registers, i.e. the domicile address.

For an addressee with no official domicile address, service may be at their residence. 'Residence' means any other establishment, such as the place at which the person has an office or operates a business or industry. The chief police officer must inform the executing bailiff of the place of residence of a party not having an official domicile when instructed to do so.

In the case of a legal person, service may be at the registered place of business or administrative office if service in person is impossible.

With service at domicile, the copy of the document is delivered to a relative, in-law, servant or employee of the addressee. It may not be given to a child under the age of 16. The bailiff notes on the original and the copy the capacity of the person to whom the copy was given (e.g. relationship to the addressee).

- Service by countersignature (Article 38(1) of the Judicial Code)

If the bailiff is unable to serve the document by one of the specified methods (Articles 33 to 35 of the Judicial Code), service will be effected in accordance with Article 38(1) of the Judicial Code, i.e. by leaving the writ at the domicile or, in the absence of a domicile, at the residence of the addressee (service by countersignature).

The copy of the document is issued at the address using the letterbox, in a sealed envelope (showing the office of the bailiff, the name and first name of the addressee and the place of service, marked '*Pro Justitia – A remettre d'urgence* (to be delivered urgently)').

If there is no letterbox, the bailiff is authorised to leave the copy, in an envelope, by any means (e.g. sliding it under the door, putting it through a gate or hedge, attaching it to the door with adhesive tape).

The bailiff indicates the date, time and place at which the copy was left on the original writ and on the copy served.

No later than the first working day following service of the writ, the bailiff sends a signed letter to the domicile, or, in the absence of a domicile, the residence of the addressee. The letter indicates the date and time of delivery and states that an identical copy of the writ may be collected by the addressee in person or by a proxy duly authorised in writing from the bailiff's office within three months of the date on which the writ was served.

Where an addressee has applied for a change of domicile (request to change address), the registered letter referred to in paragraph 3 will be sent to the place where they are listed on the population registers and the address at which they have indicated they wish to establish their new domicile.

When a proposal has been made for removal from the public register (of the domicile address) for the addressee and the bailiff cannot infer from the facts that the addressee is no longer actually resident at the domicile address, it is sufficient for service to be effected according to Article 38(2) of the Judicial Code (see below).

Where removal from the public register has been proposed, service on the public prosecutor in accordance with Article 38(2) of the Judicial Code (see below) is only permissible when the bailiff confirms that the addressee no longer resides at the domicile address (e.g. when the bailiff has established that the addressee at the address in question has been evicted) or it is physically impossible to serve the documents.

As mentioned above, notification is by letter, registered letter or judicial recorded delivery. In future electronic notification might also be an option.

- Physical impossibility of service (Article 38(2) of the Judicial Code)

If it transpires from the facts established at the address (e.g. home destroyed by fire, domicile address found to be waste ground) that it is physically impossible to effect service by leaving a copy of the writ at the domicile (or, in the absence of a domicile, the residence) of the addressee, the copy is given to the public prosecutor with local jurisdiction.

The original and the copy state the circumstances necessitating service on the public prosecutor.

The same applies when the property (at which the addressee is domiciled) has clearly been abandoned and the addressee has not applied for a change of domicile (e.g. in the case of eviction the addressee is not present). Service is then effected on the public prosecutor in accordance with Article 38(2) of the Judicial Code).

As stated above, service in accordance with Article 38(2) of the Judicial Code also applies in the case of a proposed removal from the public register, when the bailiff can establish that the addressee does not actually live at the address in question.

Service on the public prosecutor is not valid if the party at whose request it was effected was aware of the elected domicile or the residence of the addressee, whichever is applicable.

- Service at elected domicile (Article 39 of the Judicial Code)

When the addressee has elected domicile with an agent, documents may be served or notified at the elected domicile. This is an option and not an obligation. There is therefore no reason why service should not be effected at the actual domicile (in Belgium) rather than at the elected domicile (Cass. (1st Ch.), 26 February 2010, J.T., 2010, no 6397, 371; Cass. (1st Ch.), 10 May 2012, R.W., 201213, 1212).

There is only one exception, when an addressee whose actual domicile (or registered place of business) is abroad has an elected domicile in Belgium, service must take place at the elected domicile, failing which it shall not be valid (Article 40 of the Judicial Code, see also Cass. (1st Ch.), 9 January 1997, R.W. 1997-98, 811: 'When the party at whose request service has been effected is aware of the elected domicile of the addressee, that party is required to have the writ served at that place; that is not an option but an obligation and is a matter of public policy').

If the copy is handed to the agent in person at the elected domicile, that is deemed to be service in person. Service and notification are longer possible at the elected domicile if the agent is deceased, is no longer domiciled there or has ceased operations.

Domicile is elected on the basis of a legal relationship between parties (i.e. in a procedure between the parties). Hence it is only valid between those parties and is confined to that legal relationship. Thus the Court of Cassation ruled that election of domicile in a procedural act of first instance (e.g. in the summons or pleadings) was only valid for the whole of the first instance proceedings, the enforcement of the subsequent judgment and an appeal against that judgment (by the opposing party). If that election of domicile was not repeated in subsequent proceedings (e.g. in an appeal) it did not apply to those subsequent proceedings (Cass. 1st Ch., 30 May 2003, R.W. 2003-2004, 974; Cass. 2nd Ch., 10 May 2006, R.W. 20082009, 455; Cass. 1st Ch., 29 May 2009, R.W. 2010-2011, 1561).

A distinction has to be made between the concept of 'elected domicile' and the concept of an 'accommodation address', which is discussed below.

As regards the application of the language legislation (Law of 15 June 1935 on the use of languages in judicial matters, *loi du 15 juin 1935 concernant l'emploi des langues en matière judiciaire*), the judge of attachments [*juge des saisies*] gave a clear ruling in Bruges (judge of attachments, Bruges, 11 October 2006, T.G.R. 2010, 95): it is the place where service actually took place (in this case the elected domicile) that counts and not the actual domicile. In that instance, both the applicant and the party lived in the French-speaking region. However, the party summonsed had elected domicile in the Dutch-speaking region. He was summonsed (in Dutch only) in opposition before the judge of attachments in Bruges. According to the language legislation, the summons had to be in Dutch. The question was whether a French translation should have been appended to it in accordance with Article 38 of the Law on the use of languages. The judge found that a French translation did not need to be appended to the summons in Dutch, since the choice of language was determined only by the place of service.

- Service when domicile is not known (Article 40 of the Judicial Code)

'For persons having no known domicile or residence or elected domicile in Belgium, the bailiff sends the copy of the document by registered post to their domicile or residence abroad, by air if the destination is not in a neighbouring State, without prejudice to the other forms of transmission agreed between Belgium and their country of domicile or residence. Service is deemed to have been effected when the documents are given to the postal service against a proof of postage as indicated in this article.

For persons having no known domicile or residence or elected domicile in Belgium or abroad, service is effected on the public prosecutor for the district in which the judge who is to hear or has heard the application sits; if no application is or has been made to the judge, service is effected on the public prosecutor in whose jurisdiction the plaintiff has his domicile or, if he has no domicile in Belgium, the public prosecutor for Brussels.

...

Service may always be effected in person if they are located in Belgium.

Service abroad or on the public prosecutor is null and void if the party at whose request it was effected was aware of the domicile or residence or elected domicile of the addressee in Belgium or abroad, whichever is applicable'.

The Court of Cassation takes the view that that is not an option but an obligation that is a matter of public policy (Cass., 1st. Ch, 9 January 1997, R.W. 1997-1998, 811).

A party on whom a writ is served who argues that the opposing party was aware of his residence for example and therefore invokes the rule that service on the public prosecutor was null and void must provide evidence. The burden of proof therefore lies with the party on whom the writ was served (Ghent judge of attachments, 18 March 2008, R.W. 2010-2011, 124).

- Special rules for service (see Articles 41 and 42 of the Judicial Code).

- Service and notification to be effected for persons with a trustee are effected on those persons themselves and at the domicile or residence of the trustee, in so far as the service or notification relates to the function of the trustee (Article 499/12 of the Civil Code).

Accommodation address: 'Accommodation address' means the address either of a natural person listed on the population register at the place where they have established their main residence, or of a legal person, at which, with the consent of that natural or legal person, a natural person with no fixed residence is registered (Article 1(2) of the Law of 19 July 1991 on population registers, identity cards, identity cards for foreign nationals and residence documents, amending the Law of 8 August 1983 establishing a National Register of Natural Persons (as amended on 31 August 2015) (*Loi du 19 juillet 1991 relative aux registres de la population, aux cartes d'identité, aux cartes d'étranger et aux documents de séjour et modifiant la loi du 8 août 1983 organisant un Registre national des personnes physiques (dans sa teneur modifiée au 31 août 2015)*).

A person with no fixed residence uses the domicile address of another person as it were. A person who authorises a natural person to use their domicile address as an accommodation address undertakes to pass on all documents (e.g. post) sent to them free of charge. Furthermore, certain benefits (requiring an official address) (such as family allowances, unemployment benefits, mutual benefits) may be sent to an accommodation address (however, no accommodation address is needed to receive social integration payments!)

Persons (with no fixed domicile or residence) who may use an accommodation address are:

- persons living in a mobile residence (e.g. a boat or caravan) (not including residential caravans);
- persons who are absent on study or business trips for less than one year;
- civil and military armed forces personnel based abroad and their households;
- persons not or no longer having a place of residence due to a lack of resources.

The social services office (*Centre public d'aide sociale*) or a natural person may provide an accommodation address.

When a person has an accommodation address, the bailiff may serve all documents at that address, in contrast to the concept of an elected domicile defined above: the bailiff may only serve at that address documents relating to the legal transaction/proceedings for which domicile has been elected there.

However, bailiffs may not make seizures at the accommodation address (from the person having the accommodation address), since that person is deemed not to own any movable property at that address.

(b) Notification

Article 46(1) [..].

'When the judicial registered letter is sent in printed form, the postal service office gives it to the addressee in person or at their domicile as specified in Articles 33, 34, 35 and 39. The person to whom the letter is given signs and dates the acknowledgment of receipt and the postal service returns it to the sender. The postal employee notes any refusal to sign at the bottom of the acknowledgment of receipt.

When the judicial registered letter cannot be handed over to the addressee in person or at their domicile, the postal employee leaves a delivery notification. The letter is held at the postal depot for eight days. It may be collected during that period by the addressee or a proxy duly authorised in writing.

However, if the addressee has asked for their mail to be redirected or kept at the post office, the letter is returned or kept at the address designated by the addressee during the period covered by the request.

A letter addressed to a bankrupt person is handed over to the administrator.

The rules for the application of paragraphs 3 to 5 are laid down by the King.

...

Article 46(4) The Minister responsible for justice may determine the forms and indications of service that must accompany the dispatch of the judicial registered letter. If the destination is abroad, the judicial registered letter is replaced by a letter registered with the post office, without prejudice to the methods of transmission provided for by international conventions and the application of paragraphs 2 and 3.

If so agreed by one of the plaintiffs or applicants, either in the writ of summons or the application, or in writing, by the time of first appearance before the court, judicial registered letters are replaced by service at the request of the party responsible for making those arrangements.

Art. 46/1 Service solely by letter to a party for whom a lawyer is acting in accordance with Articles 728, 729 or 729/1 and who has not informed the court registry in accordance with Article 729/1 that he was ceasing to act for that party is effected solely by letter to that lawyer'.

Article 32b of the Judicial Code creates a legal framework for communications and notifications between a number of participants in the judicial system.

**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.)?**

A system for the electronic service of documents will be introduced in the near future. The legal structure has already been created but has not yet come into effect. Bailiffs may decide in civil or criminal cases whether to serve their writs electronically or in person. The principle of territoriality will continue to apply.

In practice, service will take place at an electronic legal address dictated by the authorities or an electronic elected domicile address. In order to receive service at the electronic address of the electronic domicile, addressees will have to give express consent via their e-ID.

## **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)?**

Belgian law provides for several methods of transmitting documents (see answer to question 5).

The usual method for transmitting judicial documents is service by writ by a bailiff.

Article 32 of the Judicial Code defines service as 'the handover of an original or copy of the document; it is effected by writ by a bailiff or, in the cases provided for by law, as indicated by the law'.

However, the law defines certain instances in which documents may be sent purely by **notification**.

Article 32 of the Judicial Code defines notification as 'dispatch of the original or a copy of a procedural document by the postal service or electronic mail to the electronic judicial address or, in the cases provided for by law, by fax or as indicated by the law'.

Article 14 of 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 (service of documents) states that service by post must be 'by registered letter with acknowledgement of receipt or equivalent'.

### **1. Main forms of service**

(a) Service in person (Articles 33 and 34 of the Judicial Code)

According to Article 33 of the Judicial Code, 'service is effected in person when the copy of the document is given directly to the addressee. Service may be effected in person wherever the bailiff finds the addressee. If the addressee refuses to accept the copy of the document, the bailiff notes the refusal on the original and service is deemed to have been effected in person.

Article 34 of the Judicial Code adds that 'service on a legal person is deemed to have been effected when the copy of the document has been handed over to the agency or employee authorised by law, by the articles of association or by due delegation to represent the legal person in judicial proceedings, even on a joint basis'.

(b) Service at domicile (Article 35 of the Judicial Code)

Article 35 of the Judicial Code provides that 'if service cannot be effected in person, it shall take place at the domicile or, in the absence of a domicile, the residence of the address and, in the case of a legal person, their registered place of business or administrative office. The copy of the document is to be delivered to a relative, in-law, employee or servant of the addressee. It may not be given to a child under the age of 16 ...'

According to Article 36 of the Judicial Code, domicile is 'the place listed as the main address for the person on the population registers', whereas residence is 'any other establishment, such as the place where the person has an office or operates a business or industry'.

(c) Service by leaving a copy of the writ (Article 38(1) of the Judicial Code)

Article 38(1) of the Judicial Code provides that when it was not possible to serve the document in person or at the domicile, 'service is effected by the bailiff leaving a copy of the writ in a sealed envelope at the domicile or, in the absence of a domicile, the residence of the addressee'. The envelope must show certain information specified by Article 44(1) of the Judicial Code.

Article 38(1) of the Judicial Code goes on to state: 'No later than the first working day following service of the writ, the bailiff sends a signed letter to the domicile, or, in the absence of a domicile, the residence of the addressee. The letter indicates the date and time of delivery and states that an identical copy of the writ may be collected by the addressee in person or a proxy duly authorised in writing from the bailiff's office within three months of the date on which the writ was served'.

(d) Election of domicile (Article 39 of the Judicial Code)

According to Article 39 of the Judicial Code, 'when the addressee has elected domicile with an agent, service and notification may be effected at that domicile. If the copy is given to the agent in person at the elected domicile, that is deemed to be service in person. Service at the elected domicile is longer possible if the agent is deceased, no longer domiciled there or has ceased operations there'.

## **2. Notification by registered letter with acknowledgement of receipt**

When the document is sent by registered letter with acknowledgement of receipt, if the addressee cannot be found at the address shown on the letter, a delivery notification is left at that address. In that case the letter may be collected from the place designated on the delivery notification or the place agreed between the postal service and the addressee within 15 days, not including the date of remittance.

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

When the document is sent by registered letter with acknowledgement of receipt, if the addressee cannot be found at the address shown on the letter, a delivery notification is left at that address. In that case the letter may be collected from the place designated on the delivery notification or the place agreed between the postal service and the addressee within 15 days, not including the date of remittance.

When the document is **served**, the record of service must show the date of service (Article 43 of the Judicial Code).

When the document is **notified**, Belgium uses a dual-date system.

The date applicable for the sender differs from the date applicable for the addressee of the document.

For the sender, the notification date is the date of dispatch.

Article 53 bis of the Belgian Judicial Code states that, save as otherwise provided by law, the period for the addressee shall commence on the first day following the date on which the letter was delivered to their domicile, or their residence or elected domicile, as 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?**

For **service** by leaving a copy of the writ, see above: Service by leaving a copy of the writ (Article 38(1) of the Judicial Code).

### **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?**

When the document is **served**, there is no possibility for the addressee to object to it, apart from the ground for refusal referred to in Articles 5 to 8 of the abovementioned Regulation (EC) No 1393/2007 (translation requirement).

When the document is sent by **notification**, Article 53a of the Judicial Code states that, save as otherwise provided by law, the period for the addressee shall commence on the first day following the date at which the letter was **delivered** to their domicile, or their residence or elected domicile, as applicable. Hence there is no possibility for the addressee to object to notification by registered post with acknowledgement of receipt.

However, an addressee of a notification by registered letter with acknowledgement of receipt may subsequently contest the validity of that notification by showing that they were not at their domicile, or their residence or elected domicile at the address shown on the registered letter. Service by a bailiff therefore provides more legal certainty than notification by registered post with acknowledgement of receipt. With service, the executing bailiff verifies the address of the recipient in the National Register of Natural Persons. Furthermore, the date of the notification by registered letter cannot be reliably established if the addressee did not date or sign the acknowledgement of receipt when the registered letter was (first) presented at their domicile, residence or elected domicile, whereas the date of service is always shown on the record of service.

Apart from that, it is apparent from the preparatory work on the abovementioned Regulation (EC) No 1393/2007 and, in particular, the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, presented by the Commission on 11 July 2005, that the amendment of Article 14 was aimed at introducing 'a uniform rule for all Member States concerning postal services [by providing for] a uniform requirement (registered letter with acknowledgement of receipt or equivalent) ... This requirement guarantees with sufficient certainty that the addressee has received the document, and that there is sufficient proof thereof'. Hence the requirement for an acknowledgement of receipt is designed to ensure legal certainty for the parties. According to that preparatory work, it cannot be established that addressees have 'received' the document if they have not signed the acknowledgement of receipt.

However, the solution adopted in Article 53 bis of the Belgian Judicial Code means that notification has been given when the document is 'presented' at the domicile, residence or elected domicile of the addressee, without the need for the document to actually be handed over to them or for the acknowledgement of receipt to be signed.

## **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 1 of the Royal Decree of 27 April 2007 on postal services (*Arrêté royal du 27 avril 2007 portant réglementation du service postal*) states that recorded delivery post consists of registered post and post with a declared value.

In principle, registered post with acknowledgement of receipt can only be handed over to the addressee after verification of their identity, against signature of the acknowledgement of receipt (Articles 30, 53 and 54, *a contrario*, of the Royal Decree of 27 April 2007).

However, Article 57 of the Royal Decree of 27 April 2007 states that 'recorded delivery post on which the address designates a person with whom the addressee has elected domicile may be given to that person'.

Article 62 of the Royal Decree of 27 April 2007 states that 'persons capable of receiving correspondence, in accordance with the rules of ordinary law, shall be deemed addressees of correspondence addressed to any companies, associations, organisations, firms and communities'.

Article 58 of the Royal Decree of 27 April 2007 provides that 'recorded post addressed to minors under the age of 15 shall be given to the persons under whose authority or guardianship they are placed'.

Finally, according to Article 65 of the Royal Decree of 27 April 2007, registered post 'may be given ... to an agent of the addressee ... on remittance of a postal authority formally conferring power to receive the items of post'.

**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?**

Post is sent to the address indicated, except where there is a manifest error (e.g. misspelt street name, wrong house number, obviously incorrect postcode). If the addressee cannot be located at the address indicated, the registered post will not be delivered, unless the addressee has asked for the post to be sent to a different address by means of a redirection service (Article 51 of the Royal Decree of 27 April 2007 on postal services).

**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?**

According to Article 60 of the Royal Decree of 27 April 2007 on postal services, 'if an unsuccessful attempt is made to deliver registered post at a domicile, a delivery notification shall be left. In such cases, post may be collected from the place indicated on the delivery notification or the place agreed between [the postal service] and the addressee within 15 days, not including the date of remittance'.

Article 66 of the abovementioned Royal Decree of 27 April 2007 states that: 'post that could not be delivered to the addressee shall be returned to sender ... Registered post and books must always be returned'.

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

In the case of service, Article 43 of the Judicial Code stipulates that the person to whom the copy is given must sign the original. If they refuse to sign, the bailiff notes that refusal on the writ. Hence there will be proof of service in all cases. It is very difficult to contest a bailiff's record.

In the case of notification, there is of course written proof in so far as it is by registered post. In the case of judicial notification also, Article 46 provides for proof of receipt. That proof is kept on the case file.

**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?**

Under normal circumstances the risk of the addressee not receiving the writ is low, given that under Belgian law it is served on the person themselves. In other words, the bailiff hands the copy to the addressee in person. However, the law also makes provision for the document to be served on a third party (Article 35 of the Judicial Code) or left at an address (Article 38). In such cases service is deemed fully valid even if the document has not been delivered to the addressee in person. Individuals who have taken receipt of a writ as per Article 35 and failed to pass it on or to inform the addressee may incur civil liability. These arrangements work very well in practice.

However, the possibility of the law being broken when a document is served or notified cannot be ruled out (e.g. failure to include certain information in the writ). The procedural penalty for incorrect service or notification is that the procedural documents are declared null and void. The rules governing nullity are set out in Articles 860 to 866 of the Judicial Code.

In conclusion, it should be noted that persons causing nullity may be held liable should it emerge that they were at fault.

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

Bailiffs receive payment, the rates being governed by Article 522(1) of the Judicial Code.

The precise rates, which must be adhered to, are set out in the Royal Decree of 30 November 1976 establishing the rates for bailiff services in civil and commercial cases and for certain allowances (*Arrêté royal du 30 novembre 1976 fixant le tarif des actes accomplis par les huissiers de justice en matière civile et commerciale ainsi que celui de certaines allocations*), [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1976113030&table_name=loi)

[language=fr&la=F&cn=1976113030&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1976113030&table_name=loi) ).

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## Service of documents - Bulgaria

**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 pending proceedings or at least 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.

**2 Which documents need to be served formally?**

summonses to appear in court, which are served on participants in the proceedings;

judicial decisions, rulings and orders, which 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, which are served on the opposing party;

communications from the court to the parties to the proceedings;  
all other documents 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 Code of Civil Procedure, are competent to serve communications, summons and other documents:  
court officers: process servers;

postal workers: where the documents are served by registered mail 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 at the express request of 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?**

Although they are not explicitly obliged to do so by law, Bulgarian courts usually endeavour to trace the address of a party by performing a search in the Commercial Register or the National Population Database.

#### **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 is public. Everyone is entitled to open and free access to the data (i.e. details concerning traders) stored in the Commercial Register. A trader's address 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 Commercial Register's website address is <http://www.brra.bg/Default.ra>

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, 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.

#### **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 GPK).

### **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 Code of Civil Procedure 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 Code of Civil Procedure). The communication is served personally on the addressee, with service on a representative being deemed equivalent to personal service under Article 45 of the Code of Civil Procedure.

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

### **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 Code of Civil Procedure). 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.

### **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 notification: Under Article 47 of the Code of Civil Procedure, if the respondent cannot be found at the address specified for the case and no other person can be found who is willing to accept the communication, the server affixes a notification to the addressee's front door or letterbox or, if they are inaccessible, to the building's main entrance or a visible place in its vicinity. The notification states that the documents concerned may be obtained within a fortnight of that notification being affixed. If the respondent fails to appear in order to receive the documents, the court instructs the plaintiff to provide a record of the search for the respondent's registered address. If the address given is not the party's permanent, current address, the court orders service at the current or permanent address under the procedure described above. If the server establishes that the respondent is not staying at the address specified for service, the court instructs the plaintiff to provide a record of the search for the respondent's registered address, regardless of whether a notification is affixed.

The communication is deemed to have been served in due time upon the expiry of the time limit for claiming it. 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 notification is also the method used for serving communications on assisting parties.

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 notification.

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

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.

**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?**

When service is carried out by affixing a notification, it is stated on said notification that the documents can be claimed within two weeks from the date of the notification being affixed.

**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 documents are deemed to have been duly served if the established procedure for affixing the notification has been complied with and the time limit for claiming the documents has expired. 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. 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. The forename, patronymic and surname of the person who has accepted the item will be entered in the official record.

**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:

- 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 Code of Civil Procedure 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;
- 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 Code of Civil Procedure 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.

**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.

Where a party applies for the court to order communications to be served by a private bailiff, Article 42(2) of the Code of Civil Procedure provides for that party to bear the costs of service.

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## Service of documents - Czech Republic

**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 judgement, etc.).

In the interests of legal certainty and to protect the parties involved, service has serious procedural consequences. For example, only a duly served judgement 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; judgement, 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](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.

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[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 50i 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, 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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## **Service of documents - Germany**

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

Service (of documents) is a legal term for when notice of written declarations and decisions has to be effected and documented in a legal form. Notice may be defined as making it possible for an addressee to take note of certain information.

Documents are served in the interest of ensuring due legal process and fair legal proceedings. Service is intended to ensure that the addressee actually becomes aware of legal proceedings or, at the very least, that he or she has an unimpeded opportunity to become aware of them. Consequently, whenever documents are served, the purpose is always to draw attention to the contents. However, it is the responsibility of the addressee to actually take note of them. The party serving the documents must be provided with a means of verifying when and how a document was delivered to the addressee. This is a requirement of legal certainty.

### **2 Which documents need to be served formally?**

There is no definitive legislation governing which particular documents have to be served formally.

Documents that have to be served automatically are those where there is a corresponding legal stipulation or court order (Section 166(2) of the German Code of Civil Procedure) (*Zivilprozessordnung – ZPO*).

Service at the instigation of the parties occurs where stipulated by law, such as in the event of an arrest, temporary restraining order, or an order of attachment with transfer of garnished claim (Section 191 of the German Code of Civil Procedure).

Formal service is required wherever appropriate and meaningful, and whenever necessary for legal certainty – for instance, because rights are only established or deadlines only start running by virtue of notice being given. This means, for example, that statements of claim or court judgements and decisions that can be challenged through immediate appeal must be served by law.

### **3 Who is responsible for serving a document?**

A distinction must be drawn between automatic service and service at the instigation of the parties.

When documents are served automatically, they are always served by the registry of the court where the proceedings are already and still pending (Section 168(1) of the German Code of Civil Procedure). The registry is entitled to select the method of service according to its best judgement and is free to choose between the following options:

It may, for example, serve documents on a lawyer with return confirmation of receipt (Section 174 of the German Code of Civil Procedure).

It may serve a document on the addressee or his/her legal representative directly by physically delivering it to the official premises of the court (Section 173 of the German Code of Civil Procedure).

It may entrust the service of documents to the postal service. In Germany, the term "postal service" means companies that are licensed by the Federal Network Agency (*Bundesnetzagentur*) to provide postal services. Within this context, it may choose a special submethod: service by registered mail, return receipt requested (Section 175 of the German Code of Civil Procedure).

It may instruct an employee of the judiciary to serve the documents.

In certain legally stipulated cases, the judge is responsible for arranging service, for example in the case of service abroad (Sections 183 and 184 of the German Code of Civil Procedure) or service by publication (Sections 186 and 187 of the German Code of Civil Procedure).

Service at the instigation of the parties must always be performed by the court-appointed enforcement officer, who is either entrusted with this task directly by the party or via the intermediary of the registry of the court hearing the case (Section 192 of the German Code of Civil Procedure).

In turn, the court-appointed enforcement officer may entrust the postal service with serving the documents (Section 194 of the German Code of Civil Procedure).

#### **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 an addressee does not reside at the address specified in the request for service, the German receiving agency to which recourse is made will usually endeavour to ascertain his or her current address. This does not only apply in cases where the addressee has moved but also when his or her address on the request for service is incorrect or incomplete. However, the receiving agency provides its services voluntarily in this regard and is under no obligation to do so.

##### **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?**

In accordance with Section 44 of the German Federal Citizens' Registration Act (*Bundesmeldegesetz – BMG*), foreign public authorities and foreign private individuals are entitled to obtain certain information about a particular person from the German registration authorities without stating their reasons for requesting it. This document is called a simple register excerpt (*einfache Melderegisterauskunft*).

The simple register excerpt includes:

- surname,
- forenames,
- doctoral degree,
- current addresses and,
- in the event that the person is deceased, a statement to that effect.

The request must be addressed to the competent registration authority. As a rule, this will be the administrative office for citizens (*Bürgeramt*) in the municipality, town or city where the person is thought to reside.

There is a fee for the register excerpt. The level of the fee varies from one federal state to another.

The register excerpt may only be issued if the person being sought can be identified precisely from the details provided by the requesting authority, i.e. it is not possible to send a "hit list" of possible matches.

In addition, a register excerpt must not be issued if a disclosure block has been entered in the register for the person concerned in accordance with Section 41 of the Federal Citizens' Registration Act or if disclosure would infringe the protected interests of the person concerned in any other way (Section 8 of the Federal Citizens' Registration Act).

##### **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 Germany, the process of ascertaining an address is not usually regarded as a judicial task.

Given that even foreign public authorities and foreign private individuals may obtain a simple register excerpt of their own accord, there is no need to submit a request under 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)?**

The most common type of service encountered in practice is automatic service. This is usually performed by the postal service. The clerk of the court issues a request for service and physically submits the document that is to be served in a sealed envelope together with a ready-to-use pre-printed record of service (Section 176 of the German Code of Civil Procedure). The document is then served by the postal employee. Preferably, the document should be served directly on the addressee, which means that it should be delivered to the addressee in person. This physical delivery can take place anywhere and is not tied to a specific location (Section 177 of the German Code of Civil Procedure).

The addressee referred to above is the person for whom the document is intended, his or her legal representative (Section 170 of the German Code of Civil Procedure), or his or her authorised recipient (Section 171 of the German Code of Civil Procedure).

Once the document has been served, the postal employee completes the pre-printed record of service and immediately sends it back to the registry of the court as proof of service.

If the party is represented by a lawyer, documents are usually served through the lawyer with return confirmation of receipt (Sections 171 and 174 of the German Code of Civil Procedure). On receipt of the document, the lawyer signs the confirmation of receipt and sends it back to the court.

If both parties are represented by lawyers, one attorney can serve documents through the other (Section 195 of the German Code of Civil Procedure). This also applies to briefs that are to be served automatically, provided that the opponent does not have to be informed of a court order at the same time. The brief must include a declaration stating that it is being served from one lawyer to another. Once again, it is the signed and dated confirmation of receipt that provides proof of service.

**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.)?**

Legal documents associated with all civil proceedings can be served electronically. For the purpose of transfer, the document must be provided with a legitimate electronic signature and protected against unauthorised access by third parties. Every lawyer, notary, court-appointed enforcement officer and tax consultant, and every public law authority, body or institution is required to accept electronically served documents. Documents may only be served electronically on other parties to the proceedings if they have expressly agreed to the transfer of electronic documents. The documents may also be transferred using a De-Mail secure email system within the meaning of Section 1 of the De-Mail Act.

Documents may also be served on lawyers, notaries, court-appointed enforcement officers, tax consultants and public law authorities, bodies and institutions by fax.

As proof of service, the confirmation of receipt that has been signed and dated by the addressee is sufficient. The confirmation of receipt can be returned to the court on a pre-printed paper form, by fax or as an electronic document.

Service by SMS is not permitted.

#### **7 'Substituted' service**

If it is not possible to serve the documents on the addressee directly, a procedure called "substituted service" may be followed instead.

**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)?**

##### **Substituted service on a "substitute recipient"**

The first option is substituted service at the residence, at business premises, and at institutions (Section 178 of the German Code of Civil Procedure).

According to this procedure, substituted service may be performed if the person on whom documents are to be served is not present at his or her residence, business premises, or an institution in which he or she is a resident.

Substituted service is performed by physically delivering the document to one of the following people:

At the residence of the addressee: an adult family member, a person employed by the family or an adult housemate who resides permanently at the accommodation

At the business premises of the addressee: a person employed there

At institutions: the head of the institution or a duly authorised representative

However, substituted service on the persons named above is not permitted if the person concerned is involved in the legal dispute as an opponent of the person on whom documents are to be served.

##### **Substituted service by placement in the letterbox**

If substituted service at the residence or business premises could not be performed, substituted service by placement in the letterbox is possible instead (Section 180 of the German Code of Civil Procedure). In this case, the document must be placed in a letterbox belonging to the residence or the business premises.

##### **Substituted service by deposit of the documents**

If it is not possible to perform substituted service at the addressee's place of residence or to perform substituted service by placement in the letterbox, substituted service may be achieved by depositing the document with the court (Section 181 of the German Code of Civil Procedure).

The document can either be deposited with the court registry of the local court (*Amtsgericht*) having jurisdiction for the place of service or, if the postal service has been entrusted with serving the document, at a location determined by the postal service at the place of service or at the location of the local court.

A written notification of such deposit must be submitted to the addressee in the standard manner for delivering regular letters. If this is not possible, the written notification must be affixed to the door of the residence, the business premises, or the institution.

The deposited document must be kept available for collection for three months. If it has not been collected by the end of this period, it has to be returned to the sender.

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

In the case of substituted service at the residence, at business premises, and at institutions (Section 178 of the German Code of Civil Procedure), service is performed by physically delivering the document to the substitute person.

In the case of substituted service by placement in the letterbox (Section 180 of the German Code of Civil Procedure), the document is deemed to have been served as soon as it is placed there.

In the case of substituted service by deposit of the documents (Section 181 of the German Code of Civil Procedure), the document is deemed to have been served as soon as the written notification is submitted.

##### **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 only must the documents be deposited, but a written notification must also be submitted at the address of the person on whom the documents are to be served, using the designated form and in the standard manner for delivering regular letters. If this is not possible, it must be affixed to the door of the residence, the business premises or the institution.

##### **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 the addressee is at home but refuses to accept the document, a distinction must be drawn between the following scenarios:

If the refusal is justified, the service procedure must recommence from the beginning. An example of a justified refusal would be if the address were incorrect or if the addressee had not been identified precisely.

If the refusal is not justified, the document must be left at the residence or the business premises. If the addressee does not have a residence or any business premises, the document must be returned to the sender. If the document to be served is refused without justification, the document is still deemed to have been served (Section 179 of the German Code of Civil Procedure).

#### **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?**

According to Article RL141.3 of the supplementary provisions for letter post of the Universal Postal Union Convention, the signature on a return receipt may also be obtained from another person who is authorised to accept delivery of the mail on the basis of national regulations. (As a designated operator for

international postal traffic, Deutsche Post AG refers to this person as a "substitute recipient" ("*Ersatzempfänger*"), as defined by its general terms and conditions for letter post (*Allgemeine Geschäftsbedingungen Brief*.) Substitute recipients can take the form of the persons specified in Section 178 of the German Code of Civil Procedure as listed under 7.1 above.

**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?**

According to Article RL 151 of the supplementary provisions for letter post of the Universal Postal Union Convention, the postal service must keep the mail ready for collection if the attempt to serve the documents fails. Deutsche Post AG will only deliver registered mail to the addressee in person or to someone who has been authorised by the addressee in writing to accept the delivery.

**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?**

According to Article 151.5.3 of the Universal Postal Convention, the safekeeping period is defined by the respective national regulations. However, it must not exceed a period of one month. Once the addressee has been notified of the mail, Deutsche Post AG keeps it for one week. The delivery agent will leave a notification in the addressee's letterbox with details of the branch from which the mail can be collected and how long it will remain available for collection.

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

Yes. To prove that the documents have been served, a record of service must be made on the pre-printed form provided for this purpose and immediately returned to the registry of the court (Section 182 of the German Code of Civil Procedure). This contains all the details required for proof of service, including in particular:

The name of the person on whom the document is to be served

The name of the person to whom the document has been physically delivered

The place, date and – at the order of the court – the time of service

Surname, forenames and signature of the delivery agent and, where applicable, the details of the commissioned company or requested authority

In the event of service at the instigation of the parties, the record of service must be sent to the party on whose behalf the documents have been served (Section 193(3) of the German Code of Civil Procedure).

In cases of substituted service, special requirements apply: In these cases, the reason for substituted service must always be included in the record as well.

In the event of substituted service by deposit of the documents, a note must be made on the record to indicate how this deposit has been communicated in writing. If acceptance of the document is refused without justification, a note must be made on the record to indicate who refused to accept it and that the letter has been left at the place of service or has been returned to the sender.

In certain legal scenarios, no record of service is required as proof:

When a document is served by physically delivering it to the official premises of the court, a note on the document and in the files to indicate that it has been served and when this took place constitutes proof of service (Section 173, second sentence of the German Code of Civil Procedure).

When a document is served on a lawyer, a confirmation of receipt from the lawyer constitutes sufficient proof (Section 174(1) and (4) of the German Code of Civil Procedure).

In the event of service by registered mail with return receipt requested, the return receipt constitutes sufficient proof (Section 175, second sentence of the German Code of Civil Procedure).

The same applies when documents are served abroad using the "by registered mail, return receipt requested" procedure (Section 183(1) point 1, (2) first sentence of the German Code of Civil Procedure).

Where documents are served abroad with assistance from authorities of the foreign state or the consular mission of the Federal Republic of Germany (*konsularische Vertretung des Bundes*) or the Federal Foreign Office (*Auswärtiges Amt*), confirmation by the requested authority constitutes proof of service (Section 183(1) points 2 and 3, (2), second sentence of the German Code of Civil Procedure).

**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?**

As a basic principle, service is rendered invalid if it fails to adhere to the legally prescribed form and thereby breaches fundamental regulations.

The law allows for exceptions to this principle which take account of the purpose of service, namely to prove whether the addressee received the document to be served and, if so, when.

If it is not possible to prove that a document has been served in due form or if the document has been received in violation of mandatory regulations governing service of documents, the document is deemed to have been served at the point in time when the document was actually received by the person to whom service of the document was or could be legally addressed (Section 189 of the German Code of Civil Procedure). In this case, the defect in the service is remedied. The court has no discretionary powers over the remedying of service regulation breaches. Even in cases where service triggers a fixed deadline, i.e. a non-negotiable deadline, a remedy may still be effected if the aforementioned conditions apply.

If the addressee does not receive the document to be served, two different scenarios are possible:

If service violates fundamental regulations, there can be no remedy. This means that the service procedure is invalid and must be performed again from the beginning.

If service has been performed in accordance with the legal regulations, notice is assumed to have been given by virtue of the substituted service provisions. Nevertheless, if – through no fault of his or her own – a party remains unaware that documents have been served, restoration of the status quo ante is possible (Section 230 et seq. of the German Code of Civil Procedure.)

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

A distinction must be drawn between automatic service and service at the instigation of the parties.

In the context of certain proceedings, where the fees are based on the amount in dispute, the procedural fee covers the first ten times that documents are served. In the event of documents being served subsequently and whenever documents are served in the context of other proceedings, a flat-rate charge of €3.50 will be levied each time documents are served with a record of service, by registered mail with return receipt requested or by an employee of the judiciary. Service at the instigation of the parties is performed by the court-appointed enforcement officer. To arrange service by handing the document(s) over to the postal service, the court-appointed enforcement officer will charge a fee of €3.00. In addition to this, charges are payable to cover the cost of the necessary photocopies and postage. If a document has been entrusted to the court-appointed enforcement officer for the purpose of serving it and it has to be certified, a special fee equal to the flat-rate document fee is payable. This is €0.50 per page for the first fifty pages and €0.15 for each subsequent page. If the document is served by the court-appointed enforcement officer in person, the fee is €10.00. In this case, the court-appointed enforcement officer must also be paid travelling expenses of between €3.25 and €16.25, depending on the distance to be covered in order to reach the addressee.

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## Service of documents - Estonia

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

Service of a judicial document means delivery of a document to its recipient in a manner that allows recipients to examine the document in time to exercise and protect their rights. Chapter 34 of the Code of Civil Procedure provides various manners of service, including service by registered letter, electronically, through a bailiff, service on a representative of the recipient, service of a judicial document by sending, and by public announcement by publishing it in the publication *Ametlikud Teadaanded* (Official Announcements). For a judicial document to be deemed as served, the act of delivering the document must meet the formal requirements of law, and be documented in the format drawn up for the purpose.

### 2 Which documents need to be served formally?

Pursuant to Section 306(5) of the Code of Civil Procedure, the following documents served by a court on the participants in a proceeding the following documents: the statement of claim, the statement of appeal and supplements to this, summonses, court judgments, rulings on termination of proceedings, and any other judicial documents specified by law.

### 3 Who is responsible for serving a document?

The court arranges for the service of judicial documents through a professional provider of postal services, a bailiff, a court security guard or, in conformity with the internal rules of the court, another competent court official. It may also serve the documents in another manner specified by law. A participant in a case who has submitted a document that needs to be served or who requires another judicial document to be served may apply to the court for arranging the service of the document independently. A participant in a proceeding may serve judicial documents only through a bailiff. In such a case, the service and documentation of the service take place under the same conditions as the service by the court through a bailiff. The court assesses whether the judicial document can be deemed as served.

## 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 institution receiving the request (Ministry of Justice (*Justitsministeerium*) or court) also verifies, in addition to the existing data, the fact that the person is registered in the Population Register (*Rahvastikuregister*) and/or the Commercial Register (*Äriregister*).

### 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 can be used by everybody for free and it is possible to view company addresses there. The Commercial Register can be found at <https://ariregister.rik.ee/>.

In order to establish the address of a private person, an official query can be made to obtain data entered in the Population Register. The query must set out why the data are necessary in order for the data processors to decide whether issuing the data is justified. The Population Register is administered by the IT and Development Centre of the Ministry of the Interior (*Siseministeerium*), whose website contains information about queries, and is available at <https://www.smit.ee/>.

### 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?

Courts process international requests for the service of documents and taking evidence on petition, i.e. courts have an obligation to make every effort in order to establish the address of the person concerned.

### 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)?

The decision on how to serve the document is generally made by the body conducting proceedings. However, courts should primarily serve documents electronically, either through the relevant public e-File portal or by e-mail. The requirement to prioritise electronic service of documents is not set out in law, but it helps the court to save on postal charges. The general trend is towards a constant increase in the use of electronic service. After considering electronic service, the court will consider other alternatives, such as service by post, service by a court messenger and various other options set out by law.

### 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 is permitted in all proceedings.

Pursuant to Section 3111 of the Code of Civil Procedure, judicial documents are served electronically through the designated information system, by sending a note to the participants in the proceedings to tell them that the document is available in the system. The court makes all judicial documents, including court decisions, immediately available to the participants in the proceedings via the information system, regardless of how the documents were served on the participants during the proceedings. An identity card is needed to log into the information system. A judicial document is deemed to be served when the recipient opens it in the information system or confirms receipt without opening the document. The same applies if this is done by another person, whom the recipient has granted access to see the documents in the information system. The information system registers the service of the document automatically. If a recipient cannot be expected to be able to use the information system used to serve judicial documents, or if serving documents through the information system is technically impossible, the court may also service judicial documents electronically in another manner. In this case the document is deemed to be served when the recipient confirms receipt of the judicial document in writing, by fax or electronically. The confirmation must set out the date of receipt of the document and bear the signature of the recipient or their representative. A confirmation prepared in electronic form must bear the digital signature of the sender or be transmitted in another secure manner that makes it possible to identify the sender and the time it was sent, unless the court has no reason to doubt that the confirmation without a digital signature has been sent by the recipient or their representative. The confirmation must be sent to the court without delay. A court may fine a participant in a proceeding or their representative for violating this obligation.

Judicial documents may only be served on advocates, notaries, bailiffs, trustees in bankruptcy and state or local government agencies in a manner other than the electronic method if there is a good reason for this.

### 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)?**

Pursuant to Section 322(1) of the Code of Civil Procedure, if the recipient of a judicial document cannot be reached in his or her home, the document is also deemed to be served if it is delivered to a person of at least fourteen years of age who lives with the recipient or serves the recipient's family. Subsection 2 of the same section states that, instead of serving a judicial document on the recipient, it may be served on the apartment association managing the apartment building where the recipient's home or business is located, the administrator of a jointly property, or the recipient's landlord. Likewise, it may be served on the recipient's employer or another person for whom the recipient provides services under a contract. A judicial document is deemed to be served on the recipient pursuant to subsection 3 even if it is served on the recipient's representative in one of the ways specified in subsections 1 and 2 of the same section. Pursuant to Section 322(4) of the Code of Civil Procedure, a document is also deemed to be served on a person who is serving in the defence forces, serving a sentence in prison or staying in a health care institution or similar place for a prolonged period of time, provided that the document is delivered to the head of the institution or someone appointed by them, unless otherwise prescribed by law.

Section 323 of the Code of Civil Procedure states that, if a document is being served on a natural person engaging in economic or professional activity, but this person does not remain in the business premises during regular working hours or is unable to receive the document, then the document may be delivered to an employee who usually remains in the business premises of the recipient, or to a person who usually provides services to the recipient on similar contractual basis. The same also applies, pursuant to subsection 2, to service of documents on legal persons, administrative agencies, notaries and bailiffs, as well as in the case of serving of a document on the recipient's representative or any other person on whom the document may be served instead of the recipient.

In accordance with Section 326 (1) of the Code of Civil Procedure, a judicial document that cannot be served because it cannot be delivered to the home or business premises of the recipient or their representative can be considered served if it is placed in the post box which belongs to the home or business premises, or in a similar place that the recipient or their representative uses to receive mail and that would protect the document against the elements in normal circumstances. A judicial document may be served in this way on the apartment association managing the apartment building where the recipient's home or business premises are located, the administrator of a jointly owned property or the recipient's landlord, as well as on the recipient's employer or another person to whom the recipient provides services under a contract only if it is impossible to serve the document on the recipient or their representative in person. Serving the document in the manner described in subsection (1) of this section is, pursuant to subsection 2 of the same section, permitted only if efforts have been made to deliver the judicial document to the recipient personally on at least two occasions at least three days apart and at significantly different times, and if it is also impossible to serve the judicial document on another person staying in the home or business premises in conformity with Section 322(1) or Section 323 of the Code of Civil Procedure.

Section 327 of the Code of Civil Procedure also allows the judicial document to be served by being deposited at a specific location. Pursuant to Section 217 (1) of the Code of Civil Procedure, on the conditions provided in Section 326 of the Code, a document may also be deposited with the post office, rural municipality or city government responsible for the place of service of the document, or with the office of the county court within the territorial jurisdiction of which the place for serving the document is located.

Pursuant to Section 317(1) of the Code of Civil Procedure, based on a court ruling, a participant in proceedings may be served a judicial document by public announcement if:

the address of the participant in the proceedings is not entered in the register or the person does not live at the address entered in the register and the court has no other way of knowing the address of the person or where they are staying, and the document cannot be delivered to a representative of the person or a person authorised to receive the document or in any other manner provided for in this section;

serving the document in a foreign state in line with the requirements is presumed to be impossible;

the document cannot be served because the place of service is the home of an extra-territorial person.

Pursuant to Section 317(3) of the Code of Civil Procedure, an excerpt from a document subject to public service is published in the publication *Ametlikud Teadaanded*. The court hearing the matter may make a ruling on allowing publication of the excerpt in other publications as well.

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

If a document is served pursuant to Sections 322 and 323 of the Code of Civil Procedure, it is deemed to be served once it has been delivered to the person to whom the document should be delivered in accordance with Sections 322 or 323 of the Code of Civil Procedure.

If a document is served by being placed in a post box pursuant to Section 326 of the Code of Civil Procedure, it is deemed to be served once it has been placed in the post box.

If a document is served by being deposited, pursuant to Section 327 (3) of the Code of Civil Procedure, it is deemed to be served once three days have passed from the written notice specified in subsection 2 of the same section being left or sent on. The date of service is entered on the envelope of the document.

In the event of public service, a judicial document is deemed to be served once 30 days have passed from the date the excerpt was published in *Ametlikud Teadaanded* (Section 317(5) of the Code of Civil Procedure). The court hearing the matter may set a longer term for deeming a document to be served. In this case, the term is published together with the public service of the document.

**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?**

If a judicial document is served by being deposited, pursuant to Subsection 327(2) of the Code of Civil Procedure a written notice concerning this is left at or sent to the address of the recipient. If this is impossible, the notice is attached to the door of the home, business premises or place of stay of the recipient or issued to a person living in the neighbourhood for them to forward it to the recipient. The notice must clearly state that the document deposited has been sent by the court and that the document is deemed to be served as soon as it has been deposited, and terms in the proceedings may begin to run starting from that time.

**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?**

Pursuant to Section 325 of the Code of Civil Procedure, if a person refuses to accept a document without good reason, the document is deemed to have been served on the person at the time when they refused to accept the document. In this situation, the document is left in the home or business premises of the recipient, or placed in their post box. In the absence of any premises or post box, the document is returned to the court.

**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?**

Pursuant to Section 3161(5) of the Code of Civil Procedure, which covers the implementation of Regulation (EC) No 1393/2007 of the European Parliament and of the Council, and on the basis of this Regulation, documents are served in Estonia in line with the procedure set out for serving of judicial documents in the Code of Civil Procedure. Documents may not be served by public announcement.

Pursuant to Section 313(2) of the Code of Civil Procedure, a judicial document that is served may be handed over to a person who is not the recipient only in the cases provided by Part VI of the Code of Civil Procedure. This person must hand the document over to the recipient at the earliest opportunity. They may refuse to accept the document for delivery to the recipient only if they prove that they are unable to deliver the document to the recipient. The obligation to deliver the document must be explained to the person. The document is deemed to be served regardless of whether or not this explanation is given.

Thus, pursuant to Regulation (EC) No 1393/2007 of the European Parliament and of the Council, it is also possible to apply the manners of service described in point 2.1 above and provided for in Sections 322 and 323 of the Code of Civil Procedure:

Pursuant to Section 322(1) of the Code of Civil Procedure, if the recipient of a judicial document cannot be reached in his or her home, the document is also deemed to be served if it is delivered to a person of at least fourteen years of age who lives with the recipient or serves the recipient's family. Subsection 2 of the same section states that, instead of serving a judicial document on the recipient, it may be served on the apartment association managing the apartment building where the recipient's home or business is located, the administrator of a jointly property, or the recipient's landlord. Likewise, it may be served on the recipient's employer or another person for whom the recipient provides services under a contract. A judicial document is deemed to be served on the recipient pursuant to subsection 3 even if it is served on the recipient's representative in one of the ways specified in subsections 1 and 2 of the same section. Pursuant to Section 322(4) of the Code of Civil Procedure, a document is also deemed to be served on a person who is serving in the defence forces, serving a sentence in prison or staying in a health care institution or similar place for a prolonged period of time, provided that the document is delivered to the head of the institution or someone appointed by them, unless otherwise prescribed by law.

Section 323 of the Code of Civil Procedure states that, if a document is being served on a natural person engaging in economic or professional activity, but this person does not remain in the business premises during regular working hours or is unable to receive the document, then the document may be delivered to an employee who usually remains in the business premises of the recipient, or to a person who usually provides services to the recipient on similar contractual basis. The same also applies, pursuant to subsection (2), to service of documents on legal persons, administrative agencies, notaries and bailiffs, as well as in the case of serving of a document on the recipient's representative or any other person on whom the document may be served instead of the recipient.

**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?**

In line with the second sentence of Section 3161(5) of the Code of Civil Procedure, no public announcement may be used when serving a judicial document pursuant to Regulation (EC) No 1393/2007 of the European Parliament and of the Council.

It is possible to serve a judicial document by placing it in a post box, pursuant to Section 326 of the Code of Civil Procedure, or, in accordance with Section 327 of the Code of Civil Procedure, by depositing the judicial document.

In accordance with Section 326(1) of the Code of Civil Procedure, a judicial document that cannot be served because it cannot be delivered to the home or business premises of the recipient or their representative can be considered served if it is placed in the post box which belongs to the home or business premises, or in a similar place that the recipient or their representative uses to receive mail and that would protect the document against the elements in normal circumstances. A judicial document may be served in this way on the apartment association managing the apartment building where the recipient's home or business premises are located, the administrator of a jointly owned property or the recipient's landlord, as well as on the recipient's employer or another person to whom the recipient provides services under a contract only if it is impossible to serve the document on the recipient or their representative in person. Serving the document in the manner described in subsection (1) of this section is, pursuant to subsection (2) of the same section, permitted only if efforts have been made to deliver the judicial document to the recipient personally on at least two occasions at least three days apart and at significantly different times, and if it is also impossible to serve the judicial document on another person staying in the home or business premises in conformity with Section 322(1) or Section 323 of the Code of Civil Procedure.

Section 327 of the Code of Civil Procedure also allows the judicial document to be served by being deposited at a specific location. Pursuant to Section 217 (1) of the Code of Civil Procedure, on the conditions provided in Section 326 of the Code, a document may also be deposited with the post office, rural municipality or city government responsible for the place of service of the document, or with the office of the county court within the territorial jurisdiction of which the place for serving the document is located.

Article 14 of Regulation (EC) No 1393/2007 of the European Parliament and of the Council, states that judicial documents must be handed over with acknowledgement of receipt, it is questionable whether the service, as applied in the cases set out in Sections 326 and 327 of the Code of Civil Procedure, is admissible.

**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?**

Pursuant to Section 6(1) of the "Requirements for forwarding of registered items and insured items in the framework of the universal postal service" approved by Regulation No 57 of the Minister of Economic Affairs and Communications of 22 June 2006, if the recipient of an item of correspondence is not at his or her place of residence or location at the time of service, a notice from the nearest post office to the location in question will be left for the recipient, explaining that the delivery was carried out.

If the sender has not made any other notations in the delivery notice about service in another manner, judicial documents will be deposited in the post office for up to 15 days from the second sending attempt, unless the sender has provided a different timeframe. Once the period expires, judicial documents are formally returned to the sender along with the grounds for returning, and are issued to the sender's representative who signs for them (Terms and conditions of service of AS Eesti Post for delivery of judicial documents).

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

Pursuant to Section 306(2) of the Code of Civil Procedure, when a judicial document is served, the act of delivery must meet the formal requirements provided by law and be documented in the format prescribed for the purpose. Pursuant to Section 307(4) of the Code of Civil Procedure, the dispatch of a judicial document intended for service must be entered in the court file. Pursuant to Section 3111 of the Code of Civil Procedure, the designated information system registers the service of a judicial document automatically (see the description of service through the information system in point 6 above). Pursuant to Section 313 of the Code of Civil Procedure, service of a document by registered letter is certified by the delivery notice. When a document is sent by unregistered letter or fax, it is deemed to have been served if the recipient sends the court a confirmation on the receipt of the document by letter or fax or electronically, as chosen by the recipient. The confirmation must set out the date of receipt of the document and bear the signature of the recipient of the document or their representative. Pursuant to Section 315(5) of the Code of Civil Procedure, a delivery notice is prepared concerning service of a judicial document through a bailiff, court official, or another person or institution. After service, the delivery notice is returned to the court without delay.

Upon service of a judicial document on the basis of Section 3141 of the Code of Civil Procedure, if it is served by being sent, a note is made in the file, setting out where and when the document or information about making it available was sent, unless sending is registered automatically in the information system created for the purpose.

**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?**

Pursuant to Section 307(3) of the Code of Civil Procedure, if a document reached a participant in a proceeding on whom the document had to be served or on whom the document could be served pursuant to law but it was not possible to certify the service, or if the procedure for service provided by law was violated, the document is deemed to be served on the participant in the proceeding only from the time at which the document actually reached the recipient. Upon service by registered letter pursuant to Section 313 of the Code of Civil Procedure, the court may deem a delivery notice that does not meet the formal requirements provided in subsections 3 and 4 of the same section as being adequate for the purpose of service if service is still reliably documented in the delivery notice. If the court cannot deem a judicial document as served because the provider of postal services failed to serve the document correctly, the court may give the judicial document to the provider of postal services to be served again at no cost to the court. Examples of failure to serve the document correctly include not using all the options outlined in this Act when serving the judicial document by registered letter, delivering the judicial document to a person to whom it should not have been delivered pursuant to the provisions of this section, failing to comply with the requirements provided in Section 326 of this Code for serving of a judicial document by placing it in a post box or in Section 327 of this Code for serving of a judicial document by depositing, or failing to document the service correctly, meaning that the service could not be considered as having been carried out.

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

On the basis of Regulation (EC) No 1393/2007, the service of materials is generally without charge, except if service through a bailiff is requested. If judicial documents were served through a bailiff, the fee payable to a bailiff for the service of judicial documents is, pursuant to Section 48(2) of the Bailiffs Act, EUR 30 if the documents could be served on the addressee or their legal representative: 1) via the address or telecommunications data entered in the Population Register or via the e-mail address: [isikukood@eesti.ee](mailto:isikukood@eesti.ee); or 2) at an address entered in the register of sole proprietors and legal persons maintained in Estonia or via the telecommunications data registered in the information system of the aforementioned register. Pursuant to subsection 3, if a judicial document could not be served even though the bailiff did everything necessary and reasonably possible for the service of the document pursuant to the procedure set out in law, the bailiff has the right to demand a fee of EUR 30 by issuing a decision on the bailiff's fee and the instrument of service concerning what steps the bailiff has taken in order to serve the document. In cases other than those specified in subsections 2 and 3, the fee payable to a bailiff for serving judicial documents is EUR 60.

The size of postal charges arises from the price list of the service provider; no fixed fee has been regulated at the legislative level. The price arises from the weight of the letter, where it is being served, etc. The average price in 2014 was EUR 5.70 per document parcel. When using a court messenger, the cost per document parcel is EUR 6.20.

**Further information can be found in:** [The Code of Civil Procedure](#)

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## Service of documents - Ireland

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

The purpose of service is to ensure that defendants know the nature of the claim against them and are aware of the documents relating to the claim. The rules of court contain specific requirements to ensure that proper service is effected.

**2 Which documents need to be served formally?**

Any documents by which civil proceedings in the District, Circuit or High Courts are instituted (including appeals from a lower court) and all subsequent documentation in the proceedings.

**3 Who is responsible for serving a document?**

The party on whose behalf the document purports to be issued or a person so authorised by him/her in that regard is responsible for serving the document.

**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?**

No. The address for service must be provided by the requesting 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?**

No. There is no central address/residence register for individuals. The registered address of a company may be found by carrying out a search on the Companies Registration Office website.

**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 request is dealt with by the Circuit Court as a request under Regulation 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)?**

In the District Court service may be effected by

(i) Registered post

(ii) Recorded delivery prepaid post

(iii) Delivery by hand in a sealed envelope to a person other than the person on whose behalf it purports to be issued

(iv) Personal service or service on a relative over the age of sixteen years of age residing with the defendant.

In the Circuit Court almost all documents are served by registered post.

In the High Court, Order 9 Rule 2 of the Rules of the Superior Courts provide for personal service of an originating summons on an individual and also allows for non-personal service if due and reasonable diligence has been exercised in endeavouring to effect personal service. Subsequent documentation is

usually served by registered post. (See Order 121 RSC, 1986 as amended). Section 51 of the Companies Act 2014 provides for service of documents by ordinary prepaid post on the registered office of a company registered in Ireland and Section 1310 of the Companies Act 2014 by the same means on an external company

**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 permitted.

#### **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)?**

Personal service or service by registered post are the usual methods of service. If Irish legal proceedings need to be served by another method such as by ordinary pre-paid post, fax, e-mail or advertisement, then an application is made to court for 'substituted service' and if granted, the proceedings can be served by the alternative method permitted by the court.

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

If service is effected pursuant to an order for substituted service, the documents are deemed served when the terms of the court order have been complied with. Where service is effected by post, there is a statutory presumption of service of the documents when they are delivered in the ordinary course of post. This is a rebuttable presumption.

**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?**

If service has been effected pursuant to court order, then the addressee is informed in the manner set out in the court order. If the documents are served by registered post and the addressee is unavailable, then the postal staff leave a notice at the address requesting that the addressee attend at the post office to collect a registered post document. The letter is usually held at the post office for a week to ten days.

**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?**

There are no consequences for refusing to accept service. Where it has not been possible to effect service in Irish legal proceedings, an application can be made to the court for an extension of time for service or to substitute an alternative method of service or both.

#### **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?**

For unregistered post, the document will be delivered to the address. For registered post, the document will be delivered to the named person only. This applies equally to internal and international post.

**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?**

As an alternative to postal delivery, Article 15 of Regulation No. 1393/2007 allows a person to effect personal service through a solicitor or a summons server.

**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 post office generally sets a deadline on the notice sent to the addressee. The notice is left at the addressee's address. The deadline is normally one week.

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

District and Circuit Courts: when service is effected by registered post a statutory declaration is sworn by the person who posted the envelope, not earlier than ten days after the day on which the envelope is posted, exhibiting the certificate of postage.

High Court: an affidavit of service is sworn by the person who effected service as a necessary proof for court. In the case of an originating summons details of service should be endorsed on the said summons within three days of service and the affidavit of personal service should refer to this.

**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?**

An application may be made to court to set aside any order made where notice of the court hearing has not been lawfully served on the respondent.

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

The costs will be that of postage or an agent's fee, if one is retained.

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### **Service of documents - Greece**

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

'Service of a document' is the means by which a document is delivered to the addressee, to inform him/her of the content of the document, in accordance with certain provisions of procedural law that specify the instrument, the method used to give notice of the document and certification of the service carried out.

#### **2 Which documents need to be served formally?**

Documents that need to be served officially include the documents of an action, an application to set aside a default judgment, an appeal, an appeal in cassation, an application for revision of a judgment, third-party proceedings, an application against extrajudicial and judicial acts, a primary or secondary intervention, notification of a trial and third party notice, an application for interim measures, an application for judicial protection in non-contentious proceedings, the summons to the hearing and all court judgments (final and non-final).

#### **3 Who is responsible for serving a document?**

Service is the responsibility of the party to a case following a written order given, under the document to be served, either by that party or his/her agent or, at the request of said party, by the competent judge or, in the case of a multi-member court, by the chairing judge of the court (Article 123 of the Code of Civil

Procedure (CCP)). Documents are served by a bailiff appointed by the court whose seat is in the region in which the addressee has his/her domicile or is resident at the time of service (122.1 CCP). Where service of documents takes place under the responsibility of the court, service may also be carried out by a criminal bailiff established in the region concerned or an officer of the Hellenic Police, a forestry ranger or the municipal secretary (122.2, 3 CCP). Furthermore, in proceedings for interim measures, the place and time of the hearing is notified by serving a document issued by the court registry, indicating the place, date and time of hearing, or by invitation of the court registry by telegraph or telephone. The judge may also order that a copy of the application be served along with the summons (686.4 CCP).

#### **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?**

Yes

**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, they do not have direct access, as can also be inferred from Regulation (EC) No 1206/2001, which provides that judicial authorities should communicate with one another in order to satisfy a request for tracing an individual.

It should also be noted that all residents in the territory of Greece are registered in the database of each municipality through the competent registry offices. However, the single national database includes only adult citizens, who are registered on the basis of their police identity card/passport, and which is updated as appropriate by the municipalities in Greece.

It is accessible to citizens (free of charge) only through public telephone directories.

**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 court of enforcement files a request for the tracing of an individual with the competent police authorities.

**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)?**

The regular method used for the serving of documents is to deliver the document concerned into the hands of the addressee (127.1 CCP), irrespective of where the addressee is (124 CCP). However, if the addressee has a domicile, shop or office or workshop in the place where the service is to be effected, either by himself/herself or with another person, or if he/she works there as an employee, worker or servant, the document cannot be served at a different place without his/her consent (124.2 CCP). With regard to any alternative methods which may be used, it is possible, by decrees issued upon a proposal of the Minister for Justice, Transparency and Human Rights, for documents also to be served by post or telegraph or telephone, also specifying how the service is to be carried out and certified (122.4 CCP). No such decrees have been issued to date.

**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.)?**

Judicial documents can be served by electronic means too, provided that they have been electronically signed. A judicial document that is served by electronic means is deemed to have been served if the sender has received electronic proof of receipt from the addressee, which must bear an advanced electronic signature and will constitute a service report (122.5 CCP). It should be noted that the above option for serving judicial documents by electronic means depends on the issue of a presidential decree upon a proposal of the Minister for Justice, Transparency and Human Rights, which will set out the more specific requirements to be met. Moreover, a joint decision of the Minister for Finance and for Justice, Transparency and Human Rights will also set out how fees and stamps are to be paid and collected for the judicial documents that are served by electronic means.

#### **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 the addressee is not at his/her residence, the document will be delivered to one of the other persons living in the same residence, provided that they are aware of their actions and are not opposing parties to the case (128.1 CCP).

If none of the persons referred to in paragraph 1 is at the residence:

(a) the document must be attached to the door of the dwelling in the presence of a witness;

(b) on the business day following the date of posting at the latest, a copy of the document, which is drafted free of charge, must be delivered into the hands of the head of the police department or station in the district in which the dwelling is located and, in the absence of the head, to the officer or deputy officer in charge or the guard of the police department. In all these cases, delivery must be evidenced by a receipt drafted free of charge under the service report;

(c) on the following business day, the individual who served the document must send by post to the addressee a written notice indicating the type of document served, the address of the residence at which the document was posted, the date of posting, the authority to which a copy was delivered and the date of delivery. Proof that the notice was posted must be drafted and signed free of charge under the service report by the person who carried out the service. The proof must indicate the post office at which the notice was posted, as well as the employee who received it, and the latter must endorse the proof (128.4 CCP).

If the addressee is not at the shop, office or workshop, the document shall be delivered into the hands of the manager of the shop, office or workshop or to one of the partners, associates, employees or servants, provided they are aware of their actions and are not opposing parties to the case (129.1 CCP).

If none of the persons referred to in paragraph 1 are present at the shop, office or workshop, the provisions of Article 128(4) of the CCP shall apply (129.2 CCP).

If the addressee or the persons referred to in Articles 128 and 129 refuse to accept service of the document or sign the service report or if they are unable to sign it, the serving officer shall attach the document to the door of the residence, office, shop or workshop in the presence of a witness (130.1 CCP).

If the addressee does not have a residence, office, shop or workshop, or refuses to accept service of the document, or is unable to or refuses to sign the service report, and his/her refusal or inability is confirmed by a witness hired by the serving officer to that effect, the report shall be delivered into the hands of those referred to in Article 128(4)(b) (130.2 CCP).

If the addressee is hospitalised or imprisoned and, therefore, it is impossible to contact him/her, as confirmed by the management of the hospital or prison referred to in the service report, the document can be served to the manager of the hospital or prison, who is under obligation to deliver the document into the hands of the addressee (131 CCP).

If the addressee is on duty on board a merchant ship which is in a Greek port, if he/she is absent or refuses to accept service of the document or refuses or is unable to sign the report, the document shall be served to the master of the ship or his/her deputy and, if they are absent or refuse to accept service of the document too, it shall be served to the head of the port authority, who is under obligation to notify the addressee (132.1 CCP).

If the addressee is on duty on board a merchant ship which is not in a Greek port, the document shall be served to his/her place of residence pursuant to Article 128 and, if he/she has no place of residence, it shall be served in accordance with the provisions on the service of documents to persons of unknown residence. In any event, the document shall be served at the office of the ship-owner in Greece or, otherwise, at the office of the ship agent at a Greek port, if any (132.2 CCP).

For persons in any of the following categories who are in active service, if it is impossible to serve a document to them or to their relatives or servants living in the same domicile, the document shall be served in accordance with Article 128(3) and (4) and as regards:

(a) those serving generally in the Hellenic Army, the document shall be served to the commander of the unit or station or agency to which the addressee belongs. If the unit or station or agency is unknown, the document shall be served to the chief of the relevant branch;

(b) officers, deputy officers and seamen of the Hellenic Navy, the document shall be served to the chief of the navy general staff;

(c) officers, deputy officers and aircraftmen of the Hellenic Air Force, the document shall be served to the chief of the air force general staff;

(d) officers and deputy officers of the Hellenic Police and Coast Guard, as well as policemen and coast guards, the document shall be served to the head of their service;

(e) the staff of lighthouses, lights and semaphores, the document shall be served to the head of the port authority in the region in which they carry out their duties (133.1 CCP).

If the addressee lives or has his/her registered office abroad, the document shall be served to the public prosecutor of the court before which the case is pending or to be brought for hearing or to the court that rendered the judgment to be served and, for cases brought before the district civil court, to the public prosecutor of the court of first instance of the region in which the district civil court operates. Any documents relating to the enforcement shall be served to the public prosecutor of the court of first instance in whose jurisdiction the enforcement takes place, and any extrajudicial documents shall be served to the public prosecutor of the last domicile or known residence abroad and, in the absence of a domicile or known residence abroad, the documents shall be served to the public prosecutor of the court of first instance of the capital city (132.1 CCP). Upon receipt of the document, the public prosecutor must, without undue delay, send it to the Minister for Foreign Affairs, the latter being under obligation to forward it to the addressee (134.3 CCP).

If the place of residence or the exact home address of the addressee is unknown, the provisions of Article 134(1) shall apply, and a summary of the judicial document served shall also be advertised simultaneously in two daily newspapers, one of them being published in Athens and the other being published at the place where the court has its seat, or both of them being published in Athens following a recommendation from the public prosecutor to whom a summary of the judicial document was served. The summary shall be drafted and signed by the person carrying out the service and must indicate the full names of the parties to the case, the type of judicial document served, the relevant request and, in the case of court judgments, the operative part thereof, the court before which the case is pending or to be brought for hearing, or the official who is to perform it and, if the addressee is summoned to appear or to carry out a certain act, the place and time of appearance and the type of act concerned must be indicated (135.1 CCP). The above shall also apply where the Ministry of Foreign Affairs confirms that it is impossible to send the document to a person residing or having their registered office abroad (135.3 CCP).

If the offices or shops referred to in Articles 128(4)(b), 131, 132 and 133 are closed or the authorities or persons referred to therein refuse to accept service of the document or sign the service report, the person carrying out the service shall draft a relevant report and deliver the document to the public prosecutor of the court of first instance in whose jurisdiction the place of service falls, and the public prosecutor shall then send the document to the person who refused to accept service or sign the report.

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

If the method of service contemplated in point 7.1 was used for a person who is hospitalised or imprisoned, or a seaman, military serviceman or person residing abroad, the document being served will be deemed to have been served as soon as it is delivered to the authorities or persons referred to in the above point, irrespective of when it was sent and received (136.1 CCP).

If the method of service contemplated in point 7.1 was used for a person who was not found at his/her domicile, provided that no adult relative residing at that domicile was found either, the document being served will be deemed to have been served as soon as it is attached to the door of the addressee's domicile, provided that all the requirements set out in point 7.1 with regard to the method of service are observed (i.e. service of the document into the hands of the head of the police department and mailing of a relevant written notice).

#### **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?**

As referred to in point 7.1, if the method of service contemplated for a person who was not found at his/her domicile was used, provided that no adult relative residing at that domicile was found either, after posting the document being served on the door of the addressee's domicile and delivering a copy thereof to the head of the police department, a written notice shall be mailed to the addressee, indicating the type of document served, the address of the domicile where the document was posted, the date of posting, the authority to which the document was delivered and the date of delivery.

#### **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?**

As referred to in point 7.1, if the addressee refuses to accept service of the document concerned or to sign the service report, the serving officer shall post the document on the door of the residence, office, shop or workshop in the presence of a witness. Upon posting the document, it will be considered as having been served.

### **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 this case, the postal service will deliver the document only to the addressee in person.

#### **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?**

In this case, the postal service will notify the absent addressee that the document will remain at the post office for a specific period of time, during which he /she may request it.

#### **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 the provisions laid down in point 8.2.

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

The person carrying out the service shall draft a report, which must contain (a) the service order, (b) a clear description of the document served and of the persons concerned, (c) the date and time of service, (d) the person to whom the document was served and the method of service in the event of absence or refusal of the addressee or the persons referred to in Articles 128 to 135 and 138 (139.1 CCP).

The report shall be signed by the person carrying out the service and the one receiving the document or, in the event of his/her refusal or inability, by the witness hired to that effect (139.2 CCP).

The person carrying out the service shall make a note of the date and time of service and sign the document served. This note constitutes proof to be used by the person to whom the document was served. If there is any discrepancy between the service report and the note, the report shall take precedence (139.3 CCP).

The report referred to in Article 139 shall be drafted in two originals, one to be delivered to the person who has ordered the service and the other to be kept, free of charge, by the serving officer. A short note shall be made of the service in a special book kept by the serving officer (140.1 CCP).

The bailiff must, upon request, provide copies of the original documents kept in his/her file to the person who has ordered the service and to the addressee, as well as to anyone having a legitimate interest, provided that approval has been given to that effect, by note made on the request, by the chairing judge of the court of first instance with its seat in the region in which the service took place (140.2 CCP).

**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 a party to a case was unable to observe a deadline due to *force majeure* or due to fraud on the part of the opposing party (e.g. invalid service by the bailiff or intentional failure of the person who received the document to notify the party to the case), he/she has the right to request restoration of the *status quo ante* (152.1 CCP) within thirty days of the date on which the obstacle that constituted the *force majeure* was raised or on which he/she was made aware of the fraud on the part of the opposing party (153 CCP).

If a person against whom a judgment was rendered by default was not summoned at all, or was not summoned legally or within the set deadline, he/she has the right to have the default judgment set aside within fifteen days of service of the judgment if he/she resides in Greece, or within sixty days of the latest advertisement of the summary of the judgment service report under Article 135(1) if he/she is of unknown residence or resides abroad (501, 503.1, 2 CCP).

If a party to a case has summoned the opposing party declaring that the latter was of unknown residence, despite being aware of his/her residence, the latter, if he/she has lost the case in all or in part, has the right to lodge an application for revision of the judgment rendered, within sixty days if he/she resides in Greece, or within one hundred and twenty days of service of the contested judgment if he/she is of unknown residence or resides abroad, or within three years of adoption of the contested judgment, provided that it is final or irrevocable, otherwise from the date on which it became final, if the judgment was not served at all (538, 544.9, 545.1, 2, 3, 5 CCP).

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

The service expenses shall be paid in advance by the person who orders the service (173.1, 3 CCP).

The party that loses the case shall be ordered to pay for these expenses, too (176, 189.1 CCP). The sum paid depends on the method and type of service used. The minimum service expenses amount to EUR 23.00 if the document concerned is served to a person who lives or resides in the area where the bailiff has his/her registered office.

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## Service of documents - Spain

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

'Service of documents' means transmitting documents.

The specific rules governing the service of documents determine the necessary conditions for making the submission of judicial or extrajudicial documents reliable and therefore make clear the time, place, manner, and person to which the document has been submitted, both for the proceedings (judicial documents) and outside the framework of the proceedings (extrajudicial documents).

**2 Which documents need to be served formally?**

Procedural decisions adopted in judicial proceedings must be served formally by the Judicial Administration Support Bureaux (*oficinas judiciales*) (Courts and Shared Centres for Transmitting Documents (*Servicios Comunes Procesales de Actos de Comunicación*)).

Judicial documents consist of:

1. Notifications, where these are intended to give notice of a decision or procedure.
2. Orders to act, requiring the addressee to appear in court and take some form of action within a deadline.
3. Summonses, specifying a place, date and time at which the addressee must appear in court and take some form of action.
4. Injunctions, ordering the addressee, in accordance with the law, to do or refrain from doing something.
5. Warrants, requiring the release of certificates or evidence or the performance of any other act which registrars, notaries or judicial officials are competent to perform.
6. Memoranda, for the purposes of communication with non-judicial authorities and officials.

Any document admitted by the court during the proceedings, whether provided by the parties, by third parties at the request of the court or produced by experts appointed by the court, must be served formally.

Extrajudicial documents (for example, notarial acts) as defined by the Court of Justice of the European Union in Case C-223/14 (Tecom Mican) are also served formally, even in the absence of judicial proceedings, as the Court of Justice held in Case C-14/08 (Roda Golf).

**3 Who is responsible for serving a document?**

Documents are served under the direction of the Court Registrar (*Ltrado de la Administración de Justicia*) (known as the '*Secretario Judicial*' until 2015) attached to each court, who is responsible for the proper organisation of process serving.

**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?**

No, the requesting authority must request the addressee's whereabouts by completing the standard form set out in Regulation (EC) No 1206/2001.

**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?**

Spain has no open register of this kind. However, Spanish courts do have available to them a number of restricted-access databases (the Punto Neutro Judicial network) which the Spanish legal authorities may use, where there is due cause, in order to make address and property inquiries. Thus, if the judicial authority does not know the address of the natural or legal person on whom the document is to be served, it must ask for an inquiry to be made by means of a search of the databases available to the courts.

To conduct the search, the authority will need the Spanish national identity card or tax identification details of the person to whom the inquiry relates, or their identification number as a foreign national residing in Spain. If the person concerned does not have such a Spanish identity document, the authority will need to provide other details in addition to the person's name and surname, such as their passport number, date of birth or nationality, since, without these details, the search may not yield any results. No fee is payable.

In addition, the parties can use other public registers to obtain address details. Access to these registers is subject to a fee which will vary according to the information sought.

**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?**

Once the competent Spanish authority has received a Form A, as set out in Council Regulation (EC) No 1206/2001 of 28 May 2001, requesting a search for a person's current address, the Judicial Administration Support Bureau will consult the databases containing personal and business address details.

If that form comes with a request for documents to be served under Regulation (EC) No 1393/2007 and the address inquiry shows that the Spanish authority does not have territorial jurisdiction to serve the documents in question, under Article 6(4) of the Regulation it must forward the request to the competent receiving agency and inform the transmitting agency accordingly using the standard form.

**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 direction of the Court Registrar (*Letrado de la Administración de Justicia*), documents may be served in any of the following ways:

1. Via a legal representative (*procurador*), in the case of documents addressed to persons represented by that representative in the proceedings.
2. By post, telegram, e-mail or any other electronic means providing a reliable record of the receipt, date and time of receipt and content of the documents served.
3. By personal delivery to the addressee of a verbatim copy of the decision to be notified to them, the injunction issued by the court or Court Registrar, or the summons or order to act.
4. In any event, by staff from the Spanish Courts Service (*Administración de Justicia*), using remote means, in matters involving the Public Prosecutor's Office (*Ministerio Fiscal*), the State Legal Service (*Abogacía del Estado*), the Legal Advisers to the Spanish Parliament and Legislative Assemblies (*Letrados de las Cortes Generales y de las Asambleas Legislativas*), or the Legal Services of the Department of Social Security (*Servicio Jurídico de la Administración de la Seguridad Social*), the other government departments of the Autonomous Communities or the local authorities, if the addressee has not appointed a legal representative.

Documents will be deemed lawfully served where the record of service contains adequate evidence that the documents in question were delivered to the person concerned at their home address, to the e-mail address authorised for use as such, via an electronic notifications portal or by any remote or electronic means chosen by the addressee.

**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 judicial files are being introduced in Spain on the basis of Law 18/2011 of 5 July 2011 regulating the use of information and communication technology in the Courts Service.

To implement this, interested parties may sign up to notification procedures in Electronic Courthouses (*Sedes Judiciales Electrónicas*).

Under Article 273(3) of the Law on Civil Procedure, all justice-sector professionals must use the remote or electronic systems in place in the Courts Service to submit documents (initiating documents or otherwise), and other documents, in a way that guarantees the authenticity of the submission and ensures there is a reliable and complete record of the submission and receipt of those documents, as well as the date of submission and receipt. In any case, at least the following entities must use electronic means when communicating with the Courts Service:

- a) Legal persons.
- b) Entities without legal personality.
- c) Professionals working in areas requiring registration in a professional organisation for any formalities and actions that they carry out with the Courts Service when exercising their professional activities.
- d) Notaries and registrars.
- e) Representatives of an interested party that must have electronic dealings with the Courts Service.
- f) Public administration officials for any actions and steps that they carry out because of their position.

## **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)?**

Where a copy of the decision or summons has to be sent by registered post or telegram with acknowledgement of receipt, or by any other similar means making it possible to place on file a reliable record of receipt of service, the date of receipt and the content of the document served, the Court Registrar must enter in the case file a statement giving details on the document's dispatch and its contents, and attach to the case file, where appropriate, the acknowledgement of receipt or the means by which receipt was recorded or the documentation provided by the legal representative to show that they have effected service.

Service by (public) notice may be authorised in Spain only by the judicial authority responsible for ruling on the action in the main proceedings, on the assumption that attempts to effect service at the addresses generated by the searches for the whereabouts of the person on whom the documents are to be served have failed (Article 164 of the Law of Civil Procedure). Consequently, the Court Registrar, as receiving agency for a request for service under



Regulation (EC) 1393/2007, may not authorise service by (public) notice as their role is not to hear the action in the main proceedings but merely to provide judicial assistance.

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

Documents will be deemed served provided that the requirements laid down by law for each type of service have been fulfilled.

In any event, the methods used will make it possible to enter in the case file a reliable record of receipt of the document served, the date and time of its receipt and its contents.

Where a copy of the decision or summons has to be sent by registered post or telegram with acknowledgement of receipt, or by any other similar means making it possible to place on file a reliable record of receipt of service, the date of receipt and the content of the document served, the Court Registrar must enter in the case file a statement giving details on the document's dispatch and its contents, and attach to the case file, where appropriate, the acknowledgement of receipt or the means by which receipt was recorded or the documentation provided by the legal representative to show that they have effected 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?**

If the notification or document cannot be delivered by post, the postal service will leave a note advising the addressee that the letter or document has been sent to them and that they may collect it within a specified period from a designated post office.

An attempt may also have been made to effect service by officials from the Judicial Administration Support Bureau, in which case a note specifying the period within which the document may be collected from the court will be put through the addressee's letter box.

Where the addressee is resident in the judicial district in which the court is situated, and the documents in question are not essential to representation by counsel or self-representation in the proceedings, the addressee may be sent, by any of the means referred to in the first paragraph, a notice of order to act requiring them to appear in that court for the purposes of the notification of a judicial decision or other procedural measure, the issue of an injunction or the disclosure of pleadings.

The notice will explain in due detail why the addressee is required to appear in court, specify the proceedings and the case to which the order to act relates and alert the addressee to the fact that, should they fail to appear without just cause within the period indicated, the transmission or disclosure will be deemed to have been effected.

#### **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 the addressee refuses to accept service without good reason, the documents will be deemed to have been served on them and will produce the same effects as they would have if they had been served, it being understood that the various procedural time-limits will begin to run from the day following the refusal (Article 161(2) of the Law of Civil Procedure (*la Ley de Enjuiciamiento Civil*)).

### **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?**

By law, postal items, depending on their type, must either be delivered to the addressee or a person authorised by them or else be deposited in post office boxes or put through residential letter boxes. A person will be deemed to be authorised by the addressee to take delivery of postal items at the latter's home address provided that they can prove their identity and assume responsibility for the items delivered, unless they expressly object to doing so.

#### **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 law must lay down rules applicable to situations in which postal items cannot, for any reason whatsoever, be delivered to the addressee or returned to the sender. Such rules will include those governing the procedure for ascertaining the addressee's address, the origin and destination of items, the hearing or summons to court of the senders of items, and the temporary storage, recovery and destruction of items.

#### **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 postal worker will leave a note informing the addressee that there is a letter to be collected from the post office indicated and within the time-limit given. Failure to collect the item within the specified time-limit will be recorded and the item will be returned to the sender.

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

The designated postal service operator will be presumed to be acting honestly and reliably in the distribution, delivery and receipt of process from administrative and judicial bodies, or in the event of refusal to accept, or impossibility of effecting, the service of such process, whether by physical or remote means.

Personal service by court staff will be documented in a written record in which the court official will indicate the outcome of the act of service. If that service can be effected on the addressee, the record of service will include the addressee's signature or an indication of their refusal to sign for receipt, together with a note to the effect that service is deemed to have been effected (see question 7.4).

Under Article 160(3) of the Law of Civil Procedure, if the address where an attempt is made to serve process is the addressee's home address according to the municipal register of addresses, for tax purposes or according to any other official register or publication of a trade association, or it is residential accommodation or any other premises rented to the defendant, and the addressee cannot be found there, process may be served, in a sealed envelope, on any employee or family member or person with whom they cohabit, over the age of 14, who is at that address, or on the caretaker of the building, should there be one, in any of which events the process server must inform the recipient that they are obliged to hand over the copy of the decision or summons to the person to whom it is addressed, or to notify that person of its existence, if they know the addressee's whereabouts, and must in any event alert the recipient to their responsibility to protect the addressee's data.

If the document is addressed to the addressee's place of non-casual work, it will, if the addressee is absent, be served on a person declaring that he knows the addressee or, if there is a unit responsible for taking receipt of documents or objects, on the person in charge of that unit, in which case the process server must bring to the recipient's notice the points mentioned in the preceding paragraph.

The name of the addressee of the document and the date and time at which the addressee was sought but found not to be at home will be entered in the record of service, as will the name of the person who takes receipt of the copy of the decision or summons and the latter's relationship with the addressee, any document served in this way being fully effective.

#### **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?**

Service not effected in accordance with the law will be invalid, since the person concerned may be left without a proper defence. According to CJEU case law (C-354/15 Henderson), if any notifications are not accompanied by a translation either in a language which that defendant understands, or in the official language of the requested Member State or, where there are several official languages in that Member State, in the official language or one of the official languages of the place where service is to be effected, or if the standard form set out in Annex II to that Regulation is not transmitted to the defendant, these notifications must be remedied in accordance with that Regulation by providing the interested party with the standard form set out in Annex II to that Regulation.

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

Where service is effected by a court, the Judicial Administration Support Bureau or the Shared Process Centre, the cost of service will be borne by the relevant judicial body and no fee will be payable by the requester.

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#### **Service of documents - France**

##### **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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## Service of documents - Croatia

**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/f?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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### **Service of documents - Italy**

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

Service of documents is a codified procedure whereby a natural or legal person can be informed of a legal step, with various effects set out in law.

The law provides specific procedures for service of documents so that it can be guaranteed that the addressees are legally apprised of such documents, which they must be if the document is to produce its intended effects. This means that, once the required procedure for service has been complied with, the addressee is deemed to have cognisance of the document, and there is no need to prove that the addressee is indeed acquainted with it; the document can then produce its desired effects in law.

#### **2 Which documents need to be served formally?**

Simple service (*comunicazione*) is carried out in cases where it is provided for by statute or ordered by the court; here a short notice is given of the document or of the fact that needs to be communicated. Simple service is effected to inform the parties or other persons involved in a court case that specified steps have been taken in the case or that certain procedural documents have been issued (e.g. the entry of a court judgment, a decision to schedule a hearing or to defer a hearing, or an order made by the court outside the formal hearings).

Formal notification (*notificazione*) must be carried out in cases where it is provided for by statute, and consists of the delivery of a certified copy of the original document to be served. Documents served in this way may emanate from the court (e.g. judgments where the time allowed for an appeal runs from the time of service) or from parties to a case (e.g. writs of summons to a hearing on the merits).

#### **3 Who is responsible for serving a document?**

Simple service is effected by the court registrar (the *cancelliere*; Article 136 of the Code of Civil Procedure – *Codice di Procedura Civile*, 'CPC').

Formal notification is effected:

- Generally by a bailiff (*ufficiale giudiziario*), on application by a party or by the prosecution service (*pubblico ministero*) or the registrar (Article 137 CPC). Bailiffs act in accordance with precise rules of territorial authority (Articles 106 and 107 of Presidential Decree (*Decreto del Presidente della Repubblica*) No 1229 of 15 December 1959). Bailiffs are the sole agents competent under Article 2 of Regulation (EC) No 1393/2007 for the transmission and receipt of documents for service in or from another Member State.
- In certain circumstances, by a lawyer (*avvocato*). A lawyer is permitted to effect formal notification either by post, provided that he or she holds an appropriate power of attorney in the case and is so authorised by the council of the bar (*Consiglio dell'Ordine*) at which he or she practises, or by direct delivery to the address of another lawyer who is authorised to accept service on behalf of one of the parties and who is registered with the same bar council as the lawyer effecting service (Law No 890/1982 and Law No 53/1994). Additionally, a lawyer does not need authorisation from the bar council to effect formal notification via certified email (*posta elettronica certificata*, 'PEC') to an email address obtained from the public registers (Article 3 *bis* of Law No 53 /1994).

### **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 receiving authority for Italy is the Single Office of Bailiffs at the Court of Appeal of Rome (*Ufficio Unico degli Ufficiali Giudiziari presso la Corte di Appello di Roma*, located in Rome at Viale Giulio Cesare 52); it transmits the request for service to the bailiff appropriate for the place.

If the addressee cannot be found at the address given by the requesting party, the bailiff will take the following steps:

- Natural persons: make enquiries with those living at the address given or with neighbours, make enquiries at the local population register office (*servizio anagrafe del comune*) (if the date and place of birth are indicated on the document).
- Legal persons: the bailiff returns the document to the requesting party so that the latter can request service to the addressee's legal representative. In this case, the name of the legal representative and his or her personal residence must be included in the document (Article 145 CPC).

#### **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 address must be provided by the requesting authority or party, which will obtain it from the documents available to it. If a search has to be made, a distinction has once again to be drawn between:

- **Natural persons:** In civil matters there is no central register; a certificate has to be sought from the local population register office, which will normally respond to reasoned written requests from the parties or their lawyers, and will indicate whether there is a fee (in Rome it is currently EUR 0.26 for each certificate) or anything else that is required (in general a stamped envelope with the applicant's address for the reply). Since 2016, population register certificates requested by law firms for the service of legal documents have been exempt from stamp duty, and if requested electronically are also exempt from the administration fee of EUR 0.26.
- **Legal persons and companies:** The register of companies is public, and is managed by the provincial chamber of commerce (*camera di commercio*). It can be consulted via the portal [registriimpresa.it](#). There is a fee of around EUR 7.00. There are also professional associations and web providers who will supply the desired information to subscribers..

#### **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?**

It is not possible to request an address in Italy on the basis of 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)?**

Simple service is made with a 'registry note' (*biglietto di cancelleria*), which can be in paper form or sent via certified email (PEC), as provided for in Article 136 CPC (as amended by Law No 183/2011). If it is in paper form the note is in two parts, one of which is sent by the court registrar to the addressee, who signs a receipt form, while the other is kept on file at the registry. If it is sent by certified email the note consists of the message sent to the address that the lawyer must have indicated in the summons or other initiating document.

Certified email became obligatory for simple service with the entry into force of Article 16(4) of Legislative Decree (*Decreto Legislativo*) No 179/2012, which provides that simple service and formal notification from the registry must be effected exclusively via electronic means to the PEC address. If it is not possible to serve via PEC the registry note can be sent by fax, or passed to the bailiff for formal notification.

Formal notification is effected by the bailiff; if the address is in the municipality (*comune*) in which the bailiff's office is located, the bailiff serves the document personally, whereas if the address is outside that municipality the bailiff serves the document by post (Articles 106 and 107 of Presidential Decree No 1229/1959) unless the requesting party or authority expressly demands personal service. Formal notification consists of delivery to the addressee of a certified copy of the original (Article 137 CPC) and must be effected between the hours of 07.00 and 21.00 on a weekday (Article 147 CPC).

**Formal notification by personal service:** The bailiff delivers the copy personally to the addressee, preferably at his or her home in order to protect his or her privacy, but otherwise anywhere within the limits of the bailiff's territorial authority.

Where a natural or legal person has indicated another person's residence or an office as an address for service, documents must be served on the person designated to receive service at that address, and this is deemed to constitute service on the addressee (Article 141 CPC). By way of exception to this rule, summonses with a view to eviction (*citazioni per convalida di sfratto*), enforceable titles (*titoli esecutivi*) and orders requiring payment (*precezioni di pagamento*) cannot be served to an elected address for service.

Service on State administrations must by law be effected at the State Legal Office (*Avvocatura di Stato*, Article 144 CPC).

In the case of service on a legal person, the document is delivered to the representative or other persons empowered to receive service at the registered office of the company, or, in the absence of such persons, to the doorkeeper, but in this case service may also be effected on a natural person who represents the company, applying the procedures for formal notification on natural persons, provided that the document to be served indicates that person as representative and also indicates their residence, abode or centre of interests (Article 145 CPC).

**Formal notification by post:** As an alternative to personal service, formal notification may be effected by post, unless expressly prohibited by law (as established by Article 149 CPC and by Law No 890/1982). If service is to be carried out in the municipality in which the bailiff's office is located, the bailiff may use the postal service; if service is to be carried out elsewhere, the bailiff must use the postal service. In these cases the copy of the document is placed in a special envelope for registered post, complete with an acknowledgement of receipt slip, both of them coloured green and following a standard form that allows them to be traced. This also enables the bailiff to effect formal notification outside his or her own territory.

#### **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.)?**

Since the entry into force of Article 16(4) of Legislative Decree No 179/2012, simple service by the registry takes place exclusively via electronic means to the certified email (PEC) address; this procedure now becomes the primary method of effecting simple service, and can be used in all kinds of proceeding. Only where it is not possible to communicate via PEC can the registry note be sent by fax, or passed to the bailiff for formal notification.

Formal notification may be carried out via certified email, for which purpose an electronic copy may be taken from the paper document (Article 149 *bis* CPC). This procedure is now to become the ordinary method of effecting formal notification as well, as an alternative to direct personal service into the hands of the addressee, and it can be used in all kinds of proceeding

In order for the procedure to operate properly, various parties are required to make their certified email address available on the appropriate registers: legal professionals, legal persons, commercial undertakings, and public bodies. This will allow the bailiff and the legal representative of a party to effect formal notification in the form of an authenticated electronic document, digitally signed, by delivery to the PEC address (Article 149 *bis* CPC) obtained from a public register.

The receipt of formal notification must contain a certificate of conformity of the digital copy with the document from which it is copied, and the service provider's records of acceptance and of delivery into the addressee's inbox, both of which contain the message's identification code.

It is not permitted to effect simple service or formal notification by other forms of electronic communication (for example via text message, or to an email address other than the PEC address), as these methods would not provide a legal guarantee that the addressee had received the message.

#### **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)?**

###### **Formal notification by personal service**

Service can also be effected at the addressee's habitual residence (*abituale dimora*), and if that is not known, in a municipality where he or she has a temporary abode (*dimora temporanea*), or in the municipality where he or she has established his or her main centre of business and interests (*domicilio*), after enquiries have been made at his or her home or office or place of business,

If the addressee cannot be found in these places, the copy, in a sealed envelope, may be delivered to a member of his or her family, or to a person employed in his or her home or business, but not to a minor aged less than 14 or to a person who is manifestly unfit to be entrusted with it. The copy, still in its sealed envelope, may also be delivered to the doorkeeper of the building or to a neighbour, who must sign the receipt form; in that case the addressee must be advised by registered letter, without acknowledgment of receipt, that service has been effected. If the addressee habitually lives on board a merchant vessel, the document may be handed to the ship's master (Article 139 CPC).

Article 146 CPC provides that service upon active military personnel, when personal service is not possible, is made to the prosecution service, which sends it to the commander of the corps to which the addressee belongs.

If service is not possible in any of the ways described, because the addressee is absent for the time being and the other persons who might receive the document are absent, or unfit, or refuse to accept the service, the bailiff will deposit the copy of the document, in a sealed envelope, at the town hall of the municipality where the notification is to be served, affix a notice of deposit in a sealed envelope to the door of the addressee's home or office, and send the addressee a registered letter with acknowledgement of receipt to inform him or her that the document has been deposited at the town hall (Article 140 CPC).

#### Formal notification where the addressee's residence, abode or centre of interests is unknown

The addressee must be sought using ordinary diligence and in good faith. If, however, the addressee cannot be found, service is effected by depositing a copy at the town hall of his or her last known place of residence or, if no place of residence is known, at the town hall of his or her place of birth. If that is also unknown, or if it is located abroad, the document is delivered to the prosecution service (Article 143 CPC).

#### Methods of service ordered by the court

On application or of its own motion, the court may order methods of service other than the codified procedures in particular circumstances or for reasons of urgency. These methods can be chosen freely, but they must protect the addressee's privacy and right to defend himself or herself (Article 151 CPC).

A common example is authorisation to send a package via a mail carrier who will guarantee very quick delivery. Other systems, such as the use of telegrams, are now obsolete.

#### Service by public announcement

On application by one of the parties, and after hearing the opinion of the prosecution service, the court may authorise service of this kind where there is a large number of addressees or where it is difficult to identify them all.

A copy of the document is deposited at the town hall of the municipality of the court of the proceedings, and an extract from the document is published in the Official Gazette (*Gazzetta Ufficiale della Repubblica*); the court can also order the publication of an extract in the most widely circulated newspapers, or use other forms of publicity (Article 150 CPC).

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

Personal service on persons other than the addressee: the date of service is the date of service on the person to whom the copy it was delivered. This is the date on which the addressee is legally deemed to have taken cognisance of the document, although he or she will in fact be acquainted with it only subsequently.

Formal notification under Article 140 CPC: The formalities required for such a notification are numerous, and not necessarily completed on the same day.

The case-law has provided a conclusive interpretation of the legislation: it has established that the date on which service is effected, in respect of the applicant, coincides with the final formality, namely sending the registered letter containing the notice of deposit at the town hall, while in respect of the addressee it is the date upon which the ten-day post office holding period expires, or the date on which the document is collected, if earlier.

Formal notification by post: The formal notification is deemed effective, in respect of the applicant, on the date on which the document is handed to the bailiff, while in respect of the addressee it takes effect only when the addressee is legally deemed to have cognisance of the document. This is the date of delivery of the document indicated on the acknowledgement of receipt; in cases of absence or refusal by anyone who might be able to take receipt, the document is deposited at the post office, and in that event the relevant date is the end of the ten-day post office holding period, or the date of collection if earlier. If there is uncertainty, however, formal notification is effective from the date of the stamp affixed by the post office to the notice returned to the sender.

An uncollected document will be available to the addressee for six months, so that he or she can nevertheless acquaint himself or herself with its contents.

#### Formal notification where the addressee's residence, abode or centre of interests is unknown

The document is considered to have been served 20 days after the deposit or delivery to the prosecution service.

#### Methods of service ordered by the court

The date of service depends upon the method chosen.

#### Service by public announcement

Service is effective when, following the required procedures, the bailiff files with the registry of the court before which the proceedings have been brought a copy of the record of service and of the documents demonstrating the action taken by the party at the request of the court (publication in the Official Gazette, etc.).

#### Formal notification by means of PEC

Service is deemed effective from the moment at which the service provider makes the computerised document available in the addressee's email inbox.

Thus the date of service is that of delivery, and there is no need to confirm that the recipient has read the message.

### **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?**

Notification in accordance with Article 140 CPC: The bailiff affixes to the addressee's door, in a sealed envelope, a notice setting out the essential purport of the document and an invitation to collect it from the town hall; the same notice is sent to the addressee by means of registered letter with acknowledgement of receipt.

The post office delivers this registered letter to the addressee, or to another suitable person; if no such person can be found, the document is deposited at the post office having responsibility for that district, for ten days, and another invitation to collect the document is left in the addressee's letterbox.

Formal notification by post: a postal worker who cannot find the addressee or another authorised person sends the addressee, by registered letter, a notice of deposit (*comunicazione dell'avvenuto deposito*, 'CAD') stating that the copy of the document has been deposited at the district post office; if the postal worker delivers the notification to an authorised person other than the addressee, he or she sends the addressee, again by registered letter, a notice of service (*comunicazione di avvenuta notifica*, 'CAN'). These notices of deposit or of service supplement the formal notification: the postal worker enters a note that they have been sent on the original acknowledgement of receipt. The notices are intended to ensure that the addressee can in fact acquaint himself or herself with the document, and do not affect the date of service, which remains the date of expiry of the ten-day post office holding period, or the date of collection, if earlier.

The postal worker can take these steps only if the addressee has a letterbox suitable for receiving correspondence, on which his or her name is written.

### **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 the addressee refuses formal notification by personal service, the bailiff records the fact in the record of service, and service is held to have been validly effected (Article 138 CPC).

In cases of formal notification by post, if the addressee refuses to accept the document or to sign the delivery register, the postal worker records the fact on the acknowledgment of receipt, and service is held to have been validly effected.

## **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?**

This area is governed by resolution 385/13/CONS of the Italian communications regulator (*Autorità per le Garanzie nelle Comunicazioni*, 'AGCOM') published in Official Gazette No 165 of 16 July 2013, available on the website <http://www.agcom.it>. The postal worker delivers the registered letter to the addressee at the address indicated, or to another suitable person as provided for by the legislation relating to the delivery of registered letters: a member of the addressee's immediate family, a cohabitant, a co-worker, a doorkeeper or a neighbour who accepts it. Registered letters addressed to organisations, legal persons and associations are delivered to the legal representative or to a responsible staff member.

**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 postal worker cannot find any suitable person, the document is deposited at the post office having responsibility for that district.

**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 post office holding period for legal documents is ten days; the postal worker responsible for the delivery informs the addressee that the document is being held by means of a notice in a sealed envelope sent by registered letter with acknowledgement of receipt which, if the addressee is absent, is affixed to the front door or placed in the letterbox of his or her home. This notice must contain an express request to collect the document within a maximum period of six months, with the warning that the formal notification will be considered to be served ten days after the document is deposited at the post office, and that if the document is not collected within six months it will be returned to the sender.

If the letter has not been collected by the addressee or by any representative of his or hers within ten days of the registered letter being sent, the acknowledgement of receipt must, within two days (this deadline is established by Law No 205/2017, and is applicable with effect from 1 June 2018), be returned to the sender by registered letter, specifying the date on which the holding period expired and, consequently, the formal notification became effective. If six months pass from the date on which the document was deposited at the post office and the addressee has not collected it, the document is returned to the sender.

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

The person effecting formal notification must enter the date, manner and place of service on both the notified copy and the original so as to allow an assessment to be made of the regularity of the procedure. He or she must indicate any searches carried out, including searches in the population register office (Article 148 CPC).

A record of formal notification by post must indicate the date and the post office sending the document. The acknowledgement of receipt to be returned to the sender must be attached as documentary proof that the document has been served.

When the postal worker indicates in the acknowledgement of receipt that the addressee is unknown or has left the address given on the envelope, service is not effected.

A bailiff's record is an official document, and unless it is shown to be false it is proof of what happened in the bailiff's presence and of the statements made to him or her; it is presumptive evidence of other circumstances that the bailiff did not ascertain personally (for example, the fact that the person who took delivery of the document was a family member or a person employed in the home of the addressee).

**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?**

Formal notification is null and void where the established procedures, which guarantee the principle that the party must be deemed to have cognisance of the document, have not been followed, that is to say when the rules concerning the person who is to take delivery of the copy have not been complied with, or if there is real uncertainty (*incertezza assoluta*) as to the person to whom or the date on which the document was handed over (Article 160 CPC).

Nullity of service can be remedied if the service has nevertheless achieved its purpose, for example if the addressee enters an appearance in court; otherwise a fresh attempt must be made to effect service.

Uncertainty concerning the date of notification must be real; it cannot be remedied if a deadline depends on it. Where there is a different date on the original and on the copy, the date indicated on the addressee's copy takes precedence, in order to guarantee the addressee's right to defend himself or herself.

The courts have held that there is no formal notification and that the absence of notification cannot be remedied when the document has not been served at all, or where it has been served in a location or to a person that is not linked to the addressee in any way. Nor can the nullity of a notification be remedied where there are discrepancies between the original and the copy such as to prevent the addressee from defending himself or herself properly. Where there has been no formal notification, no remedy is permitted, and the process of formal notification of the document must begin again.

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

In civil cases, the party that requests formal notification must cover the costs, consisting of fees payable to the Treasury (*erario*), as well as carriage and delivery charges owed to the bailiff for documents served away from the location of the bailiff's office.

This issue is regulated by Presidential Decree No 115 of 30 May 2002 (Consolidated Law on legal costs), which also fixes the amount of such costs. The party who initiates proceedings must pay in advance the fees, carriage and delivery charges for formal notifications served at the registrar's request, at a standard flat rate of EUR 27.00; for formal notifications requested by the parties, the applicant must pay a fee indicated in Articles 34 ff. of Presidential Decree No 115/2002, which varies in accordance with the number of addressees, the distance in kilometres and the urgency.

In other areas of law, including employment and welfare cases, separation and divorce proceedings, and cases in which a person of insufficient means is eligible for state legal aid, the party is exempt from paying the costs of service, which are charged to the Treasury.

Formal notifications requested under Regulation No 1393/2007 are exempt from costs, other than those occasioned by recourse to a bailiff or person competent under the law of the Member State addressed, which correspond to a single fixed fee laid down by that Member State in advance which respects the principles of proportionality and nondiscrimination (Article 11 of Regulation No 1393/2007).

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## **Service of documents - Cyprus**

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

'Service' means the official delivery of judicial and extra-judicial documents (the service of which is necessary) which can be proven in writing.

There are specific rules on the service which ensure the validity of the procedure and the rights of the parties.

### **2 Which documents need to be served formally?**

Any judicial documents which concern any proceedings before a court, such as orders, applications by call and documents initiating proceedings, as well as extra-judicial documents (which do not concern court proceedings but the official notification and service of which is necessary).

### **3 Who is responsible for serving a document?**

The Court Bailiffs In the case of a request for the service of documents which is received pursuant to the Hague Convention of 1965 on the Service of Judicial and Extrajudicial Documents, any bilateral agreement which Cyprus has signed and ratified pursuant to Regulation (EC) No 1393/2007, the document is received by the Ministry of Justice and Public Order as the designated central authority and is forwarded for service to the court bailiffs.

### **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?**

Generally not, unless it is provided with information on the new address at the address given.

#### **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?**

Not applicable.

#### **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?**

No such request has been received to date. In any event, there are doubts as to whether this matter may be the object of receiving evidence.

### **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)?**

In practice, the normal method of service is personal service, as provided by the Code of Civil Procedure. In the case of a legal person, the document may be served on any managing director, on the secretary of the company or on any responsible person at the company's offices.

As regards substitute methods of service, a court order must, upon request from a party, be issued, in accordance with the Code of Civil Procedure, allowing notification of the document through its display in a specified place or through its publication in a newspaper (or in any other manner which the Court deems appropriate under the circumstances).

No other alternative methods may be used at the present stage.

### **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.)?**

Please see the answer to question 5 above.

### **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)?**

Please see the answer to question 5 above.

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

Please see the answer to question 5 above.

#### **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?**

Please see the answer to question 5 above.

#### **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?**

Please see the answer to question 5 above.

### **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?**

Not applicable.

#### **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?**

Not applicable.

#### **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?**

Not applicable.

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

Yes. After the service, the court bailiff fills in the acknowledgment of receipt which indicates the reference particulars of the document served, the name and capacity of the person on whom the document has been served, the date and time of service, or, if the document has not been served, the reasons for which the service was not possible.

If service is made pursuant to Regulation (EC) No 1393/2007, the certificate laid down in Annex I thereto is issued, as provided for in Article 10 thereof.

**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?**

In such a case, the service is considered as void and cannot be remedied. If service was irregular, fresh service must be effected.

In the cases where the service was not made due to the person's objection to such service, the party wishing the service to be made must lodge to the Court an application for substitute service.

If the service has not been possible because the person on whom the document must be served could not be located, the person wishing the service to be made may alternatively notify the document after a relevant court order is issued.

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

The fee has been fixed at EUR 21.

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## Service of documents - Latvia

**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' (*izsniegšana*) of a judicial document means the timely delivery of the document to a recipient so as to enable the recipient to exercise and defend their rights. The Civil Procedure Law (*Civilprocesa likums*) provides for several different types of service, including registered post, electronic mail, service by a bailiff (*tiesu izpildītājs*), and service by a messenger (*ziņnesis*). A document is deemed to have been served when it is delivered in accordance with the formal requirements laid down by legislation and delivery is recorded in the form established for the purpose.

**2 Which documents need to be served formally?**

Judicial documents drawn up in accordance with Section 56(2) of the Civil Procedure Law: judgments, decisions, notifications, summonses, applications made in specific kinds of proceeding, appeals on points of fact or law, true copies of written submissions, and all documents drawn up and submitted to the court by parties to the case but served on other parties by the court itself.

**3 Who is responsible for serving a document?**

A document from another country will be served in Latvia by a bailiff.

The central body is the Council of Sworn Bailiffs of Latvia (*Latvijas Zvērinātu tiesu izpildītāju padome*).

Address: Brīvības iela 82-3, Rīga, LV-1001, Latvia

Telephone +371 67290005, fax +371 67290005

Email: [documents@lzi.lv](mailto:documents@lzi.lv)

**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 body that receives the request, the Council of Sworn Bailiffs of Latvia, in addition to the data supplied, will if necessary verify or clarify whether another address has been entered for the person concerned in the register of population (*Iedzīvotāju reģistrs*) or the enterprise register (*Uzņēmumu reģistrs*).

The Council of Sworn Bailiffs does not try to ascertain the correct address, but only to provide more precise information where necessary.

**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 basic particulars of an enterprise recorded in the enterprise register can be obtained free of charge:

<https://www.lursoft.lv/?l=en>

In order to ascertain the address of a private person, an official request can be submitted to the Office of Citizenship and Migration Affairs (*Pilsonības un migrācijas lietu pārvalde*) at the Ministry of the Interior. The request should indicate why the data is needed, so that the data processors can decide whether there are proper grounds for supplying it. The register of population is maintained by the Ministry of the Interior.

<http://www.pmlp.gov.lv/en/>

**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 Council of Sworn Bailiffs does not try to establish the correct address or trace a defendant: it merely provides a more precise address. But every request is considered individually, with special attention being paid to issues affecting the rights of children.

**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)?**

The document will be served by the bailiff, who will call on the addressee.

**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.)?**

A summons is sent to a lawyer (*advokāts*), a notary (*notārs*), a bailiff, or a central or local government body by electronic mail.

Documents drawn up by the court and other documents drawn up electronically will be notified to a lawyer by the court via the online system.

Such documents will be notified to a notary, a bailiff, or a central or local government body by electronic mail, unless they have informed the court that they are registered in the online system.

Judicial documents are delivered by electronic mail if a party to the proceedings has informed the court that they agree to the use of electronic mail for correspondence with the court. The documents are sent to the electronic mail address indicated by the party. If the court finds that there are technical obstacles to the delivery of judicial documents by electronic mail, the documents will be delivered by one of the other available methods.

If a party informs the court that they agree to electronic correspondence with the court and that they are registered in the online system, judicial documents will be notified via the online system. If the court finds that there are technical obstacles to the notification of judicial documents via the online system, the documents will be delivered by one of the other available methods, but the court summons will be sent to the electronic mail address indicated by the party.

**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 the person serving the judicial documents does not find the addressee, he or she can serve the documents on any adult family member residing with the addressee. If the person serving the documents does not find the addressee at his or her workplace, he or she can leave the documents with the management to be given to the addressee. The person taking delivery of the documents in such cases must declare his or her full name, the time and date of service, and his or her relationship to the addressee or position held, and must give the documents to the addressee without delay.

**Notice of summons published in a newspaper**

(1) If the defendant's address cannot be ascertained in accordance with [Section 54.1](#) of the Civil Procedure Law, or if the documents cannot be delivered at the address which was indicated by the party in accordance with [Section 54.1\(1\)](#) of the Law, or if the documents cannot be delivered in accordance with [Section 56.2](#) of the Law, the defendant can be summoned to court by publication of the summons in the official gazette *Latvijas Vēstnesis*.

(2) Irrespective of the publication of a notice in the official gazette, plaintiffs are entitled to publish the summons in other newspapers at their own expense.

(3) The text of the summons published in a newspaper must correspond to the contents of the summons.

(4) A court may try a case in the absence of the defendant provided no less than one month has passed from the day the summons was published in the official gazette.

(5) As well as being published in a newspaper, the summons must also be sent to the location of the defendant's immovable property, if the plaintiff has indicated any such location.

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

1) On the date on which the addressee or another person accepts them in accordance with [Section 56\(3\), \(7\) or \(8\)](#) of the Civil Procedure Law;

2) on the date on which the relevant person refuses to accept them ([Section 57](#) of the Law);

3) if the documents are sent by post, on the seventh day after the date of dispatch;

4) if the documents are sent by electronic mail, on the third day after the date of dispatch;

5) if the documents are notified via the online system, on the third day after the date of dispatch.

(2) Judicial documents are considered to have been notified whether they have been delivered to the declared place of residence of a natural person, to an additional address indicated in the declaration of residence, to the address indicated by a natural person for correspondence with the court, or to the registered office of a legal person, and whether a statement is received from the post office advising that the item has been delivered or the documents are returned. The presumption that the documents have been served that arises on the seventh day after the date of dispatch if the documents were sent by post, or on the third day after the date of dispatch if the documents were sent by electronic mail or by notification via the online system, can be rebutted if the addressee shows that there were objective circumstances outside the addressee's control that prevented reception of the documents at the address indicated.

**'Section 57 [of the Civil Procedure Law]. Consequences of refusal to accept judicial documents**

'(1) If an addressee refuses to accept judicial documents, the person delivering the documents shall annotate the document accordingly, specifying the reasons for refusal, the date and the time.

'(2) Refusal to accept judicial documents shall not constitute a bar to the trial of a case.'

**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?**

A judicial document may be served by deposit at a post office, in which case written notification that this is being done must be left at or sent to the recipient's address. If the notification cannot be left at or sent to that address, it must be affixed to the door of the recipient's dwelling or of the premises of an enterprise or of another place of residence of the recipient, or served on a person living nearby who will give it to the recipient later. The notification must clearly indicate that the document deposited was sent by the court

**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?**

**'Section 57 [of the Civil Procedure Law]. Consequences of refusal to accept judicial documents**

'(1) If an addressee refuses to accept judicial documents, the person delivering the documents shall annotate the document accordingly, specifying the reasons for refusal, the date and the time.

'(2) Refusal to accept judicial documents shall not constitute a bar to the trial of a case.'

**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?**

If specifically requested, the document may be served at the courthouse, with the addressee being summoned to appear there.

If the document is sent by registered post it can be served by post. It will be served at a post office or by post office delivery employees; it must be signed on receipt by the person indicated as the recipient or by a representative of that person, and the person signing must produce an identification document. The party making use of this postal service may also indicate that the item is to be served only in person to a specific person.

**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 service by registered post is unsuccessful there is no other way of serving the document by post.

**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 recipient of a document sent by registered post is informed by means of a notification sent to the recipient's home address. The document is held at the post office for 30 days from the day of receipt. The recipient must be asked to take delivery at least twice.

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

If a judicial document is sent by post, service is recorded in the file, indicating where and when the document was served, and an annotation is also made on the postal document..

**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?**

On application by the addressee, the court will contact the foreign country concerned, either direct or via the central body, and ask it to make a fresh request for service on the basis of the addressee's application.

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

No, you will not have to pay.

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### Service of documents - Luxembourg

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

In Luxembourg, *service of documents* (in French "notification") is a general term for the various procedures by which a document is brought to the addressee's attention.

*Service by bailiff* (in French "signification") refers to the specific procedure whereby the document is served in person by a bailiff at the address of the document's addressee.

Most documents are served by registered letter with a form for acknowledgement of receipt.

Service by bailiff offers more guarantees than service by post. The law therefore requires that the most important procedural documents are served by bailiff.

However, as regards justice of the peace courts, summonses are always sent by registered letter. Depending on the type of procedure, the summons is issued either by the court registry or by a bailiff. In the latter case, therefore, the bailiff also serves the document by post and not in person.

Service by bailiff is usually required to mark the start of time-limits for appeals against court judgments. As an exception, time-limits for appeals against decisions of courts of first instance in relation to leases and labour law start when the judgment is served by the court registry.

#### 2 Which documents need to be served formally?

Most procedural documents must be served before they can be given to the judge.

The law particularly requires the service of documents instituting proceedings that summon the defendant to appear before a judge either in person or through a lawyer.

Judgments must also be served in order to acquire the force of *res judicata* on expiry of the time-limits for appeal.

#### 3 Who is responsible for serving a document?

In Luxembourg, only bailiffs can serve documents.

In most cases, service by bailiff is essential in order for a case to be brought before a court. Once the judgment has been delivered, a bailiff must again be called upon to serve the judgment on the losing party. This marks the start of the time-limit for appeal. If no appeal is lodged within the time-limit, the judgment becomes final. If the losing party wishes to appeal, the notice of appeal must be served by a bailiff.

However, the law makes certain exceptions to the bailiffs' monopoly on service. As regards justice of the peace courts in particular, many proceedings are instituted by filing a request addressed to the competent court. The court registry then serves the parties with a summons to the hearing, attaching a copy of the request addressed to the judge. This procedure applies in particular in relation to leases, but also in matters concerning labour law and payment orders. Summonses are also served by the court registry in certain district court proceedings, in particular those falling under the jurisdiction of the presiding judge of the court.

Lawyers are not authorised to serve documents directly on litigants. They must use a bailiff in order for the service to be valid. However, the situation changes once the trial has started and each party is represented by a lawyer. From this point onwards, procedural documents as well as documentary evidence can be validly exchanged using the procedure for service between lawyers, which in this case involves no specific formalities. It is customary for lawyers to instantly acknowledge receipt of a document served in this way.

#### 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?

In Luxembourg, the receiving agencies designated under Article 2(2) of 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 are the bailiffs with territorial jurisdiction.

Bailiffs are required by law to serve documents on the addressee in person or at the latter's home address, or at the registered office of the addressee.

In order to carry out their tasks, bailiffs are authorised to access the following information:

Natural persons:

Surname, forenames

Home address

Date of birth

This information can be found in the register of natural persons, to which bailiffs therefore have access in order to carry out their tasks.

Companies:

Name

Trading name

Registered office

Trade register number

With regard to companies registered in the trade and companies register, this information is publicly available and therefore freely accessible.

##### 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?

Foreign judicial authorities and/or parties to judicial proceedings cannot access the register of natural persons in order to discover the address of a natural person.

With regard to companies registered in the trade and companies register, the basic information (registered office, trading name, trade register number) is available to the public free of charge. Access to more detailed information is subject to a fee.

##### 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?

To discover the current address of a natural person in relation to a request sent 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, the requested judicial authority searches the national

register of natural persons. In the case of legal persons, the database of the trade and companies register (*Registre de Commerce et des Sociétés – RCS*) is searched.

**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)?**

Summary of the procedure for service by post

Most documents are served by registered letter with a form for acknowledgement of receipt.

If the postal worker finds the addressee at the address, he asks him to sign the acknowledgement of receipt, which is then returned to the sender. If the addressee refuses to sign the acknowledgement of receipt, the postal worker records this refusal and the document is regarded as having been served.

If the addressee cannot be found, but another person accepts the registered letter, the postal worker records this person's identity on the acknowledgement of receipt. In most cases, service of a document on a third party is not as good as service on the addressee.

If no one can be found at the address, but it is correct, the postal worker leaves a notice in the letterbox asking the addressee to collect the letter from the post office within a time-limit specified in the notice. The document is then regarded as having been served, even if the addressee does not go to the post office.

If the address cannot be found, the postal worker returns the letter to the sender and reports that the document has not been served. In this case, a new address must be provided by the applicant. If the addressee has no known address, the applicant can waive serving the document by post and ask a bailiff to serve this, if necessary with a record of the search.

This procedure for service of documents applies only if the addressee is resident in Luxembourg. If the addressee is resident abroad, the document must be served by bailiff.

Summary of the procedure for service by bailiff

Service by bailiff involves the document being served on the addressee in person at any place where the bailiff finds him.

The bailiff usually goes to the addressee's home address. However, the document can be served at any place where the bailiff finds the addressee, for example at his place of work.

The document is regarded as having been served in person when the copy is delivered into the hands of the addressee. In the case of a legal person, the document is regarded as having been served in person when the copy is delivered to its legal representative, attorney or any other person authorised for this purpose. In the case of service at an address for service, the document is regarded as having been served in person when the copy is given to the agent.

If the addressee accepts the copy, the bailiff records this in the notice of service. In this case, the document is regarded as having been served on the date when it was given to the addressee.

If the addressee refuses to accept the copy, the bailiff records this in the notice of service. In this case, the document is regarded as having been served on the date of presentation to the addressee.

If the bailiff finds the addressee at his address, he gives him a certified copy of the document. He draws up a record of service of the document, which is attached to the original document. Both the latter and the record of service are then returned to the person initiating the service.

No alternative methods may be used other than substituted service referred to in point 7 below.

**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 permitted by the New Code of Civil Procedure (*Nouveau Code de Procédure Civile*).

**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 bailiff to home address**

If the document cannot be served on the addressee in person, the copy is delivered to the latter's home address. If the addressee does not live there or has no home address, the copy is delivered to his main residence. In the case of a legal person, the document is served at its registered office or administrative establishment.

The copy is given to anyone there, provided that this person accepts the document, states his surname, forenames, capacity and address, and gives a receipt. It is delivered in a sealed envelope bearing only the surname, forenames, capacity and address of the addressee, with the bailiff's stamp over the envelope's seal.

The copy cannot be given to a child under the age of 15 or to the person having requested service of the document.

The bailiff leaves, either at the home address or main residence of the addressee or at the registered office or administrative establishment of the legal person, in a sealed envelope, a dated notice advising that the copy has been delivered and giving the details of the person to whom the copy has been given.

The bailiff also encloses a copy of the document on unstamped paper. The same applies in the event of service to an address for service.

In all these cases, the document is regarded as having been served on the date of delivery of the copy.

According to Article 161 of the New Code of Civil Procedure: "Service to a home address is defined as service to the address under which the addressee is registered in the population register".

Article 164 of the New Code of Civil Procedure states that: "Documents shall be served:

1° on the State, at the Prime Minister's offices;

2° on public institutions, at their offices;

3° on municipalities, at the municipal offices;

4° on companies, non-profit associations and public utilities, either at their registered office or on their manager."

**Service by bailiff depositing a copy of the notice of service**

Paragraph 6 of Article 155 of the New Code of Civil Procedure provides that: "If the document cannot be served as stipulated above and if it is apparent from checks made, to be noted in the document by the bailiff, that the addressee lives at the address indicated, the bailiff shall deposit there a copy of the document in a sealed envelope, also enclosing a notice informing the addressee that no one could be found at the address indicated or that the persons present refused to accept the copy of the document.

The document shall be regarded as having been served on the date of this deposit. On the same day or no later than the first working day thereafter, the bailiff shall send, by ordinary post, a copy of the document and the notice mentioned above to the address indicated in the document."

**Service by bailiff to unknown address**



Article 157 of the New Code of Civil Procedure provides for this method of service where the addressee has no known home address or residence or no known registered office, by stating that: "Where the person on whom the document must be served does not have a known home address or residence, the bailiff shall draw up a record of service precisely detailing the steps taken to find the addressee. The record of service shall state the nature of the document and the requestor's name.

On the same day or no later than the first working day thereafter, the bailiff shall send the copy of the document and a copy of the record of service by registered letter with a form for acknowledgement of receipt to the addressee at the addressee's last known address. The same formality shall be carried out by ordinary post on the same day.

The copy of the record of service sent to the addressee shall inform the latter that he may obtain a copy of the document within three months from the offices of the bailiff or may authorise any person of his choice for this purpose."

Paragraph 3 of Article 157 of the New Code of Civil Procedure states that: "The above provisions shall apply to the service of a document involving a legal person that no longer has a known establishment at the place indicated as the registered office by the trade and companies register."

#### **Other forms of service by bailiff**

Paragraph 4 of Article 157 provides, inter alia, that: "Where a document instituting proceedings or an equivalent document has been served according to the above provisions and where the defendant does not appear, the judge hearing the case may, where applicable, order publication of a notice in a Luxembourg or foreign newspaper."

Article 158 of the New Code of Civil Procedure adds that: "If the addressee of the document has not been found or if it is not proven that he has been effectively informed, the judge may order, on his own initiative, all additional steps, except for the provisional and protective measures needed to safeguard the applicant's rights."

#### **Service by registered letter with a form for acknowledgement of receipt**

Where the document is issued by the court registry, it is served by registered letter with a form for acknowledgement of receipt. If the addressee has no known address, the document is served by bailiff.

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

Where the document is **served by bailiff**, the notice of service must indicate the date of service, which corresponds to the date when the notice of service is given to the addressee or delivered to the addressee's home address, or to the date when the document is deposited at the addressee's home address.

Where the document is **served by post**, Luxembourg applies a double date system.

As a result, the date taken into account with regard to the sender differs from the date taken into account with regard to the addressee.

With regard to the sender, it is the date of sending that is treated as the date 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?**

As regards **service by bailiff** depositing a copy of the notice of service, see above: Service by bailiff depositing a copy of the notice of service.

As regards **service by post** by registered letter with a form for acknowledgement of receipt, see below: Question 3.3.

#### **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?**

Where the document was **served by bailiff**, the addressee cannot refuse to accept this, except on the ground indicated in Articles 5 and 8 of the aforementioned Regulation (EC) No 1393/2007 (requirement for translation).

Where the document was **served by post**, the addressee cannot refuse to accept a document served by registered letter with a form for acknowledgement of receipt.

However, the addressee of a document served by registered letter with a form for acknowledgement of receipt can subsequently contest the validity of this service by proving that neither his home address nor his residence nor his address for service was at the address indicated on the registered letter. Service by bailiff therefore offers more legal certainty than service by registered letter with a form for acknowledgement of receipt. This is because, in the event of service by bailiff, the latter checks the address of the addressee in the national register of natural persons or at the population office of the municipal authority. Furthermore, the date of service by registered letter cannot be proven with any certainty if the addressee has not dated and signed the form for acknowledgement of receipt on (first) presentation of the registered letter at his home address, residence or address for service. Conversely, the date of service by bailiff is always indicated on the notice of service.

Moreover, the addressee refusing to accept the document in no way affects the validity and date of service, whether by bailiff or by post.

### **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 8.1 of the General conditions of provision of the services offered within the scope of the universal postal service provides that: "Registered items shall be delivered, not only to the addressee and his attorney, but also:

at the home address, to any adult accepting the letter on behalf of the addressee;

at the post office, to any adult presenting the corresponding non-delivery receipt.

#### **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?**

Postal items are delivered to the address indicated, except where there is an obvious error (examples: street name incorrectly spelt, incorrect residence number, post code obviously incorrect, etc.).

If the addressee cannot be reached at the address indicated, the registered item will not be delivered.

Postal items that could not be deposited in the addressee's letterbox or that could not be given to an authorised person during the postal worker's call are held for the addressee at his local post office for the period set by the postal company and indicated in the non-delivery notice deposited in the addressee's letterbox. Once that period expires, items are returned to the sender, if known.

#### **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?**

Postal items that could not be deposited in the addressee's letterbox or that could not be given to an authorised person during the postal worker's call are held for the addressee at his local post office for the period set by the postal company and indicated in the non-delivery notice deposited in the addressee's letterbox. Once that period expires, items are returned to the sender, if known.

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

If the document is served by post, the form for acknowledgement of receipt serves as proof. If the document is served by bailiff, the latter draws up a record of the steps taken. The bailiff is a judicial officer and his record is valid as proof unless forgery is proven.

**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 procedural rules for the service of documents are violated, the service may be declared invalid.

However, invalidity due to a procedural error can be pronounced only if this error is proven to have adversely affected the addressee.

It is for the judge to decide on this point.

Where the document could not be served on the addressee in person and the addressee has not appeared, the judge may ask the applicant to re-serve the document. This formality allows any doubt to be removed as to why the party concerned has failed to appear.

In proceedings in which the parties are normally summoned by the court registry, the judge may also ask the applicant to have the document served by bailiff if there are any doubts as to the validity of the summons served by registered letter.

Lastly, the judge may deliver an *inter partes* judgment against a party who has failed to appear at the hearing only if it is proven that said party has been served in person. If this is not the case (e.g. if the summons was delivered to another person at the address), the judgment is given by default and may therefore be set aside.

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

Service by the court registry is free of charge. For service by bailiff, the latter receives a fee according to a tariff set by grand-ducal regulation.

#### Related links

[Legilux \(Luxembourg's online law website\)](#)

[Registre de Commerce et des Sociétés \(Trade and Companies Register\)](#)

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### Service of documents - Hungary

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

Under [Act CXXX of 2016 on the Code of Civil Procedure](#) ('Act CXXX of 2016'), unless otherwise provided for by law court documents are to be served to the addressee by post, in accordance with the legislation relating to the service of official documents. The addressee may also take delivery of the document addressed to them at the court office, upon presenting proof of identity. In the case of mandatory or optional electronic communication, the documents are served electronically.

Please see also the section on [Automatic processing](#).

The purpose of serving official documents is to inform addressees of the content of the documents, but in a manner that also enables senders to prove that the documents were transmitted to the addressees. The act itself, its date and the result of the service must be evidenced. Official documents may be sent by registered mail with acknowledgement of receipt especially intended for this kind of service.

**2 Which documents need to be served formally?**

Under [Act CLIX of 2012 on postal services](#) ('Act CLIX of 2012'), the documents that must be served officially are the ones in the case of which the sending or service (attempted service) or the date thereof have legal consequences by law, the ones providing the basis for calculating statutory deadlines, or the ones classified as official documents by law.

Under Act CXXX of 2016, in civil action proceedings the following must be communicated by way of service:

- judgments and injunctions to the parties;
- orders passed at the trial, to the party that was not duly summoned to the trial;
- certain orders specified by Act CXXX of 2016 and passed at the trial, to the party who failed to appear at the trial;
- orders passed out of trial, to the party concerned;
- all decisions issued in the course of the procedure, to the person in whose interest the proceedings were brought by the prosecutor or the person authorised to bring proceedings.

**3 Who is responsible for serving a document?**

The court and the postal service provider are responsible for serving documents, under the legislation applicable to them.

#### 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?**

There is no such obligation, but it is not excluded, for example, that the court may check the current address of the company entered in the trade register and arrange for service accordingly.

**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?**

Residential address of natural persons:

In Hungary, the central register of residential addresses is maintained by the Office of the Deputy State Secretary for Record Keeping of the Ministry of the Interior (Belügyminisztérium Nyilvántartások Vezetéséért Felelős Helyettes Államtitkársága, 'BM NYHÁT') [http://nyilvantarto.hu/hu/adatszolgaltatas\\_szemelyi](http://nyilvantarto.hu/hu/adatszolgaltatas_szemelyi). It is possible to use this register to obtain the address details of individually identified persons. Such applications may be submitted by private or legal persons or entities without legal personality, provided that they justify the purpose and legal basis of using the data.

The application may be submitted in person at any district office or abroad at the [Hungarian diplomatic representation](#) competent for the foreign residential address.

A written application may be submitted at any district office. If the data requested is not available at the district office, then

- requests by public authorities and applications for data disclosure by public authorities may be submitted at the BM NYHÁT Department for Personal Records and Management, Domestic Legal Assistance Section (BM NYHÁT Személyi Nyilvántartási és Igazgatási Főosztály Belföldi Jogsegélyügyek Osztály), postal address: H-1476 Budapest, Pf. 281.;

- all other requests by applicants not included in the above (e.g. private individuals, companies, etc.) may be submitted at BM NYHÁT Department for Personal Customer Service and Document Oversight (BM NYHÁT Személyes Ügyfélszolgálati és Okmányügyeleti Főosztály), postal address: H-1553 Budapest, Pf. 78.

- A written application may be submitted abroad at the [Hungarian diplomatic representation](#) competent for the foreign residential address.

The application must contain the following:

- the applicant's details, the name, address, registered office or place of business of the applicant or his/her representative;
- the exact enumeration of the data requested;
- the purpose for which the data will be used;
- the natural personal identification details that can be used to identify the person named in the application (name, place and date of birth, mother's name) or the name and the residential address known by the applicant (name of locality, street name, house number).

Documents to be submitted with the application:

- The document justifying the legal basis for using the data.
- The authorised representative must present a power of attorney, unless it is already entered in the Client Setting Register ('rendelkezési nyilvántartás'). The power of attorney must be an official document or a certified private document, otherwise it must be placed on record.

Unless the power of attorney provides otherwise, it covers all declarations and acts relating to the procedure.

If there is any doubt concerning the authenticity or content of an official document which was issued abroad, the authority will ask the applicant to present the official foreign document with an apostille.

If the applicant submits the certified Hungarian language translation of a document issued in another language, the authority will accept it on the basis of the content of the translation.

The procedure is subject to an administrative service fee payable subsequently:

- for the supply of data concerning 1 to 5 persons: HUF 3 500;
- for the supply of data concerning more than 5 persons: the number of persons concerned multiplied by the rate of HUF 730/item.

In the case of applications submitted from abroad or through the Hungarian diplomatic representation accredited to the country of the applicant's place of residence, the fee must be paid subsequently as a consular fee at the competent Hungarian representation.

Companies:

In the case of companies, the most important information on the trade register, including the address, is available free of charge at the following website, in Hungarian: <https://www.e-cegjegyzek.hu/>

#### **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 Regulation does not provide clarity as to whether requests aimed at discovering residential addresses fall within its scope. Therefore, it is for the court to decide whether it will meet such requests. However, Hungarian courts may request address details from the BM NYHÁT, and therefore meeting such a request for legal assistance is not excluded in practice.

#### **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 [Government Decree No 335/2012 of 4 December 2012](#) establishing detailed rules governing postal services and the serving of official documents ('Government Decree No 335/2012'), the postal service provider serves official documents sent with acknowledgement of receipt, by delivering them in person to the addressee or other authorised recipient.

If the addressee is a natural person and is absent from the premises at the time of the attempted delivery, the document must be served in the first instance to the addressee's proxy present there. If at the time of the attempted delivery both the addressee and their proxy are absent, according to the statement of the substitute recipient, the document may be served to the substitute recipient present.

In the case of an organisation, the person entitled to receive the documents is the representative of the organisation.

An employee who does not qualify as a representative of the organisation may be considered by the postal service provider to be entitled to take delivery of the mail as an occasional recipient.

The service provider serves the mail through the organisation operating at the location indicated in the address (indirect service) if the addressee's address, place of residence or workplace is one of the following: Hungarian Defence Forces, Military Intelligence Service, law enforcement agency, penal institution, youth detention centre, healthcare or social facility, hotel, student hostel, workers' hostel or holiday resort.

Under Government Decree No 335/2012, the service provider makes two attempts to serve mail sent as an official document. If the first service attempt fails because the addressee or the authorised recipient is not present at the address, the service provider leaves a notice, makes the official document available at the delivery point indicated in the notice, and makes another service attempt on the fifth working day following the unsuccessful service. If the second service attempt fails, the service provider again leaves behind a notice for the addressee and makes the official document available at the delivery point indicated in the notice for five working days following the date of the second service attempt. Pending the second service attempt, the official document may be collected from the delivery point indicated, upon presenting proof of identity. If the official document is not delivered by the deadline indicated in the second notice, on the next working day the service provider returns the official document with the indication "not collected".

In this case, under the provisions of Act CXXX of 2016, the document must be regarded as served on the fifth working day following the date of the second service attempt, unless proven otherwise. The service is not considered lawful if the document was served to a substitute recipient rather than the addressee, and the substitute recipient was the opposing party or their representative in the judicial procedure. In the case of serving a document instituting proceedings or a substantive decision concluding the proceedings, the court notifies the addressee within eight working days of the presumption that the document has been served. If an e-mail address is available, the notification must be also sent to the e-mail address.

The addressee may also collect the document addressed to them at the court office, upon presenting proof of identity.

[Act LIII of 1994 on enforcement proceedings](#) ('Act LIII of 1994') regulates service by bailiff as an alternative method of service allowed in the case of substantive decisions constituting the basis for enforcement, where the presumption of service has taken effect and the party entitled to present the enforcement request has explicitly requested it and paid an advance for the costs. Under Act LIII of 1994, the bailiff may also serve the enforcement documents in person, in accordance with specific legislation. If the procedure fails, the documents may be served under a new procedure in accordance with the general rules applicable to the service of official documents.

Act CXXX of 2016 and [Act L of 2009 on the order for payment procedure](#) specifies other cases where service by bailiff may be applied.

In addition to the above, in the cases specified by law, service may be carried out by special service entities, e.g. through court staff (e.g. serving summonses to civil trials if urgent).

**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.)?**

Under Act CXXX of 2016, a distinction is made between mandatory and optional electronic communication.

Under [Act CCXXII of 2015 on the general rules applicable to electronic administration and trust services](#) ('Act CCXXII of 2015'), those legally required to use electronic communication (e.g. legal representatives and companies) must submit all applications to the court by electronic means only, in the manner provided for in Act CCXXII of 2015 and its implementing decrees. The court also serves them documents by electronic means.

Parties to proceedings who are not obliged to use electronic communication, or their representatives if not classed as legal representatives, may – with the exceptions set out in Act CXXX of 2016 – submit all documents electronically if they so wish in accordance with the provisions of Act CCXXII of 2015 and its implementing decrees. If a party or their representative chooses electronic communication, the court will serve all court documents electronically.

In the case of electronic communication, continuous contact with the court through the electronic service system is ensured. The party opting for electronic communication is notified whether their submission complies with the IT requirements.

The secure delivery service guarantees, among other things, that the sender is notified of the receipt of their messages, and whether delivery was unsuccessful. The service provider is required to issue immediate certification to the sender, to be sent to the e-mail address provided, confirming the information pertaining to the document service event.

For documents served using secure delivery services, five working days should be allowed for receipt, unless otherwise provided by legislation. If the addressee does not take delivery of the mail within that time limit but does not refuse delivery either, a second service notification is sent on the first working day following the period of five working days.

Since the introduction of electronic communication into procedural law, the provisions of Act CXXX of 2016 pertaining to the presumption of service (detailed below) apply not only to postal delivery but to all legal means of serving documents, including by electronic means.

In urgent cases, summons to civil trials may be delivered by e-mail even in the absence of electronic 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)?**

Under Act CXXX of 2016, if the party's place of residence is unknown and the court document cannot be served on the party by electronic means either, or if the party resides in a state not providing legal assistance for service, or if there are other irremovable obstacles preventing service, or if the law so provides, service must be performed by poster advertising. As a general rule, the court may order service by poster advertising upon request by the party, provided that there are substantiated grounds for doing so.

The poster advertisement must be displayed for fifteen days on the central website of the courts, on the notice board of the court, and on the notice board of the local mayor's or council office at the party's last known place of residence. If the party's e-mail address is available, the poster advertisement must be also sent to the e-mail address.

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

In the case of service by poster advertising, as a general rule, documents must be regarded as served on the fifteenth day of the advertisement being displayed on the court's central website.

**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?**

Under Act CLIX of 2012, the service provider and the addressee may agree that the mail arriving for the addressee should be served not at the address indicated on the mail but at another address. Under Government Decree No 335/2012, the postal service provider provides information on the arrival of official documents addressed to a post office box by leaving a notice in the box even if the official document is addressed to the post office box but it is not for the lessee of the post office box.

**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?**

Under Act CXXX of 2016, court documents must be regarded as served on the date of attempting service if the addressee refuses to accept service.

## **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 case of service under Article 14 of the Regulation, the postal service provider in Hungary has no information that the mail received from abroad is an official document. Therefore, it applies not the particular rules applicable to the service of official documents but only the general domestic rules applicable to registered mail (with acknowledgement of receipt).

The information in point 5 on persons authorised to receive documents applies in respect of official 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 or other authorised recipient is not present at the address at the time of attempting service, the service provider leaves behind a notice informing the addressee that the document is available for the addressee at the delivery point of the service provider. The document can be collected at that address by the addressee, an authorised representative or a substitute recipient having their domicile or place of residence at the given address. If the addressee or other authorised recipient does not collect the mail by the deadline indicated in the notice, the service provider returns the document as undelivered.

**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 period of availability is determined by the postal service provider. In the case of Magyar Posta Zrt., it is ten working days from attempting service. For the method of communication, see the previous point.

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

The written proof of service is the acknowledgement of receipt, which indicates the outcome of the service procedure, i.e. the recipient, the recipient's function if not the addressee (e.g. authorised representative), the date of receipt or, if there is no delivery, the obstacle that prevented it (e.g. refused receipt, "not collected"). The service provider returns the acknowledgement of receipt to the sender in all cases.

**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?**

Under Act CXXX of 2016, if the presumption of service has taken effect (the addressee refused receipt or did not take delivery of the document in spite of two attempts to serve it), the addressee may raise an objection with the court conducting the proceedings under which the service took place, on the basis of any of the grounds set out below, within fifteen days of learning about the presumption of service being effected or of learning about the service in the case of a document considered served without presumption of service. As a general rule, no objection can be submitted more than three months after the date presumption of service takes effect or the date of service. If the presumption of service or the service concerns a document instituting proceedings, the objection may be lodged while the proceedings are in progress, within fifteen days of learning about the presumption of service or learning about the actual service of the document.

The court will uphold the objection if the addressee was not able to receive the court document because:

- a) the service was effected in violation of the legislation applicable to the service of official documents or was not lawful for other reasons, or
- b) the addressee was not able to receive the document for other reasons not mentioned in point a) through no fault on their part.

An objection against the presumption of service on the grounds covered under point b) may be raised by natural persons only.

If the court admits the objection, the legal consequences connected to the service become void and the service and any measures and procedural actions already taken must be repeated as necessary.

An objection may also be raised in the course of enforcement proceedings. In the event that the decision considered to be served becomes final, the addressee may – on the grounds already described – submit an objection to the court that issued the decision at first instance during the enforcement proceedings, within fifteen days of learning about the proceedings to enforce the decision.

As a general rule, the court may order service by poster advertising upon request by the party provided that there are substantiated grounds for doing so. If the facts presented in the application for poster advertising prove to be false and the applicant party was aware or had reasonable grounds to be aware of that, the party must be ordered to pay the costs incurred in connection with the poster advertising, irrespective of the outcome of the proceedings, and the court will also impose a fine.

A final judgment may be subject to revision where the document instituting the proceedings or another document was served to the party by poster advertising in violation of the rules applicable to service by poster advertising.

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

Court fees also include the costs of document service. Therefore, the party does not have to pay the costs of service in court proceedings. The only exception is service by bailiff under Act LIII of 1994, where the person requesting enforcement must pay the related costs in advance. In accordance with the law, the bailiff is entitled to a fee of HUF 6 000 and a lump sum of HUF 1 500 to cover costs, regardless of the number of service attempts.

If the enforcement proceedings are started on the basis of the document to be served, the costs are borne by the debtor. The costs relating to service by poster advertising must be paid in advance by the person requesting service by poster advertising.

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**Service of documents - Malta**

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

Service of documents means the delivery of court documents to a legal or physical person. The mode of service is specifically regulated by the Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta).

Specific rules regarding the service of documents were inserted in national law to create a standard procedure of how documents are served and to ensure that all concerned parties receive legal documents relating to them or their action. Furthermore the said rules create certainty, for the benefit of the court, that documents have reached the addressee.

**2 Which documents need to be served formally?**

All documents filed in court have to be formally served. These include judicial letters, judicial protests, applications, writ of summons, appeals, replies, precautionary and executive warrants, and orders given by the Courts, Judges and Magistrates.

**3 Who is responsible for serving a document?**

Upon filing of a document in court, it is the court which is responsible for serving documents. The party filing the claim has to file the document in court indicating the person on whom the document is to be served and the address of service. In case of more than one addressee, the party filing the document must ensure that there are enough copies for all addressees.

**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 Maltese receiving authority verifies the address provided if the service fails; however, in order to do so, the Maltese authority must be provided with an identity card number of the addressee in the case of a physical person. If the transmitting agency provides the said identification number, which is unique to every physical person, the receiving agency may attempt to establish an alternative residence.

In the case of companies, the requested authority verifies the registered address of the addressee company through an online system operated by the Registry of Companies within the Malta Financial Services Authority (MFSA). If the address provided by the transmitting authority differs from the one indicated there will be another attempt to service documents in the registered address.

When the court marshal indicates that he did not find the addressee in the address provided or that no body opened, the requested authority files an application in the appropriate court in order to obtain permission to notify the person (whether legal or physical) at that same address but after the hours established by our law. At times the service is successful.

**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?**

When it comes to establishing a physical person's address, only the receiving authority has access to records pertaining to a person's address as long as the transmitting agency provides the identification number. This database is not available to the general public or to foreign authorities. On the other hand, essential information on companies such as the correct company name, the company registration number and its registered offices, can be checked by anyone, free of charge, through an online system under the Registry of Companies within the Malta Financial Services Authority. Specific information such as

directors' names, legal representatives, company secretary, etc, can be obtained online through the same website, but one has to create an account, and viewing of such information is against payment.

**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?**

Reasons for such request are to be provided to the Central Authority when requesting about an address of a witness. The Central Authority however is not obliged to provide such information.

**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)?**

Judicial protests and legal documents which do not form part of a court case are served by registered post whereby a 'pink card' showing either the signature of the receiver or that the document is unclaimed. The 'pink card' would be attached to the original document (for instance with the official letter).

Other documents filed for the purpose of instituting legal proceedings or are filed in the course of a court case are served through the Court marshal by delivering the said document to the addressee, at the address indicated by the party filing the document, or by leaving such copy at his place of work or at his residence, or with some person in his service or his attorney or person authorised to receive his mail. However documents cannot be left with any person under the age of fourteen years or with any person who, at the time of service, has a mental disorder or other condition which renders him/her incapable of giving evidence of such service.

**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.)?**

Documents cannot be served electronically in civil proceedings.

**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 receiving agency shall cause the document to be served by attaching the document to a judicial letter filed in the Registry of the Civil Court, First Hall, in the case of documents to be served in the Island of Malta, and in the Registry of the Court of Magistrates (Gozo) in its superior jurisdiction, in the case of documents to be served in the Islands of Gozo and Comino. These documents, together with the judicial letter will be served by the Court Marshal on the person addressed. Article 187 of the Code of Organisation and Civil Procedure provides the method of how documents are to be served:

(a) Service shall be effected by the delivery of a copy of the pleading to the person on whom the pleading is to be served or by leaving such copy at the place of residence or business or place of work or postal address of such person with some member of his family or household or with some person in his service or his attorney or person authorised to receive his mail: provided that it shall not be lawful to leave such copy with any person under the age of fourteen years, or with any person who, on account of infirmity of mind, is unable to give evidence of such service. A person shall be presumed to be able to give such evidence unless the contrary is proved; and no objection may be raised on the ground of irregularity of the service for any of those reasons, if it is shown that the copy has actually reached the person to be served therewith;

(b) In the case of persons on board merchant ships, or members of the crew having no place of residence in Malta, service may be effected by delivering such copy to the master of the ship or any other person acting in that behalf;

(c) In the case of a body having a distinct legal personality, service on such body shall be effected by leaving a copy of the pleading: (i) at its registered office, principal office, or place of business or postal address with a person/s vested with the legal or judicial representation thereof or with the company secretary or with an employee of such body or (ii) with any of the aforementioned persons in the manner provided for in paragraph (a).

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

The document is deemed to be served when the person receiving the documents accepts 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?**

n/a

**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?**

In terms of Maltese law, where a person to whom a pleading is addressed refuses to receive it personally from an executive officer of the courts, the court may upon an application by the interested party and after hearing the executive officer of the courts and considering all the circumstances of the incident, declare by means of a decree that service shall have been effected on the day and time of the refusal and such decree shall be considered as a proof of service for all purposes of law.

Furthermore, if a person knowingly avoids, obstructs or refuses service of any act or court order or execution of any warrant or order by a court marshal, s/he shall be guilty of contempt of court and shall be liable, on conviction to (a) reprimand, (b) expulsion from the court, (c) arrest for a period of twenty-four hours in a place within the building in which the court sits, or (d) a fine (ammenda or multa).

**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 Maltese postal service delivers mail to any individual found at the address who is ready to accept the mail, provided that he is of sound mind and not a child. There is a presumption that once an individual is found in the premises of the address and accepts the mail, then one is authorised to do so by the addressee. If one is not authorised, then one should not accept the mail, and if accepted, one then assumes the responsibility to forward it to the addressee. The recipient will sign upon delivery. This procedure is in accordance with Regulation 33 of the Postal Services (General) Regulations 2005.

**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?**

Once nobody is available to answer the call and accept the mail in the case of a requirement of signature upon delivery, a notice is left at the address in question, advising the addressee of the attempt of delivery. The mail would be available for collection from the nearest Post Office. It remains at the discretion of the postal service provider whether further attempts to delivery are to be made. If the mail remains uncollected, then the mail is returned to sender marked as 'unclaimed'. If the mail is refused by the addressee or his representative, then this is returned to sender forthwith marked as 'refused'.

**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 nobody is available at the address to receive the mail, a notice is left at the address in question advising the addressee of the attempt, and also informing him that the mail item would be available for collection at the nearest Post Office. If the mail remains uncollected, the postal service provider at its discretion posts a final notice to the addressee, advising that the mail item is still awaiting collection. Generally, this is done following 5 days for local registered mail and 10 days for foreign registered mail. If such mail remains uncollected following these periods of time, then following a further 5 day wait, the mail is sent back to sender accordingly marked as 'unclaimed'. Collection of mail item/s from the Post Office is only delivered to the addressee or an authorised representative upon presentation of the notice together with an identification document (passport or identification card) of the addressee.

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

A certificate of service or non-service is issued.

The original documents served by registered post will have a 'pink card' attached to them. Once returned to Court, the original documents are stamped in either black ink or red ink. Black ink is used to indicate that service has taken place, indicating also to whom the document was delivered. If the document was not served, the stamp would be in red ink, and it would also bear the reason why it was not served.

Documents which are served by the court marshal are stamped either in black ink if service is in the affirmative or red ink if service is in the negative, and will bear the signature of the Court marshal who was in charge of carrying out the service.

#### **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 documents but the documents have been validly served by leaving a copy at the address, home or place of work of the addressee, service is deemed to be complete and valid. Service effected in violation of the law can be impugned by court action. If in default of a valid service the party to be served files a reply in court or makes an appearance in court, the service is taken to have been valid.

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

Through Legal Notice 148 of 2014, the receiving agency in Malta has set a fixed fee under Article 11 of Regulation 1393/2007 of €50 for each and every document to be served in Malta. This fee must be paid prior service. Payment of fees shall be made by bank transfer payable to the Office of the Attorney General, at the following bank account details:

Bank Name: Central Bank of Malta

A/c name: AG Office - Receipt of Service Documents

A/c number: 40127EUR-CMG5-000-Y

IBAN: MT24MALT011000040127EURCMG5000Y

Swift Code: MALTMTMT

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### **Service of documents - Netherlands**

#### **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.

Last update: 11/04/2019

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### **Service of documents - Austria**

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

'Service' is the process of handing a document over to an addressee in the legally prescribed form and in a documented manner so that he or she becomes aware of the document.

Service is a legal act that is ordered by the court in the context of legal proceedings and carried out automatically (Section 87 of the Austrian Code of Civil Procedure) (*Zivilprozessordnung - ZPO*). Service must be officially documented so that it is possible to verify when service was performed and on whom. Certain procedural effects can only come into play if there is proof that the documents have been duly served.

#### **2 Which documents need to be served formally?**

As a basic principle, all court decisions (e.g. summonses, rulings and judgments) and all petitions by a party (e.g. claim, defence, appeal) and other declarations that are (also) addressed to the opposing party must be served formally.

#### **3 Who is responsible for serving a document?**

The service of documents and the service method are ordered by the decision-making body (judge, judicial officer). This order is called a service decree (*Zustellverfügung*) and must be issued by the decision-making body on the original copy of the document to be served. The actual service process itself is performed by a delivery service. This will generally be the postal service but could also be some other universal service provider (Section 2(7) of the Austrian Service of Documents Act (*Zustellgesetz - ZustG*) in conjunction with Section 3(4) of the Austrian Postal Market Act (*Postmarktgesetz*)).

#### **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?**

In principle, the answer is no. However, depending on what human resources are available, simple enquiries may be made, e.g. a register query (for further details, see point 4.2 below).

##### **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?**



Yes. Any person, including a foreign authority, may contact the Austrian [registration authorities](#) (municipal office, municipal authorities, municipal district office (*Gemeindeamt, Magistrat, Magistratisches Bezirksamt*)) to request [registration information](#) about the [principal residence](#) registered for a natural person. The registration data are stored in the central register (*Zentrales Melderegister – ZMR*). This is a public register that contains the names of everyone who is registered in Austria along with details of their [principal residence](#) and – where applicable – their secondary residence(s). In Austria, it is obligatory to [register/deregister](#) your residence.

To submit a register query, it is necessary to have the following details about the person you are looking for as an absolute minimum: Forename and family name/surname plus an additional characteristic that enables the person to be clearly identified (e.g. date of birth, birthplace, nationality or previous address). Currently, the fee for submitting a register query is €17.30 (request fee €14.30; federal administration charge for retrieving data from the central register €3.00).

Further information about submitting a register query can be found at <http://www.help.gv.at> under [Dokumente und Recht \(documents and legal information\)](#) / [Personen-Meldeauskunft \(personal/registration information\)](#).

In principle, service is performed by a delivery service, i.e. the postal service or some other universal service provider (see point 3 above), or by officers of the court (Section 88 of the Austrian Code of Civil Procedure).

However, the following alternative service procedures also exist:

Service by public announcement in accordance with Section 25 of the Austrian Service of Documents Act and Section 115 of the Austrian Code of Civil Procedure:

Service on persons with an unknown delivery location or on a majority of persons who are unknown to the authorities and for whom no authorised recipient has been appointed (Section 20 of the Austrian Service of Documents Act) can be performed by including a notification in the edict file (*Ediktsdatei*) (can be accessed by visiting <http://www.justiz.gv.at/> and selecting E-Government/Ediktsdatei) to say that the document to be served has been lodged with the court. The notification must also contain brief details of the following: the contents of the document to be served, the name of the court hearing the case, the matter in dispute and the options for collecting the document along with information about the legal consequences of this announcement. Service is deemed to have been performed as soon as the notification enters the edict file.

Service through a court-appointed administrator (Sections 116–118 of the Austrian Code of Civil Procedure):

Where the only way to perform service is by making a public announcement (inclusion in the edict file), the court must appoint an administrator on request or of its own motion if the person concerned would normally have to take legal steps to defend his or her rights in the light of the document to be served on him or her, particularly if the document to be served contains a summons for this person. The appointment of the administrator must be announced in the edict file (Section 117 of the Austrian Code of Civil Procedure). As soon as this happens and the document is subsequently handed over to the administrator, service is deemed to have been performed (Section 118 of the Austrian Code of Civil Procedure).

**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?**

Where the requested authority classifies the request as the taking of evidence within the meaning of Article 1 of the Regulation, e.g. because it is necessary to ascertain the address for a legal procedure (particularly the service of documents), the authority will proceed in accordance with the provisions of the Regulation and will attempt to determine the current address using the resources at its disposal, for example, by submitting a central register query or querying other registers.

**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)?**

In principle, service is performed by a delivery service, i.e. the postal service or some other universal service provider (see point 3 above), or by officers of the court (Section 88 of the Austrian Code of Civil Procedure).

However, the following alternative service procedures also exist:

Service by public announcement in accordance with Section 25 of the Austrian Service of Documents Act and Section 115 of the Austrian Code of Civil Procedure:

Service on persons with an unknown delivery location or on a majority of persons who are unknown to the authorities and for whom no authorised recipient has been appointed (Section 20 of the Austrian Service of Documents Act) can be performed by including a notification in the edict file (*Ediktsdatei*) (can be accessed by visiting <http://www.justiz.gv.at/> and selecting E-Government/Ediktsdatei) to say that the document to be served has been lodged with the court. The notification must also contain brief details of the following: the contents of the document to be served, the name of the court hearing the case, the matter in dispute and the options for collecting the document along with information about the legal consequences of this announcement. Service is deemed to have been performed as soon as the notification enters the edict file.

Service through a court-appointed administrator (Sections 116–118 of the Austrian Code of Civil Procedure):

Where the only way to perform service is by making a public announcement (inclusion in the edict file), the court must appoint an administrator on request or of its own motion if the person(s) concerned would normally have to undertake legal steps to defend their rights in the light of the document to be served on him/her, particularly if the document to be served contains a summons for this/these person(s). The appointment of the administrator must be announced in the edict file (Section 117 of the Austrian Code of Civil Procedure). As soon as this happens and the document is subsequently handed over to the administrator, service is deemed to have been performed (Section 118 of the Austrian Code of Civil Procedure).

There is a special system to enable the electronic service of documents by the courts. This is called the *Elektronischer Rechtsverkehr* (electronic legal correspondence) system, or ERV for short. The only people who are required to participate in this system are lawyers and counsel for the defence, notaries, credit and financial institutions, Austrian insurance companies, social insurance providers, pension institutes, the Construction Workers Leave and Severance Pay Fund (*Bauarbeiter-Urlaubs- und Abfertigungskasse*), the pharmaceutical salary fund (*Pharmazeutische Gehaltskasse*), the bankruptcy contingency fund (*Insolvenz-Entgelt-Fonds*) and IEF-Service GmbH, the Main Association of Austrian Social Security Organisations (*Hauptverband der österreichischen Sozialversicherungsträger*), the office of the state attorneys at the ministry of finance (*Finanzprokuratur*) and the bar associations. Other people may also participate in this system but are under no requirement to do so.

Where service is performed using the ERV, electronically transmitted judicial resolutions and legal petitions (Section 89a(2) of the Court Organisation Act) (*Gerichtsorganisationsgesetz – GOG*) are deemed to have been served on the working day immediately following their arrival in the electronic domain of the addressee (Saturday is not classed as a working day for this purpose).

If service via the ERV is not possible, it can also be performed via electronic delivery services in accordance with the provisions of the Service of Documents Act (Section 89a(3) of the Court Organisation Act in conjunction with Sections 28 et seq. of the Austrian Service of Documents Act).

**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.)?**

There is a special system to enable the electronic service of documents by the courts. This is called the *Elektronischer Rechtsverkehr* (electronic legal correspondence) system, or ERV for short. The only people who are required to participate in this system are lawyers and counsels for the defence, notaries, credit and financial institutions, Austrian insurance companies, social insurance providers, pension institutes, the Construction Workers Leave and Severance Pay Fund (*Bauarbeiter-Urlaubs- und Abfertigungskasse*), the pharmaceutical salary fund (*Pharmazeutische Gehaltskasse*), the bankruptcy contingency fund (*Insolvenz-Entgelt-Fonds*) and IEF-Service GmbH, the Main Association of Austrian Social Security Organisations (*Hauptverband der österreichischen Sozialversicherungsträger*), the office of the state attorneys at the ministry of finance (*Finanzprokuratur*) and the bar associations. Other people may also participate in this system but are under no requirement to do so.

Where service is performed using the ERV, electronically transmitted judicial resolutions and legal petitions (Section 89a(2) of the Court Organisation Act) (*Gerichtsorganisationsgesetz – GOG*) are deemed to have been served on the working day immediately following their arrival in the electronic domain of the addressee (Saturday is not classed as a working day for this purpose).

If service via the ERV is not possible, it can also be performed via electronic delivery services in accordance with the provisions of the Service of Documents Act (Section 89a(3) of the Court Organisation Act in conjunction with Sections 28 et seq. of the Austrian Service of Documents Act).

If the law expressly forbids the server from delivering the document to a substitute recipient, the procedure is called personal service, which is when the documents have to be handed over in person to the person being served. This only applies in exceptional cases.

In all other cases, substituted service is permitted. This means that if the addressee is not to be found at the delivery location, the documents can – in principle – be delivered to any adult residing at the same delivery location as the addressee or to any employee or employer of the addressee willing to take receipt of the documents (Section 16(2) of the Austrian Service of Documents Act). The legislation refers to this person as the substitute recipient (*Ersatzempfänger*).

However, substituted service is only permitted if the server has reason to believe that the addressee is regularly present at the delivery location.

According to Section 103 of the Austrian Code of Civil Procedure, a person cannot act as a substitute recipient if they are a party to the legal dispute as an opponent of the addressee.

According to Section 16(5) of the Austrian Service of Documents Act, substituted service is not deemed to have been performed if the addressee was not able to find out about the served documents in time because he or she was absent from the delivery location (e.g. because he or she was on a trip, in hospital or in custody). However, service becomes effective on the day immediately following the addressee's return to the delivery location.

## **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 the law expressly forbids the server from delivering the document to a substitute recipient, the procedure is called personal service, which is when the documents have to be handed over in person to the person being served. This only applies in exceptional cases.

In all other cases, substituted service is permitted. This means that if the addressee is not to be found at the delivery location, the documents can – in principle – be delivered to any adult residing at the same delivery location as the addressee or to any employee or employer of the addressee willing to take receipt of the documents (Section 16(2) of the Austrian Service of Documents Act). The legislation refers to this person as the substitute recipient (*Ersatzempfänger*).

However, substituted service is only permitted if the server has reason to believe that the addressee is regularly present at the delivery location.

According to Section 103 of the Austrian Code of Civil Procedure, a person cannot act as a substitute recipient if they are a party to the legal dispute as an opponent of the addressee.

According to Section 16(5) of the Austrian Service of Documents Act, substituted service is not deemed to have been performed if the addressee was not able to find out about the served documents in time because he or she was absent from the delivery location (e.g. because he or she was on a trip, in hospital or in custody). However, service becomes effective on the day immediately following the addressee's return to the delivery location.

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

For details, see points 5 and 6 above.

**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 must be made aware that the documents have been deposited by means of a deposit notice (placed inside the letterbox or affixed to the entrance doors). This must name the location where the documents have been deposited, specify the start and duration of the collection period, and indicate the effects of the documents being deposited (Section 17(2) of the Austrian Service of Documents Act). According to Section 17(3) of the Austrian Service of Documents Act, the collection period starts running on the day when the document is first made available for collection and must last for at least two weeks. The deposited document is deemed to have been served on the first day of this period (notional service). However, this does not apply if the addressee was not able to find out about the served documents in time because he or she was absent from the delivery location. However, even in this case, Section 17(3) final sentence of the Austrian Service of Documents Act stipulates that service is deemed effective on the day immediately following the addressee's return to the delivery location within the collection period, when he or she was able to retrieve the deposited document. If the deposited document is not collected (which in no way changes how service was rendered effective by its having been deposited), it must be returned to the court that sent it at the end of the collection period.

**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 the addressee or a substitute recipient living in the same household refuses to take receipt of the document without a valid legal reason for doing so, the document must be left at the delivery location or, if this is not possible, deposited without any written notification. The act of leaving or depositing the document renders service effective (Section 20 of the Austrian Service of Documents Act).

## **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?**

Service by post must be performed in accordance with the Universal Postal Union Convention and with an international acknowledgement of receipt. The document must be delivered to the addressee or – if it cannot be served on him or her – to another person who is authorised to take receipt of it under the law of the country where it is being delivered (e.g. authorised recipient, substitute recipient). In Austria, the provisions of Section 16 of the Austrian Service of Documents Act concerning substitute recipients are applicable (see point 7.1 above).

**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 Universal Postal Union Convention does not contain any provisions to address the issue of whether it is permissible to deposit the document and, if so, under what conditions. Therefore, these matters are based on the national legislation of the country where the document is being delivered. According to the relevant provisions of Austrian law, the document may be deposited provided that the necessary conditions are fulfilled (see point 7 above).

**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 point 7.3 above.

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

Yes. The delivery agent must certify that the document has been served by recording this on the proof of delivery (confirmation of delivery, acknowledgement of receipt). The person taking delivery of the document must confirm service by signing the proof of delivery, entering the date and, if he or she is not the actual addressee, stating his or her relationship to the latter. If the person taking delivery refuses to provide confirmation, the delivery agent must note this fact on the proof of delivery along with the date and, where applicable, state how the person taking delivery is related to the addressee. The proof of delivery must be returned to the sender 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?**

Although service is not deemed effective if performed contrary to the legal regulations, this can be remedied. Firstly, where the service procedure is defective, the basic rule of Section 7 of the Austrian Service of Documents Act means that service is still deemed to have been made at the point when the document was actually received by the addressee. If an authorised recipient has been appointed, this person must be named as the addressee; otherwise, service will only be rendered effective at the point when the document is actually received by the authorised recipient. In addition, the Service of Documents Act (Sections 16(5) and 17(3)) lays down specific rules for remedying defects in the service of documents in the following situations: when the addressee is unable to find out about the served documents in time because he or she is absent from the delivery location, when substituted service is ineffective or when the documents are deposited. The defect is remedied on the day immediately following the addressee's return to the delivery location, but in cases where the documents have been deposited the crucial factor is that the addressee must return within the collection period and be able to retrieve the deposited document the next day. While there is no time limit for remedying defects in the event of ineffective substituted service, where service by the deposit of documents is ineffective, this can no longer be remedied if the addressee only returns after the end of the collection period. If the addressee returns early enough to be able to retrieve the delivery on the very first day of the collection period, service is deemed effective on this day because the entire collection period is still intact. If he or she returns later than this, service by deposit of the document is not deemed effective until the day immediately following the addressee's return; the periods triggered by the service of the documents, particularly appeal periods, must always be granted to the recipient in full.

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

No.

Last update: 13/09/2016

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**Service of documents - Poland**

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

'Service of documents' means providing specific persons with access to correspondence intended for them in accordance with the law. Compliance with the constitutional principle of transparency of adjudication, the securing of parties' procedural rights and the possibility of defending them, the validity of proceedings, the correct calculation of time limits and, in consequence, the validity of judgments all depend on documents being served correctly.

The rules on the service of documents are mandatory and the parties have no discretion in this respect. These rules are laid down in Articles 131 to 147 of the Code of Civil Procedure ('the Code') and in the following implementing acts:

Regulation of the Minister for Justice of 23 February 2007 – Rules of Procedure for Ordinary Courts ('the Rules of Procedure');

Regulation of the Minister for Justice of 12 October 2010 on the detailed procedure and method for serving judicial documents in civil proceedings ('the Regulation').

The service of extrajudicial documents is governed by the Postal Act of 23 November 2012 and implementing acts issued thereunder, including the Regulation of the Minister for Administration and Digitisation of 29 April 2013 on the conditions for the provision of universal services by the designated service provider ('the Postal Regulation').

**2 Which documents need to be served formally?**

Judicial documents (documents sent by a court to the parties and other persons involved in court proceedings) are served formally. Such documents include:

Copies of petitions, together with annexes

Notifications

Summons

Notices of rights and obligations

Copies of judgments, together with the grounds.

**3 Who is responsible for serving a document?**

In Poland, documents are served formally, which means that nearly all documents are served on an *ex officio* basis. During proceedings, documents are served by the courts. The serving authorities are the postal operator, bailiffs and the court serving agency. As a rule, documents are served by the postal operator. The costs and effectiveness of service are taken into account when selecting the way in which judicial documents are to be served. Documents may be served by the court serving agency, court clerks, the judicial police or bailiffs (Section 68 of the Rules of Procedure) if this method of service is more effective in specific circumstances. During enforcement proceedings, documents are served by bailiffs. The Minister for Justice may set up a court serving agency and determine both its organisational structure and a detailed procedure for serving documents.

Under Article 132 of the Code, lawyers and legal advisors are exempt from the principle of formal service of documents and may serve documents on one another directly with dated acknowledgement of receipt. Proof that a copy of a pleading has been served on the other party or proof that it has been sent by registered mail is enclosed with pleadings filed with a court. Pleadings with which proof of service or proof of posting by registered mail has not been enclosed are returned. Documents may also be served directly in a court secretariat on addressees who have proved their identity and acknowledged receipt. Under Section 70 of the Rules of Procedure, the president of a court may order that judicial documents be served directly on local institutions and lawyers and that documents submitted by local institutions to the court be accepted directly. If a preparatory document was submitted so late that a copy thereof could not be served together with a summons to a court hearing, that document may be served during that hearing.

Under Section 71 of the Rules of Procedure and Article 135 of the Code, if the addressee has indicated a PO box number alone as the correspondence address, he/she may be notified of the arrival of a judicial document also through that PO box.

#### **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 requested authority may establish the address using the relevant registers, where it considers this appropriate. The registers existing in Poland are listed in point 4.2.

##### **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 information in question may be obtained from the Common Electronic System of Population Register (PESEL) at the request of the court before which a case has been brought or at the request of a person having a legitimate interest (documents confirming a legitimate interest include petitions, bailiffs' letters and agreements).

A party or a person having a legitimate interest should submit a request using the form available at <http://www.mswia.gov.pl/portal/pl/381/32/>.

The fee is PLN 31. All requests should be accompanied by proof of payment of the fee (requests submitted by courts are exempt from the fee).

The fee is paid to the following account:

Ministry of the Interior and Administration

Ul. Batorego 5

00-951 Warsaw

Account number: NBP O/O Warszawa Nr 67 1010 0031 3122 3100 0000

If an attorney has been appointed, the power of attorney should be enclosed with the request.

Requests should be submitted to the following address:

Wydział Udostępniania Informacji

Departamentu Spraw Obywatelskich MSWiA

Ul. Pawińskiego 17/21

02-106 Warsaw

In Poland, the addresses of undertakings (registered partnerships, professional partnerships, limited partnerships, limited liability partnerships and joint-stock companies, cooperatives, state-owned enterprises, R&D bodies, foreign enterprises and their branches, as well as mutual societies) are available in an online register kept by the National Court Register. The register is kept in accordance with the principle of openness (anyone may access the data stored therein).

Information available online can be found at:

<http://bip.ms.gov.pl/rejstry-i-ewidencje-okrajowy-rejestr-sadowy/elektroniczny-dostep-do-krajowego-rejestru-sadowego/>

Search engine: <https://ems.ms.gov.pl/krs/wyszukiwaniepodmiotu>

Data of natural persons engaged in business activities are stored in the Business Activity Central Register and Information Record (CEIGD), which is open to the public.

Search engine of the Business Activity Central Register and Information Record: <https://prod.ceidg.gov.pl/ceidg.cms.engine/>

##### **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 courts examine whether each individual request is admissible. There is no uniform practice in this respect. The ways in which addresses are established are discussed in point 4.2.

#### **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)?**

In practice, judicial documents are usually sent by registered letter with acknowledgement of receipt (cf. point 3).

Under Article 133 of the Code, if addressees are natural persons, documents are served on them in person, i.e. handed to them, or, if they do not have legal capacity, to their legal representative. Documents intended for legal persons and organisations without legal personality are served on the body authorised to represent them in court or handed to employees authorised to receive documents by the head of the unit concerned. If a legal representative has been appointed or a person has been authorised to receive judicial documents, documents are served on these persons.

Under Article 135 of the Code, at the request of a party documents may be delivered to a PO box address indicated by that party.

Under Article 137 of the Code, documents are served on soldiers doing compulsory military service and officers of the Police Force and the Prison Service by their immediate superiors. Documents are served on prisoners via the governing bodies of the relevant institution.

Substituted service and fictitious service are discussed in point 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.)?**

Under Article 1311 of the Code, in electronic writ of payment proceedings documents are served on plaintiffs through an ICT system supporting such proceedings (electronic service). Documents are served on defendants if they have filed pleadings electronically.

If a document is served electronically, it is deemed to have been served on the date indicated in the electronic acknowledgement of receipt. In the absence of such an acknowledgement, service is deemed to have been effected 14 days after the document was entered in the ICT system.

Documents to be served are not sent to e-mail addresses, but a notice that a message has been entered in an ICT system is left in the addressee's inbox.

## **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 the addressee is not at home, the server may hand the judicial document to an adult member of the household or, if no such person is present, leave that document with the residents' association, the caretaker or the village head if these persons are not opposing parties in the case and have agreed to hand the document to the addressee (Article 138 of the Code).

If the document cannot be served in the manner described above, it should be left at a post office or the local town hall. A notice to that effect is left on the addressee's door or in his/her letterbox (Article 139 of the Code).

If documents cannot be served on legal persons, organisations or natural persons subject to the registration requirement because a change of address has not been recorded, they are left in the case file and are deemed to have been effectively served, unless the new address is known to the court (Article 139 of the Code).

Documents may also be served personally on a guardian *ad litem* appointed by the court ruling on an application by the person concerned. This occurs when a pleading which entails the need to defend a party's rights is to be served on a party whose place of residence is not known. A guardian may also be appointed for organisations if they do not have representative bodies or the place of residence of the members of these bodies is not known (Article 143 of the Code).

If a party's place of residence is not known and the document to be served does not entail the need to defend that party's rights, that document is served by displaying it in the court building (Article 145 of the Code).

If the parties and their representatives fail to give notification of a change of address, the judicial document is left in the case file and is deemed to have been effectively served, unless the new address is known to the court (Article 136 of the Code).

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

Under Article 139 of the Code, a notice that a document has been left at a post office or the local town hall must indicate that the document is to be collected within seven days. If the addressee does not collect the document by that deadline, the server once again attempts to serve the document on the addressee. If that attempt is unsuccessful, the server once again leaves a notice that the document has been left at a post office or the local town hall and the addressee has another seven days to collect the document. In case-law documents are deemed to have been served on the last day of that period (cf. point 7.3).

In the case of substituted service (cf. the first subparagraph of point 7.1), judicial documents handed to an adult member of the household and, if no such person is present, left with the residents' association, the caretaker or the village head are deemed to have been served when they are handed to those persons.

### **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?**

A notice is left on the addressee's door or in a letterbox. A model notice is set out in the Regulation. It indicates, *inter alia*, that if a judicial document sent by registered mail is not collected even though the addressee has been notified twice, that document will be returned to the court that sent it. In that case, the document is deemed to have been served on the last day on which the addressee could collect it. The service of documents may result in procedural time limits beginning to run.

Under Section 6 of the Regulation, a notice that a document has been deposited is prepared by the operator's post office or the server, which indicates the operator's post office or the town hall where the document is to be collected within seven days, counting from the day following the day on which the notice was left. Notices are left in addressees' letterboxes.

After leaving a notice informing the addressee that the document can be collected from the operator's post office or the local town hall, the server:

- 1) indicates on an acknowledgement of receipt form that the document was not served, marks 'notification given' on the address side of the letter and signs it;
- 2) immediately leaves the document at the operator's post office or the local town hall.

The operator's post office or the town hall acknowledges receipt of the deposited document, which is date-stamped and signed by the person accepting it. The deposited document is kept at the operator's post office or the town hall for the next seven days, counting from the day following the day on which the notice was left.

### **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 the addressee refuses to accept service of a document, that document is deemed to have been served.

In that situation, the server indicates the date of service himself/herself and the reasons why the acknowledgement of receipt was not signed (Article 139 of the Code).

## **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?**

Documents are usually served on that basis by the postal operator as regular letters, not judicial documents.

Under Article 37 of the Postal Act, unless a postal consignment is sent *poste restante*, it may also be handed to the following persons and is deemed to have been effectively served:

1. the addressee:
  - a. to his or her letterbox, except for registered items,
  - b. at a post office if the addressee was not present at the address indicated on the postal consignment, postal order or agreement for postal services when the postal consignment was delivered or the postal consignment cannot be delivered via a letterbox,
  - c. at a place agreed by the addressee and the postal operator;
2. the addressee's legal representative or attorney authorised by power of attorney granted on general terms or by postal authorisation:
  - a. at the address indicated on the postal consignment, postal order or agreement for postal services,
  - b. at a post office;
3. to an adult residing together with the addressee if the addressee has not left instructions about the delivery of registered items or postal orders at a post office:

- a. at the address indicated on the postal consignment, postal order or agreement for postal services,
  - b. at a post office, after the person in question submits a written declaration that he or she lives with the addressee;
4. to a person authorised to receive postal consignments at the office of a public authority if the postal consignment is addressed to the public authority concerned;
  5. to a person authorised to receive postal consignments at establishments which are legal persons or organisational units without legal personality if the postal consignment is addressed to:
    - a. the legal person or organisational unit without legal personality concerned,
    - b. a natural person who is not a member of the management board or an employee of the legal person or organisational unit without legal personality concerned and who is present at that establishment;
  6. to the head of an organisational unit or a natural person authorised by that head if the postal consignment is addressed to a natural person present at a unit where it is highly difficult or impossible to deliver a postal consignment to the addressee because of the nature of that unit or generally accepted custom.

Under Section 30 *et seq.* of the Postal Regulation, the designated service provider provides services in such a way as to enable the sender to obtain a document confirming the receipt of a registered item only at the written request of the sender.

In all its post offices, the designated service provider accepts written requests from addressees to send postal consignments to the addresses indicated in these requests within the time limit specified in the rules of procedure.

The designated service provider accepts from addressees written instructions concerning non-delivery of registered items to adults living with addressees.

### **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 or other persons authorised to receive a registered item are not present at the time of delivery, the designated service provider leaves in the addressee's letterbox a notice of attempted delivery of the registered item, together with information about the time limit for collecting that item and the address of the post office where it will be deposited. This notice is in paper format.

### **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 designated service provider hands postal consignments to addressees at post offices within 14 days ('the time limit for collection'). After this time limit expires, a postal consignment may be stored if the addressee submits a written request to that effect.

The time limit for collection begins to run on the day following the day of delivery of the notice.

Postal consignments not collected within that time limit are returned to sender.

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

An acknowledgement of receipt, usually a form enclosed with the consignment, serves as proof of service and the date thereof. Under Article 142 of the Code, the person receiving a document confirms its receipt and the date of receipt with his or her signature. If that person cannot or will not do so, the server indicates the date of service and the reasons why no signature has been provided himself or herself. The server indicates how the document was served on the acknowledgement of receipt, specifies the date of service on the document served and signs it.

A confirmation of receipt of a judicial document is an official document confirming service and the date thereof. A person who claims that a document was served on a different date must provide evidence to support that claim.

### **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 server infringes the terms of service, the service is deemed to be invalid.

If a document is not served on the right addressee, it is deemed to have been validly served when the addressee actually receives it.

Nevertheless, a party which was unable to take action because a document was served on the wrong person may apply for the resumption of proceedings within three months (Articles 401 and 407 of the Code).

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

Not directly. No fees for service are charged in Poland, unless a special procedure has been applied further to a request (Article 11(2)(2) of Regulation No 1393/2007).

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## **Service of documents - Portugal**

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

**Service** is the act by which a person (defendant, respondent, judgment debtor) is informed that a legal action has been brought against them. It is used to summon them for the first time in order to defend themselves. Service is also used for the initial summons of a person with an interest in the proceedings who was not initially involved in them to appear on the side of the applicant or the defendant.

**Notification** is used to summon a person to appear in court or to inform them of a fact.

There are specific rules in the Portuguese Civil Procedure Code governing how service and notification should be effected, and specifying the information to be transmitted in relation to the addressees, the nature of the facts to be transmitted and the purpose of transmission. The reason for these rules is to ensure that the communication actually reaches addressee and, if they are a party to the proceedings, to guarantee the right of defence.

### **2 Which documents need to be served formally?**

**The following information is served:**

- The duplicate of the initial petition with which the applicant brought the action and copies of the accompanying documents, which are delivered to the defendant
- Information that the person has been summoned for that action
- Indication of the court, division and section in which the proceedings are being heard, the deadline for submitting a defence, and of the need to appoint a legal representative, if this is mandatory

- Warning of the consequences of failure to defend the action

**The following information is notified:**

- Court orders and judgments
- Statements of case submitted by the parties, applications and documents included in the case file and the deadline for the parties to exercise their right to adversarial proceedings
- Summons of a party, witness, expert, technical adviser or lawyer to be present in **judicial proceedings**;
- Requests for expertise, other evidence or information to entities that have a duty to cooperate with the court.

**3 Who is responsible for serving a document?**

In proceedings under way service and notification may generally be effected by judicial officers, enforcement officers or by the legal representative of one of the parties, depending on the cases indicated in the answer to question 5.

Service and notification may be effected by notaries in probate proceedings.

In certain cases provided for in the New Urban Lease Law (Novo Regime do Arrendamento Urbano), notification may be effected by lawyers, solicitors or enforcement officers before an action has even been brought.

Service and notification may be effected by civil registrars in voluntary jurisdiction proceedings that are heard before the Civil Registrar, particularly in family and juvenile matters.

**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 Portuguese law it is the duty of judicial officers to carry out, on their own initiative and without the need for a court order, all requisite steps to serve notice on a person.

To this end, judicial officers consult information that is electronically available in other government departments in order to find out if there has been a change of residence and establish the current address of the person to be served. This constitutes the 'own-initiative' rule for measures to be taken for service.

The same rule applies in certain cases expressly provided for by law for the notification of the parties or their representatives.

Enforcement officers also have access to certain databases of government departments to enable them to check the tax residence of judgment debtors, for example, in enforcement proceedings.

Under Portuguese law, whenever a party justifiably claims to have serious difficulty in obtaining information – particularly regarding a change of residence of the person to be served or notified – something which impacts on the effective exercise of a procedural right, duty or claim, the court may order any persons or entities to cooperate in order to obtain this information. Regardless of whether or not they are parties to the proceedings, they have a duty to cooperate with the court by providing the information ordered by it.

**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. This possibility exists only for the national authorities and entities mentioned in the answer to question 4.1.

**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 courts consult the databases of other government departments and, if this proves insufficient, order other persons, entities or even the police authorities to gather and/or provide information on the current address of a person, as mentioned in the answer to question 4.1.

**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)?**

The various ways in which a document may be served or notified are indicated here. The cases in which service and notification are used have already been indicated in the answer to question 1.

**Service**

A document may be served on a **person** or served **by publication**. Either of these forms of service may be addressed to **natural or legal persons**. The rules on the service of natural persons apply, *mutatis mutandis*, to legal persons, unless some aspect of the service of legal persons is specifically regulated, in which case these specific regulations apply.

*Service on persons*

In practice, a document may be served on a person:

**By electronic data transmission** e.g. to the Public Prosecutor's Office when it is the principal party in the action

**By post**, in the form of a letter with acknowledgement of receipt addressed to the residence or workplace of the person to be served, in the case of a natural person, or to the office registered in the National Register of Legal Persons, in the case of a legal person

**By personal contact of the enforcement officer** with the person to be served, when service by post proves impossible or the applicant states that this is their wish in their initial petition

**By personal contact of the judicial officer** with the person to be served, if the applicant states that this is their wish in the initial petition and pays a fee for it

**By a legal representative:**

Legal representatives must immediately state in the initial petition that they will effect service themselves, by way of another legal representative or by way of a solicitor

Legal representatives may request service at a later date if any other form of service proves impossible

The rules on service by enforcement officers or judicial officers apply to service by legal representatives

Service on persons may be effected:

**On the person to be served;**

**On a person other than the person to be served** who is charged with transmitting the content of the document to them, when the law so provides;

**On the legal representative of the person to be served** when granted power of attorney less than four years ago, which gives them special powers to receive the document served;

**On a temporary guardian** of the person to be served appointed by the judge when the enforcement officer or judicial officer is aware that the person to be served is unable to receive the document as a result of their legal incapacity (known mental disorder or other temporary or permanent legal incapacity).

*Service by publication*

In practice, service by publication may take place:

when **the person to be served is missing** and cannot be found;

when **the identity of the persons** to be served is unknown.

Service by publication is effected by:

posting a notice on the door of the last residence or registered office in Portugal of the person to be served;

followed by the publication of a notice on a publicly accessible web page provided for by law.

#### **Notification**

During proceedings notification may take place in one of the following ways:

Notifications to parties who appoint a legal representative and/or solicitor are always made to the latter, as described in the answer to question 6

Notifications that are intended to summon a party to appear in person are sent to the party by recorded postal delivery (in addition to the legal representative being notified as described in the answer to question 6)

Notifications to parties who do not appoint a legal representative are sent to the party themselves by registered letter addressed to their residence, registered office or place chosen for this purpose

In addition, notifications of final decisions are always made to the parties by registered letter addressed to their residence, registered office or place chosen for this purpose

Notifications which are intended to summon witnesses, experts or other persons with intermittent involvement in the proceedings to attend court are made by recorded postal delivery;

Notifications are not sent when a party undertakes to produce a person, but the party may request that the court registry sends them the notices concerning the persons they undertake to produce

Final decisions handed down in any case are always notified to the Public Prosecutor's Office as described in the answer to question 6

As explained in the answer to question 6, the Public Prosecutor's Office is notified of interim rulings that may give rise to the lodging of appeals required by law

Communications and invitations sent in a procedural document to interested parties present are deemed to be notifications, provided they are documented and ordered by the presiding entity

Notifications between legal representatives are made by the legal representatives themselves, by way of electronic data transfer or as otherwise indicated in the answer to question 6

**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.)?**

Yes, the following are preferably carried out **by electronic data transmission** through the courts' computer system:

Service of documents to the Public Prosecutor's Office

Notifications to the Public Prosecutor's Office, lawyers, solicitors and enforcement officers

The submission to the court of procedural documents and documents by lawyers, solicitors and enforcement officers

Proof of prior payment of the court fee (which is part of the legal costs)

Proof of or application for legal aid

When the size of the procedural document to be submitted is incompatible with electronic transmission, or the documents to be sent exist only on physical media, or the case does not require a legal representative to be appointed and the party has not appointed one, or in the case of a justifiable reason:

Procedural documents may be delivered to the court registry, sent by mail or by fax

Procedural documents may be notified by record of delivery, by mail or by fax

In addition, the court services may:

Transmit any messages by post, fax or electronic means

Telegrams, telephone communication or other similar means of telecommunications may be used in urgent cases

Telephone communication is always documented in the case files and followed by confirmation by any written means

In relation to the parties to the proceedings, telephone communication may be used only to transmit a summons or cancel a summons for acts of legal procedure

These rules apply in legal proceedings of a civil or commercial nature heard in the courts of first instance. They also apply in certain cases for proceedings before notaries (e.g. inheritance) or civil registrars (e.g. family matters where there is an agreement).

#### **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)?**

In addition, Portuguese law also provides for **service of documents at a set time** as follows:

For service on a person if the enforcement officer or judicial officer finds that the person to be served resides or works in the specified location but is unable to serve them because they cannot be found

A notice should then be left indicating the time at which service will be effected;

The notice may be delivered to the person who is in the best position to pass it on to the person to be served or, when this is not possible, it must be posted in the most appropriate location

On the day and time specified in the notice, the enforcement officer or judicial officer serves the document on the person to be served or, if they are unable to find them, a third party who is in the best position to transmit the letter to the person to be served and who is tasked with doing so

If it is not possible to obtain the cooperation of third parties, service is effected by posting a notice, in the most suitable location and in the presence of two witnesses, indicating that the person has been served, which court the proceedings are being held in and that the duplicate and documents are available to the person to be served at the court registry

#### **PS.**

In cases where:

(i) the acknowledgement of receipt is not signed by the person to be served (postal service);

(ii) service on a person at a set time is effected on a third person;

(iii) or service on a person at a set time is effected by posting a notice of service at the location

the enforcement officer or court registry must always send **a registered letter** to the person to be served, within two business days, to notify them, as appropriate, of:

the date and the way in which the service was deemed to be effected;



the deadline for the defence and the consequences of failure to defend the action;  
the location of the duplicate of the writ of summons and the documents to be served;  
the identity of the person on whom service was effected.

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

**Service by post** is deemed to be effected on the day when the acknowledgement of receipt is shown to be signed, either by the person to be served or by a third person (assuming in this case that the third person delivered the letter to the person to be served, unless proven otherwise).

**Service on a person** by enforcement officers, judicial officers and legal representatives is deemed to be effected on the date when the record of service is drawn up.

**Service by posting a notice of service** is deemed to be effected on the date indicated therein.

#### **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 case of service or notification by registered letter – with or without acknowledgement of receipt – a delivery notice is left in the mailbox if the postman is unable to find anyone at the address indicated.

The delivery notice informs the addressee that the letter has been left at the post office, indicating the address, opening hours and deadline for its collection. If the letter is not collected within the period specified (and there is no request to extend that period or resend the letter to another address), it is returned to the sender.

#### **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?**

**When service is effected by post** and there is evidence of refusal to receive the letter or to sign the acknowledgement of receipt, service is deemed to be effected in the following manner and circumstances:

By a notice drawn up by the postman certifying the refusal by the natural person, the representative of the legal person, or an employee thereof, to sign the acknowledgement of receipt or to receive the letter

In cases where the parties are permitted to agree on the address for service:

(i) by leaving a second registered letter with acknowledgement of receipt at the agreed address, when the first registered letter with acknowledgement of receipt sent to that address is returned or

(ii) by certificate, drawn up by the postman, of refusal by the person to be served to receive the letter or to sign the acknowledgement of receipt, when it is sent to the agreed address

**When service is effected personally** by the enforcement officer or judicial officer, and there is evidence of refusal by the person to be served to sign the certificate of service or to receive the duplicate, service is considered to be effected, in which case:

The enforcement officer or judicial officer informs the person to be served that the duplicate is at their disposal in the court registry and refers to this information and the refusal by the person to be served to receive it in the certificate of service

In addition, the registry notifies the person to be served by registered letter indicating once again that the duplicate of the initial petition and accompanying documents are at their disposal in the registry

Service is deemed not to be effected only if the refusal is legitimate. Refusal is legitimate when the person to be served cannot be found because they do not reside or are not based at the address indicated, or if a third party states that they are not in a position to deliver the letter.

The same rules apply in certain cases where the law provides that **personal notification** of the parties or their representatives must take place with the formalities of service.

### **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 service or notification by post, with acknowledgement of receipt, originates from abroad, the Portuguese postal services may deliver the letter and documents to the person to be served or a third party at the same address who states that they are in a position to hand over the letter to the addressee.

#### **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?**

See answer to question 7.3.

#### **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 principle, the addressee has **six business days** to collect the documents from the post office.

The addressee is informed of this period and the fact that the documents can be collected at the post office by way of a **delivery notice** that the postal service leaves in the mailbox whenever the postman does not find anyone at home.

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

Yes, in the case of service, the acknowledgement of receipt, the certificate of service or the notice of service are written proof that service has been effected. In the case of notification, the recording of the acknowledgement, the recording of the letter or the file or record drawn up in the proceedings are written proof that notification was effected.

In the case of service or notification by electronic data transmission, the courts' computer system certifies the date and time of issue.

### **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?**

Failure of service is a major deficiency that renders invalid the entire procedure from, but not including, the initial petition.

Failure of service is understood to occur in the following cases:

complete omission of service;

error in identifying the person to be served;

improper service by publication;

service effected following the death of the natural person or termination of the legal person to be served;

proof that the addressee of the service was not made aware of the document for reasons not attributable to them.

This invalidity is deemed to be remedied only if the defendant or the Public Prosecutor's Office (where it is the principal party) acts in proceedings without immediately objecting to the failure of service.

Outside of the abovementioned cases, the omission of any act or formality required by law regarding service or notification constitutes a simple irregularity. If this irregularity is cited or the court becomes aware of it in the course of the procedure, the court will order it to be remedied. In other cases, an irregularity of service or notification renders the act invalid only when the law so declares or when it may influence the examination or decision in the case. In this case, the remaining procedural acts not affected by the invalid act remain valid.

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

Yes, in some cases, detailed below, the cost of service and notification is estimated in UA (Unit of Account). The value of the UA in 2015 was EUR 102.

Thus:

Service and notification of persons by enforcement officers costs 0.5 UA when successful and 0.25 UA when unsuccessful

Service and notification on persons and service and notification by publication effected by judicial officers costs 0.5 UA when successful and nothing when unsuccessful

Transport costs, when the act is effected by a judicial officer, and VAT, when due, may be added to these amounts

#### **Final Note**

**The information in this form is general in nature, is not exhaustive and does not bind the Contact Point, the European Judicial Network in Civil and Commercial Matters or the courts or any other recipients. Applicable legislation must always be consulted.**

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#### **Service of documents - Romania**

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

The court may decide on an application if the parties have been summoned or are present in person or by proxy. The service of documents abroad and from abroad is a procedure that brings them to the attention of the addressees: the parties, witnesses or participants in a trial in the requesting state. (Article 3(1) of Law No 189/2003 on international judicial assistance in civil and commercial matters).

##### **2 Which documents need to be served formally?**

The judicial documents to be served formally are the documents issued within a civil or commercial trial and whose service is ordered by the court (writs of summons, judgments, requests for redress, etc.).

##### **3 Who is responsible for serving a document?**

The service of procedural documents is carried out free of charge, ex officio, by the procedural agents of the court or by another employee thereof. Should this be not possible, they are served by post as registered mail with declared content and acknowledgment of receipt, in a sealed envelope, to which the proof of receipt/report and a notice are to be attached. Service can also be carried out by bailiffs or by express delivery at the request and expense of the interested party (Article 154(1), (4) and (5) of the Code of Civil Procedure).

##### **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 initial application must include the address of the party (Article 194 of the Code of Civil Procedure). In the preliminary procedure of verifying and amending the application, the court may request the applicant to provide further information that was not mentioned in the application (Article 200 of the Code of Civil Procedure).

The court is not obliged to investigate ex officio the current address of the defendant. However, the court's general obligation is to have an active role (Article 22 of the Code of Civil Procedure) and to take the necessary steps for a substantiated decision.

###### **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 address of a Romanian citizen can be obtained through the Ministry of Internal Affairs (National Inspectorate for Personal Records and Database Administration – INEPABD, str. Obcina Mare nr. 2, Sector 6, Bucharest, Tel. +40214135442, +40217467047/8/9, Fax +40214135049, Email [depabd@mai.gov.ro](mailto:depabd@mai.gov.ro); web: [http://depabd.mai.gov.ro/furnizari\\_date.html](http://depabd.mai.gov.ro/furnizari_date.html)) or through the local personal records office.**

Interested persons may request certain personal data of Romanian citizens from the National Register of Personal Records, regarding their domicile or place of residence, by submitting a reasoned written request to the local personal records office that is competent in the area where the law firm/person searched is located. Such data may only be provided with the prior consent of the persons concerned.

Consent is not required where there is a justified legal basis and the application is made by certain authorities (police, defence, justice, social protection, etc.) or by individuals whose legitimate interests are proven with documents demonstrating the justified legal basis. The bodies competent to decide on applications made by legal persons are the local personal records offices and the INEPABD.

For specific or low volume requests, the fee is RON 1 per person, which is transferred to the state budget into account No RO35TREZ70620330108XXXXX (IBAN), opened at the Treasury for Sector 6, Bucharest, tax registration number 26362870 (where the data are supplied by the INEPABD) or into the accounts of the local councils (where the data are supplied by the local personal records office).

A tax stamp of RON 5 is to be affixed on each application. For high volume applications, the fee is RON 120 per hour of operation in the central computer system or RON 7 per hour of operation in the local computer system. Public institutions competent in specific fields (defence, public order, national security, justice, finance, health, etc.) are exempt from payment of fees for the data requested for the purpose of exercising their legal responsibilities.

**Obtaining the address of the registered office of a legal person through the National Trade Register Office (Bd. Unirii nr. 74, sections 2+3, bl. J3B, Sector 3, Bucharest; <https://portal.onrc.ro/>) or through the Trade Register Offices attached to tribunals**

Certified copies of the records in the register and of the documents submitted can be issued at the expense of the applicant, as well as information relating to the data recorded and the certificates attesting that a particular document or fact is or is not recorded. The documents may also be requested and issued by post. On request, the documents are issued in electronic form and sent online, with an extended electronic signature included, attached or logically associated.

The forms, fees and charges levied for the provision of specific (basic or extended) information, historical reports or certificates can be found at <https://www.onrc.ro/index.php/en/>, under Information.

Where there are collaboration protocols, documents and information may be issued for free to certain authorities and public institutions, legal persons, journalists and representatives of the mass media, and to accredited diplomatic missions.

The InfoCert service is available to issue certificates online and to supply information via the portal <https://portal.onrc.ro/>. The documents supplied through this service are subject to the provisions on electronic signatures and timestamps. They include security features: qualified electronic signatures, timestamps, watermarks (graphic marks in the page background), and barcodes. The sample documents issued by this service can be found on <https://portal.onrc.ro/ONRCPortalWeb/appmanager/myONRC/signup?p=infoCert>.

It is possible to disclose personal data concerning members, shareholders or other persons, when the data are requested by application and issued at the desks, or issued electronically via the RECOM online service, and sent online, with an extended electronic signature included, attached or logically associated, or via certificates. Public authorities in the field of justice, national defence, or finance, and liquidators and bailiffs can also access other data.

#### **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 admissibility of processing such requests is decided by the court. Romanian courts receive a reduced number of letters rogatory requesting a person's address/registered office, and it is difficult to assess whether there is a uniform practice. The information available indicates that, in general, the Romanian courts do admit such requests.

#### **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)?**

See the answer to question 3.

#### **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.)?**

Procedural documents may be served by the court clerk and by fax, e-mail/other means that ensure the transmission of the document's content and the acknowledgement of receipt thereof, where the party concerned indicated to the court his/her contact details for this purpose. For acknowledgment purposes, when it sends a procedural document the court also sends a form to be filled out by the addressee with the date of receipt, the name written clearly, and the signature of the person responsible for receiving correspondence. The form is returned to the court confirmation by fax, e-mail, or other means (Article 154(6) of the Code of Civil Procedure).

#### **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)?**

See the answer to question 3.

Delivery takes place in person to the person summoned. In the case of people residing in a hotel/hostel, the document is handed over to the administrator or to the doorman (Article 161 of the Code of Civil Procedure).

The document is handed over to the entity where the addressee can be found (military entity, the harbourmaster in the case of ship crew, the prison administration in the case of prisoners, or to the hospital administration in the case of patients), and the entity in question subsequently hands over the document to the addressee and presents the acknowledgement of receipt to the agent or sends it directly to the court (Articles 161 and 162 of the Code of Civil Procedure).

The documents may be delivered to the person responsible for receiving correspondence, the building administrator, the guard, the security guard, or at the central offices of the following entities (for the addressees mentioned in brackets): the Ministry of Public Finance/other designated bodies (the state), judicial representatives (local administrative authorities, legal persons governed by public law), representatives' main office/subsidiary (legal persons governed by private law), a designated representative (associations, companies, entities without legal personality), their home address/registered office (persons under insolvency proceedings and creditors), the Ministry of Foreign Affairs (staff of diplomatic missions/consular offices, Romanian citizens posted to international organisations and their family members living with them while they are abroad), the central bodies that posted the workers or that have authority over the entity that posted them abroad (other Romanian citizens who are abroad for work-related purposes, including their family members accompanying them).

If the addressee refuses to accept the document, the agent places it in his/her mailbox. In the absence of a mailbox, **a notification** is left on the addressee's door, which must include, among others, the mention that the **addressee must present himself/herself** one day later but no more than 7 days after the date of notification (3 days in the case of an emergency) **at the court/mayor's office that is competent where he/she lives/has his/her registered office** (if the addressee is not in the locality where the court has its seat) **for the document to be served to him/her**.

If the addressee cannot be found, the agent hands over the document to another person (adult family member who lives with the addressee and receives the correspondence). Where the addressee resides in a hotel/apartment building and cannot be found at home, the agent serves the document to the administrator/doorman. The person who receives the document signs the acknowledgement of receipt, and the agent checks his/her identity and signature, and draws up a report. If they receive the document but refuse to sign the acknowledgement of receipt or are not able to sign it, the agent draws up a report. If these persons are absent or are present but refuse to accept the document, the document is placed into their mailbox. In the absence of a mailbox, a notification is left on their door.

In all cases, the agent has an obligation to submit the document and the report, within 24 hours from submitting/leaving the notification, to the court/mayor's office, which will then serve the document. Where a party receives the document from an official of the mayor's office, the latter submits the proof of delivery and the report to the court within 24 hours. If the time limit lapsed without the party presenting himself/herself at the mayor's office for the document to be handed over, an official of the mayor's office forwards the document and the report to the court (Article 163 of the Code of Civil Procedure).

Where the complainant cannot find out the address of the defendant, the court may approve **summons by advertisement**, by displaying the document at the door of the court, on the portal of the court and at the last known address. As the case may be, the court may order publication of the summons in the Official Gazette of Romania or in a widespread national newspaper. When approving summons by advertisement, the court also appoints a **curator** from among the lawyers of the Bar, who will be summoned to represent the interests of the defendant at hearings.

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

The procedure is completed at the time of signing the proof of delivery or upon drafting of the report, regardless of whether the party has received the procedural document in person or not. In the case of serving the document by mail/express delivery, the procedure is completed at the time of signing the acknowledgement of receipt or when the postal worker/courier records the addressee's refusal to receive the correspondence. In the case of serving by fax, e-mail, or by other means, the procedure is completed on the date shown on the printout of the proof of posting, certified by the clerk of the court who has posted the document (Article 165 of the Code of Civil Procedure).

If the addressee refuses to accept the document or he/she does not have a mailbox, the agent leaves a notification on his/her door requesting that he/she present himself/herself at the court/mayor's office in order to pick up the document. If the addressee does not present himself/herself, the document is deemed to have been served when the time limit expires (Article 163 of the Code of Civil Procedure).

In the case of summons by advertisement, the procedure is deemed to have been accomplished on the 15th day after publication of the summons (Article 167 of the Code of Civil Procedure).

**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?**

If the addressee cannot be found, the procedural agent or the postal worker may hand over the document to another person or, if such a person is present but refuses to accept the document, the document may be placed in his/her mailbox. In the absence of a mailbox, a notification is left on the door of the addressee or of another person. Within 24 hours from submitting/leaving the notification, the procedural agent submits the document and the report to the court/mayor's office that is competent in the area where the addressee lives/has its registered office, which is to serve the summons.

**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 procedure is deemed to have been completed at the time of drafting the report, regardless of whether the party has received or not the document in person. In the case of service by mail or express delivery, the procedure is completed when the postal worker/courier signs the party's refusal to receive the correspondence (Article 165 of the Code of Civil Procedure).

If the addressee receives the document but refuses to sign the proof of delivery, or he/she is not able to sign it, the agent draws up a report. If the addressee refuses to accept the document, the agent places it in his/her mailbox. In the absence of a mailbox, a notification is left on the addressee's door and a report is drawn up. The addressee is informed in the notification that he/she must present himself/herself at the court or at the mayor's office in order to pick up the document, otherwise the service is deemed as having been accomplished (Article 163 of the Code of Civil Procedure).

The party appearing before the court in person or through a lawyer or another representative has the obligation to receive the procedural documents that are serviced during the hearing. Should he/she refuse to receive the documents, they are deemed to have been served by filing them in the case file. The party concerned can obtain them from there on request, by signing for receipt (Article 170 of the Code of Civil Procedure).

**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?**

If the addressee cannot be found, the document may be handed over to another person (an adult family member who lives with the addressee and receives the correspondence). If the addressee resides in a hotel/apartment building and cannot be found at home, the document may be served to the administrator or the doorman (Article 163 points 6 and 7 of the Code of Civil Procedure).

**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?**

Postal delivery takes place only once. If the addressee or the person authorised to receive correspondence cannot be found, a notification is left for them to go and pick it up from the post office within 10 days. Where the addressee does not show up, another notification is left after 2 working days for him/her to go and collect it from the post office within 10 days.

**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?**

After the second notification, the documents are kept at the post office for 10 days before being returned to the sender. The addressee is informed in the actual notification that there is correspondence that is to be picked up from the post office.

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

The proof of delivery or the delivery report drawn up by the agent (Article 164 of the Code of Civil Procedure) and the postal receipt signed in the case of servicing documents by registered mail with acknowledgement of receipt (Article 155 point 13 of the Code of Civil Procedure).

**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?**

- postponement of the trial; the court postpones the trial and orders summons whenever it finds that the absent party has not been summoned in compliance with the law, under penalty of nullity (Article 153 of the Code of Civil Procedure);
- nullity of any procedural documents drawn up after the failure to summon or unlawful summoning; procedural objection for failure to summon or unlawful summoning;
- grounds to file an extraordinary appeal (appeal for annulment or revision);
- grounds for the refusal of recognition and enforcement of judgments (exequatur).

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

See the answer to question 3.

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**Service of documents - Slovenia**

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

In practice, the service of documents means the delivery of papers and documents to natural and legal persons which are parties to proceedings, and the drawing of documents that describe and confirm the service or delivery. On the one hand this means that the addressee is notified of the procedural activities of a court or party, and on the other the court obtains a reliable confirmation that the parties have received the documents. Confirmation that the documents have been actually and correctly served is a condition for the normal implementation of the procedure, and at the same time the correct service to parties ensures the upholding of the principle of audi alteram partem. Service is therefore a procedural action of a court, the purpose of which is to notify a party about proceedings, the procedural actions of the opposing party and the court, and at the same time guarantees the party the right to respond.

Specific rules regarding the service of documents are necessary in order to observe various principles of the rules of civil procedure and in order to provide effective judicial protection without unnecessary delays, since the service of documents ensures that all participants are notified of the procedural actions of the court and/or parties. Specific rules regarding the service of documents also provide safeguards in the event of incorrect service.

## 2 Which documents need to be served formally?

Parties or participants shall be served all judicial documents, where Article 142 of the Civil Procedure Act (hereinafter ZPP; Official Gazette of the Republic of Slovenia, No. 73/07 – official consolidated text, 45/08 – ZArbit, 45/08, 111/08 – Decision of the Constitutional Court, 57/09 – Decision of the Constitutional Court, 12/10 – Decision of the Constitutional Court, 50/10 – Decision of the Constitutional Court, 107/10 – Decision of the Constitutional Court, 75/12 – Decision of the Constitutional Court, 40/13 – Decision of the Constitutional Court, 92/13 – Decision of the Constitutional Court, 10/14 – Decision of the Constitutional Court, 48/15 – Decision of the Constitutional Court, 6/17 – Decision of the Constitutional Court, and 10/17) stipulates that actions and judicial decisions against which appeals are permitted, extraordinary legal remedies and court fee payment orders for the filing of actions, countersuits, motions for divorce by mutual consent, actions containing a proposal to issue an order for payment, motions for reopening a case, motions for the securing of evidence before the initiation of civil proceedings, motions for an attempt to settle, applications to notify an appeal, appeals, motions to permit a revision, revisions, and invitations of parties to settlement hearings, or first hearings if no settlement hearing was scheduled, shall be served to parties in person, where both physical service and service via secure electronic means shall be deemed physical service of documents, in accordance with the provisions of the ZPP. Other documents are served in person only if so prescribed by law or if the court believes that increased caution is necessary due to the documents enclosed with the original, or for some other reason.

## 3 Who is responsible for serving a document?

Documents are served by post, by a bailiff, by secure e-mail, at a court or in any other manner prescribed by law. At the proposal of the opposing party, courts may order documents to be served by a detective or an executor proposed by the party, where the funding for such service is covered by the proposer of such service (Article 132 of the ZPP). Parties may report to the court that they want the documents to be served by secure electronic means, to a secure mailbox, or to an e-mail address registered in the judicial information system and stated in the application. The secure e-mail address provided is equivalent to the party's address of residence or registered office. If a party submits documents electronically, it is assumed they also want the documents to be served by secure electronic means, unless they state otherwise. The court may also serve documents to a party by secure electronic means in another procedure if, based on information on the party at the court's disposal, it can be reliably established that this party has already registered a secure mailbox or an e-mail address and if the party has been personally served a written notice that they would be served further documents in the course of this procedure by secure electronic means, unless they state otherwise. If the court finds that the secure electronic service of documents is not possible, it shall serve the documents in material form and state the reasons for such service. State bodies, lawyers, notaries, executors, receivers and other persons, as defined by law, shall always be served by secure electronic means. These bodies and persons must register their secure electronic mailbox or e-mail address in the judicial information system.

For state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries, documents are served by being delivered to a person authorised to accept mail, or an employee at the office, business premises or registered office, or to a statutory representative or a holder of procuration. (Article 133 of the ZPP). Documents for military personnel and police officers can also be served via their commanders or direct superiors; if necessary, other documents may also be served to them in this manner (Article 134 of the ZPP). Persons undergoing imprisonment shall be served by the management board of the prison or other institution in which they are serving a sentence or deprivation of liberty (Article 136 of the ZPP).

When a party has a legal representative or proxy, documents shall be served to that legal representative or proxy unless otherwise determined in this Act (Article 137 of the ZPP).

## 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?

Service in Member States shall be carried out in accordance with national regulations. Article 143(3) of the Civil Procedure Act lays down the obligation of the court to obtain information on whether the address at which service was attempted is the same as the address registered in accordance with the law governing the registration of residence. This means that the court, whenever service at a given address is not successful (for any reason), must check the addressee's address in the central population register (Centralni register prebivalstva) or the address of the addressee's employer in the register of the Health Insurance Institute (Zavod za zdravstveno zavarovanje Slovenije). If service has not been carried out, the court then serves the document to the address from the central population register or to the address of the addressee's employer. If such service has not been possible or successful, the court shall invite the opposing party to communicate the addressee's new address of residence within a specified time limit, provided that the opposing party has the address. At the same time, the court proposes to initiate a procedure for determining the actual residence in accordance with the law governing the registration and deregistration of permanent and temporary residence, or to conduct inquiries with relatives, family members, neighbours or janitor from the last known address, social services, the last employer or landlord, the police or hospitals. However, the described procedure does not apply if the document is to be served on state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries.

The court proceeds in the manner set out above both when the proceedings are taking place in Slovenia and when the service of documents is carried out at the request of a court in another Member State (principle of national procedural autonomy).

### 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?

They do not have access to this information; due to the protection of personal data such access is highly restricted. If a foreign authority wishes to obtain information on an individual's residence, according to the information from the administrative units, applications have to be filed with them in Slovenian (no fees or other charges are charged for this service), and then the administrative body decides on the application on the basis of the rules of national law. If the party wishing to obtain information is a natural person, the enquiry is even more difficult. According to the information from the administrative units, they do not provide parties with such information. In addition, there is also the possibility of making enquiries through diplomatic channels.

As stated above, at the request of a foreign court, the Slovenian court of jurisdiction merely checks and obtains information on the person's address.

### 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 court conducts enquiries into an individual's residence (see the answer under 4.1) when it receives a request for the presentation of evidence.

## 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)?

As a rule, documents are served by post, while they may also be served by secure electronic means, by an officer of the court, at the court or in another manner prescribed by law, as well as by a detective or an executor proposed by the party.

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.)?

Yes. Service of documents is carried out via the e-Justice (e-Sodstvo) website, which is administered by the Supreme Court of the Republic of Slovenia (Vrhovno sodišče RS), to users' secure e-mail addresses.

Electronic service is permitted in civil procedure and other civil judicial proceedings in which the rules of the Civil Procedure Act apply to electronic service of documents, e.g. in proceedings regarding commercial disputes, labour and social disputes, non-civil procedures, inheritance proceedings (it is not yet used in all such procedures) and land register procedures, and in insolvency proceedings and enforcement proceedings (electronic service is already used in all of these procedures).

There are restrictions with regard to the groups into which users are classified. They are first divided into general groups:

- users who do not have to provide proof of identity when using the e-Justice system (ordinary users),
- users who access the e-Justice system using a username and password (registered users), and
- users who access the e-Justice system using a username and password, and a qualified digital certificate (qualified users).

Qualified users include:

- in-house qualified users (judges and officers of the court who are authorised to carry out e-tasks in certain types of civil judicial proceedings), and
- external qualified users (notaries, lawyers, executors, receivers, the State Attorney's Office, State Prosecutor's Office, real estate companies and municipal attorney's offices, i.e. entities that have the role of representative or judicial body in civil judicial proceedings, and users/parties, i.e. legal persons, natural persons or state and local authorities that have the role of party to the proceedings in civil judicial proceedings).

## **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)?**

In the case of service of judicial documents, we have to distinguish between ordinary service and personal service.

In the case of **ordinary service**, substituted service has to be attempted first. This means that in the event that the person to whom documents have to be served cannot be found at their residence, the documents are served such that they are delivered to any of the adult members of the household, who are obliged to accept them (Article 140(1) ZPP). If it is served at the workplace of the addressee and the addressee cannot be found there, or is at a place not accessible to the process server, the document is served on the person authorised to receive mail or another willing person. If the addressee resides in an accommodation facility (e.g. student residence, residence hall for single persons, hospital) and also does not have their own letterbox, the process server serves the document on the person authorised to receive mail for the occupants in this facility. Only in the event that such service is not possible is service to a natural person carried out such that the process server deposits the documents in a letterbox at the address of the residence. In this case, service shall be deemed to have been carried out on the day the document was left in the letterbox, whereby a specific note of this must be made on the document for the addressee to see.

In the event that the addressee does not have a letterbox or if it is not useable, the documents are delivered to the court that ordered the service, and in cases of service by post, to the post office in the addressee's place of residence, and a notice of service of documents is left on the addressee's door, stating where the documents can be found (Article 141(1)(2) ZPP). Service shall be deemed to have been carried out on the day the notice of service was affixed to the door, whereby a specific note of this must be made on the notice of service for the addressee to see. The post office retains the documents for 30 days. If the addressee does not pick up the documents within that time period, the documents are returned to the court. Documents are served on state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries in the same way whenever the executor cannot serve them at the address listed in the register.

**Personal service** means that the documents are delivered to the party in person. Pursuant to Article 142 of the ZPP, the following are considered judicial documents: actions, judicial decisions against which appeals are permitted, extraordinary legal remedies and payment orders for the payment of court fees for applications pursuant to Article 105 ZPP (actions, countersuits, motions for divorce by mutual consent, etc.) and invitations of parties to settlement hearings, or first hearings if no settlement hearing was scheduled. Other documents are served in person only if so prescribed by law or if the court believes that increased caution is necessary due to the documents enclosed with the original, or for some other reason. Service of documents in electronic form (Article 141a of the ZPP), which may be performed by serving a certified copy of the document in physical form or by secure electronic means, also constitutes personal service. In the latter case, documents are served via judicial information system directly to the registered address for service or to a secure electronic mailbox by legal or natural persons which carry out service of documents by secure electronic means as a registered activity on the basis of a special permit from the Ministry of Justice.

In the event that the addressee cannot be served directly, personal service to a natural person is carried out by the process server delivering the documents to the court that ordered the service, and in cases of service by post, to the post office in the addressee's place of residence, and a notice of service of documents is deposited in the letterbox or on the apartment door, stating where the documents can be found and the 15-day deadline by which they must be collected by the addressee. If electronic service is not possible, the documents are delivered to the address for service registered in the judicial information system or to a secure electronic mailbox, whereby a specific note of this must be made on the document for the addressee to see.

Parties or their legal representatives are obliged, in the case that they change their address before the service of a second-instance decision with which the proceedings are concluded, to report the change to the court without delay. If they fail to do so, the court shall order that all future service of documents in proceedings to that party be carried out such that the documents be posted on the court's bulletin board. The documents are deemed to have been served eight days after the documents were posted on the court's bulletin board (Article 145 ZPP).

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

In the case of ordinary service, service shall be deemed to have been carried out on the day the document was left in the letterbox, whereby a specific note of this must be made on the document for the addressee to see. In the event that the addressee does not have a letterbox, the documents are deemed to have been served on the day that the notice of service of documents was affixed to the door.

In the case of personal service, the documents are deemed to have been served on the day that the addressee collects the documents. If the addressee fails to collect the documents within 15 days, the documents are deemed to have been served after the expiry of that deadline. After the expiry of the deadline, the process server deposits the documents in the addressee's letterbox; if the addressee does not have a letterbox or if it is not useable, the documents are returned to the court.

### **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 case of ordinary service, when the documents are deposited in a letterbox, the process server notifies the addressee of the legal consequences on the documents, and states the cause of such action and the date on which the documents were deposited in the letterbox on the delivery note and the documents, and signs them. If the addressee does not have a letterbox and the documents are delivered to the court/post office, the process server leaves a notice of service of documents on the door to the residence, stating where the documents can be found and when the documents will be deemed to have been served.

In the case of personal service, the process server leaves a notice in the letterbox stating where the documents were deposited, the deadline for collecting the documents, and the consequences if the addressee fails to collect the documents within the deadline. The process server states the reason for the action and the date on which the documents were deposited with the addressee on both the notice and on the documents that are being served, and signs them.

**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?**

In the event that the person to whom the documents are addressed, or a person obliged to collect the documents, for no lawful reason does not wish to accept the documents, the process server deposits them in the residence or in the place that the person works, or in their letterbox, and if there is no letterbox, affixes the documents to the door to the residence. The server enters the date, time and reason for declining service, and the place where the documents were left, on the delivery note. The documents shall then be deemed to have been served (Article 144 ZPP).

**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 Services Act (hereinafter the ZPSto-2; Official Gazette of the Republic of Slovenia [Uradni list RS], No 51/09, 77/10 and 40/14 – ZIN-B) stipulates that registered and insured mail shall be delivered to addressees in person at their address. If this is not possible, registered and insured mail is delivered to one of the adult members of the household or a person authorised to accept mail (Article 41 ZPSto-2), where an adult member of the household is a person older than 15 who shares a household with the addressee (General Terms and Conditions for the Provision of Universal Postal Services of 1 September 2014; hereinafter the GT).

**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 registered mail cannot be delivered to the persons referred to above (addressee in person/adult member of the household or party authorised to accept documents) due to absence, the delivery person deposits a notice in the letterbox stating the collection location and the deadline up to which the delivery can be collected. If the addressee fails to collect the delivery within the deadline stated in the postal notice, the mail is returned to sender. If the addressee does not wish to accept registered and insured mail, the process server states the date and the reason for refusal of acceptance on the mail item or the delivery note and returns the mail to sender.

**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 delivery can be collected at the post office within 15 days of the date on which the addressee was notified of its arrival. An exception to this is parcels from abroad on which the sender entered a deadline shorter than 15 days when posting the parcel. Deadlines for collecting mail are determined on a calendar basis, starting on the day following the day that the addressee received notice of delivery. For mail kept at post offices as *poste restante* and mail for users of post office boxes, deadlines are determined on a calendar basis, starting on the day following the day on which the mail arrived at the post office (Article 27 GT).

A notice is left in the addressee's letterbox stating the collection location and the deadline up to which the delivery can be collected.

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

The delivery note is the proof that the document has been served. The delivery note is signed by the recipient and the process server, where the recipient personally enters the date of receipt in words on the delivery note. If the recipient does not know how to write or is unable to sign, the server enters their full name and the date of receipt in words, and adds a note stating why the recipient did not sign.

If the recipient does not wish to sign the delivery note, the server enters this on the delivery note and states the date of service in words; the documents are then deemed to have been served. If the service is carried out pursuant to Article 142(3) of the ZPP (substituted service or 'fictive' service; see also points 8.2 and 7.3), the date on which the notice was deposited with the addressee and the date that the documents were delivered to the court or the post office are stated on the delivery note.

If pursuant to the provisions of the ZPP the documents are delivered to a person who is not the person on whom the documents have to be served, the process server indicates their relationship on the delivery note (Article 149(5) of the ZPP).

**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 delivery note contains all of the elements of a public document and therefore proves the veracity of the facts confirmed therein. It is however acceptable to prove that the facts contained therein are not true.

If the addressee does not receive the documents, or improper service is alleged, then certain deficiencies or errors in service of documents can be eliminated. Therefore addressees may not allege improper service if it is unambiguously clear from their behaviour that despite the improper service they learned of the content of the documents in some other way. This also holds in the case that the documents actually come into the hands of the addressee (e.g. if the addressee picks up the documents after the expiry of the deadline for their collection). This is also stipulated in the ZPP, which states that a breach of the rules of service cannot be alleged if the addressee collects the documents despite the breach. In this case the documents are deemed to have been served at the moment that the addressee actually picks up the documents (Article 139(5) of the ZPP).

Elimination or correction of errors in service can also be carried out by applying the legal institution of *restitutio in integrum* (return to prior status, *vrnitev v prejšnje stanje*), where a return to prior status is possible if a delay in the elimination of a certain procedural action is caused by an event that a party – despite all due diligence – is unable to predict or prevent. If a party misses a hearing or a deadline for a legal action and thereby loses the right to carry out that action, the court shall at their proposal allow them to do it later if it recognises that the party missed the hearing or deadline for a legitimate reason. If *restitutio in integrum* is allowed, the action returns to the status which it had before the delay, and all decisions issued by the court owing to the delay are annulled (Article 116 ZPP).

The proposal must be submitted within 15 days of the date of the cessation of the cause of the party's missing the hearing or deadline; if the party learned about the delay later, then from the date that they learned about it. *Restitutio in integrum* may no longer be requested after six months have expired from the date of the delay (Article 117 ZPP). Both the subjective and objective deadlines are legally preclusive deadlines and may not be extended.

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

Service by post, as a generally accepted method of service of court documents, does not entail any separate costs for the parties. Service in another manner (e.g. by a special service that carries out service of documents as a registered business activity) means additional costs, so the court can order it only at the proposal of a party, which must deposit a sufficient advance to cover the costs. As set out in the special Rules on the Operations of Persons Carrying Out

Service of Documents in Criminal and Civil Proceedings, process servers are entitled to compensation and reimbursement of costs for their work in accordance with the agreement concluded with the court, where the court orders the amount of the payment and reimbursement of costs.

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## Service of documents - Slovakia

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

#### *Service of documents*

According to the interpretation of judicial practice, "service of documents" is understood as a procedural step taken by a court to notify a party in proceedings, or a third party whose cooperation in the proceedings is required, of the progress of these judicial proceedings. Keeping parties fully and effectively informed of the progress of proceedings is an essential precondition for the proper conducting and conclusion of court proceedings – a court may only act and take decisions on the condition that the parties have been given all documents of which receipt and knowledge is a precondition for the next step in the proceedings, the application of a remedy, procedural defences or protection, and other acts that are only admissible within a time limit laid down by the law or the court. In particular the service of court rulings on the merits is an essential precondition for the conclusion of the case with finality and for the enforceability of the court's ruling. It is important to understand that in Section 45 *et seq.* of Act No 99/1963, the Civil Procedure Code (*Zákon č. 99/1963 Zb., Občiansky súdny poriadok*), only defines the procedural aspects of serving (judicial) documents; the service of an act under substantive law, i.e. including an expression of will in the form of a document, is governed by Section 45 of Act No 40/1964, the Civil Code (*Zákon č. 40/1964 Zb., Občiansky zákonník*). There is a substantial difference between service under the substantive and the procedural regulations, especially concerning the effect of service, the completing of the process of serving, and the initiating of legal consequences.

#### *The existence of specific rules for the service of documents*

The purpose of the specific rules for the service of documents in the Civil Procedure Code is an attempt by the legislature to uphold the principle of equality of arms and the adversarial system in judicial proceedings. No one in judicial proceedings may be disadvantaged, and each party must be equally informed of the progress of judicial proceedings. The parties must have an opportunity to provide the necessary cooperation in the proceedings, and to familiarise themselves with the other party's statements and evidence, any procedural acts by the court relating to the proceedings, and the substance of the case. The principle of equality of arms and the adversarial system in proceedings is a fundamental and defining element of the right to a fair trial, which in the Slovak Republic is a constitutional right (Articles 46-48 of the Constitution or *Ústava Slovenskej republiky*) based on Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

### 2 Which documents need to be served formally?

Broadly speaking, all service effected in accordance with the Civil Procedure Code can be considered formal service, i.e. (1) ordinary service (Section 46), (2) personal service (Section 47) and (3) service by posting on a court's notice board (Section 47a). In the narrower sense, formal or official service only refers to the personal service of judicial documents.

A court uses the procedure laid down for ordinary service for documents for which the law does not require personal service.

A court uses the qualified method for service (i.e. personal service) if required by the relevant provisions of the Civil Procedure Code, or if in view of the specific circumstances the judge orders this method – a typical example would be a written summons to a hearing, where the law does not state that personal service is obligatory, but a judge will generally order this form of service. By law, personal service is required for information on the possibility to request that documents be served to an alternative address (Section 49(5)), a motion for the commencing of proceedings with annexes (Section 79(4), Section 114(2)), an order on the commencing of proceedings on the court's own motion (Section 81(3)), an amendment motion (Section 95(1)), an order on the defendant's obligation to provide observations on the motion (Section 114(4)), a judgement (Section 158(2)), an order for payment served on the defendant (Section 173(1)), a European order for payment served on the defendant (Section 174a(2)), an order for satisfaction served on the defendant (Section 174b(4), Section 173), an order to pay a bill or promissory note (cheque) served on the defendant (Section 175(1)), certain types of orders in probate proceedings (Section 175a(3)), information on the consequences of renouncing an inheritance (Section 175i(2)), an order in proceedings on safe-keeping (Section 185a(3)), an order in proceedings on the redemption of instruments (Section 185j(2)), an order to enforce a ruling by means of attachment of earnings (Section 282(2), Section 294(3)), an order to enforce a ruling by ordering payment from a bank account, and notification of the finality of this order served on the bank (Section 306, 307(1)), and an order to enforce a ruling by means of a third party debt order (Section 313(2)).

A court uses service by posting on its notice board if the law so provides and the parties to the proceedings or their whereabouts are not known to the court.

### 3 Who is responsible for serving a document?

The authority responsible for serving judicial documents is the court, which primarily serves judicial documents itself (either directly at a hearing or by court officers) or by post. However, the law also allows the court to serve documents by means of a bailiff, a municipal authority, the relevant department of the Police Force (*Policajný zbor*) and, in cases specified in the relevant regulation, the Ministry of Justice of the Slovak Republic (*Ministerstvo spravodlivosti Slovenskej republiky*) (for persons enjoying diplomatic privileges and immunity, or others who are in these persons' places of abode or on whom documents are to be served in buildings or rooms protected by diplomatic immunity; the Ministry is also used for service in other countries unless an international convention, a bilateral treaty on legal assistance or a Council (EC) regulation sets out another legal regime).

Service on persons who are serving prison sentences or have been taken into custody is effected by the penal and custodial institutions into which they have been placed. Service on persons in institutional protective medical care and persons placed in medical institutions is effected by the management of the relevant medical facility; the same procedure is used *mutatis mutandis* for residents of young people's homes and other collective facilities for young people. Documents for members of the Slovak Republic's armed forces performing extraordinary service, and for professional soldiers performing state service, may be served by their respective commanders. Documents for members of the armed forces who do not have accommodation in buildings owned by the armed forces are served directly.

### 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?**



In such cases the Slovak courts always actively try to establish the addressee's present whereabouts, primarily by referring to the Register of Inhabitants of the Slovak Republic (*Register obyvateľov Slovenskej republiky*), which is connected electronically to courts' information systems. The court can promptly establish the place of permanent or temporary residence listed in this register (if such an address exists). The Social Insurance Agency (*Sociálna poisťovňa*) also cooperates electronically with Slovak courts via the court register, and a court may request certain information recorded by the Social Insurance Agency, in particular the address of a party to the proceedings as listed in the Social Insurance Agency and the name of the party's present or former employer (via whom in some cases the party's present whereabouts can be established, or a document can be served directly at the workplace if the circumstances of the case permit). If authorised by law, a court may request the cooperation of municipal authorities, local authorities of state administration, the police and other public authorities and legal persons and natural persons holding business licences in order to establish the present whereabouts of a party to the proceedings (the addressee). If possible the court also asks other persons (e.g. relatives) who may know the addressee's whereabouts.

**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?**

As stated above, via the court register the Slovak courts have direct access to the data listed in the Register of Inhabitants of the Slovak Republic. Parties to judicial proceedings have the option of requesting data from the Register of Inhabitants of the Slovak Republic (the issuing of confirmation or written notification of a person's whereabouts) for an administrative fee of five euros.

**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?**

According to the information available to the Ministry of Justice of the Slovak Republic, the Slovak courts generally accept such requests and take steps to establish such a person's current address and thereby satisfy the request. To this end they use the procedures described in the preceding points.

**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)?**

As stated in point 3, a court primarily serves documents itself or by post, but the law also permits a court to serve documents by means of a bailiff, a municipal authority, the relevant department of the Police Force or the Ministry of Justice. Service on persons in collective facilities may be effected by these facilities, while service by commanders is used for members of the armed forces and professional soldiers.

A court decides on the procedure for serving documents depending on the type of document and whether the addressee and the addressee's whereabouts are known. Here the Civil Procedure Code distinguishes between ordinary service, personal service and service by posting on the court's notice board.

Courts serve the greatest quantity of documents by post, either registered letters (ordinary service) or official letters (personal service).

In ordinary service the court serves the document at the place of abode, registered office (place of business), workplace or wherever the addressee can be found. As stated in point 2, the court uses personal service if this form of service is prescribed by law (e.g. for a judgement) or ordered by the judge or the presiding judge (usually for a summons, etc.).

For service by posting on the court's notice board, a document is deemed served on the fifteenth day of posting. The Civil Procedure Code obliges a court to serve by posting on its notice board in probate proceedings if they involve a call for creditors to register their receivables within a fixed time limit (Section 175n) or an order ordering the liquidation of an inheritance (Section 175t(2)), or if property is to be delivered to another country (Section 175z(2)), and in proceedings on safe-keeping if they involve an order that the subject of safe-keeping be escheated to the state (Section 185g(1)), and also in proceedings on the redemption of instruments if they involve an order containing a summons for the holder to report to the court and present the instrument or file objections (Section 185m(2)), and when a letter containing a decision on a motion for delivering an interim injunction under Section 76(1)(g) is returned from the address given by a party to the proceedings who has been expelled from shared accommodation.

*Alternative methods other than substituted service*

The Civil Procedure Code also defines specific extraordinary methods for serving documents on natural persons, namely:

1. *Service of documents by placing them in the case file under Section 48(4)*

If a document cannot be served on a natural person (who is not a sole trader) at the address of this person's permanent or temporary residence, and it is not possible to establish where this person takes delivery of documents, nor is it possible for an appointed guardian to represent the person, the court decides in an order that documents addressed to this person shall be served by placing them in the case file; all of the reasons listed must apply for the duration of the proceedings (the court can overturn the order on service in the case file on its own motion). The order is posted on the court's notice board until the conclusion of the proceedings with finality. Documents served by placing them in the case file are deemed to have been served when seven days have elapsed since they were drawn up.

2. *Service of documents by depositing them at the court under Section 49(3)*

A court is obliged (usually at the opening of proceedings) to inform a party to the proceedings of the options:

- to request that documents be served at an address in a town or city in the Slovak Republic other than the one listed as the party's permanent or temporary residence;

- to appoint a representative for service;

- to deposit documents at the court with the effects of service if a process for personal service is returned as undelivered from the place the party designated for service, or from the party's place of abode as listed in the Register of Inhabitants of the Slovak Republic, or from the chosen representative for service.

If following the lawful serving of this information (substituted service is proscribed; written information must be served personally), a process for personal service is returned as undelivered from the designated place or from the appointed representative, the court may deposit all of the subsequent documents at the court with the effects of service, other than documents for which substituted service is proscribed. In order to protect such a party, the law requires the court to send the party a duplicate of each process together with notification that the document is deemed to have been served by its depositing at the court with the effects of service on the seventh day after it was dispatched. This procedure may also be used if a process for personal service is returned from the party's permanent or temporary place of residence as listed in the Register of Inhabitants of the Slovak Republic; however, in practice this procedure is rarely used given the risk of depriving the party of the opportunity to present his or her case in court – with this method of service it is of no legal relevance whether the party was residing at or using the address for service, and so when this method of service is used, it may be debatable whether, in the interests of safeguarding the party's right to be informed of the progress of proceedings, it would not be more appropriate, in the event that a process is returned, to use the institution of substituted service (for which the question of whether or not the addressee was residing at or using the address for service is relevant).

Generally the application of this institution for service is possible for natural persons who are not sole traders; they cannot be persons serving prison sentences or in custody, or persons placed in facilities for institutional and protective care. It is also proscribed for persons enjoying diplomatic privileges and immunity, or others who are in these persons' places of abode or on whom documents are to be served in a building or room protected by diplomatic immunity.

**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.)?**

A court may also serve documents electronically if requested by the party, who must notify the court of the address for sending documents electronically. A document is deemed to have been served on the fifth day after it was dispatched, even if the addressee has not read it. Such service is proscribed for judicial decisions, summons, application notices and witness summons and documents that are served personally. This method is not therefore restricted by the type of proceedings or who the addressee may be, but by the type of document served.

The law also permits parties to file submissions with a court electronically, guaranteed by an electronic signature (Act No 215/2002 on electronic signatures, amending certain laws, as amended) that reliably identifies the person who created this guaranteed electronic signature. There is a fee for this method of serving documents on a court by parties in proceedings (0.10 euro for each page, at least ten euros for a motion for the commencing of proceedings with annexes, and at least three euros for other submissions with annexes).

**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)?**

As stated in point 5, a court uses service by posting on its notice board if provided for by law and the parties to the proceedings or their whereabouts are not known to the court. In this case the document is served on the fifteenth day of posting.

*Substituted service for documents served ordinarily*

If the addressee could not be found at his or her place of abode, registered office (place of business), workplace or other place, despite residing at or using the address for service, the document may be served on another adult living in the same apartment or house, or employed at the same workplace, provided this person is willing to ensure the document is passed on and has no conflicting interest in the case the document concerns. If the document cannot be served in this way, it is deposited at the post office or municipal authority and the addressee is invited in an appropriate way to collect the document. The document is deemed to have been served on the day it was returned to the court, even if the addressee was unaware of this.

*Substituted service for documents served personally*

A document for personal service cannot be served on another person for the purposes of passing it on to the addressee. If the addressee of the document could not be found despite residing at or using the address for service, the process server notifies the addressee in an appropriate way that the process server will return to serve the document again at a time and date specified in the notification. If this new attempt to serve the document is also fruitless, the process server deposits the document at the post office or municipal authority and notifies the addressee of this in an appropriate way. If the addressee does not collect the process while it is deposited, it is deemed to have been served on the day it was returned to the court, even if the addressee was unaware of this.

A precondition for effective substituted service is that the addressee must reside at or use the address for service; this should be understood as a situation that allows the addressee to take delivery of the process immediately after substituted service has been effected. The addressee cannot be considered to be residing at or using the address for service in the case of longer-term absence from the address for service, or even any temporary, short-term residence outside the place of abode, e.g. vacations, business travel, etc.

The Civil Procedure Code sets out a specific legal regime for service on legal persons and natural persons who are sole traders, who bear strict liability for the address recorded in a specific register: in this case it is entirely irrelevant whether or not the addressee was residing at or using the address for service at the time of service. If a document cannot be served on a legal person at the address listed as the legal person's registered office in the Business Register (*Obchodný register*) or another register in which the person is listed, and no other address is known to the court, the document is deemed to have been served three days after the unserved process was returned to the court, even if the addressee is unaware of this. The court applies the same legal regime for natural persons who are sole traders on whom it serves documents at the address listed as their place of business in the Business Register or another register (most often the Trade Register, *Živnostenský register*) in which the person is listed.

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

See the responses to questions 7.1 and 5 – alternative methods 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?**

The process server informs the addressee that the process has been deposited at the post office or municipal authority by leaving written notification in the addressee's (home) letterbox.

**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 the addressee refuses to accept the document without good reason, the document has been served on the day its acceptance was refused; the process server must inform the addressee of this. If service was not effected legitimately (e.g. the process server did not inform the addressee of the consequences of refusing to accept the document), it has no legal effect.

**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?**

If acknowledgement of receipt is required, the post office (*Slovenská pošta, a.s.*, as the traditional postal services provider) only delivers the letter if the addressee or an authorised recipient (if the letter cannot be delivered to the addressee) presents proof of identity when taking delivery, allows the number of the identity document to be recorded and acknowledges receipt. Authorised recipients for process addressed to a natural person are the addressee's spouse and any persons aged 15 or over who live with the addressee in the same house or flat. However, a process for personal service cannot be delivered to these persons.

**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?**

In this case the postman leaves written notification in the addressee's (home) letterbox that the document has been deposited at the post office. The addressee or an authorised recipient may take receipt of the document within a time limit of 18 calendar days. This time limit can be extended at the addressee's request. If the document is not collected within the time limit it becomes undeliverable, and the postal service returns the undeliverable document to the sender.

**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 time limit is 18 calendar days and can be extended at the addressee's request. The addressee is informed by means of written notification in the addressee's (home) letterbox.

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

Yes, an acknowledgement of receipt, which as proof of the serving of a judicial document is a public instrument. The information in the acknowledgement of receipt is considered true unless there is evidence to the contrary. A party who disputes the accuracy of the information in the acknowledgement of receipt (arguing that the lawful procedure for service was not followed) is obliged to provide evidence for the court to establish these claims. If the court serves a document at a hearing, a note is made of this in the transcript of the hearing.

### **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?**

See points 5, 7.1 and 7.4 for options for alternative service. If service has been effected contrary to the law, new service of the document is necessary: Slovak law does not provide for the possibility of validating invalid service. Any service of judicial documents effected by a method other than the lawful methods is not legally effective and does not produce the statutory legal effects.

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

There is no charge for the service of judicial documents, other than in cases where the court, at the request of one party in the proceedings, serves judicial documents on the other party by using the services of an appointed bailiff. The costs incurred and remuneration for the bailiff are borne by the party who requested service by the bailiff, and there can be no reimbursement based on the outcome of the proceedings. The costs of service comprise a flat rate of 6.64 euros for each judicial document served.

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## **Service of documents - Finland**

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

'Service of documents' means a notification issued to a specific natural or legal person in a way that can be verified and in the form regulated by law. The aim of the rules relating to the service of documents is to ensure that documents are served credibly to the relevant person and that such service can be verified.

### **2 Which documents need to be served formally?**

The documents that are served are usually documents relating to judicial proceedings, such as summonses and testimony requests. A request for evidential service of documents may also relate to documents other than those for judicial proceedings, such as wills.

### **3 Who is responsible for serving a document?**

For judicial proceedings, the court is generally responsible for the service of documents. Upon request by the relevant party, the court may entrust that party with responsibility for the service of documents if the court considers that there are justified grounds for doing so.

In other cases, the party in whose interests the documents are to be served is responsible for service of the documents.

### **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?**

Yes. The bailiffs of the district court (*käräjäoikeus*) have access to the population-data system, where they can check for up-to-date address details.

#### **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 Address Service (*osoitepalvelu/adressstjänst*) allows you to search for up-to-date addresses for nearly all permanent residents in Finland. Addresses can also be found for Finns who live abroad, if they have notified a local register office of their current address. The Service's information is based on the information in the population-data system maintained by the Population Register Centre (*Väestörekisterikeskus*) and local register offices (*maistraatit*). Addresses are supplied for individual, clearly identified persons over 15 years of age who have not withheld permission for their addresses to be supplied. Addresses are searched for using the individual's forename and surname. This may be a previous or current name. Things such as the individual's age, date of birth and current or former place of domicile may be used as filter search terms.

The Address Service is available by telephone and the Internet. The telephone-based Address Service in Finnish is available by dialling 0600 0 1000 and the Swedish service by dialling 0600 0 1001 every day between 8 a.m. and 10 p.m. The service costs EUR 1.70/minute + local network charge/mobile charge, and landline/mobile call-waiting charges. The service may only be called from Finland. The *osoitepalvelu.net* website provides the Finnish service at <http://vrk.fi/en/address-service> and the Swedish service at <http://vrk.fi/en/address-service>. The service may be searched for 1-20 people's addresses at a time. One address costs EUR 1.24 and the fee is paid via online banking. The service may also be used from abroad if the user has Finnish online-banking details. Address enquiries may also be submitted to the Helsinki Register Office (*Helsingin maistraatti*) by e-mail. They may be submitted in Finnish, Swedish or English using the e-mail address [vtj-otteet.helsinki@maistraatti.fi](mailto:vtj-otteet.helsinki@maistraatti.fi). Enquiries may also be made in writing to Helsinki Register Office, Albertinkatu 25, 00180 Helsinki, Finland. These services cost EUR 12.50 per extract.

Further information may be found on the Internet at <https://www.maistraatti.fi/en/> (in Finnish) and <https://www.maistraatti.fi/en/> (in Swedish).

Addresses may also be found by searching for commercial addresses.

The Finnish Patent and Registration Office (*Patentti- ja rekisterihallitus*; PRH) and the Finnish Tax Administration (*Verohallinto*) have a shared service at <https://www.ytj.fi/> where you can search for the business details of companies and organisations. The service is available in Finnish, Swedish and English.

Further information may be found at <https://www.prh.fi/fi/index.html> (in Finnish), <https://www.prh.fi/sv/index.html> (in Swedish) and <https://www.prh.fi/en/index.html> (in English).

#### **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?**

Council Regulation (EC) No 1206/2001 is not the primary procedure for obtaining address details.

Please see question 4.2 on finding address details for individuals or organisations in Finland.

### **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)?**

According to Section 3 of the Code of Judicial Procedure (*Oikeudenkäymiskaari*; 4/1734), where the court is responsible for the service of documents in judicial proceedings, the documents are primarily served by post. A letter may be sent by registered post with proof of receipt. Alternatively, it may be sent directly to the individual's home. In such cases, proof of receipt is enclosed with the letter, and the recipient must sign it and return it to the court. Documents relating to judicial proceedings, other than summonses and the first request for a response, may also be served by sending them by standard post to the address indicated by the relevant party to the court. The recipient will be considered to have been served a document sent by standard post on the seventh day after it was posted.

According to Section 4 of the Code of Judicial Procedure (4/1734), documents may be served by a bailiff if service by post is unlikely to be successful. According to Section 2 of the Code of Judicial Procedure (4/1734), the court may, with the consent of the relevant party, entrust that party with responsibility for the service of documents if the court considers that there are justified grounds for doing so. In such cases, the court will notify the relevant party of the deadline for the service of documents and for sending proof to the court. According to Section 4 of the Code of Judicial Procedure (4/1734), documents are served by a bailiff in such cases.

According to Section 4 of the Code of Judicial Procedure (4/1734), if the court has entrusted the relevant part with responsibility for the service of documents, and if the relevant party is represented by a lawyer or public legal counsel, the documents may also be served in person by that lawyer or public legal counsel to the recipient. In such cases, the recipient will sign the proof that the documents have been received. This service method may not be used in criminal cases.

Documents other than those relating to judicial proceedings will be served by a bailiff upon request by the authority or by an individual.

**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.)?**

According to Section 3b of the Code of Judicial Procedure (4/1734), where the court is responsible for the service of documents, and if the case relates to a debt of a specific amount, the restoration of possession or disrupted conditions, or eviction, and the plaintiff states that he/she does not consider the case to constitute a dispute, the documents may also be served by telephone. An additional requirement is that service by telephone be appropriate given the scope and quality of the document in question and that the recipient be informed about the document in question and understand the significance of its service, beyond any doubt. Once a document has been served by telephone, it must immediately be sent as a letter or electronic communication to the address specified by the recipient, unless this is manifestly unnecessary for special reasons. Proof that a document has been served by telephone will also be produced.

According to Section 3 of the Code of Judicial Procedure (4/1734), where the court or the prosecutor is responsible for the service of documents, the document may be served by sending it to the relevant party as an electronic communication in the manner specified by the recipient, if it can be assumed that the recipient will be informed about the document and return proof of receipt by the deadline.

## **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)?**

According to Section 7 of the Code of Judicial Procedure (4/1734), when a bailiff has sought a person for the purposes of the service of documents and whose place of residence is in Finland but the bailiff has not found that person or anyone who is entitled to receive served documents on that person's behalf, and it may be assumed on the basis of the circumstances that the person in question is avoiding the service of documents, the bailiff may serve the documents by delivering them to any member of the same household over 15 years of age or, if the recipient of the documents runs a business, to any individual in the service of that person's business. If none of the above can be found, the documents may be served by handing them over to the local police force.

When the procedure set out in paragraph 1 has been followed, the bailiff must send notification of this to the recipient of the documents served, using the recipient's address. The documents shall be regarded as having been served when the notification within the meaning of paragraph 2 is posted.

In criminal cases, a summons may not be served to the defendant using the procedure set out in this paragraph.

According to Section 9 of the Code of Judicial Procedure (4/1734), if no information as to the recipient's whereabouts can be obtained, the court will be responsible for serving the documents by public notice. In criminal cases, a summons may not be served on the defendant by public notice.

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

Please see question 7.1.

**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?**

Please see question 7.1.

**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 the recipient does not collect the served documents and proof of receipt from the post office or refuses to receive them, the request is returned to the sender. In such cases, the documents are deemed not to have been served (please see, for example, Decision 50:1997 of the Supreme Court (*korkein oikeus*)). Similarly, if the document that is to be served has been posted directly to the home, it shall be deemed not to have been served if the recipient does not return the signed proof of receipt to the court.

The recipient may only refuse to receive the documents served by the bailiff if certain conditions listed by law are fulfilled. The recipient may refuse to receive the served documents *inter alia* when the documents are not in Finnish or Swedish or in another language that the recipient understands. (Examples: the Act on International Legal Assistance in Criminal Matters (*Laki kansainvälisestä oikeusavusta rikosasioissa*) or the Act on International Legal Assistance and the Recognition and Enforcement of Judgments in Civil and Commercial Law (*Laki kansainvälisestä oikeusavusta sekä tuomioiden tunnustamisesta ja täytäntöönpanosta siviili- ja kauppa-oikeuden alalla*)).

If there are grounds in law for refusing the service of documents, the bailiff will return the documents. In such cases, the bailiff will provide written evidence to the effect that the recipient has refused the service of documents, and an explanation of the grounds for such 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 documents are sent to Finland by post for service and in return for proof of receipt, the post office withholds these documents itself and sends the recipient a notification to the effect that there is an item for him/her to collect from the post office. Only the recipient or a person authorised by the recipient may collect these documents from the post office. It is possible for the documents to be handed over exclusively to the recipient in person if the party requesting service of the documents so requests.

**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 recipient does not collect the documents from the post office, they are returned to the sender.

In such cases, the sender may send the documents and the request for service of documents to the district court (*käräjäoikeus*) for the recipient's place of domicile or residence. Once the request is received, the district court's bailiffs will try to serve the documents on the recipient in person.

**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 post office sends the recipient notification to the effect that there is an item for him/her to collect from the post office. The notification will also state the date by which the recipient must collect the documents.

The post office will keep documents for the duration of the week in which they arrive plus two (2) full calendar weeks.

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

The bailiff will provide proof that he/she has served the documents. Proof is also given for service of documents by post.

**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 documents have been served incorrectly and the relevant person does not appear in court or does not provide the written response requested of him/her, the documents must be served again. There is no need to serve the documents again, however, if the error is minor.

If the relevant person claims that the documents have been served incorrectly, the case will be adjourned unless this is not necessary owing to the error being a small one.

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

The service of documents by a bailiff costs EUR 60.

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## Service of documents - Sweden

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

In practice, 'service' means that a document is sent or handed over to the person sought and that there is evidence that he or she has received the document or that the rules of the Service of Process Act (*delgivningslagen*) have been followed. The reasons for having rules on service include the fact that courts should be able to rely upon a document reaching the person to whom it is addressed.

**2 Which documents need to be served formally?**

Service must be used if it is specifically prescribed or if an information-related provision states that it should take place given the aims of the provision in question; otherwise, it must only be used where necessary and giving due consideration to the circumstances. An example of a specific prescription in law meaning that documents must be served is when a writ of summons must be served on the defendant in a civil case.

**3 Who is responsible for serving a document?**

It is most often the authority/court that ensures documents are served. It may happen, however, that the authority/court allows a party who so requests to ensure that service takes place (service by a party). A prerequisite for service by a party is that such service is not inappropriate.

**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 requested authority searches for new address details for the recipient on its own initiative if the recipient has moved from the address given in the summons.

**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?**

Anyone at all may contact the Swedish Tax Agency (*Skatteverket*), which keeps a population register of who lives in Sweden and where they live. There is no special, formal procedure for obtaining access to this information. One could, for example, call the Swedish Tax Agency's customer services team on + 46 8 564 851 60. More information can be found on the Agency's website at <https://www.skatteverket.se/service/ankar/otherlanguages/inenglish.4.12815e4f14a62bc048f4edc.html>. It does not cost anything to obtain information from the population register.

**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?**

It appears doubtful that an address search for the service of documents could be treated as the taking of evidence. This is, however, a matter for the requested court to decide; as far as is known, no such request has been examined.

**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)?**

The most common way of serving a document is to send it by post to the person sought (**standard service**). The letter is accompanied by a service receipt, which the person sought is asked to sign and return.

Alternative service methods (in addition to substituted service) are service by telephone, simplified service, and service by a bailiff.

**Service by telephone** means that the content of the document that is to be served is read out over the telephone to the person on whom it is to be served, and the document is subsequently posted to him/her. No proof of receipt is required for service by telephone. The document is regarded as having been served once its content has been read out.

**Simplified service** is done by posting the document to the last known address of the person sought and then sending an advisory notice to the same address on the next working day, stating that the document has been sent. No proof of receipt is required for simplified service. The document is regarded as having

been served two weeks after it was sent, provided that the advisory notice was sent as prescribed. Simplified service may only be used if the person sought has been informed that simplified service may be used in the case or matter in question. In practice, this means for example that a party to a case only needs to be served a document once with proof of receipt.

**Special service for legal persons:** Legal persons may, under certain conditions, be served through the sending of a document to the company's registered address and the sending of an advisory notice to the same address on the next working day. The document is regarded as having been served two weeks after it was sent, provided that the advisory notice was sent as prescribed.

**Service by a bailiff** means that a document is served in person via a person duly authorised for executing such service, i.e. a bailiff or an employee of the Swedish Police Authority (*Polismyndigheten*), the Swedish Prosecution Authority (*Åklagarmyndigheten*), the court, the Swedish Enforcement Authority (*Kronofogdemyndigheten*), or a licensed service company.

**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 is only permitted where the authorities/courts have to serve a document on someone by means of standard service.

## **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)?**

Documents may be served in the following ways when the person on whom the document is to be served cannot be found in person.

Service by a bailiff using 'surrogate' service: The document is sent to someone other than the person sought for service. For example, this could be an adult member of the recipient's household or the recipient's employer. The surrogate recipient must always, however, consent to receiving the document. Notice of the fact that a document has been served and of who received the document must be sent to the recipient's address.

Service by a bailiff using 'nailing': The document is left at the recipient's home, for example in a letterbox, or in an appropriate place at the home, for example on the door.

Service by notice: This is done by keeping the document available at the authority/court that decided upon service, while simultaneously publishing notice of this and of the document's primary contents in the Official Swedish Gazette (*Post- och Inrikes Tidningar*) and, if there are reasons for doing so, in the local newspaper. The document is simultaneously posted to the last known address of the person sought.

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

When a bailiff serves a document using 'surrogate' service, the document has been served when it has been handed over and notice has been sent to the recipient.

When a bailiff serves a document using 'nailing', the document has been served when it has been left as described under question 7.1.

A document has been served by notice once two weeks have passed from the date of the decision to the effect that the document is to be served by notice, provided that the notice has been given and other prescribed measures have been taken in a timely manner (within ten days).

**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?**

If a document is too big or otherwise unsuitable for sending to or leaving for the recipient, the authority may instead decide to keep it available at the authority in question or at another place of its choosing for a certain period of time. The recipient must be provided with notice of the content of such a decision.

**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 the recipient refuses to receive a document served by a bailiff, the document will none the less be regarded as having been served if it is left at the scene.

## **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?**

A document may be served by post if it is sent by registered post. The item is made available by the post office, postal business centres and postal delivery workers, and must be signed for by the person designated as the recipient of the served document or by that person's representative; proof of identity must also be shown. It is also possible for the party ordering the postal service to specify that only receipt in person is to be accepted.

**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 service by registered post is unsuccessful, there are no other possibilities available for attempting to serve documents by post. Other service measures may be considered instead, such as service by a bailiff, for example.

**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 recipient of a document sent by registered post is informed of it by a notice sent to the recipient's home address, or by SMS or e-mail. The item usually remains where it has been left for a period of 14 days from the date of its arrival.

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

There is usually a receipt from the person on whom the document is served, or a document drawn up by the authority/court as evidence that the document has been served by telephone, surrogate or nailing.

**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?**

There is freedom to submit evidence and have it examined by Swedish courts. If it can be proven that a person has had sight of a document, the question of whether that document was served as prescribed is immaterial. Therefore, any formal errors do not in themselves mean that the document must be served again; rather, the crucial factor is whether the document has reached the person to whom it is addressed.

If, on the other hand, it can be proven that the person on whom the document is served has not received it or if the rules governing the service of documents have not been followed, a ruling may potentially be set aside by means of what is known as extraordinary legal remedy.

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

Where an authority is responsible for the service of documents, the costs of such service fall to the State. This means, for example, that the plaintiff in civil proceedings need not reimburse the court for the costs incurred by it in serving the writ of summons on the defendant.

If an individual person or party wishes to serve a document on someone, he/she must bear the costs of such service. By way of example, the cost of engaging an employee of the Swedish Police Authority as a bailiff is SEK 1 000.

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## Service of documents - England and Wales

### 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 means the delivery to a person or company of the claim or other court documents about legal process issued against them. This allows them the opportunity to defend or answer the claim or proceedings.

Specific rules [1] on the service of documents exist to ensure that all entitled parties receive the legal documents relating to them or their actions and to provide safeguards to ensure that appropriate action can be taken if such documents are not served properly.

[1] CPR part 6 [1] contains the general rules of service, and see further Part 7. The link can be found here; <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06>

### 2 Which documents need to be served formally?

All court documents, including claim form, applications, judgment orders, petitions etc. need to be served formally, following the various rules, but this can take the form of posting, personal service, bailiff service etc.

### 3 Who is responsible for serving a document?

Generally in County Court matters the County Court is responsible for serving documents; in the High Court, much of the service is effected by the parties.

Where a party prepares a document which is to be served by the court, that party must file a copy for the court, and for each party to be served.

The court may order that someone else should be responsible for service. That could include the issuing party or their agent or solicitor. In addition the court is not responsible for service where a specific rule or practice direction to the rules provides that a party must serve the document in question or the party on whose behalf the document is to be served notifies the court that he wishes to serve it himself.

### 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?

No. The UK does not have a domicile register in the way that many other Member States do; it is not possible for the requested authority in England and Wales to obtain an address for the person on whom the documents are to be served. However where documents are to be served on a company and when recipients at the given address refuse to accept service the receiving agency in England and Wales is able to establish the registered address of the company (if different) and can serve the documents at that address.

#### 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?

As mentioned before, there is no domicile register in the United Kingdom. To find the address of a person it is necessary to use agents who can trace individuals or make use of a number of websites that have some details of addresses. The following list is not exhaustive but shows some examples of the types of websites that are available. Some, such as a search of telephone records (the first link), are free. For others it is necessary to pay a fee.

Phone records from British Telecommunications.

Address finders at 192, [UKRoll](#)

Trace people at Tracesmart

To find the registered office of a company a search can be made of the website of [Companies House](#). Some searches for companies are available for free but more detailed searches require a fee to be paid.

#### 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?

It would not be possible to request an address in England and Wales via 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)?

The main method of service in England and Wales is by first class post. Other methods of service that can be used, subject to the relevant rules of court and practice directions, are:

- personal service (by bailiff/process server or by the party issuing the proceedings);
- leaving the document at an approved address (see below);
- through a document exchange; or
- by fax or other means of electronic communication.

Service should be made at the address given by the party to be served, which can include the address of the party's solicitor or agent. Where there is no solicitor acting for the party to be served or the party has not given an address for service the document should be sent or transmitted to, or left at an address as approved in the rules of court - generally the usual or last known place of residence or place of business.

Where the court is to serve a document, it is for the court to decide which of the methods of service should be used.

### 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 (including e-mail and fax) is permitted in civil proceedings. There are no restrictions with regard to the availability or access of this method of service of documents depending on who the addressee is. However, the party to be served, or their solicitor, must previously have indicated in writing a willingness to accept service by electronic means.

There are several ways in which parties and solicitors can indicate a willingness to accept service by electronic means. First, when the solicitor has provided a fax number on their writing paper. Second, when an e-mail address has been set out on writing paper and the solicitor has confirmed electronic service as an option. Finally, electronic service of documents is permitted where a fax number, e-mail address, or other electronic identification, has been set out on a statement of case or a response to a claim filed with a court.

Where a party intends to serve a document by electronic means (other than by fax) they must first ask the party to be served whether there are any conditions that must be met. For example, whether there is a particular format in which the documents are to be sent, or a maximum size of attachments that can be received.

Where documents have been served electronically there is no requirement to send in addition a hard copy.

## **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)?**

Full details of the rules and procedures for service in England and Wales can be found in [Part 6 of the Civil Procedure Rules](#). The general rule is that the claimant must provide the defendant's address for service, and that this address is usually their present or last known address or their place of business. If they are unable to ascertain these addresses, the claimant may apply under Part 6.19 for service to be by an alternative method at an alternative address. The precise details will depend on the facts before the court, but the principle is that whatever method is applied for it must be one that is capable of bringing the process to the attention of the defendant, see PD 6A[1].

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[1] [https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd\\_part06a](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd_part06a)

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

Under normal postal service or another delivery method which provides for delivery on the next business day, the documents are deemed to be served the second day after the documents were posted, left with, delivered to, or collected by the relevant service provider provided that day is a business day or the next business day after that day. When service is by fax or other electronic method if it is sent on a business day before 16.30 on that day, or in any other case on the next business day after the day it was sent. Where an alternative method of service is used the court's order will specify the method and the date on which service has deemed to have occurred.

### **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?**

Deposit of documents in a particular place (e.g. a post office) is not usually an alternative method of service. If documents have been served by registered post and not delivered the process by which the addressee is informed is set out in section 8 below.

### **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?**

Provided a method of service has been approved by a court, the deemed service date applies whether or not the addressee accepts service.

## **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?**

Registered delivery by the Royal Mail (the UK postal service) is to the address rather than the individual. Therefore it is possible that someone other than the addressee will receive the documents if they live at the same address.

### **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 nobody at the requested address is available to sign for the documents they are returned to the local postal office to the address. If they are not collected within the deadlines (see below) they are returned to the sender, service is not deemed effective in this instance.

### **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 delivery has not been possible at the address a card is left with notification of the attempted delivery. This card tells the addressee from where the documents can be collected and the time limit within which he/she should collect them. For registered post originating within the UK the documents should be collected within 1 week. For international registered post the deadline is three weeks.

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

The court records the fact that it has served a particular document. Documents served by post are deemed (or considered) served unless they are returned through the postal system.

Where the claimant serves a document he/she must file a certificate of service at the court within seven days of service. This certificate must state that the document has not been returned undelivered and give details of the method and date of service.

On receipt of a claim form the debtor has 14 days to respond to the claim. If he/she sends in an acknowledgement of service form the time limit to respond is extended to 28 days from service of the particulars of claim.

If documents are personally served a written record in the form of a certificate or affidavit of service is prepared detailing the time and date of service. This can be used as evidence of service if the recipient denies receipt of such documents

## **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 it comes to the attention of someone that they have not received legal documents they are entitled to receive, they may take action to ensure they do receive such process by either contacting the other party or their solicitors or by contacting the court. If orders or judgments have already been made in the proceedings, applications can be made to set them aside on the basis that the documents have not been served.

If a party accepts service of documents outside the minimum period of notice allowed under the rules, service can still be considered valid. If service of documents is found to be invalid, new efforts can be made to re-serve. The court may also dispense with service of documents in certain circumstances.

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

The cost of service of documents by post is included in normal court fees. If documents are to be served personally by a bailiff or process server, charges vary depending on the type of process and whether a bailiff or process server is used.

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

This is a general term for the steps that are required to bring court-related documents to the attention of interested parties.

The main purpose of the rules is to ensure that interested parties are made aware that court proceedings have commenced and are kept informed of developments. Specific time limits are imposed by the rules of court to ensure that there is sufficient opportunity to consider and, if necessary, respond to court-related documents. The time limits also help to maintain the momentum of the litigation process, by ensuring that certain steps are taken within a particular period. The court will usually require proof of service before adjudicating on a case.

## **2 Which documents need to be served formally?**

Generally speaking, any documents relating to the proceedings, will need to be served, such as:

- the document initiating the proceedings (e.g. a writ of summons, originating summons or motion, petition, civil bill);
- certain documents while the case is progressing through court (e.g. a memorandum of appearance, a defence, a certificate of readiness); or
- notification of judgment/decree.

In certain civil proceedings, specific documents must be served (for example, in road traffic cases, a notice should be served on the defendant's insurer).

## **3 Who is responsible for serving a document?**

Ordinarily, the parties are responsible for effecting service, but they have a range of methods at their disposal and some of those methods will involve other people (for example process servers (see below), solicitors, postal staff).

## **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?**

No such practice currently exists.

When serving individuals, the Northern Ireland Courts and Tribunals Service conduct service via a third party 'summons server' who attempts service at the address provided by the requesting authority. If service is refused on the basis that the addressee has moved, the documents will generally be returned unless a forwarding address is given by the new residents or when alternative addresses becomes known to the summons server during enquiries, service may be attempted again and the certificate of service will reflect same.

### **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 such practice currently exists.

### **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?**

No such practice currently exists, when facilitating a request for the taking of evidence, an address for service is required.

## **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)?**

The rules of court set out the general rules relating to service. However, other statutory provisions may establish specific rules for particular cases (for example, in relation to service on a body corporate).

Ordinarily, a High Court writ of summons may be served:

- by sending a copy by ordinary pre-paid first class post to the defendant's usual or last known address;
- personally, where the server must satisfy himself as to the identity of the person to be served and should then hand the document to him and explain what it is;
- by inserting a copy in the letter box at that address (the copy must be in a sealed envelope addressed to the defendant);
- on a solicitor who returns the original endorsed with a statement that he accepts service on behalf of the defendant;
- in accordance with a contractual term (this may specify who is to be served and where/how service is to be effected);
- if the action is for possession of land, by delivering a copy to the defendant's wife/husband, relative or employee (if apparently over the age of 16) at the defendant's residence or place of business. If the Court is satisfied that no person appears to be in possession of the land and that service cannot otherwise be effected on the defendant, it may authorise service to be effected by fixing a copy of the writ to a conspicuous part of the land;
- if the defendant is a minor, on his parent, guardian or the person with whom he lives;
- if the defendant is a patient, on a person authorised under the mental health legislation or the person with whom he lives;
- on the Crown by ordinary post to, or by leaving it with, an employee or agent of the Crown Solicitor;
- on a company by recorded delivery to its registered office.
- Any other High Court document that is not required to be served personally may be left at, or posted to, the address of the person to be served;
- be served by fax and following letter, if both parties are represented by solicitors;
- be served by document exchange (DX).

In the County Court, except as otherwise directed, a civil bill may be served:

- by a process server. (Process servers are appointed for each Administrative Court Division and he will endorse particulars of service on the original civil bill and return it as soon as possible to the plaintiff's solicitor);
- by a solicitor or member of his staff (over 16 years of age) by ordinary first class post;
- by inserting a copy in the letter box at the address (the copy must be in a sealed envelope addressed to the defendant);
- on a solicitor, if he is authorised to accept service and signs a statement to that effect on the original.

Any other document that is not required to be served personally may:

- be delivered or posted to a solicitor, if the party is acting by a solicitor;
- be served by fax and following letter, if both parties are represented by solicitors; or
- be served by DX.

A writ or civil bill for service outside Northern Ireland cannot be issued without the leave of the court, unless the court has jurisdiction under:

- the Civil Jurisdiction and Judgments Act 1982;
- Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters or Regulation (EU) No. 1215/2012 on jurisdiction and recognition and enforcement of judgments in civil and commercial matters (recast); or
- some other statutory provision.

A number of other requirements must be met (for example, there must be no proceedings on the same cause of action pending in another relevant jurisdiction).

**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 is not permitted in civil proceedings in Northern Ireland.

#### **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 the rules require a document to be served personally (for example an enforcement or committal civil bill under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981), an ex parte application can be made asking the court to allow an alternative method of service. For example, the court may order substituted service:

- by post;
- by advertisement;
- on a friend;
- on a relative;
- on an insurance company.

If a defendant is outside Northern Ireland, the court may order substituted service if it is satisfied that he left for the purpose of avoiding litigation.

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

If another method of service is used, a Court Order will state that method and compliance with it will indicate when the documents have been served.

**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?**

Deposit of documents is not a normal method of service in Northern Ireland.

**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 the addressee refuses service (e.g. denying identity), the summons server is entitled to serve the papers on another person as long as that person is known to them and is over 16 years (e.g. addressee's spouse). Where there is no other person to serve, a certificate of 'non-service' is drawn. If proof of identity cannot be obtained, the documents would not be considered served (even if the refusal was not legitimate).

#### **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?**

Registered delivery by the Royal Mail (the UK postal service) is to the address rather than the individual. Therefore it is possible that someone other than the addressee will receive the documents if they live at the same address.

**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 nobody at the requested address is available to sign for the documents they are returned to the postal office local to the address. If they are not collected within the deadlines (see below) they are returned to the sender.

**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 delivery has not been possible at the address a card is left with notification of the attempted delivery. This card tells the addressee from where the documents can be collected and the time limit within which he/she should collect them. For registered post originating within the UK the documents should be collected within 1 week. For international registered post the deadline is three weeks.

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

In the High Court, service may require to be proved by affidavit stating:

- who effected service;
- who was served (reference may be made to a photograph of the recipient or the fact that he confirmed his identity);
- where and how service was effected;
- the day and date of service.

The server should write the service details on the original document.

An affidavit of service by post or by insertion in a letter box must state that it is believed that the document will come to the defendant's knowledge and that it has not been returned undelivered.

In urgent cases service can be proved by oral testimony.

In the County Court:

- a process server will attend, produce his record book, which contains details of service and swear an oath that the endorsements of service are correct;
- service by a solicitor is proved by certificate of posting on the face of the civil bill;

In both the High and County Courts:

- a document served by first class post is deemed to be served after the seventh business day (although evidence may be called to show that it arrived earlier);
- a FAX sent after 4.00 pm on a business day is deemed to be served the next day;
- a document served by DX is deemed to be served the second business day after it is left in the DX box.

**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 a solicitor is not authorised to accept service on the defendant's behalf, all proceedings will be set aside. Otherwise, the judge may declare the service effected sufficient if there is evidence that the defendant actually received the document or there is a technical defect in service. Defective or non-service is also waived if the defendant enters an unconditional appearance.

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

Service by post incurs first-class postal costs. For personal service the fees charged by process servers are fixed by statute. The current fee for personal service of a civil bill and writ are £12 and £45 respectively.

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## Service of documents - Scotland

### 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 commonly understood to refer to the actual receipt of the summons or other document by the Defender/Respondent, so that the Defender/Respondent is notified of the court case or decision and/or summoned, and is aware of the relevant court deadlines. Court rules are intended to ensure that justice for the Defender/Respondent is not prejudiced, and that the Defender/Respondent receives the required papers and notification of impending court dates, all within at least the minimum time period allowed. The Sheriff/Judge will normally require proof of service before adjudicating on a case.

### 2 Which documents need to be served formally?

In general documents which need to be served formally:

- A letter giving the Defender/Respondent notice that court action will be instigated if he does not respond to that letter.
- initial writ/summary cause summons etc.
- certain documents while the case is progressing through court.
- notification of judgment/decreed.
- charge for payment (step before enforcement action).
- documents in respect of any enforcement procedure.

Certain types of civil procedure require further, specific documents to be served.

More information can be found in Chapter 16 of the [Court of Session Rules](#), Chapter 5 of the [Sheriff Court Ordinary Cause Rules](#), Chapter 5 of the [Summary Cause Rules](#) and Part 6 of the Simple Procedure Rules.

### 3 Who is responsible for serving a document?

- Extra-judicial documents, such as a letter prior to court action, and judicial documents, such as writs or summonses can be served by post (first class recorded delivery). In this case, the document is taken to the Defender's/Respondent's dwellinghouse/place of business by a postal worker, who obtains a signature acknowledging receipt. Postal service of judicial documents may only be instructed by a solicitor, messenger-at-arms or sheriff officer, or in certain cases under the simple procedure by the Sheriff Clerk.
- If these documents are to be served personally, this is done by a messenger-at-arms or a sheriff officer (the nearest Scottish equivalent of the French 'huissier de justice').
- Charges for payment and most other documents in respect of enforcement procedure are served personally, again by a messenger-at-arms or sheriff officer.

## 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?

As the UK does not have a domicile register in the way that many other Member States do, it is not possible for the requested authority in Scotland to obtain an address for the person on whom the documents are to be served. However where documents are to be served on a company and when recipients at the given address refuse to accept service the receiving agency in Scotland is able to establish the registered address of the company (if different) and can serve the documents at that address.

### 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?

As mentioned before, there is no domicile register in the United Kingdom. To find the address of a person it is necessary to use agents who can trace individuals or make use of a number of websites that have some details of addresses. The following list is not exhaustive but shows some examples of the types of websites that are available. Some, such as a search of telephone records (the first link), are free. For others it is necessary to pay a fee.

Phone records from British Telecommunications.

Address finders at 192, [UKRoll](#)

Trace people at Tracesmart

To find the registered office of a company a search can be made of the website of [Companies House](#). Some searches for companies are available for free but more detailed searches require a fee to be paid.

### 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?

No it would not be possible to request an address in Scotland via 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)?

- Postal Service - by first class recorded delivery post.
- Personal Service - by messenger-at-arms or sheriff officer personally, on the Defender/Respondent.
- Personal Service- left with fellow resident/employee at dwellinghouse/place of business.

If after diligent enquiries, messengers-at-arms or sheriff officers consider that reasonable grounds are established for believing that the Defender/Defender resides at the address on the summons, papers may be left with a fellow resident of the dwellinghouse/employee of business.

d. Personal Service - in cases other than those where there is an individual Defender/Respondent (ie other legal entity such as registered company). Personal service can be effected by leaving the summons in the hands of an individual in, for example, the place of business in such a way that it is reasonable to expect an actual legal representative of the Defender/Respondent to receive the summons.

e. Personal Service - depositing/affixing

Where messenger-at-arms/sheriff officer has been unable to effect personal service on the Defender/Respondent, he may either

- deposit the summons in dwellinghouse/place of business
- affix the summons to the door of the dwellinghouse/place of business.

f. Where the address is not known - The Sheriff/Judge may grant permission for service by means of:

- publication of an advertisement in a local newspaper circulating in the area of the last-known address of the Defender/Respondent
  - displaying on the walls of court a copy of the initial writ/ summons.
- g. There are no provisions at present for service of a writ or summons, decree or charge for payment by means of fax or e-mail. However, some other documents which require to be intimated in the course of certain proceedings may be transmitted electronically or in any documentary form.
- h. For service of persons outside Scotland see Chapter 16 of the [Court of Session Rules](#), Chapter 5 of the [Sheriff Court Ordinary Cause Rules](#), Chapter 5 of the [Summary Cause Rules](#) and Part 6 of the Simple Procedure Rules.

(For summonses, writs etc coming into Scotland, in cases other than those processed under the EU Regulation on Service, or under the Hague Convention on Service and via the Central Authority, all of the specific rules and procedures in a-g apply. For example, personal service of a summons issued in a country outside Scotland on a Defender/Respondent in Scotland is only legitimate if it accords with Scottish court rules.)

i. In all cases where service is effected other than by the court itself, a certificate of execution of service must be lodged in process, signed by the Pursuer's /Claimant's solicitor, messenger-at-arms or sheriff officer.

**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.)?**

See answer 5 g above.

#### **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)?**

Where requests are received from other Member States the normal method of service in Scotland is personally by a Messenger at Arms at the last known address or their place of business. Other methods of delivery are available under Scots law, however they are not used by the Central Authority for the service of documents.

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

As stated above in Scotland the only method for serving documents used by the Central Authority is delivery by a Messenger at Arms.

**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?**

Deposit of documents in a particular place (e.g. a post office) is not an alternative method of service in Scotland.

**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?**

Provided a proper method of service has been used then the deemed service date applies whether or not the addressee accepts service. The only exception being those allowed for in Article 8(1) and Annex II of the Regulation in relation to the document being in a language that the address understands.

#### **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?**

Registered delivery by the Royal Mail (the UK postal service) is to the address rather than the individual. Therefore it is possible that someone other than the addressee will receive the documents if they live at the same address.

**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 nobody at the requested address is available to sign for the documents they are returned to the postal office local to the address. If they are not collected within the deadlines (see below) they are returned to the sender.

**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 delivery has not been possible at the address a card is left with notification of the attempted delivery. This card tells the addressee from where the documents can be collected and the time limit within which he/she should collect them. For registered post originating within the UK the documents should be collected within 1 week. For international registered post the deadline is three weeks.

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

a. For postal service, see above. Postage is by first class recorded delivery. The certificate of execution of service, including the Post Office receipt, is required by the court as proof of service.

b. For personal service, messenger-at-arms/sheriff officer will produce a certificate of execution of service, signed by participating officers and describing method of service.

c. For certification in outgoing actions outside Scotland, see the relevant sections of court rules, as mentioned previously. Again, for summonses etc coming into Scotland, all the rules in a. and b. apply.

**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 Sheriff/Judge needs to be satisfied that service has been effected correctly and fairly on the Defender/Respondent before adjudication on a case can take place. Service needs to be completed satisfactorily, otherwise the Defender/Respondent would legitimately have recourse to an action to recall any decree awarded on the basis that the action was taken without the option to defend it, or even be notified of it. If however it is apparent that the Defender/Respondent learned about the action because he appeared in it, then his appearance will cure any defect in service.

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

Postal service: First class recorded delivery post at current costs.

If postal service is effected by a messenger-at-arms or sheriff officer, there is an additional fee payable to them, fixed by legislation depending on the circumstances of the case.

Personal service: Fees charged by messenger-at-arms/sheriff officer are fixed by legislation depending on the circumstances of the case.

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## Service of documents - Gibraltar

### 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" means the service in the appropriate manner, of documents used in court proceedings.

The rules set out the framework to be followed to enable the following:

- that documents are served in a manner approved of by the court
- to provide a mechanism in which a party can show that a particular document has or has not been served
- to set out a timetable in which a document can be deemed to have been served (e.g. personal service - deemed to be served the same day unless served after 5pm on a business day or served on a Saturday, Sunday or public holiday, when it will be deemed to have been served on the next business day).

### 2 Which documents need to be served formally?

Documents required to be served formally include claim forms, particulars of claim, defences, replies, application notices, petitions, orders and witness statements/affidavits (where these are for use at trial).

### 3 Who is responsible for serving a document?

The party who has prepared a document is responsible for its service. For example, a claim form should be served by the claimant or duly authorised solicitors. The Supreme Court of Gibraltar will not serve documents.

### 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?

As Gibraltar does not have a domicile register in the way that many Member States do, it is not possible for the requested authority in Gibraltar to obtain an address for the person on whom the documents are to be served. However where documents are to be served on a company and when recipients at the given address refuse to accept service the receiving agency in Gibraltar is able to establish the registered address of the company (if different) and can serve the documents at that address.

#### 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?

As mentioned before, there is no domicile register in Gibraltar. To find the address of a person it is necessary to use agents who can trace individuals or make use of the telephone directory that have some details of addresses. Searches such as telephone records are free. For other searches it is necessary to pay a fee. To find the registered office of a company a search has to be carried out at Companies House, this is not available on the website.

#### 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?

No it would not be possible to request an address in Gibraltar via 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 in the following ways:

- By personal service
- By registered post
- By fax or any other means of communication
- By any alternative method ordered by a judge

An injunction or other order endorsed with a penal notice should normally be served personally.

### 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 can be effected by fax where a party or his legal representative have previously indicated in writing to the party serving that he is willing to accept service by fax. A similar provision applies in the case of service by electronic mail, although the rules also provide that service by electronic mail can only take place where the parties are both acting by legal representative.

### 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)?

Full details of the rules and procedures for service in Gibraltar can be found in [Part 6 of the Civil Procedure Rules](#).

Where requests for service are received from other Member States the normal method of service in Gibraltar is personally by a court bailiff. Where that has not proved possible a judge may authorise another method of service - usually by means of ordinary post to the given address (if this is the usual or last known address of the person to be served).

Otherwise service can be by another delivery method which provides for delivery on the next business day or fax or other means of electronic communication. Where it appears to the court that there is a good reason to authorise service by a method or at a place not normally permitted under the Civil Procedure Rules the court may make an order permitting service by an alternative method or at an alternative place.

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

Under normal postal service or another delivery method which provides for delivery on the next business day, the documents are deemed to be served the second day after the documents were posted, left with, delivered to, or collected by the relevant service provider provided that day is a business day or the next business day after that day. When service is by fax or other electronic method if it is sent on a business day before 16.30 on that day, or in any other case on the next business day after the day it was sent. Where an alternative method of service is used the court's order will specify the method and the date on which service has deemed to have occurred.

#### 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?

Deposit of documents in a particular place (e.g. a post office) is not usually an alternative method of service. If documents have been served by registered post and not delivered the process by which the addressee is informed is set out in section 8 below.

**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?**

Provided a method of service has been approved by a court, the deemed service date applies whether or not the addressee accepts service.

**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?**

Registered delivery by the Gibraltar Post Office is to the individual, they receive notification of a letter/parcel to be collected and this will only be delivered to the person on production of identification.

**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?**

Unless the person to whom the notification is sent attends the post office, there is no other way that service can be effected.

**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?**

Yes, after the first issue of the "Notification to Collect" is sent to the addressee a period of twenty-eight days is given for the collection of the documents before sending a second "Notification to Collect". If after another seven days the documents have not been collected, they are sent back as undelivered.

The addressee is informed by a notification card, sent to their address.

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

Where the Rules of Court stipulate that there should be proof of service, a certificate of service should be provided. This should state that the document has not been returned undelivered, the method of service used and the date of posting/personal service/fax/leaving at permitted place. A prescribed form is available.

Where a claim form is the document personally served, the claimant must file a certificate of service within 21 days of service of the claim form. Failure to do so will render a claimant unable to obtain judgment in default.

**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?**

Normally, an attempt to re-serve should be made provided that the relevant limitation period is still current.

However, the Supreme Court does have power to dispense with service in exceptional cases. An example of this is where a defendant has been properly and fully notified of a claim but the claimant has failed to effect service within the relevant limitation period by, e.g. serving at a wrong address.

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

As service is carried out by a party to the proceedings or his solicitors, any fees arising from such service are paid by that party. The fees will depend on what type of service is used.

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