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Service of documents: official transmission of legal documents

 Czechia

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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"?

The service of court documents is a procedural task undertaken by courts in the course of judicial proceedings. A court serves various documents relating to proceedings on the parties to the proceedings, on persons involved in the proceedings, and on other persons (e.g. actions, summonses, written renderings of judgments, etc.).

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

2 Which documents need to be served formally?

All communications of which service has a legal effect must be served formally. The need for formal service 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, the 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. actions, served on the defendant; or judgments, served 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 the courts, which serve documents through service bodies (service bodies are court servers, Judicial Guard bodies, court bailiffs and postal service operators, and also- subject to certain conditions and for certain addressees - the Prison Service authorities, institutional or protective education institutions, preventive detention facilities, regional military headquarters, the Ministry of the Interior, or the Ministry of Justice).

4 Address enquiries

4.1 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 address indicated is not

correct? See also notification under Article 7(2)(c) of the Service of Documents Regulation.

If a request includes the address of an addressee at which service has been unsuccessful, the court consults the relevant information system with a view to establishing the address of permanent residence in the case of a natural person, the place of business in the case of an entrepreneur who is a natural person, and the address of the registered office or the address of an organisational unit registered in the relevant register in the case of a legal entity.

The court also investigates whether the addressee has a data mailbox registered in the Czech Republic; if the addressee has a registered data mailbox, the court delivers documents only to the data mailbox through the public data network. The setting up of a data mailbox is obligatory only for legal entities and (from 1 January 2023 onwards) also for entrepreneurs who are natural persons. For natural persons who are not engaged in business it 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 Czech Population Register's Information System. All courts in the Czech Republic have access to the system and may obtain extracts from it subject to the conditions laid down in Section 8 of Act No 133/2000 on the population register of inhabitants and on personal identification numbers (the 'Population Register Act') and subject to the conditions laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR), and in Act No 110/2019 on the processing of personal data. 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 that is maintained pursuant to Act No 326/1999 on the residence of foreigners in the Czech Republic.

Information about legal entities and natural persons 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 and natural persons. A public register is a public list in which information prescribed by law is recorded with respect to legal entities and natural persons engaged in business, and such a register includes the Collection of Documents. The register is accessible to both Czech citizens and foreigners and anyone may consult it and make copies or take extracts therefrom. The public register is maintained in electronic form and can consequently be accessed remotely at the following address:

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

Information on the website is available free of charge. There is a fee per page or part page of CZK 50 (without certification) or CZK 70 (with certification) 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).

4.3 What type of assistance in address enquiries from other Member States do the authorities of this Member State provide under Article 7(1) of the Service of Documents Regulation? See also notification under Article 7(1) of the Service of Documents Regulation.

Article 7(1)(a): providing for designated authorities to which transmitting agencies may address requests on the determination of the address of the person to be served; the Czech Republic has notified the following designated authorities:

the district court (*okresní soud*) (in Prague: *obvodní soud*, in Brno: *Městský soud*) whose jurisdiction covers the last known address of the person on which the document is to be served if this information is available or, where appropriate, the district court in whose jurisdiction the person on which the document is to be served is present according to the information available.

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 Czech law, a court serves written documents during a hearing or in the course of another court act. If this method of service is not used, the court serves a document on the addressee through a public data network to their 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 point 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 provided for? 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 can mean 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 specified by the addressee, provided that the addressee has asked the court to serve the document by this means, or gave their consent to this type of service, and provided they 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 with the addressee'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.

6.1 What type of electronic service within the meaning of Article 19(1) of the Service of Documents Regulation are available in this Member State where service is to be effected directly on a person, who has a known address for service in another Member State?

Service to an electronic address (by e-mail), which can be classified under point (b).

6.2 Has this Member State in accordance with Article 19(2) of the Service of Documents Regulation specified additional conditions under which it will accept electronic service via e-mail referred to in Article 19(1)(b) of that Regulation? See also notification under Article 19(2) of the Service of Documents Regulation.

The certificate of service of documents sent by e-mail has to be signed with an electronic signature based on a qualified electronic signature certificate, or by a qualified electronic signature.

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, see also the information in point 5 above.

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

If documents are being served which the law or a court determines must be served personally, and the serving body is unable to reach the addressee, the document is stored at a post office branch or at a court and a written notice is left for the addressee asking them to collect the document (see point 7.2. below).

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 letterbox if they cannot be reached, and the document is deemed served when placed in the letterbox. If a document cannot be placed in a letterbox, 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 letterbox and, if there is none, it returns the document to the sending court and posts a notice to that effect on the court's official notice board. For some documents (primarily orders to pay a bill of exchange, orders for payment and European payment orders), substituted service is precluded by law or a decision of a court; after the expiration of the ten-day period, the documents are returned to the sending court without being deemed served (Section 49(5) CCP).

Documents served through a public data network are deemed to have been served personally. A document served to a data mailbox is considered delivered once a person who is, given the scope of their 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 (not intended for personal service) are deemed served on the day they are placed in a letterbox 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 asking them to collect the document, which the serving body leaves for them in an appropriate manner (usually, by placing it in their mailbox). If a notice cannot be left at the place where delivery was attempted, the serving body 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 the name of the court, of the document being served, of the addressee and their address, of the serving body, and the names and surname of the server with their 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 until 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?

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 consequences. Under Czech law, the same legal fiction of service applies if the addressee refuses to show their identity or to cooperate in any other way required for due service. In that case, a document is deemed served on the day when the showing of identity or cooperation was denied. Under Czech law, no steps are taken to ascertain whether the refusal was legitimate or not, and the legal fiction of service occurs automatically, upon the act of refusal.

8 Are there specific rules for the service of a European order for payment, and if so, please specify these rules and procedures, including any relevant legal provisions?

Under Section 174b(1) of the Code of Civil Procedure, a European order for payment must be served on the defendant personally; substituted service is precluded. Personal service means that the defendant must accept the document in person; however, if they reject service of the document, the document is deemed served on the day when its service was refused (Section 50c CCP). If the serving body is unable to reach the defendant, the document is stored at a post office branch or at a court and a written notice is left for the defendant asking them to collect the document personally. A European order for payment cannot be served on the defendant's agent or statutory representative on behalf of on the defendant. Substituted service is precluded and after the expiration of the ten-day period a European order for payment is returned to the sending court without being deemed served (Section 49(5) CCP). If a European order for payment is served on the defendant through a public data network, it is deemed served once a person who is, given the scope of their authorisation, entitled to access the document, logs into the data mailbox. If that person does not log into the data mailbox within 10 days of the day on which the European order for payment was served to the data mailbox, the European order for payment is deemed not served (Section 17(4) of Act No 300/2008 on electronic actions and authorised document conversion). In such a case, the court resorts to service by other means, in particular through the service body.

9 Postal service from abroad (Article 18 of the Service of Documents Regulation)

9.1 If the postal service delivers a document sent from abroad to an addressee in this Member State in a situation where acknowledgement of receipt is required (Article 18 of the Service of Documents 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. This 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 on their agent, statutory representative, or agent of their statutory representative, subject to the same conditions as the addressee (i.e., they must show their 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 the following:

1. if the postal item is addressed to a natural person:

- a natural person over the age of 15 years who stays in the dwelling, 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 their signature;

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

- a natural person who proves that they are an authorised person and confirms acceptance of the item by their signature;

- a natural person over the age of 15 years who stays in the office, establishment, or other enclosed premises designated with the name of the addressee and who documents their name and surname and confirms receipt of the item by their signature.

If a document is not successfully handed over to any such person, the post office may give it to a suitable natural person over the age of 15 years, 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 their signature.

This is precluded if:

(a) the addressee has given Czech Post a statement declaring that they disagree with this method of delivery;

(b) the addressee has given Czech Post a statement declaring that Czech Post may only deliver postal items to them;

(c) the price declared exceeds CZK 10 000 (Article 25(6) of the Postal Terms and Conditions).

9.2 Under the rules of postal delivery in this Member State how can the service of documents from abroad, under Article 18 of the Service of Documents Regulation, 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 18 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 their house letterbox asking them to collect the postal item within a designated period of time at a specific post office. If they fail to collect it within the period designated, the postal item is returned to the sender as undeliverable.

9.3 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 18 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, which the serving body leaves in their domestic letterbox, asking them to collect the item.

10 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 act of which court records are produced, those records will indicate this. In addition to other particulars (Section 40(6) CCP), the records must state the nature of the document. The records must be signed by the person who serves them, and by the recipient.

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

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 their recognised electronic signature, whereby they confirm receipt of the document.

If a court is serving a document in the course of an act 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 set out on a service slip are deemed correct.

A service slip must contain:

- (a) the name of the court that requested service of the document;
- (b) the name of the serving body;
- (c) the name of the document served;
- (d) the name 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, or 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 serving agent, their signature, and an imprint of the official stamp of the serving body;
- (h) the first name and surname (if known to the serving body) of the person who accepted the document or rejected service or refused to cooperate in the way required for the due service of the document; 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 letterbox 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 they 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, their 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 their signature.

If the addressee or recipient refuses to accept service of a document or fails to cooperate in the way 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 refusing service of the document or of failing to provide cooperation, and about whether and how a refusal to accept service of the document was justified or about the nature of a failure to provide cooperation.

If a document is served using the 'regular post', 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 domestic letterbox or another letterbox 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 serving agent, their 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 natural person other than the serving agent must confirm delivery to the recipient by signing the service slip.

11 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 legal 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 their application that supports the timeliness (the above-mentioned 15-day period) and the justifiability of their 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 they do not reside permanently at the mailing address provided (parties are obliged to provide an address for service where they actually reside).

12 If the addressee refuses to accept a document based on the language used (Article 12 of the Service of Documents Regulation) and the court or authority seised of the legal proceedings decides upon verification that the refusal was not justified, is there a specific legal remedy to challenge that decision?

A decision declaring that the refusal was not justified can be appealed.

13 Do I have to pay for service of a document, and if so, how much? Is there a difference where the document is to be served under domestic law and where the request for service originates from another Member State? See also notification under Article 15 of the Service of Documents Regulation, concerning service of a document from another Member State.

Service in the Czech Republic is not subject to fees. As a rule, the costs of service are borne by the court serving the document.

■ Last update: 21/05/2026

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