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# Service of documents: official transmission of legal documents

 Spain

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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"?

'Service of documents' means transmitting documents.

The purpose of the specific rules governing this matter is to determine the necessary conditions for making the submission of judicial or extrajudicial documents reliable so as to provide certainty regarding the time, place, manner and addressee of such submission, whether in the context of proceedings (judicial documents) or outside the framework of proceedings (extrajudicial documents).

It should be noted that the case-law of the Spanish Constitutional Court establishes that service of documents constitutes a necessary preliminary guarantee without which other constitutional guarantees cannot come into effect (Constitutional Court judgment STC 1/1993 of 13 January 1993).

For their part, courts must ensure that documents are effectively served; if a judicial decision is adopted without one of the parties having been heard, this would constitute infringement of the adversarial principle and result in that party being left without a proper defence if it is found that the decision was indeed adopted without one of the parties having been heard (Constitutional Court judgment STC 54/2010 of 4 October 2010).

## 2 Which documents need to be served formally?

Pursuant to [Article 149 of the Law on Civil Procedure \(\*Ley de Enjuiciamiento Civil\*\)](#), procedural decisions adopted in judicial proceedings must be served formally by the Judicial Administration Support Bureaux (oficinas judiciales), i.e. by 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 or 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*).

In summary, the documents that judicial bodies use to communicate with the parties to a case and with third parties can be classified as follows:

- Communication with the parties to a case: notifications, orders to act, summonses and injunctions.
- Communication with natural or legal persons not involved in the proceedings: summonses and injunctions.
- Communication with notaries, registrars or officials working for the Courts Service: warrants.
- Communication with non-judicial authorities and other officials: memoranda.

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

Under [Article 152 of the Law on Civil Procedure](#), documents are served under the direction of the [Court Registrar \(Letrado de la Administración de Justicia\)](#) (known as the 'Secretario Judicial' until 2015) attached to each court, who is responsible for the proper organisation of process serving.

Documents will be served by a bailiff or by the legal representative of the person requesting service, who will bear the costs.

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 email address authorised for use as such, via an electronic notifications portal or by any remote or electronic means chosen by the addressee. The legal representative is responsible for confirming the identity and status of the person who takes receipt of the document being served, and this must be recorded by their signing a copy of the document and indicating the date of service.

### 4 Address enquiries

In accordance with the Regulation, it is for the Member States to decide whether, on their own initiative, to make requests for information about addresses. In the case of Spain, it has been declared that the authority competent for service, i.e. the [Court Registrar](#), will be responsible for carrying out address inquiries. In the declaration relating to Article 7(2)(c) of the Regulation, it has been stated that the Spanish authorities competent for service will, on their own initiative, take steps to obtain information about addresses from domicile registries or other databases in cases where the address indicated in the request for service is not correct.

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.

Yes, in accordance with the Spanish declaration under Article 7 of Regulation (EU) 2020/1784, the authority competent for service ([the Court Registrar](#)) will - on their own initiative - be responsible for carrying out address inquiries. In accordance with Article 7(1)(a), transmitting agencies may address requests on the determination of the address of the person to be served with the document to the competent authority designated by Spain for service.

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, where there is due cause, use 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 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.

The [Court Registrar](#) will be responsible, on their own initiative (*ex officio*), for taking steps to obtain information about addresses from domicile registries ([the Punto Neutro Judicial network](#)) or other databases in cases where the address indicated in the request for service is not correct.

If that form comes with a request for documents to be served under [Regulation \(EU\) 2020/1784](#) and the address inquiry shows that the Spanish authority does not have territorial jurisdiction to serve the documents in question, under Article 10(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)?

Yes, if alternative means are available. Pursuant to [Article 152 of the Law on Civil Procedure](#), under the direction of the [Court Registrar](#), 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, email 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 email 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 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 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](#). The Law on Civil Procedure was amended by [Law No 42/2015 of 5 October 2015](#), making it mandatory, from 1 January 2016 onwards, for all professionals working in the justice sector to use secure electronic systems to serve documents relating to proceedings. These systems have developed into the [LexNET platform](#), the use of which is governed by [Royal Decree No 1065/2015 of 27 November 2015](#) within the territorial jurisdiction of the Ministry of Justice. Various autonomous communities with competence in the area of justice have, for their part, developed equivalent electronic service systems.

To implement this, interested parties and members of the general public may sign up to notification procedures in the Electronic Courthouses (Sedes Judiciales Electrónicas) of the different territories. (The [Electronic Courthouse](#) of the Ministry of Justice is the one that comprises the largest territory.)

In accordance with the third paragraph of [Article 273 of the Code of Civil Procedure](#), all justice-sector professionals must use the remote or electronic systems in place in the Courts Service to submit initiating, non-initiating 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 are required to have electronic dealings with the Courts Service;
- f) public administration officials for any actions and steps that they carry out because of their position.

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?

Electronic service may be effected directly on persons with a known address provided that the documents are sent and received using qualified electronic registered delivery services and the addressee has given prior express consent to the use of electronic means for serving documents in the course of legal proceedings. A further condition is that the addressee has given prior express consent to the court or authority to the use of email sent to a specified email address for the purpose of serving documents in the course of those proceedings and the addressee confirms receipt of the document with an acknowledgement of receipt, including the date of receipt.

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.

In accordance with Article 155(1) of the Law on Civil Procedure, where a party without legal representation is legally or contractually obliged to have electronic dealings with the Courts Service, the document will be served by electronic means. If the document being served concerns the first summons or order to attend or the self-representation of the parties in certain procedural steps and the addressee does not have access to its content after 3 days, the document will be published via the Single Judicial Noticeboard. It may, however, also be served by personal delivery of a copy of the decision if the obligated party appears in person at the court. Such service is documented in a written record.

In the case of parties without legal representation who are not legally or contractually obliged to have electronic dealings with the Courts Service, the first summons or order to attend may be served on the defendant at their home address, or remotely with the voluntary agreement of the addressee. If the addressee does not acknowledge receipt of such a summons or order within 3 days of it being made available to them in the Electronic Courthouse, it will be served on them at their home address. Addressees with an email address or messaging service through which they can be contacted will in all cases be informed that the decision has been made available to them both at the court and in the Electronic Courthouse. If the document being served concerns the self-representation of the parties in certain procedural steps, it will be served on them at their home address or remotely, unless they have previously opted for service by electronic means. Service of documents other than those referred to above will be considered to have been fully effected once it has been established that they have been duly delivered to any place designated as a home address, even if the addressee does not acknowledge their receipt or, if they have voluntarily opted for service by electronic means, does not have access to their content after 3 days.

## 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 of the document's dispatch and its content, 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.

If, after carrying out the relevant inquiries, it is not possible to establish the home address of the addressee of the document, or if the addressee cannot be found there or the document cannot be fully served on them, the Court Registrar will, having checked whether the defendant is entered in the central register of defendants in civil proceedings whose domicile is unknown and whether the data contained in the register tallies with that in their possession, instruct that the document be served via the Single Judicial Noticeboard. The rights and interests of minors, as well as other rights and freedoms that might be affected by such data being made public, will in all cases be safeguarded.

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 content.

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 of the document's dispatch and its content, 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 ([Article 160\(1\) of the Law on 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 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 ([Article 160\(3\) of the Law on Civil Procedure](#)).

The notice will explain in due detail why the addressee is required to appear in court, by specifying the proceedings and the case to which the order to act relates and alerting the addressee to the fact that, should they fail to appear within the period indicated without just cause, the transmission or disclosure will be deemed to have been effected ([Article 160\(3\) of the Law on 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?

If the addressee of the document being served is found at their place of residence and refuses to take receipt of the copy of the decision or summons or does not wish to sign the acknowledgement of receipt, the official process server or their legal representative will notify the addressee that the copy of the decision or summons is available to them at the Judicial Administration Support Bureau. The document will then be considered to have been served, and the service will be documented in a written record ([Article 161\(2\) of the Law on Civil Procedure](#)).

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

The Regulation allows the service of judicial documents to be effected directly by postal services by registered letter with acknowledgement of receipt or equivalent. In the case of documents sent by post with acknowledgement of receipt, however, it is also necessary to enclose the form.

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 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?

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 (Article 24 of Law No 43/2010 of 30 December 2010 on the universal postal service, users' rights and the postal market).

8.2 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?

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 stating that service is deemed to have been effected (see question 7.4; [Article 161\(3\) of the Law on Civil Procedure](#)).

Under [Article 161\(3\) of the Law on 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 ([Article 266, point \(1\), of the Law on Civil Procedure](#)). Where, however, the person notified, called on, summoned or requested to appear has – despite the violation – taken cognisance of the case and does not declare the record of service null and void when they first appear before the court, the record shall from then on be considered fully effective and to have been drawn up in accordance with the law ([Article 266, point \(2\), of the Law on Civil Procedure](#)).

As regards the language of the document being served, according to CJEU case-law [C-354/15 Henderson](#), all notifications must be 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. In such cases, if the standard template set out in [Form L](#) of Regulation (EU) 2020/1784 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 (Form L) set out in Annex I to that Regulation.

**11 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?**

As in Regulation (EU) 2020/1784, the service of information on addressees is further enhanced in that they may refuse to accept a document if it is not written in, or accompanied by, a translation into a language that the addressee understands, the official language of the Member State addressed or, if there are several official languages in that Member State, any of the official languages of the place where service is to be effected.

Where the addressee refuses the document, the defect may be remedied through a new service of the document accompanied by its translation (Article 12(5)). If the refusal is not justified on the ground that the addressee knows the language in which the document is drafted, once the right to refuse to accept the document has effectively been exercised, the court seised of the case may verify whether that refusal was well founded and, where appropriate, apply the consequences under its national law (Order of the Court of Justice of 28 April 2016, Case C-384/14, *Alta Realitat*).

**12 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.**

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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