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Service of documents: official transmission of legal documents

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European Judicial Network
(in civil and commercial matters)

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

Transmission of documents, the procedure by which a judicial document is brought to the attention of the addressee, is governed by two separate sets of rules in Luxembourg, the first of which comprises two subsets.

The first subset is service by bailiff (*signification*).

Full and complete service by bailiff constitutes the ordinary procedure. It is carried out by a bailiff (*huissier de justice*), who delivers the document in person to the addressee, after verifying their home address, residence or registered office. This procedure offers a greater degree of certainty. It applies to the transmission of various documents instituting proceedings at first instance (*actes introductifs en première instance*) and to all notices of appeal (*actes d'appel*). It also applies, as a general rule, to the transmission of court judgments, marking the beginning of the time frame available for appeal and with a view to enforcement.

For certain proceedings before the justices of the peace, an attenuated form of service is used to transmit the document instituting proceedings: the bailiff checks the addressee's home address, residence or registered office and sends the document by registered letter with a form for acknowledgement of receipt.

Service by post (*notification*) does not involve a bailiff. It therefore offers a lesser degree of certainty than service by bailiff. The court registry (*greffe du tribunal*) sends the document (document instituting proceedings or a copy of the judgment) by registered letter with a form for acknowledgement of receipt. This procedure is mainly applicable at first instance in tenancy (*bail à loyer*) and employment law (*droit du travail*) matters. Service of judgments by post also marks the beginning of the time frame available for appeal.

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?

Service by bailiff involves the bailiff effecting either full and complete service, or attenuated service (*signification atténuée*) only, by sending a registered letter with a form for acknowledgement of receipt.

Service by post involves the registry of the court addressed sending the document by registered letter with a form for acknowledgement of receipt.

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.

Bailiffs, as the requested authority, 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. Bailiffs submit requests for information about the addresses of natural or legal persons to the databases available to them, on their own initiative, before transmitting any documents to the addressee. If there is a new official address within the territory of the bailiff's geographical jurisdiction, the bailiff will serve the document to this new address.

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

- Natural persons:
 - Full name
 - Home address
 - Date of birth

This information can be found in the register of natural persons (registre des personnes physiques). Bailiffs have access to this register 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 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.

In accordance with Article 7, Luxembourg provides the assistance referred to in Article 7(1)(a) to find the address of the person to be served with the judicial or extrajudicial document.

The designated authorities to which transmitting agencies may address requests on the determination of the address of the person to be served are the bailiffs.

You can find a bailiff and their geographical jurisdiction on this website: [Chambre des huissiers de justice de Luxembourg](#)

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

If the postal worker finds the addressee at the address, they ask the addressee 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. This is referred to as service by post in person.

If the addressee cannot be found, but another person at the home address, residence or registered office accepts the registered letter, the postal worker records this person's identity on the acknowledgement of receipt. Service by post on a third party is deemed equivalent to service by post to the home address.

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. This is also referred to as service by post to the home address.

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 them.

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 their 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 (*exploit*). 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 when it is presented to the addressee. This is referred to as service by bailiff in person.

If the document cannot be served in person, the bailiff goes to the addressee's home address, residence or registered office. The copy is given to anyone there, provided that this person accepts the document, states their 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 at the home address, residence or registered office, in a sealed envelope, a dated notice stating that the copy has been delivered and giving the details of the person to whom the copy has been given. In all these cases, the document is regarded as having been served on the date of delivery of the copy. This is referred to as service by bailiff to the home address.

In all cases, the bailiff draws up a record of fulfilment of the formalities, 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 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 is not permitted by the New Code of Civil Procedure (*Nouveau Code de Procédure Civile*).

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?

N/A

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.

No.

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 their 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 their 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 stating 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 search shall state the nature of the document and the requester'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 search 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 they may obtain a copy of the document within three months from the offices of the bailiff or may authorise any person of their 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 they have been effectively informed, the judge may order, on their own initiative, all additional steps, except for the provisional and protective measures needed to safeguard the applicant's rights'.

Article 81 of the New Code of Civil Procedure further provides that: 'A defendant who fails to appear may, at the

initiative of the applicant or by a decision of the judge taken on their own initiative, be summoned to appear again if the document instituting proceedings has not been delivered in person. The document instituting proceedings shall be reproduced on the basis of the first document instituting proceedings, except pursuant to rules specific to certain jurisdictions’.

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 in person by a bailiff, the notice of service must indicate the date of service, i.e. the date when the notice of service is delivered to the addressee or to the addressee’s home address, or the date when the document is deposited at the addressee’s home address.

Where the document is served by post, the date on which the registered letter is delivered to the home address, residence or registered office of the addressee is 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?

In all cases, the addressee is informed by the bailiff (service by bailiff) or the postal worker (service by post), who leaves a non-delivery notice.

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 all cases, the addressee can refuse to take delivery of the document. Transmission is nonetheless valid and takes effect at the point at which the bailiff or postal worker fulfils their statutory obligations, i.e. once they leave a non-delivery notice.

In all cases, the addressee can subsequently contest the validity of transmission by proving that neither their home address, residence nor address for service is at the address indicated. Consequently, service by bailiff offers greater legal certainty than service by registered letter with a form for acknowledgement of receipt, because the acting bailiff checks the addressee’s address in the register of natural persons or the trade register. 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 their home address, residence or registered office. Conversely, the date of service by bailiff is always indicated on the notice of service drawn up by the bailiff.

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?

No.

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 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?

As regards global postal services, Article 6.3.9. of the Terms and Conditions of Service (*Conditions générales de fourniture des services offerts*) states that, 'Registered deliveries must be delivered to the addressee at the address indicated or, in the addressee's absence: to any adult who receives the delivery at the address and who, by their signature, is deemed to have been duly authorised by the addressee and commits to take delivery in the name and on behalf of the addressee; or to any adult presenting (i) a delivery note or receipt relating to the pick-up point at which the delivery is being stored and (ii) their identity document.'

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?

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 is not delivered. The postal worker leaves a non-delivery notice.

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 their 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.

9.3 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 their 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.

10 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 their record is valid as proof unless forgery is proven.

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?

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 a document instituting proceedings 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 (Article 81 of the New Code of Civil Procedure). 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.

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?

No. Ordinary law avenues of appeal apply.

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.

Yes. Where the document is served by bailiff in accordance with national law, the costs applicable are set out in the [amended grand-ducal regulation of 24 January 1991 setting rates for bailiffs \(*Règlement grand-ducal modifié du 24 janvier 1991 portant fixation du tarif des huissiers de justice*\)](#).

Where the request for service originates from another Member State, the bailiff applies the rate set out in the aforementioned regulation, which is currently EUR 165.

Service by the court registry is free of charge.

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