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Service of documents: official transmission of legal documents

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European Judicial Network
(in civil and commercial matters)

 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 civil procedural law.

The exercise of the parties' procedural rights (the right to a public hearing, the right to defence, the right to present evidence in support of submissions, and the right to information), the validity of proceedings in other respects, the correct calculation of time limits and, in consequence, the validity of the judgment issued all depend on documents being served in compliance with the law.

Service of documents is primarily governed by Chapter 2 (Articles 131-147) of the Code of Civil Procedure of 17 November 1964 ('CCP') and by implementing acts:

- Regulation of the Minister for Justice of 18 June 2019 – Rules of Procedure for Ordinary Courts ('Rules of Procedure');
- Regulation of the Minister for Justice of 6 May 2020 on the detailed procedure and method for serving judicial documents in civil proceedings ('the Regulation').

Service made by ordinary mail (point 8 below) is additionally governed by the Postal Act of 23 November 2012 and by the rules on the provision of postal services issued by individual postal operators. The designated operator – currently Poczta Polska S.A. – is the postal operator which is obliged to provide universal postal services (and cannot refuse to conclude an agreement for the delivery of registered letters).

2 Which documents need to be served formally?

All judicial documents and pleadings whose service produces legal effects must be served formally.

Judicial documents (documents sent by a court to the parties and other persons involved in court proceedings) include: notifications, summons, notices of rights and obligations, copies of rulings (judgments, decisions, writs of payment) or orders, copies of judgments with the statement of grounds.

Pleadings include documents that initiate proceedings (e.g. petitions) and documents filed in the course of proceedings by the parties and by any other entities authorised to participate in civil proceedings (e.g. a public prosecutor, the Ombudsman for Citizen's Rights, the Ombudsman for Children's Rights), which indicate their motions or submissions.

3 Who is responsible for serving a document?

In Poland, documents are served formally, which means that nearly all documents in judicial proceedings are served *ex officio* by the court. Therefore, when submitting a pleading, the party is required to submit it to the court, along with the appropriate number of copies for the purpose of service to persons involved in the case (Article 128(1) CCP). The exceptions mainly include the service of the first document in the case on the defendant and the exchange of documents between professional representatives (see below).

If, despite having received two attempted-delivery notes, a defendant fails to collect a petition or other pleading that entails the need for the defendant to defend his/her rights, and if no specific provisions on effective service apply, and if no document in the case has been served on the defendant before, the court will send a copy of the document to the plaintiff obliging the latter to have the document served on the defendant by a court bailiff. The bailiff, at the request of the plaintiff, will serve the document in person with acknowledgment of receipt and with an indication of the date, or concludes that the addressee does not reside at the address indicated. For an additional fee (PLN 40), the bailiff will also proceed to establishing the defendant's address. If within two months the plaintiff fails to provide the court with proof of service of a document on the defendant by a bailiff, or fails to indicate the defendant's current address or to provide proof that the defendant resides at the address stated in the petition, the court may suspend proceedings and discontinue them after three months from the suspension (Article 139¹ CCP, Article 177(1)(6) CCP, Article 182(1)(1) CCP, Articles 3a-3b of the Judicial Enforcement Officers Act of 22 March 2018).

While the case is pending, advocates, attorneys-at-law, patent agents and the General Counsel to the Republic of Poland are obliged to serve directly on each other copies of pleadings, including attachments. The above does not apply to the submission of counterclaims, appeals, appeals in cassation, complaints, applications for a default judgment to be set aside, objections to a payment order, complaints against a payment order, motions to secure claims, applications for the revision of a judgment, appeals for a final judgment to be declared unlawful, and complaints against decisions of judicial clerks, which are to be submitted to the court with copies for the opposing party. Nor does the above apply to documents submitted through an ICT system (Article 132(1-1¹) CCP).

Under certain conditions, electronic service (publishing the content of the judicial document in the information system) is acceptable.

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.

When accepting a request for execution, the court does not make its own findings regarding the addressee's place of residence or headquarters, apart from rectifying obvious errors in the address. However, where the applicant has requested service in accordance with the law of the requested Member State, and Polish law allows service to be deemed effective when made to an address disclosed in specific records or registers (see point 5 below), the court can be expected to check the data against such records or registers. If the court establishes, as is described above, an address other than the one notified by the applicant, it should re-attempt service. The court may also check whether the address is known to it *ex officio* (e.g. in connection with another case pending before the court) and attempt to serve the document to such an 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?

The Polish Electronic Population Register System ('PESEL') contains, *inter alia*, information about registered addresses of natural persons. Foreign judicial authorities cannot access the register directly. A foreign court may request the Polish court to take evidence in order to establish the address of a natural person under a bilateral agreement or the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters signed in The

Hague on 18 March 1970. The Polish court will then request information from the PESEL register or the population register of the relevant municipality, or will possibly take other necessary actions.

A party to court proceedings abroad may submit a request for access to data in the PESEL register or in a population register to any municipal administration in Poland. Such a request is to be made in writing on a form (available on municipal administration's websites). A party must demonstrate the existence of a legal interest and provide evidence that the right of access concerns a specific person. A fee of PLN 31 is paid into the bank account of the municipality to which the request has been made. However, it must be noted that Polish law does not presume that the address of a natural person indicated in the PESEL register or a population register is the person's actual address of residence. Information and the request can be found under the following link: <https://www.gov.pl/web/gov/uzyskaj-dane-innej-osoby-z-rejestru-pesel> (the template request in .pdf format can be found in the tab: 'LISTOWNIE'/'Co musisz przygotować').

The business addresses of natural persons operating businesses are stored in the Central Business Register (CEIDG), and can be retrieved online free of charge. The search engine in Polish and English is available at: <https://aplikacja.ceidg.gov.pl/ceidg/ceidg.public.ui/search.aspx>

Addresses of other entrepreneurs (commercial companies, cooperatives, state-owned enterprises, R&D bodies, foreign enterprises and their branches, as well as mutual societies) and associations, other social and professional organisations, foundations, healthcare institutions are available in the National Court Register and are accessible free of charge online. The search engine in Polish is available at: <https://ekrs.ms.gov.pl/web/wyszukiwarka-krs/strona-glowna/>

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.

Pursuant to Article 7(1)(c) of the Regulation on the service of documents, Poland provides - via the European e-Justice portal - detailed information on how to find the addresses of persons to whom a document is to be served.

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 court serves documents through the postal operator, persons employed by the courts, or the court delivery service. The court may also serve documents by a bailiff as per the Judicial Enforcement Officers Act of 22 March 2018 (Article 131 CCP, Section 96 of the Rules of Procedure). In such cases, the bailiff serves the document on the addressee in person with acknowledgment of receipt and with an annotation of the date, or concludes that the addressee does not reside at the address indicated. In practice, service is usually made by the postal operator (Poczta Polska S.A.) by registered mail with acknowledgment of receipt.

If correspondence is addressed to natural persons, documents are served on them personally, i.e. handed to them, or, if they do not have legal capacity, to their legal representative (Article 133(1) CCP).

Courts serve documents on soldiers through the Military Police, on Police officers and Prison Service officers - through their immediate supervising authorities, and on persons in custody - through the management board of the facility (Article 137 CCP).

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. If a legal representative for the purposes of litigation or a person authorised to receive judicial documents has been appointed, documents are served on these persons (Article 133(2) CCP).

Pleadings or rulings for entrepreneurs entered in the Central Business Register (CEIDG) are served to the address for service provided in the Register, unless the entrepreneur has indicated a different address for service (Article 133(2¹) CCP).

Pleadings or rulings for entrepreneurs entered in a court register are served to the address disclosed in the register, unless the entrepreneur has indicated a different address for service. If the most recent disclosed address has been deleted as inconsistent with the factual situation and no request for entering a new disclosable address has been made, the deleted address is considered an address made available in the register (Article 133(2²) CCP).

Pleadings or rulings for persons representing an entity entered in the National Court Register, liquidators, proxies, members of bodies or persons authorised to appoint the management board are served to the address for service indicated in the National Court Register (Article 133(2³) CCP).

If a legal representative for the purposes of litigation or a person authorised to receive judicial documents has been appointed, judicial documents are served on these persons. However, documents summoning a party to appear in person are only served directly on that party, with the exception of parties not having a place of residence or habitual abode or registered office in Poland or another EU Member State (Article 133(3) CCP, Article 1135⁵ (1) CCP).

Service is made at the place of residence, the workplace or wherever the addressee is found.

At the request of a party documents may be served to a PO box address notified by that party. In such cases documents sent through the postal operator are deposited at the operator's post office, with a notice to that effect left in the addressee's letterbox (Article 135 CCP).

A court registrar may hand a document to the addressee directly at the court registry, if the addressee is present at the court and proves his or her identity (Article 132(2) CCP). In addition, if a document to be served has been filed with the court at a time that makes it impossible for it to be served before the date of a session or hearing, the court will serve the document on the addressee at the session or hearing (Section 99 of the Rules of Procedure).

Letters may be served electronically (served by publishing the content of the judicial document in the information system).

By way of exception, only in the case of summons to a hearing, the court may, instead of serving such summons in writing, serve them on the parties, witnesses, expert witnesses or other persons by other means, such that it deems most suitable, if it considers this necessary to expedite the examination of the case. Such summons (e.g. by e-mail or telephone) produce legal effects if there is no doubt that they have reached the addressees at least one week, and in urgent cases three days, ahead of the session (Article 149¹ CCP and Article 149(2) 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.)?

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?

The court serves documents electronically, i.e. through an ICT system, only if the addressee has submitted a document through the system or has chosen to submit in this way (the addressee may revoke the choice). This form of service may also be chosen by an addressee residing in another Member State. If a document is served electronically, it is deemed served at the moment indicated in the electronic acknowledgement of receipt. In the absence of such an acknowledgement, service is deemed effective 14 days after the document was uploaded to the ICT system. Documents to be served are not sent to e-mail addresses, but instead a notice that a message

has been uploaded to the ICT system is left in the addressee's inbox (Article 131¹ CCP).

Specific rules apply to the service of judicial documents to advocates, attorneys-at-law, patent agents or the General Counsel to the Republic of Poland during the state of epidemic emergency or state of epidemic declared due to COVID-19 and within a year of the lifting of the last of them. During such a period, if the ICT system that supports the court proceedings is unavailable, the court serves judicial documents on such parties by uploading their content to the ICT system used for making such documents available (information portal). This does not apply to documents that are to be served together with copies of the parties' pleadings or other documents not originating from the court. The date of service is the date when the addressee has become acquainted with the document uploaded to the information portal. If the addressee fails to do so, the document is deemed served upon the lapse of 14 days from the date of such uploading. The service of a document through the information portal produces the procedural effects defined in the CCP in respect of the service of judicial documents. The court may choose not to serve a document through the information portal if this is impossible due to the nature of the document (Article 15z⁹ of the Act of 2 March 2020 on special arrangements for the prevention, combating and control of COVID-19, other communicable diseases and related emergency situations). A state of epidemic emergency will be in effect in Poland until 30 June 2023.

Advocates, attorneys-at-law, patent agents and the General Counsel to the Republic of Poland serve directly on each other (see point 3 above) only by electronic means, if they file unanimous statements to this effect with the court and notify the court of the contact details to be used for this purpose, in particular, an e-mail address or a fax number. Such statements are irrevocable and any stipulations of a condition or a time-limit deemed non-existent. At an unanimous request of the parties or when otherwise warranted, the court will order that such means of service be waived. The obligation of mutual electronic service does not apply to documents that should be submitted to the court with copies for the opposing party, as mentioned in point 3 above.

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 additional conditions apply.

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, to the management of the property, the caretaker or the civil parish executive officer if these persons are not the opposing parties in the case and have undertaken to hand the document to the addressee. However, the court may preclude or limit the possibility that documents are served on other persons. A note to that effect is made on the postal item. If an addressee who has notified their workplace as the address for service is not found by the server at the workplace, the document may be served to a person authorised to receive documents (Article 138 CCP, Section 3 of the Regulation).

If it cannot be served, a document sent through a postal operator will be deposited at the post office of that operator, and - if served by other means - at the relevant municipal administration, with a notice to that effect left on the addressee's door or in their office or letterbox stating where and when the document was left and that it should be collected within seven days from the date of the notification. If the time-limit elapses to no effect, the notification procedure will be repeated (Article 139(1) CCP). In the case of natural persons, a document deposited at a post office may be collected by the addressee in person, by his or her legal representative or by a postal proxy, and in the case of other entities, also by a person authorised to represent the entity or by an authorised employee (Section 8 of the Regulation). The document is deemed served upon the lapse of the time-limit for its collection.

Service can also be presumed effective if it has been impossible due to the party's failure to comply with its

obligations:

- if a document cannot be served on a party subject to entry in a court register because a change to the party's address has not been disclosed in the register, the document is attached to the case file with the effect of service, unless the new address is known to the court (Article 139(3) CCP);
- documents for persons representing an entity entered in the National Court Register, liquidators, proxies, members of bodies or persons authorised to appoint the management board, if they cannot be delivered in the ordinary manner due to a failure to notify a change to the address for service, will be attached to the case file with the effect of service, unless another address for service or place of residence and address are known to the court (Article 139(3¹) CCP);
- if the addressee (either a party or the party's representative) has relocated from the current address and has not notified the court of the new place of residence (despite having been instructed by the court about the obligation to do so), the judicial document will be attached to the case file with the effect of service, except where the new address is known to the court (Article 136 CCP).

In other cases where the whereabouts of the party is unknown:

- if the document to be served entails the need for a party to defend the party's rights, the service may - until such party, its representative or plenipotentiary make themselves known - only be made to the litigation friend appointed by the court at the request of the person concerned (e.g. the plaintiff) who has provided prima facie evidence that the addressee's whereabouts is not known. The appointment of a litigation friend is announced publicly in the court building and in the premises of the municipal administration, and - in cases of greater importance - also in the press, if necessary. Service becomes effective once the document is delivered to the litigation friend, except that the court may make the effectiveness of service conditional upon the lapse of a specific period from the moment when the notice is displayed in the court building (Article 143 CCP).
- if the document to be served does not entail the need for a party to defend the party's rights, the document will be served on the party by it being displayed in the court building (Article 145 CCP).

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

In the case of service to an adult household member, the management of the property, the caretaker, the civil parish executive officer or a person at the workplace, the document is deemed served when it is handed to such a person.

If the document is deposited at a post office and is not collected by an authorised person, it is deemed served upon the lapse of the last day of the time-limit for collection (i.e. upon the lapse of one week from the second attempted-delivery note), unless the document is addressed to a defendant who has not been previously served any other document in the case, as mentioned in point 3 above.

If service is made to the litigation friend appointed for a party whose whereabouts is unknown, the document is deemed served when it is handed to the litigation friend or upon the lapse of the time-limit from the display of the notice, as set by the court, whichever occurs later.

If service is made through the display of a notice in the court building, the document is considered served one month after the date of the display.

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?

This is done by means of a notice left on the addressee's door or in their office or letterbox. The notice will indicate, inter alia, that if the postal item is not collected despite duplicate notification, it will be returned to the sending court and the postal item will be considered served on the last day when it can be collected, and that the service may trigger the start of procedural time-limits (Section 6 of the Regulation).

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 service of a document, the document is deemed served upon such refusal

(Article 139(2) CCP).

One exception is when a court or other authority of a foreign state requests the court to serve a judicial document on a person residing in Poland without attaching a Polish translation of the document. Such a document is served on the addressee if he or she chooses to accept it. An addressee who refuses to accept a document is warned about the possible adverse legal effects abroad (Article 1135¹(2) CCP).

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?

Polish law does not provide for specific rules for the service of the European order for payment.

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?

Documents served on that basis by the postal operator are served as ordinary letters, rather than as judicial correspondence (see the last paragraph of point 1 above). Apart from to the addressee, such a letter may also be effectively served:

- to the addressee's statutory representative or plenipotentiary authorised under a power of attorney granted pursuant to general provisions or by postal authorisation;
- to an adult residing together with the addressee, provided that the addressee has not instructed the post office to the contrary;
- to a person authorised to receive postal items at the seat of a public authority if the postal item is addressed to the public authority concerned;
- to a person authorised to receive postal items at entities that are legal persons or organisational units without legal personality if the postal item is addressed to:

(a) the legal person concerned or an organisational unit without legal personality;

(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 in it;

- to the head of an organisational unit or a natural person authorised by that head if the postal item is addressed to a natural person present at a unit where it is highly difficult or impossible to deliver a postal item to the addressee because of the nature of that unit or a generally accepted custom (Article 37 of the Postal Act).

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?

In the case of universal postal services, the postal operator:

- leaves in the addressee's mailbox (or, failing that, by other lawful means) an attempted-delivery notice issued on the appropriate form, together with information about the time-limit for collection and the address of the post office where the postal item is deposited,
- informs the addressee by electronic means (SMS or e-mail) about the possibility of collecting it, indicating

the postal item number, the time-limit for collection and the address of the post office where it is deposited, if the addressee has requested the post office to notify him or her by electronic means.

The postal item can be collected from the post office by the addressee or other authorised person as referred to in point 8.1 above (including an adult residing together with the addressee, if he or she has filed a written statement of cohabitation to the post office). If the postal item is not collected within seven days, the notification procedure is repeated. If the addressee or other authorised person does not collect the postal item within 14 days from the day following that on which the first notice was left, the postal item is returned to the sender (Article 37 of the Postal Act, Section 24 and Section 26 of the Rules on the provision of universal services, as attached to Resolution No 227/2022 of the Management Board of Poczta Polska S.A.).

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?

See point 8.2. above.

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

The service of a document is acknowledged by the recipient in writing or in the ICT system of the postal operator or by means of a document retrieved from the ICT system. The recipient of a document confirms receipt and the date thereof with his or her signature. If the recipient cannot or will not do so, the server himself or herself annotates the date of service and the reasons why no signature has been provided. The server indicates how the document has been served on the acknowledgement of receipt, annotating the date of service on the document served, and signs it (Article 142 CCP).

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?

Failure to comply with the provisions on service renders service ineffective and requires it to be repeated. However, defective service is deemed effective upon the actual receipt of the postal item by the addressee.

If defective service has prevented a party from defending its rights, the party may demand that the ruling be set aside in appeal proceedings, and in doing so it may invoke invalidity of proceedings (Article 379(5) CCP).

Notwithstanding the final closure of proceedings, if a party has been prevented from taking action due to defective service, the party may, within three months of being notified of the final ruling, file an application for the revision of a judgment (Articles 401 and 407 CCP).

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?

Such a decision cannot be contested separately. It may only be appealed against together with the ruling closing the proceedings.

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.

In proceedings before a Polish court, the service of a document by the court without involving a bailiff is free of charge. The fee for the service of a document by a bailiff is PLN 60 per delivery address, regardless of the number of addressees of the document residing there and the number of service attempts.

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