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Service of documents: official transmission of legal documents

 Slovakia

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(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"?

Service of documents

According to the interpretation of judicial practice, 'service of documents' is understood as a procedural step taken by a court to notify a party in proceedings, or a third party whose cooperation in the proceedings is required, of the progress of these judicial proceedings. Keeping parties fully and effectively informed of the progress of proceedings is an essential precondition for the proper conducting and conclusion of court proceedings – a court may only act and take decisions on the condition that the parties have been given all documents of which receipt and knowledge is a precondition for the next step in the proceedings, the application of a remedy, procedural defences or protection, and other acts that are only admissible within a time limit laid down by the law or the court. In particular the service of court rulings on the merits is an essential precondition for the final closure of the case and for the enforceability of the court's ruling. It should be pointed out that Section 105 *et seq.* of Act No 160/2015, the Contentious Civil Procedure Code (*Civilný sporový poriadok*) defines only the procedural aspects of serving (judicial) documents. The service of an act under substantive law, i.e. including an expression of will in the form of a document, is governed by Section 45 of Act No 40/1964, the Civil Code (*Občiansky zákonník*). There is a substantial difference between service under the substantive and the procedural regulations, especially concerning the effect of service, the completing of the process of serving, and the initiating of legal consequences.

The existence of specific rules for the service of documents

The purpose of the specific rules for the service of documents in the Contentious Civil Procedure Code is an attempt by the legislature to uphold the principle of equality of arms and the adversarial system in judicial proceedings. Nobody in judicial proceedings may be disadvantaged, and each party must be equally informed of the progress of judicial proceedings. The parties must have an opportunity to provide the necessary cooperation in the proceedings, and to familiarise themselves with the other party's statements and evidence, any procedural acts by the court relating to the proceedings, and the substance of the case. The principle of equality of arms and the adversarial system in proceedings is a fundamental and defining element of the right to a fair trial, which in Slovakia is a constitutional right (Articles 46-48 of the Constitution, *Ústava Slovenskej republiky*) based on Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

2 Which documents need to be served formally?

Broadly speaking, all service effected in accordance with the Contentious Civil Procedure Code can be considered formal service, i.e.:

- service to an electronic mailbox (preferred);
- service to an electronic address (email) (only at the party's request);
- personal service by a legitimate server (a postal service, process server) or otherwise than a personal service;
- service in the form of a public notice;
- a special form of service by other legitimate servers (the relevant department of the Police, the municipal police, a bailiff, the Prison and Court Guard Service (*Zbor väzenskej a justičnej stráže*), a facility for institutional or protective care, the Ministry of Foreign and European Affairs, the Ministry of Defence).

In the narrower sense, formal or official service only refers to the personal service of judicial process. A court uses the procedure laid down for ordinary service for documents for which the law does not require personal service.

The various provisions of the Contentious Civil Procedure Code set out which documents require personal service. In addition, personal service is also used in cases where the court orders personal service in accordance with the circumstances of a specific case (courts normally use personal service e.g. for a summons to a hearing for reason of procedural certainty). The fact that the legislature has specified this privileged service for the various documents testifies to the importance of these documents and the need for the party to be familiar with their content, and so that the right to a fair trial is exercised.

Act 160/2015 – the Contentious Civil Procedure Code (CSP) – requires the following documents to be served in person:

- an order in which the court allowed an amendment of the action if the parties were not present at the hearing that amended the action (Section 142(2) CSP);
- lawsuits with annexes if the court has not dismissed the lawsuit or decided to discontinue the proceedings (Section 167(1) CSP);
- a statement of defence if the defendant does not acknowledge the full extent of the claim made (Section 167(3) CSP);
- a statement by the claimant submitted under Section 167(3) in response to the statement of defence (Section 167(4) CSP);
- a summons to a preliminary hearing (Section 169(2) CSP);
- a judgment (Section 223(1) CSP);
- an order for payment with an action (Section 266(1) CSP);
- the defendant's objections opposing a payment order, which are served on the claimant (Section 267(5) CSP);
- an order under Section 273(c) of the Contentious Civil Procedure Code on the obligation to make a written statement on the action within a set time limit, and to set out in the statement the key facts in the party's defence, to append any documents to which reference is made, and to indicate the evidence to prove these claims within the meaning of Section 273(a) of the Contentious Civil Procedure Code.

Act 161/2015 – the Non-Contentious Civil Procedure Code (*Civilný mimosporový poriadok*) (CMP) – requires the following documents to be served in person:

- orders initiating proceedings that are served on the parties if the proceedings were initiated of the court's own motion (Section 27 CMP);
- amended motions to initiate proceedings if the parties were not present at the hearing where the amendment was made (Section 28 CMP);
- orders taking a decision on the substance of the case (Section 45 CMP);
- orders in proceedings for the return of a minor in the event of abduction or unauthorised retention, requiring the person who, according to the applicant, is violating a right to submit a written statement on the matter (Section 131(2) CMP);
- notifications and instructions in inheritance proceedings issued to the persons who can reasonably be presumed to be the heirs regarding their inheritance rights and the possibility of refusing the inheritance, if the court did not issue the notifications and instructions orally on the record (Section 189(2) CMP);
- notifications regarding an application for release of an object in proceedings opposing the release of an object deposited with a notary for the purposes of complying with a liability in cases under Section 335(a) or (b) or if the depositor has requested that the deposited object be released to him or her or to another person other than the beneficiary (Section 340 CMP);

- notices inviting objections in proceedings confirming usucaption sent to the person who at the time when the proceedings are initiated is designated in the title deed as having ownership rights or rights in rem over the property involved in the proceedings confirming usucaption (Section 359g CMP).

3 Who is responsible for serving a document?

The court is responsible for serving judicial process. A systematic interpretation of the Contentious Civil Procedure Code reveals the following order of priority for serving written documents:

1. by the court at a hearing or another act;
2. to an electronic mailbox under Act No 305/2013 on the electronic form of governance by public authorities and amending certain acts (the e-Government Act) (*zákon o e-Governmente*) (it is mandatory for all legal persons to have an enabled electronic mailbox, while natural persons may choose to activate one);
3. service to an electronic address at the party's request, if the documents do not require personal service;
4. service by a legitimate server:
 - normally a postal service company or process server;
 - if the court considers it necessary, it can order service by the relevant department of the Police, a bailiff or the municipal police;
 - in special cases the court serves documents via: the Prison and Court Guard Service (service on natural persons serving custodial sentences or in custody), facilities for institutional and protective care (service on natural persons placed in such facilities), the Ministry of Foreign and European Affairs (service on natural persons enjoying diplomatic privileges and immunity, or persons in the household of someone who enjoys diplomatic privileges and immunity, or persons on whom documents are to be served on premises protected by diplomatic immunity), and the Ministry of Defence (service on professional soldiers and documents that cannot be served in another way);
 - a special instance is service by a public notice if set out in the Contentious Civil Procedure Code (for instance if a natural person's address is not known) or in other legislation (e.g. Section 199 of the Non-Contentious Civil Procedure Code).

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.

In such cases the Slovak courts always actively try to establish the addressee's present whereabouts, primarily by referring to the Register of Inhabitants of the Slovak Republic (*Register obyvateľov Slovenskej republiky*), which is connected electronically to courts' information systems. The court can promptly establish the place of permanent or temporary residence listed in this register (if such an address exists). The Social Insurance Agency (*Sociálna poisťovňa*) also currently cooperates electronically with Slovak courts via the court register, and a court may request certain information recorded by the Social Insurance Agency, in particular the address of a party to the proceedings as listed in the Social Insurance Agency and the name of the party's present or former employer (via whom in some cases the addressee's present whereabouts can be established). The court is also authorised by law to request the cooperation of the tax office, the municipality, a prison, etc.

Slovakia's notification under Article 7(2)(c) is available in the [European Judicial Atlas in Civil Matters section of the European e-Justice Portal](#).

4.2 Do foreign judicial authorities and/or parties to judicial proceedings have access to registers or services in this Member State enabling the establishment of the person's current address? If yes, which registers or services exist and what procedure must be followed? What fee, if any, should be paid?

As stated above, via the court register the Slovak courts have direct access to the data listed in the Register of Inhabitants of the Slovak Republic. Parties to judicial proceedings have the option of requesting data from the Register of Inhabitants of the Slovak Republic (the issuing of confirmation or written notification of a person's whereabouts) for an administrative fee of five euro.

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.

Slovakia provides the assistance referred to in Article 7(1)(a). Requests to find an address must be sent to a district court, since under Section 56(3) of Act No 97/1963 on international private law and rules of procedure it is the court having territorial jurisdiction to which the request is made that is responsible for processing such requests. In such cases, the court receiving the request takes action similar to that described in point 4.1.

Slovakia's notification under Article 7(2)(c) – by which Slovakia opted for the possibility of providing assistance with address enquiries under Article 7(1)(a) – is available in the [European Judicial Atlas in Civil Matters section of the European e-Justice Portal](#).

5 How is the document normally served in practice? Are there alternative methods which may be used (other than substituted service referred to in point 7 below)?

As stated in point 3, courts prioritise personal service at a hearing or during another act. They may also use:

- service to an electronic mailbox under the e-Government Act;
- service to an electronic address (email) at the party's request, if the documents do not require personal service;
- via the legitimate servers (a post service, process server; if necessary the relevant department of the Police, a bailiff or the municipal police; in special cases the Prison and Court Guard Service, a facility for institutional or protective care, the Ministry of Foreign and European Affairs and the Ministry of Defence);
- the legislation also sets out cases where service must be by public notice (to notify an indefinite group of persons of a decision).

As a matter of priority, the court delivers documents to an electronic mailbox under the e-Government Act, if the addressee has activated such a mailbox and if the document being served is an electronic document with a qualified electronic signature or other necessary formalities.

In cases where it is not possible to deliver to an electronic under the e-Government Act, the court serves the documents via legitimate servers. In such cases, the court serves the documents to the address communicated by the requesting authority. If service is not successfully effected, the court then serves the documents:

1. on a natural person at the address listed in the Register of Inhabitants of the Slovak Republic or the address for a foreign national in Slovakia according to his or her residence status;
2. on a legal person at the address of the legal person's registered office listed in the Business Register (*Obchodný register*), which can be found at <https://www.orrsr.sk/>, or another public register (e.g. the Trade Licensing Register, *Živnostenský register*).

Alternative methods other than substituted service

By enacting strict objective liability of the parties for the data entered in public registers, the Contentious Civil Procedure Code does not provide for any alternative methods other than the substituted service referred to in point 7.

6 Is electronic service of documents (service of judicial or extrajudicial documents through remote means of electronic communication, such as e-mail, internet based secured application, fax, sms etc.) permitted in civil proceedings? If so, for which types of proceedings is this method 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.)?

Except in the case of personal service of documents (see point 2), the court may also serve documents by electronic means (email) if the party to the proceedings so requests in writing and gives an email address. A document is deemed to have been served three days after it was dispatched, even if the addressee has not read it.

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 mailbox under the e-Government Act (it is mandatory for all legal persons to have an enabled electronic mailbox, while natural persons may choose to activate one).

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.

Slovakia's notification under Article 19(2) – by which Slovakia does not allow email to be used for the service of documents that must be served in person – is available in the [European Judicial Atlas in Civil Matters section of the European e-Justice Portal](#).

7 'Substituted' service

7.1 Does the law of this Member State allow for other methods of service in cases where it has not been possible to serve the documents to the addressee (e.g. notification to the home address, to the bailiff office, by postal service, or by poster advertising)?

The Contentious Civil Procedure Code covers substituted service for serving physical documents, while the e-Government Act covers service to electronic mailboxes.

With the e-Government Act, we cannot speak of substituted service (fiction) in the true sense of the word, for the very activation of an electronic mailbox (whether automatically for legal persons or optionally for natural persons) means that the addressee's address cannot be 'unknown', nor is it possible that 'the document cannot be delivered'. Simply depositing the electronic official message (the court's email) in the electronic mailbox places it at the disposal of the addressee. The very depositing of an electronic official message (court correspondence) in the electronic mailbox means that the addressee has possession of it. An electronic official message is deemed to have been served the day after it was deposited in the electronic mailbox. However, if this is a document that under the Contentious Civil Procedure Code requires personal service, then if the addressee does not collect it in the system (and therefore does not read it), it is deemed to have been served at the end of a 15-day time limit commencing the day after the electronic official message was deposited. This method cannot be used when serving an order for payment, where substituted service (fiction) is proscribed. However, within the meaning of Section 82l(1) of Act No 757/2004 on courts, when registering to an electronic mailbox failure to confirm the electronic acknowledgement of receipt by the end of the deposit period for service of an electronic official document which is delivered in person and where alternative service is proscribed is deemed to be unjustified refusal to accept the electronic official document served. In such cases, the electronic official document is deemed to have been served on the day following expiry of the deposit period.

For classic service under the Contentious Civil Procedure Code, the application of substituted service (fiction) is identical regardless of the form of service, i.e. whether in the case of ordinary service or personal service. If the addressee's address is listed in a public register (the Register of Inhabitants for natural persons and the Business Register for legal persons) and the letter is returned to the court as not served, it is deemed to have been served on the day the letter was returned to the court. If a natural person's address is not recorded in the Register of Inhabitants, service is effected by posting on the court's notice board and website, and the letter is deemed to

have been served 15 days after such notification was published. This method of substituted service cannot be used when serving an order for payment.

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

See point 7.1.

7.3 If another method of service is the deposit of the documents in a particular place (e.g. at a post office) how is the addressee informed of that deposit?

This is not another method, but ordinary service via a postal service company – if the postal service operative is unable to reach the addressee at the given address, they leaving a specific written notification in the addressee's mailbox informing them that the letter (whether registered or for personal service) has been deposited at the post office. The addressee or an authorised recipient may take receipt of the documents within a specific time limit, which is usually 18 calendar days. This time limit can be extended at the addressee's request. If the receipt of the letter is not taken within the time limit for receipt, the letter becomes undeliverable. Undeliverable letters are returned by the postal service to the sender.

7.4 If the addressee refuses to accept service of the documents, what are the consequences? Are the documents regarded as effectively served if the refusal wasn't legitimate?

If the addressee refuses to accept the document without good reason, the document is served as of the day its acceptance was refused; the process server must inform the addressee of this. In cases where service is not effected legitimately, service has no legal effect.

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

8.1 If the postal service delivers a document sent from abroad to an addressee in this Member State in a situation where acknowledgment of receipt is required (Article 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?

If ordinary delivery with a delivery-confirmation request is asked for, the post office (*Slovenská pošta, a.s.*, as the traditional postal services provider) only delivers the documents if the addressee or an authorised recipient (if the documents cannot be delivered to the addressee) presents proof of identity when taking delivery, allows the number of the identity document to be recorded and acknowledges receipt. Authorised recipients for documents addressed to a natural person are the addressee's spouse and any persons aged 15 or over who live with the addressee in the same house or flat.

However, documents for personal service cannot be delivered to these persons.

8.2 Under the rules of postal delivery in this Member State how can the service of documents from abroad, under Article 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?

See point 7.3.

8.3 Does the post office allow a specific period of time for collection of the documents before sending the documents back as undelivered? If yes, how is the addressee informed that there is mail for him to collect at the post office?

See point 7.3.

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

Yes, under the Contentious Civil Procedure Code this is an acknowledgement of receipt, which as proof of the serving of a judicial document is a public instrument. The information in the acknowledgement of receipt is considered true unless there is evidence to the contrary. A party to the proceedings who disputes the accuracy of the information in the acknowledgement of receipt (arguing that the lawful procedure for service was not followed) is obliged to propose evidence for the court to establish these claims. If the court serves a document at a hearing or during a procedural act, a note is made of this in the transcript of the hearing.

The e-Government Act covers the electronic acknowledgement of receipt, which is confirmation of the personal service of a document (official message) – the recipient is obliged to confirm the serving of an electronic official message in the form of an electronic acknowledgement. Confirmation of service is a precondition for making the content of the electronic official message accessible in the recipient’s electronic mailbox. The electronic acknowledgement lists the date, hour, minute and second of the serving of the official message. As in the case of a ‘physical’ acknowledgement of receipt, the data it contains is deemed to be correct unless proved otherwise, and, likewise, its effects can be contested.

10 What happens if something goes wrong and the addressee does not receive the document or the service is effected in violation of the law (e.g. the document is served on a third person)? Can the service of the document nevertheless be valid (e.g. can violations of the law be remedied) or must a new effort to serve the document be made?

See points 7.1 and 7.4 for cases where the addressee of the document does not receive it.

If service has been effected contrary to the law, the repeated serving of the document is necessary; Slovak law does not have the institution of validating invalid service. Any service of judicial documents effected by a method other than the lawful methods is not legally effective and does not initiate the legal consequences envisaged by the law.

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?

This always depends on the law of the court dealing with the matter. If the proceedings are taking place in a Slovak court, and the court decides, upon examination, that the addressee’s refusal to accept the documents was not justified, the documents are deemed to have been served on the date on which they were refused (see point 7.4). Such decisions are not open to appeal.

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.

Slovakia’s notification under Article 15 is available in the [European Judicial Atlas in Civil Matters section of the European e-Justice Portal](#).

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