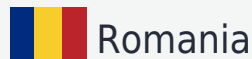


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> Romania

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"?

The court may decide on an application if the parties have been summoned or are present in person or by proxy. The service of documents abroad and from abroad is a procedure that brings the documents to the attention of the addressees: the parties, witnesses or participants in a trial in the requesting state (Article 3(1) of Law No 189/2003 on international judicial assistance in civil and commercial matters (*Legea nr. 189/2003 privind asistența judiciară internațională în materie civilă și comercială*)).

In accordance with Article 42(1) of Law No 85/2014 on the procedure for insolvency prevention and insolvency proceedings (*Legea nr. 85/2014 privind procedurile de prevenire a insolvenței și de insolvență*), as amended, the parties will be summoned and any procedural documents issued in the course of the insolvency proceedings will be served through the Insolvency Proceedings Bulletin (*Buletinul Procedurilor de Insolvență*).

The Insolvency Proceedings Bulletin is published electronically by the National Trade Register Office (Oficiul Național al Registrului Comerțului). It publishes writs of summons, convocations and notifications and serves procedural documents issued by courts and insolvency administrators / court-appointed liquidators after the opening of insolvency proceedings, as well as other acts which must be published in accordance with the law.

In accordance with Article 89(2) of Law No 151/2015 on insolvency proceedings for natural persons (*Legea nr. 151/2015 privind procedura insolvenței persoanelor fizice*), as amended, procedural documents in insolvency proceedings for natural persons will be served in accordance with the provisions of the Code of Civil Procedure (*Codul de procedură civilă*), except in those cases where the law provides for them only to be served through the Insolvency Proceedings Bulletin, in the section entitled 'Debtors – natural persons with obligations not arising from the operation of an undertaking'.

'Debtors – natural persons with obligations not arising from the operation of an undertaking' is a section of the Insolvency Proceedings Bulletin, published electronically by the National Trade Register Office, the purpose of which is to publish, in compliance with personal data protection legislation, the decisions of the insolvency committee and the judgments of the court, as well as other acts whose publication is provided for by Law No 151/2015 on insolvency proceedings for natural persons.

2 Which documents need to be served formally?

The judicial documents to be served formally are the documents issued within a civil or commercial trial and whose service is ordered by the court (writs of summons, judgments, requests for redress, etc.).

3 Who is responsible for serving a document?

The service of procedural documents is carried out free of charge, *ex officio*, by the procedural agents or another employee of the court. Should this be not possible, they are served by post as registered mail with declaration of contents and acknowledgement of receipt, in a sealed envelope, to which the proof of receipt / report and a notice are to be attached. Service can also be carried out by bailiffs or by express delivery at the request and expense of the interested party (Article 154(1), (4) and (5) of the Code of Civil Procedure).

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.

The initial application must include the address of the party (Article 194 of the Code of Civil Procedure). In the preliminary procedure of verifying and amending the application, the court may request the applicant to provide further information not included in the application (Article 200 of the Code of Civil Procedure).

The court is not obliged to investigate *ex officio* the current address of the defendant. However, the court's general obligation is to have an active role (Article 22 of the Code of Civil Procedure) and to take the necessary steps to deliver a substantiated decision.

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?

Personal data can be supplied only if there is a justified legal basis. Applications for personal data received from the police, the Ministry of National Defence, the Public Prosecutor's Office, the courts, institutions specialised in providing social protection to minors or other persons entitled to protection, or from natural and legal persons whose legitimate interests are proven by documents demonstrating their legal basis, are regarded as a justified legal basis. In the absence of a justified legal basis, personal data may be supplied only after obtaining the express and unequivocal prior consent of the data subjects.

Notwithstanding the above, in application of Article 7(1)(a) and (b), applications for information regarding the address in Romania of a natural person who is a Romanian citizen can be sent to the Department for Registration of Population and Database Management (DEPABD), str. Obcina Mare nr. 2, Sector 6, București, ROMANIA, email: depabd@mai.gov.ro; website: <https://www.onrc.ro/index.php/ro/informatii/informatii-rc#Raport>

In addition, in application of Article 7(1)(a) and (b), information regarding the address of the registered office of a legal person may be requested online via the National Trade Register Office's InfoCert service. To access the National Trade Register Office's online services portal, a user account must be created on the online Recom portal. Once an account has been set up, the user may have free or paid access, depending on the type of service requested. More information can be found here: <https://www.onrc.ro/index.php/ro/informatii/informatii-rc#Raport>.

The district court (receiving agency) is not obliged to investigate *ex officio* the current address of the addressee of the documents, if the address provided in the application is incorrect.

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 admissibility of processing such requests is decided by the court. Romanian courts receive a small number of letters rogatory requesting a person's address / registered office, and it is difficult to assess whether there is a uniform practice. The information available indicates that, in general, the Romanian courts do admit such requests.

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)?

See the answer to question 3.

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.)?

Procedural documents may be served by the court clerk and by fax, email or other means that ensure transmission of the document's content and acknowledgement of its receipt, where the party concerned has provided the court with their contact details for this purpose. For acknowledgement of receipt, when it sends a procedural document, the court also sends a form to be filled out by the addressee with the date of receipt, the name written clearly and the signature of the person responsible for receiving correspondence. The form is returned to the court by fax, email or other means (Article 154(6) of the Code of Civil Procedure).

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)?

See the answer to question 3.

Delivery takes place in person to the person summoned. Where the person resides in a hotel/hostel, the document is handed over to the hotel manager or the porter (Article 161 of the Code of Civil Procedure).

The document is handed over to the entity where the addressee can be found (military entity, the harbour master in the case of ship crew, the prison administration in the case of prisoners, or the hospital administration in the case of patients), and the entity in question subsequently hands over the document to the addressee and then gives the acknowledgement of receipt to the agent or sends it directly to the court (Articles 161 and 162 of the Code of Civil Procedure).

The documents may be delivered to the person responsible for receiving correspondence, the building manager, the guard, the security guard, or at the central offices of the following entities (for the addressees mentioned in

brackets): the Ministry of Public Finance / other designated bodies (the state), judicial representatives (local administrative authorities, legal persons governed by public law), representatives' main office / subsidiary (legal persons governed by private law), a designated representative (associations, companies, entities without legal personality), their home address / registered office (persons under insolvency proceedings and creditors), the Ministry of Foreign Affairs (staff of diplomatic missions / consular offices, Romanian citizens posted to international organisations and their family members living with them while they are abroad), the central bodies that posted the workers or that have authority over the entity that posted them abroad (other Romanian citizens who are abroad for work-related purposes, including their family members accompanying them).

If the addressee refuses to accept the document, the agent places it in their mailbox. If there is no mailbox, a notice is left on the addressee's door. The notice must state, inter alia, that the addressee must present themselves one day later, but no more than seven days after the date of the notice (three days in the case of an emergency), at the court or at the mayor's office in the area where the addressee lives / has their registered office (if the addressee is not in the locality where the court has its seat) for the document to be served.

If the addressee cannot be found, the agent hands over the document to another person (an adult family member who lives with the addressee and receives the correspondence). Where the addressee resides in a hotel / apartment building and cannot be found at home, the agent serves the document to the hotel manager / porter. The person who receives the document signs the acknowledgement of receipt, and the agent checks their identity and signature and draws up a report. If they accept the document but refuse to sign the acknowledgement of receipt or are not able to sign it, the agent draws up a report. If these persons are absent or are present but refuse to accept the document, the document is placed in their mailbox. If there is no mailbox, a notice is left on their door.

In all cases, within 24 hours after handing over / leaving the notice, the agent must submit the document and the report to the court / mayor's office, which will then serve the document. Where a party accepts the document from an official of the mayor's office, the latter submits the proof of delivery and the report to the court within 24 hours. If the time limit lapses without the party presenting themselves at the mayor's office for the document to be handed over, an official of the mayor's office forwards the document and the report to the court (Article 163 of the Code of Civil Procedure);

Where the complainant cannot find out the address of the defendant, the court may approve summons by public notice, with the document being displayed at the door of the court, on the portal of the court and at the defendant's last known address. Where it deems it to be necessary, the court may order publication of the writ of summons in the Official Gazette of Romania (*Monitorul Oficial al României*) or in a widely circulated national newspaper. When approving summons by public notice, the court also appoints a curator from among the lawyers of the bar, who will be summoned to represent the interests of the defendant at hearings.

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

The procedure is completed when the proof of delivery is signed or when the report is drawn up, regardless of whether or not the party has received the procedural document in person. Where the document is served by mail / express delivery, the procedure is completed when the acknowledgement of receipt is signed by the party or when the postal worker / courier signs the record of the party's refusal to accept the correspondence. Where the document is served by fax, email or other means, the procedure is completed on the date shown on the printout of the proof of sending, certified by the court clerk who posted the document (Article 165 of the Code of Civil Procedure).

If the addressee refuses to accept the document or does not have a mailbox, the agent leaves a notice on their door requesting that they go to the court / mayor's office in order to collect the document. If the addressee does not do so, the document is deemed to have been served when the time limit expires (Article 163 of the Code of Civil Procedure). Where documents have been served by fax, email or other means that ensure the transmission of the document's content and the acknowledgement of its receipt, the message received from the system confirming service on the addressee constitutes proof that the documents in question have been served. This will be recorded and attached to the case file.

In the case of summons by public notice, the procedure is completed on the 15th day after publication of the summons (Article 167 of the Code of 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 addressee cannot be found, the procedural agent or the postal worker may hand over the document to another person or, if such a person is present but refuses to accept the document, the document may be placed in their mailbox. If there is no mailbox, a notice is left on the door of the addressee or of the other person. Within 24 hours of handing over / leaving the notice, the procedural agent submits the document and the report to the court or to the mayor's office in the area where the addressee lives / has their registered office, so that it may serve the summons.

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?

The procedure is completed when the report is drawn up, regardless of whether or not the party has received the document in person. Where the document is served by mail or express delivery, the procedure is completed when the postal worker / courier signs the record of the party's refusal to receive the correspondence (Article 165 of the Code of Civil Procedure).

If the addressee accepts the document but refuses to sign the proof of delivery, or is not able to sign it, the agent draws up a report. If the addressee refuses to accept the document, the agent places it in their mailbox. If there is no mailbox, a notice is left on the addressee's door and a report is drawn up. The addressee is informed in the notice that they must present themselves at the court or at the mayor's office in order to collect the document, failing which the document is deemed to have been served (Article 163 of the Code of Civil Procedure). Where documents have been served by fax, email or other means that ensure the transmission of the document's content and the acknowledgement of its receipt, the message received from the system confirming service on the addressee constitutes proof that the documents in question have been served. This will be recorded and attached to the case file.

The party appearing before the court in person or through a lawyer or another representative must accept the procedural documents that are served during the hearing. Should they refuse to accept the documents, the documents are deemed to have been served by their filing in the case file. The party concerned may obtain them from the case file on request, by signing for receipt (Article 170 of the Code of Civil Procedure).

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?

If the addressee cannot be found, the document may be handed over to another person (an adult family member who lives with the addressee and receives the correspondence). If the addressee resides in a hotel / apartment building and cannot be found at home, the document may be served to the hotel manager or the porter (Article 163(6) and (7) of the Code of Civil Procedure).

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 delivery takes place only once. If the addressee or the person authorised to receive correspondence cannot be found, a notice is left for them to go and collect the documents from the post office within 10 days. Where the addressee does not present themselves, another notice is left after two working days asking them to collect the documents from the post office within 10 days.

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?

After the second notice, the documents are kept at the post office for 10 days before being returned to the sender. The addressee is informed in the notice that there is correspondence that is to be collected from the post office.

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

The proof of delivery or the delivery report drawn up by the agent (Article 164 of the Code of Civil Procedure) and the signed postal receipt for documents served by registered mail with acknowledgement of receipt (Article 155, point 13, of the Code of Civil Procedure).

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?

- postponement of the trial; the court postpones the trial and orders that the party should be summoned whenever it finds that the absent party has not been summoned in compliance with the law, under penalty of nullity (Article 153 of the Code of Civil Procedure);
- nullity of any procedural documents drawn up after the failure to summon – or unlawful summoning of – the party in question; procedural objection for failure to summon – or unlawful summoning of – the party;
- grounds to file an extraordinary appeal (appeal for annulment or revision);
- grounds for the refusal of recognition and enforcement of judgments (exequatur).

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.

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.

See the answer to question 3.

The fee for serving documents through a bailiff is between RON 20 and RON 400.

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