

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 the delivery of court documents to a legal or physical person. The mode of service is specifically regulated by the Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta).

Specific rules regarding the service of documents were inserted in national law to create a standard procedure of how documents are served and to ensure that all concerned parties receive legal documents relating to them or their action. Furthermore the said rules create certainty, for the benefit of the court, that documents have reached the addressee.

2 Which documents need to be served formally?

All documents filed in court have to be formally served. These include judicial letters, judicial protests, applications, writ of summons, appeals, replies, precautionary and executive warrants, and orders given by the Courts, Judges and Magistrates.

3 Who is responsible for serving a document?

Upon filing of a document in court, it is the court which is responsible for serving documents. The party filing the claim has to file the document in court indicating the person on whom the document is to be served and the address of service. In case of more than one addressee, the party filing the document must ensure that there are enough copies for all addressees.

4 Address inquiries**4.1 Under Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, 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 addressee no longer resides at the address known to the requesting authority?**

The Maltese receiving authority verifies the address provided if the service fails; however, in order to do so, the Maltese authority must be provided with an identity card number of the addressee in the case of a physical person. If the transmitting agency provides the said identification number, which is unique to every physical person, the receiving agency may attempt to establish an alternative residence.

In the case of companies, the requested authority verifies the registered address of the addressee company through an online system operated by the Registry of Companies within the Malta Financial Services Authority (MFSA). If the address provided by the transmitting authority differs from the one indicated there will be another attempt to service documents in the registered address.

When the court marshal indicates that he did not find the addressee in the address provided or that no body opened, the requested authority files an application in the appropriate court in order to obtain permission to notify the person (whether legal or physical) at that same address but after the hours established by our law. At times the service is successful.

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?

When it comes to establishing a physical person's address, only the receiving authority has access to records pertaining to a person's address as long as the transmitting agency provides the identification number. This database is not available to the general public or to foreign authorities. On the other hand, essential information on companies such as the correct company name, the company registration number and its registered offices, can be checked by anyone, free of charge, through an online system under the [Registry of Companies](#) within the Malta Financial Services Authority. Specific information such as directors' names, legal representatives, company secretary, etc, can be obtained online through the same website, but one has to create an account, and viewing of such information is against payment.

4.3 How do the authorities in this Member State deal with a request sent under the Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters aimed at discovering a person's current address?

Reasons for such request are to be provided to the Central Authority when requesting about an address of a witness. The Central Authority however is not obliged to provide such information.

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)?

Judicial protests and legal documents which do not form part of a court case are served by registered post whereby a 'pink card' showing either the signature of the receiver or that the document is unclaimed. The 'pink card' would be attached to the original document (for instance with the official letter).

Other documents filed for the purpose of instituting legal proceedings or are filed in the course of a court case are served through the Court marshal by delivering the said document to the addressee, at the address indicated by the party filing the document, or by leaving such copy at his place of work or at his residence, or with some person in his service or his attorney or person authorised to receive his mail. However documents cannot be left with any person under the age of fourteen years or with any person who, at the time of service, has a mental disorder or other condition which renders him/her incapable of giving evidence of such service.

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 foreseen? 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.)?

Documents cannot be served electronically in civil proceedings.

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 receiving agency shall cause the document to be served by attaching the document to a judicial letter filed in the Registry of the Civil Court, First Hall, in the case of documents to be served in the Island of Malta, and in the Registry of the Court of Magistrates (Gozo) in its superior jurisdiction, in the case of documents to be served in the Islands of Gozo and Comino. These documents, together with the judicial letter will be served by the Court Marshal on the person addressed. Article 187 of the Code of Organisation and Civil Procedure provides the method of how documents are to be served:

(a) Service shall be effected by the delivery of a copy of the pleading to the person on whom the pleading is to be served or by leaving such copy at the place of residence or business or place of work or postal address of such person with some member of his family or household or with some person in his service or his attorney or person authorised to receive his mail: provided that it shall not be lawful to leave such copy with any person under the age of fourteen years, or with any person who, on account of infirmity of mind, is unable to give evidence of such service. A person shall be presumed to be able to give such evidence unless the contrary is proved; and no objection may be raised on the ground of irregularity of the service for any of those reasons, if it is shown that the copy has actually reached the person to be served therewith;

(b) In the case of persons on board merchant ships, or members of the crew having no place of residence in Malta, service may be effected by delivering such copy to the master of the ship or any other person acting in that behalf;

(c) In the case of a body having a distinct legal personality, service on such body shall be effected by leaving a copy of the pleading: (i) at its registered office, principal office, or place of business or postal address with a person/s vested with the legal or judicial representation thereof or with the company secretary or with an employee of such body or (ii) with any of the aforementioned persons in the manner provided for in paragraph (a).

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

The document is deemed to be served when the person receiving the documents accepts 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?

n/a

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 terms of Maltese law, where a person to whom a pleading is addressed refuses to receive it personally from an executive officer of the courts, the court may upon an application by the interested party and after hearing the executive officer of the courts and considering all the circumstances of the incident, declare by means of a decree that service shall have been effected on the day and time of the refusal and such decree shall be considered as a proof of service for all purposes of law.

Furthermore, if a person knowingly avoids, obstructs or refuses service of any act or court order or execution of any warrant or order by a court marshal, s/he shall be guilty of contempt of court and shall be liable, on conviction to (a) reprimand, (b) expulsion from the court, (c) arrest for a period of twenty-four hours in a place within the building in which the court sits, or (d) a fine (ammenda or multa).

8 Postal service from abroad (Article 14 of the Service 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 14 of the Service 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?

The Maltese postal service delivers mail to any individual found at the address who is ready to accept the mail, provided that he is of sound mind and not a child. There is a presumption that once an individual is found in the premises of the address and accepts the mail, then one is authorised to do so by the addressee. If one is not authorised, then one should not accept the mail, and if accepted, one then assumes the responsibility to forward it to the addressee. The recipient will sign upon delivery. This procedure is in accordance with Regulation 33 of the Postal Services (General) Regulations 2005.

8.2 Under the rules of postal delivery in this Member State how can the service of documents from abroad, under Article 14 of the Service Regulation No. 1393/2007, 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?

Once nobody is available to answer the call and accept the mail in the case of a requirement of signature upon delivery, a notice is left at the address in question, advising the addressee of the attempt of delivery. The mail would be available for collection from the nearest Post Office. It remains at the discretion of the postal service provider whether further attempts to delivery are to be made. If the mail remains uncollected, then the mail is returned to sender marked as 'unclaimed'. If the mail is refused by the addressee or his representative, then this is returned to sender forthwith marked as 'refused'.

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?

If nobody is available at the address to receive the mail, a notice is left at the address in question advising the addressee of the attempt, and also informing him that the mail item would be available for collection at the nearest Post Office. If the mail remains uncollected, the postal service provider at its discretion posts a final notice to the addressee, advising that the mail item is still awaiting collection. Generally, this is done following 5 days for local registered mail and 10 days for foreign registered mail. If such mail remains uncollected following these periods of time, then following a further 5 day wait, the mail is sent back to sender accordingly marked as 'unclaimed'. Collection of mail item/s from the Post Office is only delivered to the addressee or an authorised representative upon presentation of the notice together with an identification document (passport or identification card) of the addressee.

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

A certificate of service or non-service is issued.

The original documents served by registered post will have a 'pink card' attached to them. Once returned to Court, the original documents are stamped in either black ink or red ink. Black ink is used to indicate that service has taken place, indicating also to whom the document was delivered. If the document was not served, the stamp would be in red ink, and it would also bear the reason why it was not served.

Documents which are served by the court marshal are stamped either in black ink if service is in the affirmative or red ink if service is in the negative, and will bear the signature of the Court marshal who was in charge of carrying out the service.

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?

If the addressee does not receive the documents but the documents have been validly served by leaving a copy at the address, home or place of work of the addressee, service is deemed to be complete and valid. Service effected in violation of the law can be impugned by court action. In default of a valid service the party to be served files a reply in court or makes an appearance in court, the service is taken to have been valid.

11 Do I have to pay for service of a document, and if so, how much?

Through Legal Notice 148 of 2014, the receiving agency in Malta has set a fixed fee under Article 11 of Regulation 1393/2007 of €50 for each and every document to be served in Malta. This fee must be paid prior service. Payment of fees shall be made by bank transfer payable to the Office of the Attorney General, at the following bank account details:

Bank Name: Central Bank of Malta

A/c name: The Office of the State Advocate - Service of documents/Legal fees

A/c number: 40127EUR-CMG5-000-Y

IBAN: MT24MALT011000040127EURCMG5000Y

Swift Code: MALTMTMT

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