

Service of documents - Poland

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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 law.

Compliance with the constitutional principle of transparency of adjudication, the securing of parties' procedural rights and the possibility of defending them, the validity of proceedings, the correct calculation of time limits and, in consequence, the validity of judgments all depend on documents being served correctly.

The rules on the service of documents are mandatory and the parties have no discretion in this respect. These rules are laid down in Articles 131 to 147 of the Code of Civil Procedure ('the Code') and in the following implementing acts:

- Regulation of the Minister for Justice of 23 February 2007 – Rules of Procedure for Ordinary Courts ('the Rules of Procedure');
- Regulation of the Minister for Justice of 12 October 2010 on the detailed procedure and method for serving judicial documents in civil proceedings ('the Regulation').

The service of extrajudicial documents is governed by the Postal Act of 23 November 2012 and implementing acts issued thereunder, including the Regulation of the Minister for Administration and Digitisation of 29 April 2013 on the conditions for the provision of universal services by the designated service provider ('the Postal Regulation').

2 Which documents need to be served formally?

Judicial documents (documents sent by a court to the parties and other persons involved in court proceedings) are served formally. Such documents include:

- Copies of petitions, together with annexes
- Notifications
- Summons
- Notices of rights and obligations
- Copies of judgments, together with the grounds.

3 Who is responsible for serving a document?

In Poland, documents are served formally, which means that nearly all documents are served on an *ex officio* basis. During proceedings, documents are served by the courts. The serving authorities are the postal operator, bailiffs and the court serving agency. As a rule, documents are served by the postal operator. The costs and effectiveness of service are taken into account when selecting the way in which judicial documents are to be served. Documents may be served by the court serving agency, court clerks, the judicial police or bailiffs (Section 68 of the Rules of Procedure) if this method of service is more effective in specific circumstances. During enforcement proceedings, documents are served by bailiffs. The Minister for Justice may set up a court serving agency and determine both its organisational structure and a detailed procedure for serving documents.

Under Article 132 of the Code, lawyers and legal advisors are exempt from the principle of formal service of documents and may serve documents on one another directly with dated acknowledgement of receipt. Proof that a copy of a pleading has been served on the other party or proof that it has been sent by registered mail is enclosed with pleadings filed with a court. Pleadings with which proof of service or proof of posting by registered mail has not been enclosed are returned. Documents may also be served directly in a court secretariat on addressees who have proved their identity and acknowledged receipt.

Under Section 70 of the Rules of Procedure, the president of a court may order that judicial documents be served directly on local institutions and lawyers and that documents submitted by local institutions to the court be accepted directly. If a preparatory document was submitted so late that a copy thereof could not be served together with a summons to a court hearing, that document may be served during that hearing.

Under Section 71 of the Rules of Procedure and Article 135 of the Code, if the addressee has indicated a PO box number alone as the correspondence address, he/she may be notified of the arrival of a judicial document also through that PO box.

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 requested authority may establish the address using the relevant registers, where it considers this appropriate. The registers existing in Poland are listed in point 4.2.

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 information in question may be obtained from the Common Electronic System of Population Register (PESEL) at the request of the court before which a case has been brought or at the request of a person having a legitimate interest (documents confirming a legitimate interest include petitions, bailiffs' letters and agreements).

A party or a person having a legitimate interest should submit a request using the form available at <http://www.mswia.gov.pl/portal/pl/381/32/>.

The fee is PLN 31. All requests should be accompanied by proof of payment of the fee.

The fee is paid to the following account:

Ministry of the Interior and Administration

Ul. Batorego 5

00-951 Warsaw

Account number: NBP O/O Warszawa Nr 67 1010 0031 3122 3100 0000

If an attorney has been appointed, the power of attorney should be enclosed with the request.

Requests should be submitted to the following address:

Wydział Udostępniania Informacji

Departamentu Spraw Obywatelskich MSWiA

Ul. Pawińskiego 17/21

02-106 Warsaw

In Poland, the addresses of undertakings (registered partnerships, professional partnerships, limited partnerships, limited liability partnerships and joint-stock companies, cooperatives, state-owned enterprises, R&D bodies, foreign enterprises and their branches, as well as mutual societies) are available in an online register kept by the National Court Register. The register is kept in accordance with the principle of openness (anyone may access the data stored therein).

Information available online can be found at:

<http://bip.ms.gov.pl/rejestry-i-ewidencje/okrajowy-rejestr-sadowy/elektroniczny-dostep-do-krajowego-rejestru-sadowego/>

Search engine: <https://ems.ms.gov.pl/krs/wyszukiwaniepodmiotu>

Data of natural persons engaged in business activities are stored in the Business Activity Central Register and Information Record (CEIGD), which is open to the public.

Search engine of the Business Activity Central Register and Information Record: <https://prod.ceidg.gov.pl/ceidg.cms.engine/>

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?

The courts examine whether each individual request is admissible. There is no uniform practice in this respect. The ways in which addresses are established are discussed in point 4.2.

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)?

In practice, judicial documents are usually sent by registered letter with acknowledgement of receipt (cf. point 3).

Under Article 133 of the Code, if addressees are natural persons, documents are served on them in person, i.e. handed to them, or, if they do not have legal capacity, to their legal representative. 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 by the head of the unit concerned. If a legal representative has been appointed or a person has been authorised to receive judicial documents, documents are served on these persons.

Under Article 135 of the Code, at the request of a party documents may be delivered to a PO box address indicated by that party.

Under Article 137 of the Code, documents are served on soldiers doing compulsory military service and officers of the Police Force and the Prison Service by their immediate superiors. Documents are served on prisoners via the governing bodies of the relevant institution.

Substituted service and fictitious service are discussed 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 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.)?

Under Article 131¹ of the Code, in electronic writ of payment proceedings documents are served on plaintiffs through an ICT system supporting such proceedings (electronic service). Documents are served on defendants if they have filed pleadings electronically.

If a document is served electronically, it is deemed to have been served on the date indicated in the electronic acknowledgement of receipt. In the absence of such an acknowledgement, service is deemed to have been effected 14 days after the document was entered in the ICT system.

Documents to be served are not sent to e-mail addresses, but a notice that a message has been entered in an ICT system is left in the addressee's inbox.

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, leave that document with the residents' association, the caretaker or the village head if these persons are not opposing parties in the case and have agreed to hand the document to the addressee (Article 138 of the Code).

If the document cannot be served in the manner described above, it should be left at a post office or the local town hall. A notice to that effect is left on the addressee's door or in his/her letterbox (Article 139 of the Code).

If documents cannot be served on legal persons, organisations or natural persons subject to the registration requirement because a change of address has not been recorded, they are left in the case file and are deemed to have been effectively served, unless the new address is known to the court (Article 139 of the Code).

Documents may also be served personally on a guardian *ad litem* appointed by the court ruling on an application by the person concerned. This occurs when a pleading which entails the need to defend a party's rights is to be served on a party whose place of residence is not known. A guardian may also be appointed for organisations if they do not have representative bodies or the place of residence of the members of these bodies is not known (Article 143 of the Code).

If a party's place of residence is not known and the document to be served does not entail the need to defend that party's rights, that document is served by displaying it in the court building (Article 145 of the Code).

If the parties and their representatives fail to give notification of a change of address, the judicial document is left in the case file and is deemed to have been effectively served, unless the new address is known to the court (Article 136 of the Code).

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

Under Article 139 of the Code, a notice that a document has been left at a post office or the local town hall must indicate that the document is to be collected within seven days. If the addressee does not collect the document by that deadline, the server once again attempts to serve the document on the addressee. If that attempt is unsuccessful, the server once again leaves a notice that the document has been left at a post office or the local town hall and the addressee has another seven days to collect the document. In case-law documents are deemed to have been served on the last day of that period (cf. point 7.3).

In the case of substituted service (cf. the first subparagraph of point 7.1), judicial documents handed to an adult member of the household and, if no such person is present, left with the residents' association, the caretaker or the village head are deemed to have been served when they are handed to those persons.

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?

A notice is left on the addressee's door or in a letterbox. A model notice is set out in the Regulation. It indicates, *inter alia*, that if a judicial document sent by registered mail is not collected even though the addressee has been notified twice, that document will be returned to the court that sent it. In that case, the document is deemed to have been served on the last day on which the addressee could collect it. The service of documents may result in procedural time limits beginning to run.

Under Section 6 of the Regulation, a notice that a document has been deposited is prepared by the operator's post office or the server, which indicates the operator's post office or the town hall where the document is to be collected within seven days, counting from the day following the day on which the notice was left. Notices are left in addressees' letterboxes.

After leaving a notice informing the addressee that the document can be collected from the operator's post office or the local town hall, the server:

- 1) indicates on an acknowledgement of receipt form that the document was not served, marks 'notification given' on the address side of the letter and signs it;
- 2) immediately leaves the document at the operator's post office or the local town hall.

The operator's post office or the town hall acknowledges receipt of the deposited document, which is date-stamped and signed by the person accepting it.

The deposited document is kept at the operator's post office or the town hall for the next seven days, counting from the day following the day on which the notice was left.

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 service of a document, that document is deemed to have been served.

In that situation, the server indicates the date of service himself/herself and the reasons why the acknowledgement of receipt was not signed (Article 139 of the Code).

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?

Documents are usually served on that basis by the postal operator as regular letters, not judicial documents.

Under Article 37 of the Postal Act, unless a postal consignment is sent *poste restante*, it may also be handed to the following persons and is deemed to have been effectively served:

1. the addressee:

- a. to his or her letterbox, except for registered items,
- b. at a post office if the addressee was not present at the address indicated on the postal consignment, postal order or agreement for postal services when the postal consignment was delivered or the postal consignment cannot be delivered via a letterbox,
- c. at a place agreed by the addressee and the postal operator;

2. the addressee's legal representative or attorney authorised by power of attorney granted on general terms or by postal authorisation:

- a. at the address indicated on the postal consignment, postal order or agreement for postal services,
- b. at a post office;

3. to an adult residing together with the addressee if the addressee has not left instructions about the delivery of registered items or postal orders at a post office:

- a. at the address indicated on the postal consignment, postal order or agreement for postal services,
- b. at a post office, after the person in question submits a written declaration that he or she lives with the addressee;

4. to a person authorised to receive postal consignments at the office of a public authority if the postal consignment is addressed to the public authority concerned;

5. to a person authorised to receive postal consignments at establishments which are legal persons or organisational units without legal personality if the postal consignment is addressed to:

- a. the legal person or organisational unit without legal personality concerned,
- 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 at that establishment;

6. to the head of an organisational unit or a natural person authorised by that head if the postal consignment is addressed to a natural person present at a unit where it is highly difficult or impossible to deliver a postal consignment to the addressee because of the nature of that unit or generally accepted custom.

Under Section 30 *et seq.* of the Postal Regulation, the designated service provider provides services in such a way as to enable the sender to obtain a document confirming the receipt of a registered item only at the written request of the sender.

In all its post offices, the designated service provider accepts written requests from addressees to send postal consignments to the addresses indicated in these requests within the time limit specified in the rules of procedure.

The designated service provider accepts from addressees written instructions concerning non-delivery of registered items to adults living with addressees.

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?

If the addressee or other persons authorised to receive a registered item are not present at the time of delivery, the designated service provider leaves in the addressee's letterbox a notice of attempted delivery of the registered item, together with information about the time limit for collecting that item and the address of the post office where it will be deposited. This notice is in paper format.

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?

The designated service provider hands postal consignments to addressees at post offices within 14 days ('the time limit for collection'). After this time limit expires, a postal consignment may be stored if the addressee submits a written request to that effect.

The time limit for collection begins to run on the day following the day of delivery of the notice.

Postal consignments not collected within that time limit are returned to sender.

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

An acknowledgement of receipt, usually a form enclosed with the consignment, serves as proof of service and the date thereof. Under Article 142 of the Code, the person receiving a document confirms its receipt and the date of receipt with his or her signature. If that person cannot or will not do so, the server indicates the date of service and the reasons why no signature has been provided himself or herself. The server indicates how the document was served on the acknowledgement of receipt, specifies the date of service on the document served and signs it.

A confirmation of receipt of a judicial document is an official document confirming service and the date thereof. A person who claims that a document was served on a different date must provide evidence to support that claim.

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 server infringes the terms of service, the service is deemed to be invalid.

If a document is not served on the right addressee, it is deemed to have been validly served when the addressee actually receives it.

Nevertheless, a party which was unable to take action because a document was served on the wrong person may apply for the resumption of proceedings within three months (Articles 401 and 407 of the Code).

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

Not directly. No fees for service are charged in Poland, unless a special procedure has been applied further to a request (Article 11 (2)(2) of Regulation No 1393/2007).

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