

Service of documents - Romania

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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"?

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 them 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).

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 of the court or by another employee thereof. Should this be not possible, they are served by post as registered mail with declared content and acknowledgment 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 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 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 that was not mentioned 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 for 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?

The address of a Romanian citizen can be obtained through the Ministry of Internal Affairs (National Inspectorate for Personal Records and Database Administration – INEPABD, str. Obcina Mare nr. 2, Sector 6, Bucharest, Tel. +40214135442, +40217467047/8/9, Fax +40214135049, Email depabd@mai.gov.ro; web: http://depabd.mai.gov.ro/furnizari_date.html) or through the local personal records office.

Interested persons may request certain personal data of Romanian citizens from the National Register of Personal Records, regarding their domicile or place of residence, by submitting a reasoned written request to the local personal records office that is

competent in the area where the law firm/person searched is located. Such data may only be provided with the prior consent of the persons concerned.

Consent is not required where there is a justified legal basis and the application is made by certain authorities (police, defence, justice, social protection, etc.) or by individuals whose legitimate interests are proven with documents demonstrating the justified legal basis. The bodies competent to decide on applications made by legal persons are the local personal records offices and the INEPABD.

For specific or low volume requests, the fee is RON 1 per person, which is transferred to the state budget into account No RO35TREZ70620330108XXXXX (IBAN), opened at the Treasury for Sector 6, Bucharest, tax registration number 26362870 (where the data are supplied by the INEPABD) or into the accounts of the local councils (where the data are supplied by the local personal records office).

A tax stamp of RON 5 is to be affixed on each application. For high volume applications, the fee is RON 120 per hour of operation in the central computer system or RON 7 per hour of operation in the local computer system. Public institutions competent in specific fields (defence, public order, national security, justice, finance, health, etc.) are exempt from payment of fees for the data requested for the purpose of exercising their legal responsibilities.

Obtaining the address of the registered office of a legal person through the National Trade Register Office (Bd. Unirii nr. 74, sections 2+3, bl. J3B, Sector 3, Bucharest; <https://portal.onrc.ro/>) or through the Trade Register Offices attached to tribunals

Certified copies of the records in the register and of the documents submitted can be issued at the expense of the applicant, as well as information relating to the data recorded and the certificates attesting that a particular document or fact is or is not recorded. The documents may also be requested and issued by post. On request, the documents are issued in electronic form and sent online, with an extended electronic signature included, attached or logically associated.

The forms, fees and charges levied for the provision of specific (basic or extended) information, historical reports or certificates can be found at <https://www.onrc.ro/index.php/en/>, under Information.

Where there are collaboration protocols, documents and information may be issued for free to certain authorities and public institutions, legal persons, journalists and representatives of the mass media, and to accredited diplomatic missions.

The InfoCert service is available to issue certificates online and to supply information via the portal <https://portal.onrc.ro/>. The documents supplied through this service are subject to the provisions on electronic signatures and timestamps. They include security features: qualified electronic signatures, timestamps, watermarks (graphic marks in the page background), and barcodes. The sample documents issued by this service can be found on <https://portal.onrc.ro/ONRCPortalWeb/appmanager/myONRC/signup?p=infoCert>.

It is possible to disclose personal data concerning members, shareholders or other persons, when the data are requested by application and issued at the desks, or issued electronically via the RECOM online service, and sent online, with an extended electronic signature included, attached or logically associated, or via certificates. Public authorities in the field of justice, national defence, or finance, and liquidators and bailiffs can also access other data.

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 admissibility of processing such requests is decided by the court. Romanian courts receive a reduced 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 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.)?

Procedural documents may be served by the court clerk and by fax, e-mail/other means that ensure the transmission of the document's content and the acknowledgement of receipt thereof, where the party concerned indicated to the court his/her contact

details for this purpose. For acknowledgment purposes, 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 confirmation by fax, e-mail, or other means (Article 154(6) of the Code of Civil Procedure).

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. In the case of people residing in a hotel/hostel, the document is handed over to the administrator or to the doorman (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 harbourmaster in the case of ship crew, the prison administration in the case of prisoners, or to the hospital administration in the case of patients), and the entity in question subsequently hands over the document to the addressee and presents 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 administrator, 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 his/her mailbox. In the absence of a mailbox, **a notification** is left on the addressee's door, which must include, among others, the mention that the **addressee must present himself/herself** one day later but no more than 7 days after the date of notification (3 days in the case of an emergency) **at the court/mayor's office that is competent where he/she lives/has his/her registered office** (if the addressee is not in the locality where the court has its seat) **for the document to be served to him/her**.

If the addressee cannot be found, the agent hands over the document to another person (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 administrator/doorman. The person who receives the document signs the acknowledgement of receipt, and the agent checks his/her identity and signature, and draws up a report. If they receive 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 into their mailbox. In the absence of a mailbox, a notification is left on their door.

In all cases, the agent has an obligation to submit the document and the report, within 24 hours from submitting/leaving the notification, to the court/mayor's office, which will then serve the document. Where a party receives 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 lapsed without the party presenting himself/herself 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 advertisement**, by displaying the document at the door of the court, on the portal of the court and at the last known address. As the case may be, the court may order publication of the summons in the Official Gazette of Romania or in a widespread national newspaper. When approving summons by advertisement, 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 at the time of signing the proof of delivery or upon drafting of the report, regardless of whether the party has received the procedural document in person or not. In the case of serving the document by mail/express delivery, the procedure is completed at the time of signing the acknowledgement of receipt or when the postal worker/courier records the addressee's refusal to receive the correspondence. In the case of serving by fax, e-mail, or by other means, the procedure is

completed on the date shown on the printout of the proof of posting, certified by the clerk of the court who has posted the document (Article 165 of the Code of Civil Procedure).

If the addressee refuses to accept the document or he/she does not have a mailbox, the agent leaves a notification on his/her door requesting that he/she present himself/herself at the court/mayor's office in order to pick up the document. If the addressee does not present himself/herself, the document is deemed to have been served when the time limit expires (Article 163 of the Code of Civil Procedure).

In the case of summons by advertisement, the procedure is deemed to have been accomplished 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 his/her mailbox. In the absence of a mailbox, a notification is left on the door of the addressee or of another person. Within 24 hours from submitting/leaving the notification, the procedural agent submits the document and the report to the court/mayor's office that is competent in the area where the addressee lives/has its registered office, which is to 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 deemed to have been completed at the time of drafting the report, regardless of whether the party has received or not the document in person. In the case of service by mail or express delivery, the procedure is completed when the postal worker/courier signs the party's refusal to receive the correspondence (Article 165 of the Code of Civil Procedure).

If the addressee receives the document but refuses to sign the proof of delivery, or he/she 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 his/her mailbox. In the absence of a mailbox, a notification is left on the addressee's door and a report is drawn up. The addressee is informed in the notification that he/she must present himself/herself at the court or at the mayor's office in order to pick up the document, otherwise the service is deemed as having been accomplished (Article 163 of the Code of Civil Procedure).

The party appearing before the court in person or through a lawyer or another representative has the obligation to receive the procedural documents that are serviced during the hearing. Should he/she refuse to receive the documents, they are deemed to have been served by filing them in the case file. The party concerned can obtain them from there on request, by signing for receipt (Article 170 of the Code of Civil Procedure).

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?

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 administrator or the doorman (Article 163 points 6 and 7 of the Code of Civil Procedure).

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?

Postal delivery takes place only once. If the addressee or the person authorised to receive correspondence cannot be found, a notification is left for them to go and pick it up from the post office within 10 days. Where the addressee does not show up, another notification is left after 2 working days for him/her to go and collect it from the post office within 10 days.

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?

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

9 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 postal receipt signed in the case of servicing documents by registered mail with acknowledgement of receipt (Article 155 point 13 of the Code of Civil Procedure).

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?

- postponement of the trial; the court postpones the trial and orders summons 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; procedural objection for failure to summon or unlawful summoning;
- grounds to file an extraordinary appeal (appeal for annulment or revision);
- grounds for the refusal of recognition and enforcement of judgments (exequatur).

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

See the answer to question 3.

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