

## Service of documents - Slovenia

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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"?

In practice, the service of documents means the delivery of papers and documents to natural and legal persons which are parties to proceedings, and the drawing of documents that describe and confirm the service or delivery. On the one hand this means that the addressee is notified of the procedural activities of a court or party, and on the other the court obtains a reliable confirmation that the parties have received the documents. Confirmation that the documents have been actually and correctly served is a condition for the normal implementation of the procedure, and at the same time the correct service to parties ensures the upholding of the principle of audi alteram partem. Service is therefore a procedural action of a court, the purpose of which is to notify a party about proceedings, the procedural actions of the opposing party and the court, and at the same time guarantees the party the right to respond.

Specific rules regarding the service of documents are necessary in order to observe various principles of the rules of civil procedure and in order to provide effective judicial protection without unnecessary delays, since the service of documents ensures that all participants are notified of the procedural actions of the court and/or parties. Specific rules regarding the service of documents also provide safeguards in the event of incorrect service.

## 2 Which documents need to be served formally?

Parties or participants shall be served all judicial documents, where Article 142 of the Civil Procedure Act (hereinafter ZPP; Official Gazette of the Republic of Slovenia, No. [73/07](#) – official consolidated text, [45/08](#) – ZArbit, [45/08](#), [111/08](#) – Decision of the Constitutional Court, [57/09](#) – Decision of the Constitutional Court, [12/10](#) – Decision of the Constitutional Court, [50/10](#) – Decision of the Constitutional Court, [107/10](#) – Decision of the Constitutional Court, [75/12](#) – Decision of the Constitutional Court, [40/13](#) – Decision of the Constitutional Court, [92/13](#) – Decision of the Constitutional Court, [10/14](#) – Decision of the Constitutional Court, [48/15](#) – Decision of the Constitutional Court, [6/17](#) – Decision of the Constitutional Court, and [10/17](#)) stipulates that actions and judicial decisions against which appeals are permitted, extraordinary legal remedies and court fee payment orders for the filing of actions, countersuits, motions for divorce by mutual consent, actions containing a proposal to issue an order for payment, motions for reopening a case, motions for the securing of evidence before the initiation of civil proceedings, motions for an attempt to settle, applications to notify an appeal, appeals, motions to permit a revision, revisions, and invitations of parties to settlement hearings, or first hearings if no settlement hearing was scheduled, shall be served to parties in person, where both physical service and service via secure electronic means shall be deemed physical service of documents, in accordance with the provisions of the ZPP. Other documents are served in person only if so prescribed by law or if the court believes that increased caution is necessary due to the documents enclosed with the original, or for some other reason.

## 3 Who is responsible for serving a document?

Documents are served by post, by a bailiff, by secure e-mail, at a court or in any other manner prescribed by law. At the proposal of the opposing party, courts may order documents to be served by a detective or an executor proposed by the party, where the funding for such service is covered by the proposer of such service (Article 132 of the ZPP). Parties may report to the court that they want the documents to be served by secure electronic means, to a secure mailbox, or to an e-mail address registered in the judicial information system and stated in the application. The secure e-mail address provided is equivalent to the party's address of residence or registered office. If a party submits documents electronically, it is assumed they also want the documents to be served by secure electronic means, unless they state otherwise. The court may also serve documents to a party by secure

electronic means in another procedure if, based on information on the party at the court's disposal, it can be reliably established that this party has already registered a secure mailbox or an e-mail address and if the party has been personally served a written notice that they would be served further documents in the course of this procedure by secure electronic means, unless they state otherwise. If the court finds that the secure electronic service of documents is not possible, it shall serve the documents in material form and state the reasons for such service. State bodies, lawyers, notaries, executors, receivers and other persons, as defined by law, shall always be served by secure electronic means. These bodies and persons must register their secure electronic mailbox or e-mail address in the judicial information system.

For state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries, documents are served by being delivered to a person authorised to accept mail, or an employee at the office, business premises or registered office, or to a statutory representative or a holder of procuration. (Article 133 of the ZPP). Documents for military personnel and police officers can also be served via their commanders or direct superiors; if necessary, other documents may also be served to them in this manner (Article 134 of the ZPP). Persons undergoing imprisonment shall be served by the management board of the prison or other institution in which they are serving a sentence or deprivation of liberty (Article 136 of the ZPP).

When a party has a legal representative or proxy, documents shall be served to that legal representative or proxy unless otherwise determined in this Act (Article 137 of the ZPP).

#### **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?**

Service in Member States shall be carried out in accordance with national regulations. Article 143(3) of the Civil Procedure Act lays down the obligation of the court to obtain information on whether the address at which service was attempted is the same as the address registered in accordance with the law governing the registration of residence. This means that the court, whenever service at a given address is not successful (for any reason), must check the addressee's address in the central population register (Centralni register prebivalstva) or the address of the addressee's employer in the register of the Health Insurance Institute (Zavod za zdravstveno zavarovanje Slovenije). If service has not been carried out, the court then serves the document to the address from the central population register or to the address of the addressee's employer. If such service has not been possible or successful, the court shall invite the opposing party to communicate the addressee's new address of residence within a specified time limit, provided that the opposing party has the address. At the same time, the court proposes to initiate a procedure for determining the actual residence in accordance with the law governing the registration and deregistration of permanent and temporary residence, or to conduct inquiries with relatives, family members, neighbours or janitor from the last known address, social services, the last employer or landlord, the police or hospitals. However, the described procedure does not apply if the document is to be served on state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries.

The court proceeds in the manner set out above both when the proceedings are taking place in Slovenia and when the service of documents is carried out at the request of a court in another Member State (principle of national procedural autonomy).

**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?**

They do not have access to this information; due to the protection of personal data such access is highly restricted. If a foreign authority wishes to obtain information on an individual's residence, according to the information from the administrative units, applications have to be filed with them in Slovenian (no fees or other charges are charged for this service), and then the administrative body decides on the application on the basis of the rules of national law. If the party wishing to obtain information is a natural person, the enquiry is even more difficult. According to the information from the administrative units, they do not provide parties with such information. In addition, there is also the possibility of making enquiries through diplomatic channels.

As stated above, at the request of a foreign court, the Slovenian court of jurisdiction merely checks and obtains information on the person's address.

**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 court conducts enquiries into an individual's residence (see the answer under 4.1) when it receives a request for the presentation of evidence.

**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 a rule, documents are served by post, while they may also be served by secure electronic means, by an officer of the court, at the court or in another manner prescribed by law, as well as by a detective or an executor proposed by the party.

**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.)?**

Yes. Service of documents is carried out via the e-Justice (e-Sodstvo) website, which is administered by the Supreme Court of the Republic of Slovenia (Vrhovno sodišče RS), to users' secure e-mail addresses.

Electronic service is permitted in civil procedure and other civil judicial proceedings in which the rules of the Civil Procedure Act apply to electronic service of documents, e.g. in proceedings regarding commercial disputes, labour and social disputes, non-civil procedures, inheritance proceedings (it is not yet used in all such procedures) and land register procedures, and in insolvency proceedings and enforcement proceedings (electronic service is already used in all of these procedures).

There are restrictions with regard to the groups into which users are classified. They are first divided into general groups:

- users who do not have to provide proof of identity when using the e-Justice system (ordinary users),
- users who access the e-Justice system using a username and password (registered users), and
- users who access the e-Justice system using a username and password, and a qualified digital certificate (qualified users).

Qualified users include:

- in-house qualified users (judges and officers of the court who are authorised to carry out e-tasks in certain types of civil judicial proceedings), and
- external qualified users (notaries, lawyers, executors, receivers, the State Attorney's Office, State Prosecutor's Office, real estate companies and municipal attorney's offices, i.e. entities that have the role of representative or judicial body in civil judicial proceedings, and users/parties, i.e. legal persons, natural persons or state and local authorities that have the role of party to the proceedings in civil judicial 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)?**

In the case of service of judicial documents, we have to distinguish between ordinary service and personal service.

In the case of **ordinary service**, substituted service has to be attempted first. This means that in the event that the person to whom documents have to be served cannot be found at their residence, the documents are served such that they are delivered to any of the adult members of the household, who are obliged to accept them (Article 140(1) ZPP). If it is served at the workplace of the addressee and the addressee cannot be found there, or is at a place not accessible to the process server, the document is served on the person authorised to receive mail or another willing person. If the addressee resides in an accommodation facility (e.g. student residence, residence hall for single persons, hospital) and also does not have their own letterbox, the process server serves the document on the person authorised to receive mail for the occupants in this facility. Only in the event that such service is not possible is service to a natural person carried out such that the process server deposits the documents in a letterbox at the address of the residence. In this case, service shall be deemed to have been carried out on the day the document was left in the letterbox, whereby a specific note of this must be made on the document for the addressee to see.

In the event that the addressee does not have a letterbox or if it is not useable, the documents are delivered to the court that ordered the service, and in cases of service by post, to the post office in the addressee's place of residence, and a notice of service of documents is left on the addressee's door, stating where the documents can be found (Article 141(1)(2) ZPP). Service shall be deemed to have been carried out on the day the notice of service was affixed to the door, whereby a specific note of this must be made on the notice of service for the addressee to see. The post office retains the documents for 30 days. If the addressee does not pick up the documents within that time period, the documents are returned to the court. Documents are served on state bodies, bodies of self-governing local communities, legal persons, sole traders, lawyers and notaries in the same way whenever the executor cannot serve them at the address listed in the register.

**Personal service** means that the documents are delivered to the party in person. Pursuant to Article 142 of the ZPP, the following are considered judicial documents: actions, judicial decisions against which appeals are permitted, extraordinary legal remedies and payment orders for the payment of court fees for applications pursuant to Article 105 ZPP (actions, countersuits, motions for divorce by mutual consent, etc.) and invitations of parties to settlement hearings, or first hearings if no settlement hearing was scheduled. Other documents are served in person only if so prescribed by law or if the court believes that increased caution is necessary due to the documents enclosed with the original, or for some other reason. Service of documents in electronic form (Article 141a of the ZPP), which may be performed by serving a certified copy of the document in physical form or by secure electronic means, also constitutes personal service. In the latter case, documents are served via judicial information system directly to the registered address for service or to a secure electronic mailbox by legal or natural persons which carry out service of documents by secure electronic means as a registered activity on the basis of a special permit from the Ministry of Justice.

In the event that the addressee cannot be served directly, personal service to a natural person is carried out by the process server delivering the documents to the court that ordered the service, and in cases of service by post, to the post office in the addressee's place of residence, and a notice of service of documents is deposited in the letterbox or on the apartment door, stating where the documents can be found and the 15-day deadline by which they must be collected by the addressee. If electronic service is not possible, the documents are delivered to the address for service registered in the judicial information system or to a secure electronic mailbox, whereby a specific note of this must be made on the document for the addressee to see.

Parties or their legal representatives are obliged, in the case that they change their address before the service of a second-instance decision with which the proceedings are concluded, to report the change to the court without delay. If they fail to do so, the court shall order that all future service of documents in proceedings to that party be carried out such that the documents be posted on the court's bulletin board. The documents are deemed to have been served eight days after the documents were posted on the court's bulletin board (Article 145 ZPP).

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

In the case of ordinary service, service shall be deemed to have been carried out on the day the document was left in the letterbox, whereby a specific note of this must be made on the document for the addressee to see. In the event that the addressee does not have a letterbox, the documents are deemed to have been served on the day that the notice of service of documents was affixed to the door.

In the case of personal service, the documents are deemed to have been served on the day that the addressee collects the documents. If the addressee fails to collect the documents within 15 days, the documents are deemed to have been served after the expiry of that deadline. After the expiry of the deadline, the process server deposits the documents in the addressee's letterbox; if the addressee does not have a letterbox or if it is not useable, the documents are returned to the court.

#### **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?**

In the case of ordinary service, when the documents are deposited in a letterbox, the process server notifies the addressee of the legal consequences on the documents, and states the cause of such action and the date on which the documents were deposited in the letterbox on the delivery note and the documents, and signs them. If the addressee does not have a letterbox and the documents are delivered to the court/post office, the process server leaves a notice of service of documents on the door to the residence, stating where the documents can be found and when the documents will be deemed to have been served.

In the case of personal service, the process server leaves a notice in the letterbox stating where the documents were deposited, the deadline for collecting the documents, and the consequences if the addressee fails to collect the documents within the deadline. The process server states the reason for the action and the date on which the documents were deposited with the addressee on both the notice and on the documents that are being served, and signs them.

#### **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 the event that the person to whom the documents are addressed, or a person obliged to collect the documents, for no lawful reason does not wish to accept the documents, the process server deposits them in the residence or in the place that the person works, or in their letterbox, and if there is no letterbox, affixes the documents to the door to the residence. The server enters the date, time and reason for declining service, and the place where the documents were left, on the delivery note. The documents shall then be deemed to have been served (Article 144 ZPP).

### **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 Postal Services Act (hereinafter the ZPSto-2; Official Gazette of the Republic of Slovenia [Uradni list RS], No 51/09, 77/10 and 40/14 – ZIN-B) stipulates that registered and insured mail shall be delivered to addressees in person at their address. If this is not possible, registered and insured mail is delivered to one of the adult members of the household or a person authorised to accept mail (Article 41 ZPSto-2), where an adult member of the household is a person older than 15 who shares a household with the addressee (General Terms and Conditions for the Provision of Universal Postal Services of 1 September 2014; hereinafter the GT).

**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 registered mail cannot be delivered to the persons referred to above (addressee in person/adult member of the household or party authorised to accept documents) due to absence, the delivery person deposits a notice in the letterbox stating the collection location and the deadline up to which the delivery can be collected. If the addressee fails to collect the delivery within the deadline stated in the postal notice, the mail is returned to sender. If the addressee does not wish to accept registered and insured mail, the process server states the date and the reason for refusal of acceptance on the mail item or the delivery note and returns the mail to sender.

**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 delivery can be collected at the post office within 15 days of the date on which the addressee was notified of its arrival. An exception to this is parcels from abroad on which the sender entered a deadline shorter than 15 days when posting the parcel. Deadlines for collecting mail are determined on a calendar basis, starting on the day following the day that the addressee received notice of delivery. For mail kept at post offices as poste restante and mail for users of post office boxes, deadlines are determined on a calendar basis, starting on the day following the day on which the mail arrived at the post office (Article 27 GT).

A notice is left in the addressee's letterbox stating the collection location and the deadline up to which the delivery can be collected.

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

The delivery note is the proof that the document has been served. The delivery note is signed by the recipient and the process server, where the recipient personally enters the date of receipt in words on the delivery note. If the recipient does not know how to write or is unable to sign, the server enters their full name and the date of receipt in words, and adds a note stating why the recipient did not sign.

If the recipient does not wish to sign the delivery note, the server enters this on the delivery note and states the date of service in words; the documents are then deemed to have been served. If the service is carried out pursuant to Article 142(3) of the ZPP (substituted service or 'fictive' service; see also points 8.2 and 7.3), the date on which the notice was deposited with the addressee and the date that the documents were delivered to the court or the post office are stated on the delivery note.

If pursuant to the provisions of the ZPP the documents are delivered to a person who is not the person on whom the documents have to be served, the process server indicates their relationship on the delivery note (Article 149(5) of the ZPP).

**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?**

The delivery note contains all of the elements of a public document and therefore proves the veracity of the facts confirmed therein. It is however acceptable to prove that the facts contained therein are not true.

If the addressee does not receive the documents, or improper service is alleged, then certain deficiencies or errors in service of documents can be eliminated. Therefore addressees may not allege improper service if it is unambiguously clear from their behaviour that despite the improper service they learned of the content of the documents in some other way. This also holds in the case that the documents actually come into the hands of the addressee (e.g. if the addressee picks up the documents after the expiry of the deadline for their collection). This is also stipulated in the ZPP, which states that a breach of the rules of service cannot be alleged if the addressee collects the documents despite the breach. In this case the documents are deemed to have been served at the moment that the addressee actually picks up the documents (Article 139(5) of the ZPP).

Elimination or correction of errors in service can also be carried out by applying the legal institution of *restitutio in integrum* (return to prior status, *vrnitev v prejšnje stanje*), where a return to prior status is possible if a delay in the elimination of a certain procedural action is caused by an event that a party – despite all due diligence – is unable to predict or prevent. If a party misses a hearing or a deadline for a legal action and thereby loses the right to carry out that action, the court shall at their proposal allow them to do it later if it recognises that the party missed the hearing or deadline for a legitimate reason. If *restitutio in integrum* is allowed, the action returns to the status which it had before the delay, and all decisions issued by the court owing to the delay are annulled (Article 116 ZPP).

The proposal must be submitted within 15 days of the date of the cessation of the cause of the party's missing the hearing or deadline; if the party learned about the delay later, then from the date that they learned about it. *Restitutio in integrum* may no longer be requested after six months have expired from the date of the delay (Article 117 ZPP). Both the subjective and objective deadlines are legally preclusive deadlines and may not be extended.

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

Service by post, as a generally accepted method of service of court documents, does not entail any separate costs for the parties. Service in another manner (e.g. by a special service that carries out service of documents as a registered business activity) means additional costs, so the court can order it only at the proposal of a party, which must deposit a sufficient advance to cover the costs. As set out in the special Rules on the Operations of Persons Carrying Out Service of Documents in Criminal and Civil Proceedings, process servers are entitled to compensation and reimbursement of costs for their work in accordance with the agreement concluded with the court, where the court orders the amount of the payment and reimbursement of costs.

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Last update: 03/07/2019