

**NATIONAL REPORT FOR CROATIA ON  
CROSS-BORDER SERVICE OF DOCUMENTS**

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## National Report for Croatia

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by

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### On the Cross-border Service of Documents

This questionnaire addresses practical and theoretical aspects regarding the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. Each partner should provide substantive answers for their respective Member State (or additional Member State, if specifically stipulated by the coordinator). Where the term "Regulation" is used below, it refers to Regulation (EU) 2020/1784 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

For useful information reference is made (among other sources) to:

- Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1784>)
- Impact assessment of the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:287:FIN>)
- Opinion of the European Economic and Social Committee on a) Proposal for a Regulation of the European Parliament and of the Council amending 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 (COM[2018] 378 final — 2018/203 [COD]) and on b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (COM[2018] 379 final — 2018/204 [COD]) ([https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C\\_.2019.062.01.0056.01.ENG&toc=OJ%3AC%3A2019%3A062%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2019.062.01.0056.01.ENG&toc=OJ%3AC%3A2019%3A062%3ATOC))
- The provided information in the European Judicial Atlas in civil matters on the service of documents ([https://e-justice.europa.eu/38580/EN/serving\\_documents\\_recast](https://e-justice.europa.eu/38580/EN/serving_documents_recast))
- Briefing of the European Parliamentary Research Service (EPRS) on the reform of the service of documents regulation (2019) ([https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/642240/EPRS\\_BRI\(2019\)642240\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/642240/EPRS_BRI(2019)642240_EN.pdf))
- Other *travaux préparatoires* of the Recast Taking of Evidence Regulation (see e.g. <https://www.europe-ansources.info/record/proposal-for-a-regulation-amending-regulation-ec-no-1393-2007-on-the-service-in-the-member-states-of-judicial-and-extrajudicial-documents-in-civil-or-commercial-matters-service-of-documents/>)





## NATIONAL SERVICE OF DOCUMENTS

### 1. What is the legal basis for service of documents in your Member State? Is there a special act regulating the service of documents within your national legal system?

The Civil Procedure Act (*Zakon o parničnom postupku*, hereafter: ZPP)<sup>1</sup> contains legal basis for service of documents. Section 1 of the chapter eleven of the ZPP gives a general overview on the procedure for the service of documents. The ZPP differentiates between service *ex officio* and service of documents at the request of the parties.

General rules on the method of service are found in Arts. 133-133c of the ZPP.

There is a possibility, according to Art. 133a(1) of the ZPP, that a party requests that the service of a be entrusted to a notary public. In that case, the costs of the service are borne by the requesting party.

Electronic service of documents is regulated in Arts. 133d-134b of the ZPP. The rules on service of documents to special categories of persons (military personnel, persons deprived of their liberty, etc.) are found in Arts. 135-137 of the ZPP. The rules on the service of documents to the party's attorney and legal representative are contained in Art. 138 of the ZPP.

Following provisions, starting with Art. 138 of the ZPP, contain typical rules on service of documents, such as the manner in which it is carried out (Art. 140 of the ZPP), or service to a natural person who does not perform a registered activity (Arts. 141 et seq. of the ZPP). The rules on the authorised agent for service of documents are found in Arts. 146 et seq. ZPP. The confirmation of service – the proof of receipt is governed by Arts. 148-149b of the ZPP.

There are also special rules on service of documents, for example in enforcement proceedings,<sup>2</sup> land registry proceedings,<sup>3</sup> etc. These special regimes are applicable pursuant to the principle of *lex specialis derogat legi generali*. Thus, for all the matters not specifically dealt with in the respective legal instruments, the ZPP applies.

### 2. Explain the term "service" as used in your national legal system. If there is a legal definition, please quote it.

The Croatian law does not contain a legal definition of the notion of "service". Traditional doctrinal writings define the concept of the "service of documents" as "the actions of the competent authorities, laid down under the law and aimed at providing the addressees with the opportunity to become aware of the content of documents addressed to them."<sup>4</sup> The so-called "orderly service" (*uredna dostava*) does not mean that the addressee is actually familiar with the content of the document, but that the competent service authority has taken all the actions or measures necessary to fulfil the prerequisites provided by law so that the addressee could be able to familiarize himself of herself with the content of the document served on him or her.<sup>5</sup>

In practice, "service of documents" means that documents in civil matters and commercial matters must be served on all parties to the proceedings. Article 4(15) of the Office Conduct Regulations (*Uredba o uredskom poslovanju*, hereinafter: UUP),<sup>6</sup> provides that a document (*pismo*) it either a submission or an act. A submission is a document whereby a party initiates proceedings, supplements, amends or withdraws from his or her application. A submission is as a rule made in writing. In Art. 14 of the ZPP, it is provided that if certain acts do not specify by law the form in which they can be taken, the parties shall take civil actions in writing outside the hearing(s) or orally at the hearing. According to Art. 106 of the

<sup>1</sup> NN 53/91, 91/92, 112/99, 88/01, 117/03, 88/05, 2/07, 84/08, 96/08, 123/08, 57/11, 148/11 – codified version, 25/13, 89/14, 70/19, 80/22 and 114/22.

<sup>2</sup> See Art. 8 of the Enforcement Act, NN 112/12, 25/13, 93/14, 55/16, 73/17, 131/20 and 114/22 (*Ovršni zakon*)

<sup>3</sup> See Art. 137. et seq. of the Land Register Act, NN 63/19 and 128/22 (*Zakon o zemljišnim knjigama*).

<sup>4</sup> Triva, Siniša/Dika, Mihajlo, Građansko parnično procesno pravo, Narodne novine, Zagreb, 2004, p. 367.

<sup>5</sup> *Loc. cit.*

<sup>6</sup> NN 75/2021.



ZPP, submissions, including the application/statement of claim, the statement of defence, legal remedies and other statements, motions and announcements made outside the hearing, are to be submitted in writing. Submissions are therefore the documents which are made by the main parties and the intervening parties and used in the proceedings in order to take procedural action. An act, on the other hand, is a document by which an authority decides on the subject matter of proceedings, responds to a party's submission, orders, suspends or terminates an official act, and makes formal correspondence with other authorities or legal persons vested with public powers.

### 3. How do you define "civil and commercial matters" in your national legal system? Does this definition differ from the term of the Regulation, and if so, in what way?

Unlike in EU law, in Croatian law the notion of "civil matters" is understood separately from the notion of "commercial matters". There are no explicit definitions of these notions in Croatian legislation; however, traditional doctrinal concepts defining civil matters and commercial matters are deeply rooted in the legislation and accepted in case law. In Croatian legal doctrine, "civil law" is one of the legal areas which derived from the corpus of private law,<sup>7</sup> and which is nowadays considered to comprise obligations, rights *in rem*, and succession. "Commercial law" emerged a separate branch of law from the civil law. Categorisation of a particular matter in Croatian national law as pertaining to civil and commercial law depends primarily on the parties to a legal relationship. If the parties are two natural persons or a natural person and a trader, such relationship falls under the notion of civil law, whereas the relationship between two traders is within the scope of commercial law. This derives from the definition of a "commercial contract" contained in Art. 14(2) of the Obligations Act (*Zakon o obveznim odnosima*, hereafter: ZOO),<sup>8</sup> according to which those are the contracts entered into between traders and in performing the activity which are part of the business of at least one of them or related to the business of at least one of them. Under Art. 14(3) legal acts other than contracts are *mutatis mutandis* also subject to the same legal rules as commercial contracts or civil law contract, as the case may be.

However, when the notion of "civil matters" is used in bilateral international conventions to which Croatia is a party it also comprises family law and commercial law.<sup>9</sup>

When compared, the EU law notion of "civil and commercial matters" on the one hand, and the notion of "civil matters" and "commercial matters" taken together on the other, overlap to a huge extent. The Croatian law also knows the difference between administrative matters, which include revenues and customs and private law matters. In the Croatian law also the notion of *acta iure imperii* is known as opposed to *acta iure gestionis* when it comes to the acts of the public entities. The overlap is also evidenced based on some of the CJEU judgments, including the one in *Pula Parking*,<sup>10</sup> in which the CJEU considered the claim for payment of the daily parking ticket charged by the company owned by a local authority to a natural person, where this company was operating the public car park due to delegated operation by that authority,<sup>11</sup> as a "civil and commercial matter", the same as under Croatian law.

### 4. For what purpose does your legal system define the concept "civil and commercial matters"?

<sup>7</sup> Slakoper, Zvonimir/Mihelčić, Gabrijela/Belanić, Loris/Tot, Ivan, *Obvezno pravo, Opći dio s uvodom u privatno pravo*, II izmijenjeno i dopunjeno izdanje, Novi informator, Zagreb, 2022, pp. 69. *et seq.*

<sup>8</sup> NN, 35/05, 41/08, 125/11, 78/15, 29/18, 126/21 and 114/22.

<sup>9</sup> See, e.g. definitions in bilateral conventions, such as Art. 1(2) of the Convention with Serbia on legal assistance in civil and criminal matters (*Ugovor između Republike Hrvatske i Savezne Republike Jugoslavije o pravnoj pomoći u građanskim i kaznenim stvarima*, NN 6/98).

<sup>10</sup> CJEU, judgment of 9 March 2017, *Pula Parking d.o.o. v Sven Klaus Tederahn*, C-551/15, EU:C:2017:193.

<sup>11</sup> See Kunda, Ivana, *Međunarodnopravni odnosi*, in: Mišćenić, Emilia (ed.), *Europsko privatno pravo: posebni dio*, Školska knjiga, Zagreb, 2021, p. 483.



In Croatian national law the term “civil and commercial matters” is not used in any other context but for the purpose of application of EU law. As previously stated, in Croatian law, the two concepts are separate: civil law and commercial law. Their differentiation is important for the purpose of subject matter jurisdiction between the courts (or other competent authorities) and for the purpose of applying the law, as some specific rules are envisaged for the commercial contracts and other legal acts.

The Courts Act (*Zakon o sudovima*)<sup>12</sup> regulates the organisation, remit and jurisdiction of the courts. Judicial authority in Croatia is administered by the ordinary and specialised courts, and the Supreme Court of the Republic of Croatia (*Vrhovni sud Republike Hrvatske*), which is also the highest court in the Republic of Croatia. Ordinary courts are courts which deal with matters over which no specialised court has jurisdiction: a municipal court (*općinski sud*) and a county court (*županijski sud*).

Specialised courts are courts which deal with matters over which the law has given them jurisdiction: a commercial court (*trgovački sud*), an administrative court (*upravni sud*), a misdemeanour court (*prekršajni sud*), the High Commercial Court of the Republic of Croatia (*Visoki trgovački sud Republike Hrvatske*), the High Administrative Court of the Republic of Croatia (*Visoki upravni sud Republike Hrvatske*) and the High Misdemeanour Court of the Republic of Croatia (*Visoki prekršajni sud Republike Hrvatske*).

The courts are further divided into courts of first and second instance. Proceedings to settle a legal matter are brought before the courts of first instance. These are the municipal, administrative, misdemeanour and commercial courts. The courts of second instance take decisions on appeal against decisions of courts of first instance and carry out other tasks laid down by law. These are the county courts (in relation to municipal courts), the High Commercial Court of the Republic of Croatia (in relation to commercial courts), the High Misdemeanour Court of the Republic of Croatia (in relation to misdemeanour courts) and the High Administrative Court of the Republic of Croatia (in relation to administrative courts).

**5. How is the concepts “judicial and extrajudicial documents” defined in your legal system? Does your national legal system distinguish between judicial and extrajudicial documents in the context of (official) service? If yes, please define these categories and give examples.**

Extrajudicial service in Croatian law is understood as the service of a document outside of a court proceeding and not only the service of documents related to a court proceeding. According to Art. 133b(1) of the ZPP, it is possible for the claimant and the respondent to agree that service of documents to the respondent is made at a specific address in the Republic of Croatia or through an authorised agent for service in the territory of the Republic of Croatia.

**6. What is the purpose of service of documents? Are there overarching principles of procedures that are intertwined with the service of documents in your Member State?**

The foremost purpose of service in Croatian legal system is to give the addressee the opportunity to take notice of the document, become aware of its content and to prepare his or her legal defence. This purpose is a consequence of the right to a fair trial, which is considered as a fundamental right under Art. 29(1) of the Croatian Constitution (*Ustav Republike Hrvatske*, hereafter: *Ustav*).<sup>13</sup>

The service is important for the reason that failure to orderly serve a party prevents a party from being heard, which constitutes an absolute violation of the provisions of civil procedure and may also give rise to extraordinary remedies. In addition, the service of the statement of claim, application or another doc-

<sup>12</sup> NN 28/13, 33/15, 82/15, 82/16, 67/18, 126/19, 130/20, 21/22, 60/22, 16/23.

<sup>13</sup> NN 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14.



ument instituting the proceedings on the defendant is also a prerequisite for the commencement of proceedings, since the action starts to run (*lis pendens*) in Croatian civil procedure on service of the action on the defendant.

Accordingly, rules on service of documents are important, since it is a necessary requirement in litigation proceedings, which stems from the principle of the right of parties to be heard. Furthermore, the parties must be given access to information on the place and time of the hearing and the material facts of a case. Moreover, complaint proceedings cannot be initiated at all unless a complaint has been served on the other party in accordance with the applicable rules. Service of documents is also essential because, in certain cases, the time limit within which a party may take procedural action (response, appeal) starts to run from the service of the document. Thus, in the course of legal proceedings, it is necessary to take all measures to ensure that the addressee is aware of the content of the documents served on him (principle of legal certainty). Service is considered to be orderly only if it is effected in accordance with the rules on the service of documents (see *supra* Q. 2).

## 7. Who is responsible for the service of documents?

The Croatian court seized with the case is generally responsible for transmitting the documents and is obliged to monitor the service process (see the rules on legal remedies in Arts. 354(2)(6) and Art. 421(1)(2) of the ZPP). However, there is an option for the parties to agree on the service to be made by the responded (see *supra* Q. 5). The recipient of the documents has a duty to collaborate (see Art. 143 and 145(1) of the ZPP). See also *infra* Q. 14.1)

### 7.1. If the court is responsible for service: What can be done if the court has failed to act? Can one sue the state and claim damage? Or can one sue the court to initiate the service?

In addition to what was said above, it is necessary to emphasize that, pursuant to Art. 354(2)(6) of the ZPP, a substantial violation of the provisions of the civil procedure always exists if, because of failure to make service of documents, any of the parties was not given the opportunity to be heard by the court. This constitutes grounds for appeal.

Also, according to Art. 421(1)(2) of the ZPP, the proceedings that are ended by unappealable court decision can be renewed at the request of a party (renewal of the proceedings is an extraordinary legal remedy in Croatian law on civil procedure) if the party, due to the unlawful conduct, and in particular by omitting the service, he or she was not given the opportunity to be heard before the court.

### 7.2. If the parties are responsible for service: Within what time frame must service be affected?

No particular time frame is laid down in the ZPP for this purpose. It is submitted that the reason for this might be that the party which has to effectuate the service has an interest in it because of the repercussions which the service has on the right of the other party in the proceedings.

### 7.3. If the responsibility of service is shared between the court and the parties: Under your Member State's law, how is it determined who is responsible for the service of documents?

At the request of a party who declares that he or she is willing to bear the costs incurred by the service, the court may order that the service of a document be entrusted to a notary by an order against which no appeal is permitted, in accordance with Art. 133a of the ZPP. The notary public acts *in lieu* of the court official servicing the document.



If, before submitting the claim to the court, the defendant has agreed in a written agreement concluded with the plaintiff that service in the disputes to which the agreement relates is to be effected at a specific address in the Republic of Croatia or through a specific person in the Republic of Croatia, under Art. 133b of the ZPP, the action and other procedural documents shall be served on the defendant at that address or at that person, at the request of the plaintiff. If service could not be effected, the court will order that further service is to be effected on the defendant by placing the document on the court notice board.

Pursuant to Art. 133c of the ZPP, the court may order the parties to send documents directly to each other by registered post with acknowledgement of receipt or by other means that provides proof of surrender, unless both parties or their agents or legal representatives are always obliged to submit submissions in electronic form in accordance with Article 106a of the ZPP.

#### **7.4. What are the national requirements for a valid service of documents in your Member State?**

As mentioned before, title 11 of the ZPP lays down provisions relating to the service of documents. There are different ways of service and if the service is effected according to those rules it will be considered valid (see *infra* Q. 10).

### **8. What documents must be sent to the respondent? Who prepares the documents?**

The statement of claim or other document instituting the proceedings has to be sent to the respondent in pursuance with Art. 194(1) of the ZPP (and these documents have to be prepared by the claimant) along with an information form (prepared by the court) to inform the respondent about his or her procedural rights (Art. 284(1) in conjunction with Art. 331b of the ZPP).

### **9. What information or other aspects must be included in the documents?**

It is the claimant's formal obligation to provide the name and domicile or residence of the respondent in the written submission, including the one initiating the proceedings, as laid down under Art. 106(2) of the ZPP.<sup>14</sup> Furthermore, the form in which a document is to be served (original, copy, transcript) is not governed by the rules on service but by the other procedural rules.

In general, a document can be submitted to the court in the original or its copy; if submitted in the original the court may return the document to the party when no longer needed, and if a copy was submitted the court will ask the party to provide the original for the purpose of comparison at the request of the other party (Art. 108 of the ZPP). The certified copy of a document to be submitted to the court file, may in most cases replace the original document.

With regard to the public documents which may serve as evidence in the proceedings, it is provided in the ZPP that they are to be submitted to the court file by the party which relies on the document (Art. 232(1) of the ZPP) or the party which is in possession of it (Arts. 233 and 234 of the ZPP), and that the document has to be properly authenticated if a foreign public document (Art. 231 of the ZPP) and accompanied with the certified translation if in a foreign language (Art. 232(2) of the ZPP).

#### **9.1. Please provide the definition of the term “address for service” under your national legal system.**

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<sup>14</sup> However, in essence the claimant has to state the facts that are necessary to establish the legal claim under Art. 186(1) of the ZPP.



There is no explicit definition of such a term, but it can be concluded that the address for service is at the household or at work place of the addressee, or in the court if the addressee is physically present there (Art. 140(1) of the ZPP). If the addressee agrees, service may be effectuated at any other place as well (Art. 140(2) of the ZPP). However, if the court decides that it is necessary to effectuate the service at another place, it can order so even without the consent of the addressee (Art. 140(3) of the ZPP).

Special rules on address for service are also contained in Art. 143 of the ZPP. In case the service was not successful at the address of the domicile of the person on whom the document is to be served, the court will re-attempt the service to the address of the domicile obtained by the Ministry of the Interior of the Republic of Croatia. If filed again, it will be re-attempted after 30 days. If that fails as well, the service will be effected by placing the document on the court notification board. However, if the address of the residence of the person to be served has changed in the meantime and the service has not been successful for this reason, the Croatian court has a duty to attempt to effect the service again at the address of the person's residence in the Republic of Croatia, according to the information on the place of residence for that person, which will be obtained from the records of the Ministry of the Interior of the Republic of Croatia. If that fails as well, the service will be effected by placing the document on the court notification board.

Provided the requesting party present a proof that he or she has a legal interest, that party may request the police administration for information on the place of domicile or temporary residence of a person upon whom documents are to be served in civil proceedings.

## **9.2. Provide definitions of other (mandatory) aspects mentioned in Question 9.**

See *supra* Q. 9.

## **10. How are documents without a cross-border element served in your national jurisdiction? What is the usual method of service? Please explain the different methods of service in detail.**

Pursuant to Art. 133(1) of the ZPP, the traditional way of serving the documents to the parties not present at the court is by post. However, service of documents is possible by court official, competent administrative body, notary public, or by means of electronic service. Naturally, the service can be effected directly in the court if the addressee is physically present there. Where service is not effected by post, the person making the service is required, at the request of the person on whom service is to be effected, to prove that he or she is an authorised person to service the document.

By way of exception in Art. 133(5) of the ZPP, documents are served on state authorities, the public prosecutor's office, lawyers, notaries, court experts, assessors, court interpreters, trustees, trade union agents, commissioners in bankruptcy proceedings, liquidators, special guardians employed by the Centre for Special Guardianship, legal persons and natural persons carrying out a registered activity in disputes concerning that activity in electronic form by means of an information system (e-Komunikacija) or by other appropriate means.

Persons found by the courier at the place where delivery is to be made shall, at the request of the courier, prove their identity as required by Art. 133(3) of the ZPP. Where necessary, the courier shall be authorised, under Art. 133(4) of the ZPP, to request the assistance of the police in order to determine the identity of the person found at the place where service is to be effected and to carry out other acts of service. The costs thus incurred shall be included in the costs of the proceedings.

Persons who are legally obliged to use electronic communication (state authorities, the state attorney's office, attorneys, notaries public, court experts, court Service to state bodies, the state attorney's office, attorneys, notaries public, court experts, court appraisers, court interpreters, bankruptcy administrators,





commissioners, members of the trade union representing the employee under Art. 434a of the ZPP, commissioners in the consumer bankruptcy, liquidators, special guardians employed at the Social Work Institute, legal persons, and natural persons who perform registered activities in disputes concerning that activity (Art. 133(4) of the ZPP), but who have not yet requested<sup>15</sup> or have not yet been granted the right of access to the electronic communication information system – e-Komunikacija, with the courts, will, according to Art. 133(6) of the ZPP, be served by post with notice that all further documents in the proceedings will be served – until the right of access to the electronic communication information system is granted – by posting the document on the court e-notification board. Service shall be deemed to have taken place on the expiry of the eighth day following the date on which the document is placed on the court e-notification board.

If, on the basis of their application and the authorisation of the president of the court, service is effected in the court for certain persons under Art. 134b of the ZPP, the documents addressed to them by the court are deposited for them in specific cases in the designated room of the court. Service is to be effected by an official of the court. Documents served by depositing in cases shall not be accessible to persons to whom they are served before they sign the delivery note. Documents are served in closed envelopes, in which service is normally effected by post. When documents are taken, it is mandatory that all documents deposited in the box are taken at the same time, and not just some of them. Each document to be served in this manner shall be accompanied with the note of the date on which it was placed in the box of the person to be served. In case of the service by means of deposit in the box at the court, the addresses shall be required to take the document from the box within 8 days. If the document is not taken from the box according to the rules in Art. 134b of the ZPP within the said time period, service will be effected by placing the document on the court notice board. Service shall be deemed to have taken place on the expiry of the eighth day following the date on which the document was placed on the court notice board. A service which, instead of the service by placing in the box, is made in another manner provided for by law shall be equally valid. The president of the court will withdraw the authorisation for service in special box in the designated room of the court if he or she finds that the user of the box does not regularly take the documents or is attempting to misuse this method of service.

The President of the Supreme Court of the Republic of Croatia may authorise only one of several courts of a different instance and of a type with its registered office in the area of jurisdiction of the county court to carry out service in special areas of the court.

Pursuant to Art. 165 of the ZPP, military personnel, members of the security service and land, river, sea and air transport personnel shall serve be the summons through their headquarters or direct commander. Other documents but summons may be served on them in this manner as well, if deemed appropriate.

Where service is to be effected on persons or institutions abroad or foreigners enjoying immunity, according to Art. 136 of the ZPP, service shall be effected by diplomatic means, unless otherwise specified in the international treaty or in the ZPP (see, for instance Art. 146 about the agent for receipt of the documents). If service of a document has to be made on citizens of the Republic of Croatia in a foreign country, that may be done through the competent consular or diplomatic representative of the Republic of Croatia performing consular functions in the foreign country concerned. Such service shall be effective only if the person to whom the document is served agrees to receive it.

Under Art. 137 of the ZPP, service to persons deprived of liberty shall be effected through the prison administration, the criminal justice institution or the other correctional institution.

Unless otherwise stated in the ZPP, if a party has a legal representative, service is effected to the representative only, pursuant to Art. 138 of the ZPP.

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<sup>15</sup> This was mandatory within a year from the entry into force of the Amendments to the ZPP/19, which was on 1 September 2019.



Service is effected at the household or at work place of the addressee, or in the court if the addressee is physically present there (Art. 140(1) of the ZPP). If the addressee agrees, service may be effectuated at any other place as well (Art. 140(2) of the ZPP). However, if the court decides that it is necessary to effectuate the service at another place, it can order so even without the consent of the addressee (Art. 140(3) of the ZPP). In certain cases, the persons referred to in Art. 141 and 142 of the ZPP (a natural person who does not carry out a registered activity and a natural person who carries out a registered activity in disputes which do not concern that activity) may be served even if not physically there when the courier effectuates the service by handing over the documents to the member of the household who has legal capacity and who is obliged to accept the service, or to the co-worker if he or she accepts, as the case may be. If that fails, the service is attempted according to Art. 143 of the ZPP.

According to Art. 143 of the ZPP, in case the service was not successful at the address of the domicile of the person on whom the document is to be served, the court will reattempt the service to the address of the domicile obtained by the Ministry of the Interior of the Republic of Croatia. If filed again, it will be reattempted after 30 days. If that fails as well, the service will be effected by placing the document on the court notification board. However, if the address of the residence of the person to be served has changed in the meantime and the service has not been successful for this reason, the Croatian court has a duty to attempt to effect the service again at the address of the person's residence in the Republic of Croatia, according to the information on the place of residence for that person, which will be obtained from the records of the Ministry of the Interior of the Republic of Croatia. If that fails as well, the service will be effected by placing the document on the court notification board.

In Art. 133c of the ZPP, legislator foresees the possibility for the court to order the parties to directly service documents to each other by registered mail with return receipt or in another way that enables the proof of receipt, unless both parties or their attorneys or legal representatives are always obliged to submit it in electronic form.

A significant innovation in this area followed the entry into force of Amendment to the ZPP/19, which introduced the submission in electronic form and provided for the manner in which this is done (see Art. 133c ZPP *et seq.* on submission by electronic means). Prerequisites for submission of submissions in electronic form before the courts, delivery in electronic form, forms of records of submissions in electronic form (formats) and the organization and operation of the information system e-Komunikacija are governed by the Electronic Communication Regulations (*Pravilnik o elektroničkoj komunikaciji*, hereafter: PEK).<sup>16</sup> According to Art. 18(1) of the PEK, the Minister of Justice will issue a decision on meeting the technical requirements for its application in municipal courts, county courts, the High Commercial Court and the Supreme Court when the conditions are met. Such a decision for municipal courts was made on 20 April 2020, and for e-communication at the Supreme Court on 13 July 2020.

### **10.1. Does the method of service differ from the cross-border service of documents within the scope of the Regulation?**

One of the major differences concerns the “fictitious” service on the court notification board. Whereas it is allowed under the Croatian national law (see *supra* Q. 10), in cases where an addressee has no known address for service in the forum Member State, but has one or more known addresses for service in one or more other Member States, the document should not be served on the addressee by a fictitious method of service, such as service by posting an announcement on the court notice board or by depositing the document in the court file (Recital 7 of the Regulation 2020/1784).

### **10.2. Are there several alternative methods of service in your Member State?**

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<sup>16</sup> NN 5/20.



There are different methods some of which are mandatory and for some parties or situations there are alternatives to be chosen from. In practice, the document is usually served by post, through a designated court officer or through the electronic communication system. Alternative methods of service are: service by a competent administrative body, a notary public or directly in a court or by electronic means in accordance with special law. Service may also be effected via the court notification board under certain conditions (see *supra* Q. 10).

**10.3. Does your national legal system provide for special means for the service of documents for professionals (e.g., lawyers, notaries etc.) or state authorities? How do the methods of service relate to each other?**

Service to state bodies, the state attorney's office, attorneys, notaries public, court experts, court appraisers, court interpreters, bankruptcy administrators, commissioners, commissioners in the consumer bankruptcy, liquidators, special guardians employed at the Social Work Institute, members of the trade union representing the employee under Art. 434a of the ZPP, legal persons, and natural persons who perform registered activities in disputes concerning that activity etc. has to be effected in electronic form (see Art. 133(4) *et seq.* of the ZPP). These entities and persons cannot be served in any other manner but by means of e-communication channel.

**10.4. What considerations must the deciding court take into account when choosing the method of service?**

It has to ascertain whether the case is domestic or cross-border and whether to use domestic rules or the Regulation 2020/1784, a bilateral convention or a multilateral convention. It has to take account of the different properties of the parties to the proceedings because that may limit or make mandatory some methods of service. The court should be mindful of the fact that some methods may require consent of the parties. It also needs to follow the cascade rules when re-attempting the service.

**10.5. Have the methods of service laid down in your national legal system been extended for domestic service after the entry into force of the Regulation?**

The Croatian national provisions on e-communication, including e-service, have been adopted somewhat prior to the entry into force of the Regulation 2020/1784, but it may be assumed that the Croatian legislator has been well aware of the concurrent developments at the EU level.

**11. How is service in third-party countries regulated?**

According to Art. 136(1) of the ZPP, when service is to be made on persons or institutions in a foreign country or on foreigners enjoying the right to immunity, it shall be made through diplomatic channels. Also, pursuant to Art. 136(2) of the ZPP, if service of a communication of the court has to be made on the Croatian citizens in a foreign country, that may be done through the competent consular or diplomatic representative of the Republic of Croatia. These rules apply where there is no international convention in force with the respective third state.

The service between Croatia and third states which are parties to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, the Croatian courts apply the Convention. It is also possible that for some third states, a bilateral convention is prevailing, e.g. Bosnia and Herzegovina or Serbia.



**12. Are there special methods of service for certain types of documents – regardless of whether they qualify as judicial or extrajudicial? Please provide examples.**

Pursuant to Art. 142(1) of the ZPP, a statement of claim, a payment order, a judgment and a decision against which a special appeal is allowed and legal remedy shall be served in person on an addressee who is a natural person. In such case, a service can instead be made on the addressee's legal representative or attorney. Other documents are served in person only when expressly provided by the ZPP or when the court considers that owing to the nature of the documents to be served (e.g. the originals) or for some other reason greater caution is required.

**13. What is the usual time frame of the service of documents in your Member State?**

It is considered that an electronic service of document via the secure communication method is effected on the day when the information system e-Komunikacija has confirmed to the sender the receipt of the document (Art. 106a(3) of the ZPP). The postal service may take 3-5 days, with the exception that there is no postal service on Saturdays, Sundays and national holidays.

**14. At what moment is a document considered to be served according to the national law of your Member State?**

Generally, a document is served when handed over to the addressee; however, the actual knowledge of the addressee is not relevant unless the service is in person. Even then, the document may be considered served when handed to the addressee's legal representative or attorney. In extreme cases, service is fictitious when effected on the court notification board (see Arts. 133b(1) and (2), 134b(4), 143(5), 143a(5), 143b(5) etc. of the ZPP).

**14.1. If and if so, under what circumstances is a document considered to be served according to the national law of your Member State when the recipient is served at an address they either do not use or do not know of?**

In accordance with Art. 143(1) and (2) of the ZPP, where service on addressee who is a natural person (see *supra* Q. 10), may not be effected pursuant to the provisions of Arts. 141 and 142 of the ZPP, the service shall be attempted at the address of his or her home domicile according to the data on such residence obtained from the records of the Ministry of Internal Affairs. Where reattempted service of the document is still not successful, an additional attempt will be made to effect the service after the expiry of a period of thirty days. If such additional reattempted service cannot be effected either, service of the document shall be made by placing the document on the court e-notification board. Service shall be deemed to have been effected upon expiry of the eighth day from the date of placing such document on the court e-notification board.

In addition, according to Art. 145 of the ZPP, the party or his or her representative are obliged to inform the court immediately of any change in their address during the proceedings (up to the expiration of the time limit of six months after the unappealability). If as a result of failed such notification, it is not possible to effect service orderly to the failing party, the court shall order for further services of documents to be effected by placing the document on the court e-notification board. Service is deemed to have been effected upon the expiration of eight days for such placing on the board.

**14.2. Please elaborate in this regard, how the national law of your Member State treats the following scenario: The claim contains the official, duly registered address of the respondent. However, when the postman (or responsible person of service) wishes to serve the document at that address, it is clear that the recipient does not live there any longer (i.e., the post-box has a different name, neighbours confirm that the person**



**has moved or a new tenant opens the door and confirms that the recipient has moved there some months ago and he neither has any relation with the former tenant nor does he know where they live now).**

This is the situation described in *supra* Q. 14.1, where it is stated that, in accordance with Art. 143(1) and (2) of the ZPP, if service on addressee who is a natural person, may not be effected pursuant at his or her home address under Art. 141(1) of the ZPP, the service shall be attempted at the address of his or her domicile according to the data on such residence obtained from the records of the Ministry of Internal Affairs. Where thus reattempted service of the document is still not successful, an additional attempt will be made to effect the service after the expiry of a period of thirty days. If such additional reattempted service cannot be effected either, service of the document shall be made by placing the document on the court e-notification board. Service shall be deemed to have been effected upon expiry of the eighth day from the date of placing such document on the court e-notification board.

#### **15. With what electronic methods can a claim be filed in court?**

According to Art. 106a(7) of the ZPP, the Ministry of Justice establishes the information system for e-communication with the courts. Such e-communication system is regulated in detail in the PEK and is called e-Komunikacija. This system is the mandatory electronic method for certain persons, including state bodies, the state attorney's office, attorneys, notaries public, court experts, court appraisers, court interpreters, bankruptcy administrators, commissioners, commissioners in the consumer bankruptcy, liquidators, special guardians employed at the Social Work Institute, members of the trade union representing the employee under Art. 434a of the ZPP, legal persons, and natural persons who perform registered activities in disputes concerning that activities such as craftsmen, doctors etc. (Art. 106a(5) of the ZPP). These entities and persons are always obliged to use the e-communication for submitting the documents to the court.

Other parties may choose a traditional means of submitting the claim to the court instead, which is either by post or personally at the court's reception office.

Furthermore, according to Art. 133d of the ZPP, a party may request that service be made electronically. Also, a party can ask to be informed about it by e-mail. It is considered that the party agrees with the electronic service, if he or she sent the document to the court using such means of communication.

#### **16. What is the procedure under the national law of your Member State if the exact whereabouts of the recipient are unknown?**

In such instances, the court may resort to the service by public notification, which means that a notice of service is publicized on the court e-notification board. In Croatian national system there is no central public register for publication of serviced documents or alike.

##### **16.1. Is a substitute method of service available under the national law of your Member State? If so, what factors does the deciding court have to take into account when assessing the admissibility of such service?**

Yes, the fictitious method is substituting the actual service (see *supra* Q. 10).

##### **16.2. Is there a possibility of using fictitious methods of service in your Member State? Please elaborate.**

Yes. In accordance with Art. 143(1) and (2) of the ZPP, where service on addressee who is a natural person (see *supra* Q. 10), may not be effected pursuant to the provisions of Arts. 141 and 142 of the



ZPP, the service shall be attempted at the address of his or her home domicile according to the data on such residence obtained from the records of the Ministry of Internal Affairs. Where reattempted service of the document is still not successful, an additional attempt will be made to effect the service after the expiry of a period of thirty days. If such additional reattempted service cannot be effected either, service of the document shall be made by placing the document on the court e-notification board. Service shall be deemed to have been effected upon expiry of the eighth day from the date of placing such document on the court e-notification board.

Such possibility should no longer be possible for the legal persons and other person who are subject to mandatory e-communication, but it was possible beforehand (see Art. 133(7) of the ZPP).

**16.3. If yes: When does a fictitious method of service unfold its effects? Are these equivalent to the effects of service where the document is served directly to the recipient?**

Service shall be deemed to have been effected upon expiry of the eighth day from the date of placing such document on the court e-notification board. The effects are the same as with other methods of service.

**16.4. Service of publication frequently do not assure that the document was actually made known to the recipient. Does your system try to ensure that the document was actually made known?**

No.

**16.5. Does the system include special remedies if actual knowledge was not obtained by the defendant?**

No.

**16.6. Please explain whether fictitious methods of service may in certain circumstances be in conflict with national procedural principles (e.g. right to a fair trial, right to be heard). If so, how is this issue dealt with?**

The fictitious method is indeed at odds with the general procedural principles (see *supra* Q. 6), but there is no direct way to invalidate such service, as the procedural rules in the ZPP were closely followed.

However, pursuant to Art. 354(2)(6) of the ZPP, a substantial violation of the provisions of the civil procedure exists if, because of failure to make service of documents, any of the parties was not given the opportunity to be heard by the court. This constitutes grounds for appeal. Also, according to Art. 421(1)(2) of the ZPP, the proceedings that are ended by unappealable court decision can be renewed at the request of a party (renewal of the proceedings is an extraordinary legal remedy in Croatian law on civil procedure) if the party, due to the unlawful conduct, and in particular by omitting the service, he or she was not given the opportunity to be heard before the court.

**16.7. Are different actions taken if the person's whereabouts are presumed to be within the country or abroad?**

Yes, when the person is presumed to be within Croatia, the court may request information about his or her domicile and residence from the Ministry of Interior of the Republic of Croatia. Such activities regarding the persons domicile or residence abroad depend on the openness of their system to inquiries by the foreign courts. There are hardly any such arrangements that come close to that established under Art. 7 of the Regulation 2020/1784 operational between the Member States.



According to Art. 146(1) ZPP, a claimant or his or her representative, who is in a foreign country, and does not have a representative in the territory of Croatia, is obliged when filing the claim to appoint a representative to receive documents from the court. If he or she fails to appoint such representative, the court shall dismiss the claim.

**17. What is the procedure in your national jurisdiction if the recipient is responsible for a failure to serve?**

It is provided in Art. 144 of the ZPP that in cases in which the acceptance of the document to be served is refused without justification grounded in law, the document shall be returned to the court. In addition, a notice shall be left on the attempted service at home or business premises of the addressee, along with a warning that service shall be effected through placing the document on the court e-notification board. In that case, service shall be effected by placing the document on the court e-notification board and the service shall be deemed to have been effected upon expiry of the period of eight days from the day the document was placed on the e-notification board.

**18. What language is to be used for domestic service?**

Documents to be served domestically must be written in Croatian, the official language of the court (Art. 6 of the ZPP). According to Art. 5(1)(3) of the Use of the Language and Script of the National Minorities in the Republic of Croatia Act (*Zakon o uporabi jezika i pisma nacionalnih manjina u Republici Hrvatskoj*),<sup>17</sup> in certain areas of Croatia use of the minority language and script is accepted before the first instance courts (only municipal, and not commercial courts), e.g. Italian language and Serbian language and Cyrillic script. However, this right is extremely rarely used, if at all in civil and commercial matters.<sup>18</sup>

**19. Are there specific claim forms to be used for domestic service in your Member State? If so, explain their content and the information required.**

No, the claim may be drafted in any form, whereas the minimum content is required for the court to be able to proceed (Art. of the ZPP). However, EU forms are required for specific proceedings such as European order for payment (EOP) or European small claim procedure (SCP). Likewise, it is important to submit the EU forms accompanying judgments in the proceedings concerning recognition or enforcement.

In the context of the e-communication for the service to be effected, it is first necessary to upload the document containing the claim on the information system e-Komunikacija, and to do that the document has to be in .pdf form, digitally signed and no bigger than 20 MB.

**20. How are the costs of service regulated in your Member State?**

The cost is borne by the court when the court effects the service and they are deemed to be included in the court fees, at least in theory.

However, if the party requests the service to be permitted by the notary public and the court orders that, the costs are borne by the requesting party. Costs arising from notarial service are paid directly by the

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<sup>17</sup> NN 51/00, 56/00.

<sup>18</sup> Vlada Republike Hrvatske, Izvješće o provođenju Ustavnog zakona o pravima nacionalnih manjina i o utrošku sredstava osiguranih u državnom proračunu Republike Hrvatske za 2021. godinu za potrebe nacionalnih manjina, Zagreb, June 2022, <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/Iz-vje%C5%A1%C4%87e%20o%20provo%C4%91enju%20UZPNM%20za%202021..pdf>, p. 8.



party to the notary. Notaries public who do not receive advance payment to cover the cost of service are not required to serve the document. The notary public is to produce a record thereof and notify the court thereof directly. Parties are not liable to pay notary public fees for any actions undertaken to serve a document via a notary public. The costs of service via a notary public are to be incorporated into the legal costs if the court deems it necessary. The notary's fees and reimbursements for the performance of official notarial acts are set out in the Rules on the temporary notarial tariff (*Pravilnik o privremenoj javnobilježničkoj tarifi*).<sup>19</sup>

Under Art. 146(5) of the ZPP, the means to cover the costs of establishing and operating the defendant's representative for receipt of documents are required to be advanced by the claimant on the basis of a court order against which no special appeal is permitted. If the claimant does not advance those funds within the time limit set by the court in its order, the court shall dismiss the action.

As regards the costs of service by a court officer, in practice the costs of that service are advanced in the amount determined by the court. The reimbursement of expenses for external office is carried out in accordance with special regulations and that the external office determined at the request of the party and the party's expense can normally be carried out after the party has deposited a specified sum of money for that purpose (advance).

## LEGAL IMPLICATIONS OF SERVICE

### 21. What are the legal (minimum) requirements of an effective service? Please list them.

Compliance with the rules in the ZPP (or other special laws if applicable).

The addressee, or the person on whom service may be effected for the addressee, is entitled to refuse to accept the document only when service is effected at a time, place or manner other than that prescribed by law. However, if addressee or a person obliged to receive a document nevertheless refuses to receive a document unjustifiably or if they throw it away or destroy it before reading it, such refusal does not prejudice the legal consequences of the served document.<sup>20</sup>

### 22. What are the legal consequences (procedurally and, if applicable, materially) of the proper service of documents?

One of the important procedural effects of service of documents is *lis pendens* (see Art. 194(1) ZPP). As long as the dispute is pending, none of the parties may bring the same claim before another court. The other is *perpetuatio fori* which means that the jurisdiction of the court seised will not be affected by any change to the circumstances relevant to establishing jurisdiction, which occur subsequent to moment of the *lis pendens*.

Additionally, the time period for legal remedies (appeal, revision) starts from the date of service of the court act against which legal remedy is to be submitted (see Art. 348 *et seq.* of the ZPP with regard to the right to appeal, and Art. 382 *et seq.* of the ZPP with regard to the revision). Other effects depend on the moment of service of the court act, such as the *res judicata* and enforceability.

### 23. What are the consequences of the respondent's failure to appear in the proceedings under the national law of your Member State?

<sup>19</sup> NN 38/94, 82/94, 52/95, 115/12, 120/15, 64/19, 17/23.

<sup>20</sup> VSRH Gzz 61/73 – ZSO 4/76-140.





Provided certain requirements are met, among which also that service of the claim was orderly and that the summons to respond to the claim have been served but not answered by the respondent, there is the threat of a one type of the default judgment (*presuda zbog ogluhe*) be rendered in favour of the claimant and according to the state of the file (Art. 331 of the ZPP). The other type of the default judgment (*presuda zbog izostanka*) may also be rendered in favour of the claimant and according to the state of the file provided certain requirements are met, among which also that service of the claim was orderly and that the summons to the hearing have been served (Art. 332 of the ZPP).

### **23.1. What are the possibilities of legal remedy if the respondent claims incorrect service?**

Pursuant to Art. 354(2)(6) of the ZPP, a substantial violation of the provisions of the civil procedure exists if, because of failure to service the document, any of the parties was not given the opportunity to be heard by the court. This constitutes grounds for appeal as an ordinary legal remedy (Art. 348 of the ZPP). Also, according to Art. 421(1)(2) of the ZPP, the proceedings that are ended by unappealable court decision can be renewed at the request of a party (renewal of the proceedings is an extraordinary legal remedy in Croatian law on civil procedure) if the party, due to the unlawful conduct, and in particular by omitting the service, he or she was not given the opportunity to be heard before the court.

### **24. What are the consequences of the claimant's failure to appear in the proceedings under the national law of your Member State? (e.g. due to the absence of a summons to the preparatory hearing)**

If both parties are unjustifiably absent from the hearing or if the claimant is unjustifiably absent from the hearing and the respondent does not enter an appearance (although present there), it is considered that the claimant has withdrawn the claim (Art. 295(2) of the ZPP).

### **24.1. What are the possible legal remedies if the claimant claims incorrect service?**

Pursuant to Art. 354(2)(6) of the ZPP, a substantial violation of the provisions of the civil procedure exists if, because of failure to service the document, any of the parties was not given the opportunity to be heard by the court. This constitutes grounds for appeal as an ordinary legal remedy (Art. 348 of the ZPP). Also, according to Art. 421(1)(2) of the ZPP, the proceedings that are ended by unappealable court decision can be renewed at the request of a party (renewal of the proceedings is an extraordinary legal remedy in Croatian law on civil procedure) if the party, due to the unlawful conduct, and in particular by omitting the service, he or she was not given the opportunity to be heard before the court.

### **25. What are the consequences of improper service in your national jurisdiction?**

On the consequences see *supra* Q. 23.1 and 24.1.

### **25.1. What is the procedure if the recipient nevertheless had the opportunity to prepare and therefore the principle of equality of arms was not affected?**

There are no special rules.

### **25.2. Can a deficiency in service be cured in your national jurisdiction? If so, how?**

There are no special rules.



**25.3. Please explain whether such a cure may in certain circumstances be in conflict with national procedural principles (e.g. right to a fair trial, right to be heard). If so, how is this issue dealt with?**

Not applicable.

**25.4. Do the consequences of improper service differ within the scope of the Regulation due to the provisions in Art. 22 of the Regulation? If so, how?**

There is a difference in that Art. 22 of the Regulation 2020/1784 requires that the document was in fact delivered to the defendant or to the defendant's residence by another method provided for by this Regulation, whereas the ZPP allows under certain conditions that the service is effected factiously by means of placing the document on the court e-notification board. Thus, improper service differs and will trigger or not the consequences depending on the applicability of each legal instrument.

**25.5. Has your Member State made use of the option in Art. 22 No. 2 of the Regulation?**

Croatia has notified the Commission that Croatian courts may give judgments if the conditions set out in Art. 22(2) of the Regulation 2020/1784 are met.

**25.6. How is the possibility of reinstatement in Art. 22 No. 4 of the Regulation regulated in your Member State? What is the deadline for filing an application for *restitutio in integrum*?**

Croatia has notified the Commission that an application for relief will not be permitted if it is submitted more than one year after the adoption of the judgment.

**26. Can a decision be revoked due to incorrect service in your Member State even after it has become *res judicata*?**

Yes, according to Art. 421(1)(2) of the ZPP, the proceedings that are terminated and in which the judgment was rendered that became unappealable, can be renewed at the request of a party (renewal of the proceedings is an extraordinary legal remedy in Croatian law on civil procedure) if the party, due to the unlawful conduct, and in particular by omitting the service, he or she was not given the opportunity to be heard before the court.

**27. How is the service of documents proven or documented? How is the date of service determined in the national law of your Member State?**

According to Art. 149 of the ZPP, the notice of effected service (service note) has to be signed by the addressee, who writes on it the date of receipt as well. The service note may also be in a digital form made in an appropriate technical device.

If the recipient is illiterate or unable to sign, the courier will write his or her first name and surname, the date of receipt and indicate why the recipient did not sign. If the recipient refuses to sign the service note, the courier will note this on the service note and write the day of service, which is deemed to have taken place.



If service is effected against the person on whom the document is to be served in person, it is not found where service according to the information in the application is made, the service note shall indicate, in addition to the acknowledgement of receipt of the document, that it was preceded by a written notification.

The courier shall require the person to whom the document is handed over to prove his or her identity. If service is not effected by a state authority or a legal person, the courier shall require the person to whom the document is transmitted to prove his or her identity. The courier shall enter on the service note the first name and surname of the person to whom he has presented the document or the number of the ID on the basis of which he or she was identified and by whom.

A courier who is not a notary public is obliged to write in legible writing his or her first name and surname and title on the service note and to affix his or her signature to it as well. If necessary, the courier is to create a separate record on the service and attach it to the service note.

If the date of service is incorrectly indicated on the service note, service shall be deemed to have taken place on the day on which the document was lodged.

If the service note has gone missing the service may be proven in another way.

In Art. 133a(3) and (4) it is provided that the notary will draw up minutes on the receipt of documents for service and on the actions taken for service. A certified copy of the record of receipt of the document to be served and a certificate of service together with a certified copy of the service record or the document that could not be served with a certified copy of the record on the actions that were taken are to be submitted by the notary public directly to the court without delay.

**28. Except for the mentioned respondent, are there other authorised recipients, i.e. (temporary) representatives or persons authorised? Please provide the corresponding regulations within your national legal system.**

In Croatian law, Art.133b of the ZPP provides for the service on statutory representatives, Art. 138 of the ZPP for the service on legal representatives, and Art. 146 of the ZPP for the service on authorised agents etc.

**29. What are the legal consequences of an improper service of documents?**

There are number of consequences of improper service of documents on the parties, such as impossibility to render a default judgment (Arts. 331b and 332 of the ZPP).

**30. What is considered a timely service of documents?**

There are many rules concerning the timely service. For example, Art. 286(1) of the ZPP states that a preparatory hearing shall be scheduled so that enough time is left to the parties for preparation and not sooner than after eight days from the receipt of the summons.

**31. Who bears the risk of an untimely service of documents?**

In accordance with Art. 299a(3), (4) and (5) of the ZPP, documents must be served to the court and the opposing party no later than eight days before the next hearing. Otherwise, the documents shall not be taken into account, unless the court deems that necessary for the reason of expediency.

**CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION**



**32. Which bodies are considered to be “transmitting agencies” according to Art. 3 No. 1 of the Regulation in your Member State? If there are several transmitting agencies in your Member State, please describe their local jurisdiction.**

Such agencies are: for judicial documents – the court which is to effect the service, for the extrajudicial documents – municipal court (*općinski sud*) body or the person requesting service abroad has his or her domicile or habitual residence or seat, for the documents certified or issued by the notaries the municipal court in the territory of the respective notary, or county courts, commercial court or the High Commercial Court.

**33. Which bodies are considered to be “receiving agencies” according to Art. 3 No. 2 of the Regulation in your Member State? If there are several receiving agencies in your Member State, please describe their local jurisdiction.**

Such agency is every municipal court (*općinski sud*), within whose territorial scope the service is to be effected.

**34. What means of communication is accepted by the receiving agencies when receiving documents?**

By e-mail or regular mail.

**35. Which public institution is the “central body” according to Art. 4 of the Regulation in your Member State?**

Central Body in Croatia is the Ministry of Justice.

**36. How is it decided which method of service will be used by the authorities in your Member State?**

By the decision of the judge, and the parties to the extent they have the right to affect that decision.

**37. What are the costs of service under the Regulation if your Member State is the receiving State?**

The same as under the national service (see *supra* Q. 20).

**38. How are incomplete or insufficient requests for service to be dealt with?**

Under Article 10 of the Regulation 2020/1784, where the request for service cannot be fulfilled on the basis of the information or documents transmitted to Croatia, the receiving agency contacts the transmitting agency without undue delay in order to obtain the missing information or documents (using form E).

**39. In which languages can the standardised forms be completed (according to Art. 3 No. 4 lit. d of the Regulation) in your Member State?**



Requests for service, service notes and other notifications pursuant to the Regulation 2020/1784 received in Croatia from abroad must be in Croatian or English or accompanied by a translation into Croatian or English.

**40. To what extent does your Member State support address tracing according to Art. 7 of the Regulation? Please describe the process in detail.**

If the address of the person to be served and indicated in the request of the competent foreign authority has changed in the meantime and the service has not been successful for this reason, the Croatian court is bound by Article 143 of the ZPP, to attempt again to effect service at the address of residence in the Republic of Croatia, according to the information on the place of residence for that person, which will be obtained from the records of the Ministry of the Interior of the Republic of Croatia.

Receiving authorities in Croatia do not submit, on their own motion, the requests to the registers about the address information, when the address stated in the request is incorrect.

Provided that the proof is presented about the existence of a legal interest on the side of the requesting party, a request may be made to the police administration for information on the place of permanent or temporary residence of a person upon whom documents are to be served in civil proceedings.

To determine the address of the person on whom the service is to be effected, foreign transmitting agencies may contact: Ministry of Interior MUP RH, Uprava za imigraciju, državljanstvo i upravne poslove, at Ilica 335, 10000 Zagreb, Croatia or at [prijavnistvo@mup.hr](mailto:prijavnistvo@mup.hr)

**41. Has your Member State lodged a national reservation concerning the service by consular or diplomatic agents provided for in Art. 17 of the Regulation?**

Yes, service pursuant to Article 17 of the Regulation 2020/1784 on the territory of Croatia by the diplomatic mission or consular post of a foreign Member State is admissible only on the person who is a national of that Member State – the transmitting Member State.

**42. Is the direct service method provided for in Art. 20 of the Regulation compatible with the national law of your Member State?**

Yes, this is permissible.

**43. Is there a bilateral or multilateral agreement within the meaning of Art. 29 of the Regulation between your Member State and one or more other Member States? If yes, please give reference to the agreement and elaborate. Please leave out the generally applicable agreement between the EU and the Kingdom of Denmark of 19 October 2005 on the service of judicial and extrajudicial documents in civil or commercial matters.**

The case in point is the Agreement between the Republic of Croatia and the Republic of Slovenia on the Legal Assistance in Civil and Criminal Matters of 1994 (*Ugovor između Republike Hrvatske i Republike Slovenije o pravnoj pomoći u građanskim i kaznenim stvarima*). Some of the interesting rules are: Authorities of the State Parties communicate each in their own language and, as a rule, each party bears the costs of the actions in their own territory.

**44. Has your Member State exercised the option for early use of the decentralised IT system as defined in Art. 33 No. 2 of the Regulation?**

No.



## RIGHT OF REFUSAL

### 45. Is there a possibility under your national law to refuse to accept a document?

Yes, if there is a justifiable ground, *argumentum a contrario* under Article 144 of the ZPP.

#### 45.1. On what grounds can the acceptance of a document be refused?

The acceptance of the document can be refused on any of the grounds which constitute legal requirements for the orderly service, such as the language which is not the official national language, or the official minority language, or if the person at the addressee's household is not member of that household, or if the employee does not wish to accept the service (no need to state the reasons) etc.

#### 45.2. How can the acceptance of documents served electronically be refused?

There seems to be no technical option in e-Komunikacija, except to not click the button for receipt and not open the document. However, such action automatically leads to legal consequences as if it was received within the set period of time and cannot hence be considered a refusal. Therefore, it seems that a refusal should in such instances be communicated to the court explicitly and without delay.

#### 45.3. What factors does the deciding court have to take into account when assessing the admissibility of the refusal to accept?

This assessment is subject to the requirements for orderly service of document and requires that the court takes into account all relevant circumstances of the case.

#### 45.4. What are the consequences of such a refusal? Please distinguish between justified and unjustified refusals when responding.

If refusal is justified, the service will not be considered effected and no legal effects will derive therefrom. If the refusal is unjustified, such refusal does not prejudice the legal consequences of the served document.

### 46. How do the courts in your Member State review the admissibility of the refusal to accept a document under Art. 12 of the Regulation?

If the addressee refuses to sign the service note, the courier will note this on the service note along with the day of service, which is deemed to have taken place regardless of the refusal.

## ELECTRONIC METHODS OF SERVICE

### 47. Does your Member State's national law allow documents to be served electronically? If so, how?

Yes, the ZPP not only allows e-service, but also mandates it for some categories of persons (see Arts. 106a, 133, 133c, 133d, 134a, 143c).



**47.1. If dedicated internet portals are used for this purpose: Please describe the platform. Do users have to register beforehand?**

Users access the dedicated internet portals of e-Komunikacija via the National Identification and Authentication System (*Nacionalni identifikacijski i autentifikacijski sustav*, hereinafter: NIAS). All users, with the exception of natural persons who are not acting in business capacity have to be registered in the internal register of the Ministry of Justice. Instead of this internal register, the plan is to use the e-Authorisations (*e-Ovlaštenja*) in the future which will include data for majority of users (legal persons).

**47.2. How is the e-identification (and possibly e-signature) of electronically served documents executed in the national legal system of your Member State?**

E-identification is executed via the NIAS, while the signature can be made in any system which the user otherwise uses or within the e-Komunikacija, for a part of the certificates.

**47.3. How is it ensured that the right person receives the documents? How is the identity of the user verified?**

This is ensured by identification and downloading via the NIAS, a system that represents a central point of identification and authentication of users when signing up for an e-service. Its primary function is to safely and reliably provide the service of electronic identification and authentication by using a digital credential.

**47.4. How is the time of service determined?**

The user has to click the button to confirm the receipt, without this the serviced act or document cannot be opened. In case, the document is not opened, it is considered to be automatically received after 8 or 15 days (depending on the type of the proceedings, e.g. the deadline for appeal in most civil and commercial matters is 15 days under Art. 348(1) of the ZPP).

**48. Is electronic service dependent on the consent of the person concerned in your Member State?**

For certain categories of persons consent is not necessary as they are obliged to use e-Komunikacija (see *infra* Q. 49), whereas the consent is necessary for all other persons. Persons who are obliged to use e-Komunikacija are required to submit their data for registration to the Ministry of Justice.

**48.1. If consent is required, can it be given universally or must consent be obtained for each individual case?**

Where consent is required, it is given for e-Komunikacija as a whole, and not on a case-to-case basis.

**48.2. If universal consent is permissible, can certain matters (e.g. family law disputes) be exempted from the consent?**

No.

**49. Is every citizen obliged to accept electronic service of documents in your Member State?**



No, not all persons are obliged to accept e-Komunikacija or other electronic means of service. Normally, citizens acting in private capacity are not obliged to accept e-Komunikacija.

The only persons obliged to use e-Komunikacija are: state administrative authorities and other state authorities, bodies of local and regional self-government units, legal persons with public authority, the state attorney's office, attorneys, notaries public, court experts, court appraisers, court interpreters, bankruptcy administrators, commissioners, members of the trade union representing the employee under Art. 434a of the ZPP, commissioners in the consumer bankruptcy, liquidators, special guardians employed at the Social Work Institute, legal persons, and natural persons who perform registered activities in disputes concerning that activity (Art. 133(4) of the ZPP and Art. 6 of the PEK).

**49.1. If yes: What provisions does your Member State's national law provide in case the recipient has no possibility to receive electronic deliveries? (e.g. for elderly people)**

Not applicable.

**50. Is there a central body responsible for electronic service in your Member State?**

With regard to service of the court acts and documents, the Ministry of Justice is responsible for e-Komunikacija.

**51. What measures are taken in your Member State to ensure the security of electronic service?**

In relation to electronic service of court acts and documents, security mechanism are implemented at multiple levels (authentication of users with defined access rights, encryption of the traffic, database protection, protection from cyber-attacks).

For the purpose of identification of the external users, the NIAS is used thus without any doubt the Ministry of Justice knows who is accessing the system and which data he or she has the right to access as a party in the proceedings. The NIAS is part of the state information infrastructure which is under responsibility of the Central State Office for the Development of the Digital Society (*Središnji državni ured za razvoj digitalnog društva*, hereinafter: SDURDD).

Internal users at the courts are assigned access right on the basis of the LDAP identification on the Active Directory of the Ministry of Justice, and they may access the system exclusively via the Hitronet network which is a closed user network.

External users may access data on the cases in which they appear as parties (there is a user inbox for submission of court acts and documents) via the central portal using the SSL protocol which ensures encrypted traffic, and by this also the integrity of the message between the user and the server. The service of documents itself generated the confirmation on the effected service and the confirmation on the receipt of the documents. Court acts are electronically signed by the judges along with the electronic time stamp.

All communication between the user and the system – eFile (*eSpis*) is operated through the service layer which combines central access to data under equal operational rules with use of the assigned access rights. It is realised as Java EE, using EJB and Spring framework given that this is a complex and robust system. All accesses and data changes are recorded in the system based on the identification of the user. The Oracle WebLogic application servers are used. The Oracle relation database is used as well.

**52. What measures are taken in your Member State to ensure the efficiency of electronic service?**

Primarily the changes in the legislation.





**53. What are the consequences if electronic service is not possible? (e.g. disrupted internet access)**

If e-Komunikacija is not available for 2 hours immediately before the expiry of the deadline, the deadline is extended for 1 day.

**54. What are the costs of electronic service?**

The parties do not bear any costs in case of electronic service, as in case of other methods (with some minor exceptions (see *supra* Q. 20)).

**55. What measures does your Member State take with regard to data protection in connection with electronic service?**

Security measures in place to protect data in the context of electronic service are described above (see *supra* Q. 51).

**56. How could the rules on service in your national law be improved in order to facilitate cross-border service and to avoid legal uncertainty?**

The new Service of Documents Act is currently in the legislative proceedings, and was recently submitted for public e-consultation (see <https://esavjetovanja.gov.hr/ECon/MainScreen?entityId=23774>).

**57. Please explain how the E-CODEX system operates if your Member State took part in the E-CODEX project concerning procedures in the case of European Small Claims and European Payment Order.**

According to the information from the Ministry of Justice, Croatia does not take part in this project.

## **PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE**

**58. What national issues arise out of the service of documents in your member state?**

There are currently issues related to the efficiency of the postal service used for service of the documents (sometimes due to delays in visiting certain areas where people live, or leaving the notes in post-boxes without actually ringing the bell).

**59. What European issues arise out of the service in your member state?**

One of the issues which arises is the costs of translation of the documents to be serviced abroad. Although the person who submits a document decides whether to translate it or not for the purpose of service abroad, the recipient has the right to refuse service if he or she is not able to understand the language in which it is written. Therefore, to be on the safe side, translation (usually to the official language of the Member State in which the service is to take place) would be preferable.

**60. How could the provisions on service in your national legislation be improved in order to facilitate cross-border service and prevent legal uncertainty?**



We are not aware of calls for such changes.

**61. Please list national cases in which problems occurred regarding the cross-border service of documents. If possible, please shortly summarise the respective issues and decision.**

We are not aware of such cases.