

Briefing on International Service of Process (Hague Convention of 1965)

The 15 November 1965 Hague Convention on Service Abroad of Judicial and Extra-Judicial Documents for Civil or Commercial Matters sets several options for service of process (See Attached file A for the full text of the Convention). So does EC Regulation 1393/2007.

1. Service through Central Authority. The Hague Convention's public channel is time-consuming, since it is processed through the Country of service Government's Administration, No option for expedited service exists and there are rejections and failures (See attached file O of Statistics on problems). The Public Service channel is supposedly free of charge and has no taxes, but in some countries you must arrange for your paperwork to be translated in the language, pay a Court Bailiff fees in advance and any other disbursements in a foreign currency: "Red tape".

The contents of your documents will be inspected by the local State's representative for legality and conformity to internal laws before service is considered and transferred to a local Bailiff for service and therefore your paperwork is not kept strictly confidential. If you are handling an Arbitration, Confidential matter or persons involved it is better to use a Private Personal Server.

On the other hand, once the Bailiff has the documents if the address for delivery is wrong or incomplete service, as is happens often with Italy, service will be rejected since the bailiff will not research, and if the correct address is found this difference between the address in your documents and the reality must be specified in the Affidavit of service showing the "Continuity". The Hague Affidavit of service model does not offer this possibility.

If using the centralized channel, one must bear in mind that all documents are, in principle, to be translated by a Certified Court translator, but not always since some countries accept documents in their language of origin: i.e. France. In general, pursuant to article 5 of the Convention, if the documents being served are not translated, service can be denied. In addition, it is common for the Defendant to be given the option of refusing service due to lack of translation, in that instance, documents would not be served. Service of documents must also be accepted voluntarily by addressee. Finally Central Authorities will not give "Status of Process" Statements in the event of delays or problems, the response is often reject or delivery. Indeed, your efforts can be lost. Foreign bailiffs have no economical stimulus and are paid at a later date, sometimes 3 months after; i.e. Spain!

Finally, the Hague Service Affidavit of service (See attached File C), lacks of "International Procedural Courtesy" since there is no space for it. i.e. inform of where to obtain legal Aid, the address of the local diplomatic representation for a list of Attorneys, Translators, Interpreters.....

On the other hand, you have a "Short-cut" for using the Central Authority. Once your documents are translated, depending on the Country's laws of Civil procedure, you can ask the Central Authority for a "Waiver" and use a Private Process server (Art. 5-2), either a Judicial officer or a local Attorney at law. This "Waiver" can override any opposition to the application of alternative channels of service contemplated on Article 10 (See file B for countries opposing to Art. 10).

Please do not trust too much the information given by the United States department of State, it is often wrong, i.e. service by Attorneys at Law or Barrister Solicitors in Italy.

2. The Alternative Private Channels proposed in Art. 10 of the Hague Convention: DIRECT SERVICE

A. Service by mail, courier and other messengers, as per Art. 10 they are accepted (See in attached File B acceptance and opposition table by Country), The main problem with this method is that the returned receipt is not an "Affidavit of Service", the server is "Anonymous", and the contents of documents sent in the package, is not mentioned or "specified as a procedural guarantee". Jurisprudence has considered this method as a confirmation of an address more than a service delivery.

[Servefast Europe](#) provides this service for and will issue an Affidavit of Service authenticated by a Notary Public and which will conform to any Law of Civil Procedure). Indeed, service by mail, courier or messengers such as using a Private Investigator, an individual or a Translator is often rejected and can easily be quashed. Reason why we do not guarantee this method of service in delivery nor in court as we do with other services. Please note that we have "Pre-drafted expertises" to quash any service of this nature for a flat fee and in English language which will be backed up with our presence in any foreign court..

B. Service by instructing a local process server directly, such a solution is fraught with potential communication, legal, payment, and timing issues and depending on the country you need to be an Attorney to be able to instruct a local server, often local process servers will require also a translation on documents.

Continental European Process servers never provide any Affidavit of Service in English and therefore you will cost will increase with translations, contrary to us at [Servefast](#) who do everything in English language, we even offer customer service in English and will even authenticated the affidavit in English at the Consulate's Notary a local notary Public. Please note that as per the Hague Convention of 1960 Article 1, legal Process Servers do not need to authenticate their signature, Our signature as "Authority" has an equivalent legal value as that of the "Central Authority" and of an "Appostile", indeed we are "Judicial Officers, Bailiffs, Hussiers de Justice, Rechtsanwalt, Procuratores.... within the European Union and members on the International Association of Judicial Officers). Local Process Servers can Authenticate their Affidavit at a Notary Public if the Country is not Signatory of the 1960 Hague Convention i.e. Canada, increasing your cost again, we have flat fees, all eventualities included.

C. Direct or Personal Private service by qualified professionals "US" at [SW Europe's Process Servers and Servefast Europe](#) provide this service also, such method is preferable, because it is faster, usually less expensive (it does not requires expensive translation since documents will be served by a registered Attorney at law or Barrister Solicitor in the language of the defendant, documents will not be submitted to inspection by the Judicial authorities and will be kept confidential, everything is in English language..

It is essential to bear in mind that private agent service by this Channel by a non-qualified legal professional may be quashed in the originating Court and any judgment obtained on the basis of service by a non-qualified person may be unenforceable, or may be voidable, we offer "Pre-drafted expertises" with court presence back-up **to quash service** completed by persons non member of a law Society within Europe i.e. Private detectives, Intermediaries (Even if they hire a Judicial Officer for service). On the other hand see attached File Scams for potential problems.

Finally please notice that a Non qualified foreign service of process provider will engage your responsibility; Civil and Criminal ("Fake service"). Using a registered Attorney at Law is a guarantee! At [Servefast](#), we offer all required qualifications, memberships and liability insurance, giving all possible procedural guarantees. With us, service will be completed and will be back up, if necessary, by legal professionals and not by someone who can not "Show" in court! i.e. lack of Visa, Nonexistence, lack of qualifications....

Using these manners of service of Art. 10 offers many advantages: Your documents come directly to us and to our network of selected local licensed Attorneys acting as process servers and of Judicial Officers, thus saving you time and monneis, No translations, Apostilles or Waiting required, We will provide you with a Proof of Service in the form of an Affidavit, in English, at no extra cost back up by legal professionals.

Finally, please note that using our services also present many advantages, not only professional, savings in time and money, guarantee of delivery and in Court, but and without extra cost, we offer you;

1. Video film or Photography of the act of Service of Process.
2. If possible a signature on a "Waiver of Rights" or "Acceptance"
3. Evidence of service by signature or Corporate seal.
4. Complete information to defendant! International Courtesy!
5. Experienced legal Professionals!
6. We also combine for your convenience manners of service to comply to "Lex Fori" and "Lex Loci", indeed for foreign Courts requiring "Personal service of process" in Countries that only accept service by mail, i.e. Finland

Please contact me and let me advise you on the most convenient and cheaper, but reliable method to use, for your International Service of Process.

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P.S. For expertise to Confirm or Quash an International Service of Process, written or by physical presence in foreign Courts, please email delacuetara@yahoo.fr or call +34 687 704 940

"Ius est ars boni et aequi"