

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

Agapio N

Project DIGI-GUARD 2023



DIGI-GUARD



**Co-funded by
the European Union**

*Digital communication and safeguarding the parties' rights:
challenges for European civil procedure – DIGI-GUARD*

Project ID: 101046660 — DIGI-GUARD — JUST-2021-JCOO

National Report

The Republic of Cyprus

On the Cross-border Service of Documents

Author

Dr Nevi Agapiou

Lecturer in International Commercial Law and Dispute Resolution

School of Law, University of Central Lancashire Cyprus (UCLan Cyprus)

NAgapiou@uclan.ac.uk

+357 24 694068



DIGI-GUARD



**Co-funded by the
European Union**



Table of Contents

NATIONAL SERVICE OF DOCUMENTS AND LEGAL IMPLICATIONS.....	3
Legal Framework	3
Purpose of Service	4
Service in Cyprus	4
Private Bailiffs.....	4
Writ of Summons	5
Typical Timeline.....	5
Service within the Jurisdiction.....	6
Service Out of the Jurisdiction.....	11
Final Overview of Legal Implications	13
CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION	13
RIGHT OF REFUSAL.....	15
ELECTRONIC METHODS OF SERVICE.....	15
PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE	15



NATIONAL SERVICE OF DOCUMENTS AND LEGAL IMPLICATIONS

Legal Framework

The Civil Procedure Rules ('CPR') offer the legal basis for service of documents in the Republic of Cyprus ('Cyprus'). Rules 5 and 6 CPR provide the procedure for the service of documents in and out of the jurisdiction and Rules 5A and 5B CPR govern substitute and private service respectively.

New CPR are expected to enter into force in Cyprus on 1 September 2023 applicable to all claims submitted to Court from that date onwards. The European Commission has supported the Supreme Court of Cyprus to modernise the civil procedure rules through a sequenced project starting with a detailed review of the old Cypriot civil procedure rules against modern and more efficient approaches, followed by a public consultation on the areas of intervention and concluded by a joint drafting of the new rules by international experts and national stakeholders.¹ In the new CPR, Part 6 titled 'Service' will provide the legal basis for the service of documents in Cyprus.

Natural and legal persons involved in legal proceedings send and receive various judicial and extrajudicial documents. 'Service of documents' denotes the delivery of legal documents that notify the recipient of the commencement of litigation proceedings in which they are involved. There is no legal definition *per se* but Articles 30.3 (a) and (b) of the Cyprus Constitution, providing that every person has the right to be informed of the reasons why they are required to appear before the Court and to present their case before the court and to have sufficient time necessary for its preparation, can be considered as providing the relevant legal reasoning.

Regarding the national service of documents, there was generally no distinction between civil and commercial matters in Cyprus with all relevant claims classed as civil governed by the CPR and handled by the civil jurisdiction district courts save for claims handled by the relevant special jurisdiction courts namely, the Family court, Industrial Disputes court and Rent Control court. A civil dispute was any dispute between two private individuals/legal entities and the term civil and commercial matters was used for the application of EU law.

In May 2022 the House of Representatives in Cyprus passed a Law on the Establishment and Operation of the Commercial Court and the Admiralty Court (L.69/2022), which establishes two new specialist courts. The Commercial Court, which is expected to operate on 1 July 2023, shall have jurisdiction to decide at first instance any type of commercial dispute. A commercial dispute is defined in section 2, L.69/2022 as a dispute or matter arising out of or in relation to one or more of the following (excluding a claim or counterclaim for damages for personal injury and a claim or counterclaim or registration of an arbitration award in relation to banking or financial matters): (a) business instrument or contract; (b)

¹ For more information see here: https://reform-support.ec.europa.eu/what-we-do/public-administration-and-governance/modernising-civil-procedure-rules-cyprus_en



purchase, sale, import, export of goods; (c) transport of goods by land, air or pipeline; (d) exploitation of oil, natural gas or other natural resources; (e) insurance and reinsurance; (f) operation of markets or exchange of shares, stocks, or other financial or investment vehicles or goods; (g) provision of services, excluding medical, or quasi-medical or dentistry services or any services provided under an employment contract; (h) manufacturing of vehicles; (i) commercial agency; (j) application of the provisions of the Damages Claims for the Violation of the Competition Law; (k) disputes between shareholders of entities regulated by any regulatory authority in Cyprus; (l) issues of intellectual property and related rights in the context of the application of the provisions of the Copyright and Related Rights Law and the Patents Law and (m) arbitration matters. According to section 3(1)(a), L.69/2022, the Commercial Court shall have jurisdiction to hear and decide commercial disputes where the amount in dispute or the value of the dispute exceeds €2.000.000 or any “commercial dispute” falling under items (j), (l) and (m) above regardless of the amount or value of the dispute.

Purpose of Service

In Cyprus extrajudicial service is understood as the service of a document outside of a court proceeding and judicial as the service of documents related to a court proceeding. As mentioned above, the purpose of service of documents in judicial proceedings is to uphold every person's right, as protected by the Cyprus Constitution,² to be informed of the reasons why they are required to appear before the Court and to present their case before the court and to have sufficient time necessary for its preparation. Only then will they be able to be in a position to effectively protect their right to be heard, a fundamental human right.³ The purpose of service of documents in Cyprus is premised on the rule of law and serves the principle of effective access to justice.

Service in Cyprus

Private Bailiffs

In Cyprus, the parties are responsible for the service of documents in judicial proceedings through private bailiffs who are duly authorised by the Supreme Court to serve documents at the request of parties.⁴ Upon asking a private bailiff to serve a document, each party must pay the relevant fee(s) as defined by Appendix C, Part 3, CPR. However, when a governmental document or document originating from government or the court is to be served, service is effected by court bailiffs.⁵ The profile and eligibility of bailiffs is provided in Appendix C, Part 1 of the CPR. In a nutshell, a private bailiffs license is valid for 2 years at a time and in order for a person to qualify as a bailiff they must be between the ages of 18 -70 with no military obligations pending, to have a high school leaving certificate (*Apolyterion*), to not have a conviction related to dishonesty or low morality, to possess a driver's license and to be in a

² Article 30.3 (a) and (b).

³ See *Balm Maritime co. v Biochemie R.O.S.E.* (1986) 1 CRL 303; *Sekavin v Ship Platon Ch.* (1987) 1 CLR 69.

⁴ Rule 5B(1) CPR. See also Appendix C, Part 1.

⁵ Rule 5B(1) CPR.



position to perform their duties to their best of their abilities, including working from a stable and publicly accessible workplace. The duties and obligations of bailiffs during the execution of their duties are provided in Appendix C, Part 2 of the CPR which indicates that a bailiff is in fact considered a court officer⁶ who must exhibit reasonable care and skill in the performance of their duties.⁷

In case a bailiff makes a second failed attempt to serve a document, the party who mandated service will be informed in case they can provide further information to the bailiff in order for service to be effected.⁸ Where service is successful, the documents will be immediately filed by the bailiff to the Registry of the relevant district court and the bailiff will notify the interested party or their Advocate of this.⁹ Successful service is evidenced through a sworn affidavit of the bailiff.¹⁰

Writ of Summons

Save where other provision is made, any action¹¹ before a District Court shall be commenced by a writ of summons.¹² There are two types of writ of summons; a 2.1 generally indorsed writ of summons¹³ and a 2.6 specially indorsed writ of summons.¹⁴ A generally indorsed writ of summons can be used in all cases where the claim commences with a writ of summons; it includes the cause of action but does not include the particulars of the claim whereas a specially indorsed writ of summons will include the particulars of the claim. In some cases however, such as libel or slander, using a generally indorsed writ of summons is compulsory.¹⁵ It follows that after any writ of summons is filed in court, this needs to be served to the defendant.¹⁶

Typical Timeline

Cypriot law does not lay down a particular deadline within which a writ of summons must be served after this has been filed in court however, service of a filed writ of summons must be effected as soon as possible and/or practicable as it is only when the writ of summons is served, that the relevant civil litigation deadlines start to run. No writ of summons shall be in force for more than 12 months from the day of its issue (including that day) though; if any defendant named in it has not been served, the claimant may, before the 12 months expire, apply for an order to renew the writ. The Court, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reasons, may order that

⁶ Appendix C, Part 2(1) CPR.

⁷ Appendix C, Part 2(3) CPR.

⁸ Appendix C, Part 2(8) CPR.

⁹ Appendix C, Part 2(9)(a) CPR.

¹⁰ Appendix C, Part 2(9)(b) CPR.

¹¹ An action is defined as a civil proceeding commenced by writ or in such other manner as may be prescribed by any law or Rules of court (Rule 1 CPR).

¹² Rule 2(1) CPR.

¹³ Rule 2(1) CPR.

¹⁴ Rule 2(6) CPR.

¹⁵ See *Falekkou v Christofide* [2013] 1 AAD 2534 for the consequences if a specially indorsed writ of summons is filed instead of a generally indorsed writ of summons.

¹⁶ A defendant is defined as any person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings (Rule 1 CPR).



the writ be renewed for six months from the date of such renewal inclusive, and so from time to time during the currency of the renewed writ.¹⁷

When the writ of summons is served, the defendant has 10 days to enter their appearance to the writ of summons by formally appointing an Advocate through the filing of an Appearance Note in court informing both the court and the claimant that they are legally represented. If the writ of summons is generally indorsed, the claimant has to file their particulars of claim within 10 days from the filing of the defendant's Appearance Note; if the writ of summons is specially indorsed, then the claimant does not need to take any other action. In the case of a generally endorsed writ of summons where the claimant does not file their particulars of claim within the aforementioned deadline, then the defendant can file an application to reject the action for want of prosecution. According to Rule 26(1) CPR, if the claimant, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply by summons to the Court to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court may, if no statement of claim shall have been delivered, order the action to be dismissed accordingly, or may make such other order on such terms as the Court shall think just.

In case a defendant does not formally appoint an Advocate as indicated above within the set deadline, then the claimant can proceed with an *ex parte* court application to issue a decision in the defendant's absence. If the defendant does formally appoint an Advocate as indicated above within the set deadline, their Defence must then be filed in court within 14 days and served to the claimant shortly thereafter. The claimant can then file an Answer to the Defence if that is deemed necessary which needs to be served to the defendant shortly thereafter. The claimant will then apply for the case to be scheduled for Directions. If a Defence is not filed, the claimant can proceed with an application to issue a decision in the absence of a Defence. Specifically, according to Rule 17(2) CPR, where any defendant fails to appear to a writ of summons, and the claimant is desirous of proceeding upon default of appearance, the claimant shall, before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, as the case may be, if such affidavit has not already been filed by the Registrar.

Service within the Jurisdiction

According to Rule 5(1) CPR, every defendant named on the writ of summons shall, except a Judge otherwise orders, be served in the manner provided in Rule 5(2)2 CPR with an office copy¹⁸ of the writ, and such service shall be deemed valid service of the writ.¹⁹ Service shall, whenever it is practicable, be effected by leaving the office copy of the writ of summons with the person to be served; but if they are not found at their house or at their usual place of employment, the service shall be deemed to be effected

¹⁷ Rule 4(1) CPR.

¹⁸A sealed copy or translation of any document lodged, filed or kept in, or issued out of a court registry, certified to be a true copy or translation by the registrar of that registry (Rule 1 CPR).

¹⁹



if the copy is left (i) with any member of their family of apparently 16 years and upwards then in their town or village or within the lands thereof; or (ii) with any person apparently of such age and in charge of the place of their employment; or (iii) with their master in the case of a servant living with their master.²⁰

Where service is effected by leaving the copy with a person other than the person to be served, the affidavit of service shall state (if such be the case) that the person to be served was not found at their house or at their usual place of employment.²¹ The affidavit of service endorsed upon, or having attached thereto as an exhibit, a duplicate of the copy of the writ of summons served, shall be sworn and filed within seven days after service. The registrar shall, within forty-eight hours after the affidavit of service is filed, give the claimant notice of the date on which the service was effected.²² Service on the person to be served may be effected at any time of the day or night and in any place and on any day of the week. This provision applies equally to the leaving of a copy with a member of their family or with their master in the case of a servant living with their master. In other cases, the copy left with the person in charge of the place where the person to be served is employed shall be left during the hours, and the place, of employment.²³

In the absence of any statutory provision regulating service of process upon a corporate body, service of an office copy of a writ of summons or other process on the president or other head officer, or on the treasurer or secretary of such body, or delivery of such copy at the office of such body, shall be deemed good service; and in the case of any company not formed in Cyprus, the copy may be left at its place of business in Cyprus, or if there is no such place, with any person in Cyprus who appears to be authorized to transact business for the company in Cyprus, and such leaving of the copy shall be deemed good service unless the Court or a Judge otherwise orders. And where by any law provision is made for the service of any writ of summons or other process on any corporate body or any society or fellowship or anybody or number of persons, corporate, or unincorporate, the service of the office copy of a writ may be effected accordingly.²⁴

According to Rule 5(8) CPR, where a contract has been entered into in Cyprus by or through an agent residing or carrying on business in Cyprus on behalf of a principal residing or carrying on business outside Cyprus, a writ of summons in an action relating to or arising out of such contract may, by leave of the Court or a Judge given before the determination of such agent's authority or of his business relations with the principal, be served on such agent. Notice of the Order giving such leave and an office copy thereof and of the writ of summons shall forthwith be sent by prepaid double-registered post letter

²⁰ Rule 5(2)(1) CPR.

²¹ Ibid.

²² Rule 5(2)(2) CPR.

²³ Rule 5(3) CPR.

²⁴ Rule 5(7) CPR.



to the defendant or defendants at his or their address out of the jurisdiction, provided that nothing in this Rule shall invalidate or affect any other mode of service provided by these Rules.

The documents that must be sent to the respondent is only the writ of summons, which is prepared by the claimant's Advocate. When presented for sealing,²⁵ every writ of summons shall contain the name of the Court and the year in which the action is being instituted, the name in full of the claimant and the defendant, the address in full, the national ID number if they are a Cypriot citizen, the Alien Registration Certificate number if they are a foreign, non-EU national residing in Cyprus or their current passport number or in any other case any other personal identity identification information and occupation of the claimant and, so far as they can be ascertained, of the defendant, and the claimant's address for service within the municipal limits of the town where the registry in which the writ is being filed is situated. The writ shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, but it shall not be essential to set forth in such indorsement the precise ground of complaint, or the precise remedy or relief to which the claimant considers themselves entitled. The writ shall be signed by the claimant or his advocate at the foot of such statement.²⁶ If the claimant sues, or any defendant is sued, in a representative capacity, the indorsement shall show in what capacity the claimant or defendant sues or is sued.²⁷ In probate actions the indorsement shall show whether the claimant claims as creditor, executor, administrator, legatee, heir, or in any and what other character.²⁸

In actions where the claimant seeks to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising upon a bond or upon a contract, express or implied (as, for instance, on a bill of exchange, promissory note or cheque, or other contract debt); or on a guarantee, where the claim against the principal is in respect of a debt or liquidated demand; or where a landlord seeks to recover possession of immovable property, with or without a claim for rent, against the tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant; or where the claimant seeks to recover possession of a specific chattel with or without a claim for the hire thereof or for damages for its detention; and in all other actions in the District Court (except actions for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage, and actions in which fraud is alleged by the plaintiff), the writ of summons may, at the option of the claimant, be specially indorsed with a statement of their claim, or of the remedy or relief to which they claim to be entitled.²⁹

Where the writ is specially indorsed, no further statement of claim shall be delivered, unless the Court or a Judge shall otherwise order. In other cases the claimant shall, subject to Rule 17 (11) CPR as to filing a statement of claim when there is no appearance, file and deliver a statement of claim within ten

²⁵ Sealed with a court seal (Rule 1 CPR).

²⁶ Rule 2(3) CPR.

²⁷ Rule 2(4)(a) CPR.

²⁸ Rule 2(5) CPR.

²⁹ Rule 2(6) CPR.



days after appearance, unless the time is enlarged by the Court or a Judge.³⁰ Every statement, of claim shall state specifically the relief which the claimant claims, either simply or in the alternative, and it shall not be necessary to ask for general or other relief, which may always be given, as a Court or a Judge may think just, to the same extent as if it had been asked for and the same Rule shall apply to any counterclaim made, or relief claimed by the defendant, in his defence.³¹

On presenting their writ for sealing the claimant shall leave, for each defendant, one office copy of the writ for service plus a duplicate of such copy for the affidavit of service.³² If the writ is such as may be sealed the registrar shall enter the action in the Civil Cause Book and give the writ a number showing the order in which the action is so entered; they shall mark the writ 'Filed and sealed on the day of, 19...', naming the date on which it is filed; they shall then seal the writ with the seal of the Court, and thereupon the writ shall be deemed to be issued and the action to be commenced.³³

Every party to an action or other proceeding before a Court of first instance shall furnish an address for service, being some proper place within the municipal limits of the town or village in which is situated the registry of the Court in which the action or other proceeding is instituted, at which address documents intended for him may be left. In the case of appeals or other proceedings before the Supreme Court every party thereto shall furnish an address for service in Nicosia. The address for service which is indicated in the writ of summons or any court pleading or document, can include, provided any party to the procedure opts for it, service or delivery through fax. The fax address may be other to the address for service within the district the case is pending for and can be situated in any part of Cyprus.³⁴

As mentioned above, the usual method of service of documents without a cross-border element in Cyprus is by leaving a hard office copy of the writ of summons with the person to be served or via fax falling within the parameters of the Regulation. In every case where it appears to the court on any grounds that it is not possible to effect service in the way provided for in Rule 5(2) CPR, the court can issue an order for the substitute or other service, or substitute of the service notice in any way it appears to it to be fair and correct under the circumstances, including the publication in any electronic medium or other technologically advanced way. According to Rule 5B CPR, every application to the Court or a Judge for an order for substituted or other service, or for the replacement of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made. For example, permitted substituted service can be service by door sealing, postal services, including courier delivery, electronic service, including social media, by mass media publication, usually newspaper publication or

³⁰ Rule 20(1) CPR.

³¹ Rule 20(2) CPR.

³² Rule 2(11) CPR.

³³ Rule 2(12) CPR.

³⁴ Rule 50(1) CPR.



any other way the claimant suggests and the courts finds to be reasonable under the circumstances. While fax was allowed in 1997, substitute delivery was provided for in the CPR in 2016.

There are no special methods of service for certain type of documents.

As explained above, the usual time frame of the service of documents in Cyprus greatly depends on each individual case and specific document in judicial proceedings.

As explained above, a document is served once it is handed over (or faxed if relevant) to the defendant who thereby takes notice of the service, including leaving an office copy at the defendant's house or usual place of employment.³⁵ Any summons or notice to be served or given to any person may be served or given at his address for service if they have furnished one, and if they have not then at their last known or usual place of residence or, if this is impossible, with the leave of the Court or Judge obtained *ex parte*, in any one of the ways in which service or notice of a writ of summons may be effected or given; and everything done on any proceeding whereof notice has been served or given according to these Rules shall be binding on a person so served or notified, whether he attends on the proceeding or not.³⁶ Service on the person to be served may be effected at any time of the day or night and in any place and on any day of the week³⁷ but every document calling upon a person to appear before the Court, or giving any person notice of any proceeding proposed to be had or taken before the Court, shall, save where it is otherwise provided by these Rules, be served on such person at least four days prior to the day on which they are required to appear, or on which the proceeding whereof notice is given is to be had or taken.³⁸ Therefore, in Cyprus, provided the defendant is personally served anywhere and anytime at least four days prior to their designated court appearance, the document would be considered as served. However, where it is clear that the defendant does not live in a specific address 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), leaving the writ of summons to that address will not be considered to be good service and as such will not be accepted by the court.

If the exact whereabouts of the defendant are unknown, the claimant can apply for substitute service as detailed above via newspaper publication usually. While service via publication frequently does not assure that the document was actually made known to the defendant, provided the court allows substitute delivery via these means, it will not matter whether the document was actually made known to the defendant as far as the service process is concerned and there are no special remedies in the system if actual knowledge was not obtained by the defendant. Depending on where the defendant's whereabouts are presumed to be, either within Cyprus or abroad, the claimant will have to present relevant evidence

³⁵ Rule 5(2)(1) CPR.

³⁶ Rule 51(1) CPR.

³⁷ Rule 5(3) CPR.

³⁸ Rule 51(3) CPR.



to the court substantiating their application for substitute service without misleading the court as to the defendant's whereabouts and ask for the appropriate method of substitute service. For example if the defendant's whereabouts are presumed to be within Cyprus, the claimant will be reasonable in asking for substitute service via publication in a local newspaper but if the defendant's whereabouts are presumed to be abroad, the claimant will be reasonable in asking for substitute delivery via email and/or social media message.

If the defendant does not accept or tries to avoid the private service officer in any way, service of the cannot be successfully effected in which case the claimant can apply for substitute delivery provided there were reasonable and numerous attempts to serve the defendant the claimant can substantiate usually through a sworn affidavit by the relevant private bailiff.

Documents must be written in Greek as this is the working language of the Cyprus courts although the official languages of Cyprus are Greek and Turkish as per Article 3 of the Constitution and section 2 of the Official Languages of the Republic Law of 1988 (L.67/1988). According to section 5, L. 67/1988, regardless of the provisions of that law or any other law, in any court procedure documents drafted in any foreign language can be accepted as evidence. The court can, in the interests of justice, to order the translation of any document or part of a document in the official languages of the Republic or in any one of those. The CPR specifically provide that any document served in Cyprus shall, if served on a Greek-speaking person, be in Greek, and if served on a Turkish-speaking person, be in Turkish.

iJustice³⁹ is Cyprus' online case management system used by registered users to submit, process and complete all judicial cases.

Service Out of the Jurisdiction

Service out of the jurisdiction of a writ of summons or notice of a writ of summons in third-party countries may be allowed by the Court or a Judge whenever the whole subject matter of the action is immovable property of any kind situated in Cyprus; or any act, deed, will, contract, obligation, or liability affecting immovable property of any kind situated in Cyprus, is sought to be construed, rectified, set aside, or enforced in the action; or any relief is sought against any person domiciled or ordinarily resident in Cyprus; or the action is for the administration of the movable property of any deceased person who at the time of his death was domiciled in Cyprus, or for the execution (as to property situated in Cyprus) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the law of Cyprus; or the action is one brought to enforce, rescind, dissolve, annul, or otherwise affect a contract or to recover damages or other relief for or in respect of the breach of a contract made in Cyprus, or made by or through an agent trading or residing in Cyprus on behalf of a principal trading or residing out of Cyprus, or is one brought in respect of a breach committed in Cyprus of a contract wherever made, even though such breach was preceded or accompanied by a breach out of

³⁹ <https://www.gov.cy/en/digital-services/justice-safety-and-defence/case-management/ijustice>



Cyprus which rendered impossible the performance of the part of the contract which ought to have been performed in Cyprus; or the action is founded on a civil wrong committed in Cyprus; or any injunction is sought as to anything to be done in Cyprus, or any nuisance in Cyprus is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or any person out of Cyprus is a necessary or proper party to an action properly brought against some other person duly served in Cyprus.⁴⁰

Every application for leave to serve a writ of summons or notice thereof on a defendant out of Cyprus shall be supported by affidavit or other evidence satisfying the Court or Judge that the claimant has prima facie a good cause of action and showing in what place or country such defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds upon which the application is made; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court or Judge that the case is a proper one for service out of Cyprus under this Order.⁴¹ Any order giving leave to effect such service or give such notice shall limit a time after such service or notice within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the writ is to be served or the notice given. Such order shall also contain a direction that, if the defendant does not enter an appearance within the appointed time, notice of any application in the action may be given by posting a copy on the Court notice board.⁴²

Where leave is given by the Court or a Judge for service of a writ of summons or notice of such writ in any foreign country with which a convention relating to such service has been or shall be extended to Cyprus the following procedure shall, subject to any special terms in the convention, be adopted: the party bespeaking such service shall file with the Registrar a request in Form 7, which request shall state whether the service is desired to be effected (i) directly through the British Consul, or (ii) through the foreign judicial authority, and shall be accompanied by the document to be served; two copies thereof - in the case of France three copies; a translation thereof in the official language of the country in which service is to be effected verified. upon oath by or on behalf of the person making the request; and two copies of such translation.⁴³

In terms of the legal consequences of the proper service of documents, as long as the claim is pending, none of the parties may bring the dispute before another court or tribunal. If the defendant fails to appear in the proceedings, there is a threat of default judgment as explained above. If the claim is only for a debt or liquidated demand, and the defendant does not, within the time allowed for that purpose, deliver a Defence, the claimant may, at the expiration of such time, apply for judgment for the amount claimed,

⁴⁰ Rule 6(1) CPR.

⁴¹ Rule 6(4) CPR.

⁴² Rule 6(5) CPR.

⁴³ Rule 6(7)(1) CPR.



with costs.⁴⁴ When in any such action there are several defendants, if one of them make default as mentioned above, the claimant may apply for judgment against the defendant so making default, and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants.⁴⁵

Final Overview of Legal Implications

Effecting valid service of the writ of summons is extremely important because, as mentioned above, is what triggers all civil litigation deadlines. If valid service is not effected, then the defendant acquires the right to file an application to set service aside, including setting aside any court judgment that may have been issued after invalid service. In this instance, the defendant is rightfully entitled (*ex debito justitiae*) for the judgment to be set aside and the Court, after being satisfied that valid service did not in fact take place, has to set it aside.⁴⁶

If the claimant does not appear in the proceedings, the defendant may apply by summons to the Court to dismiss the action with costs, for want of prosecution. If the claimant claims invalid service, then they acquire the right to file an application to set service aside, including setting aside any court judgment that may have been issued after invalid service.

Service is ineffective if mandatory service provisions have been violated. Ineffective service can be overcome by reperformance. Such matters lie at the discretion of the court within the parameters of the CPR taking into account the circumstances of each case.

In relation to Article 22 of the Regulation, there is no determination by Cyprus.⁴⁷

CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION⁴⁸

The competent authority in Cyprus for the transmission of judicial or extrajudicial documents to be served in another Member State ('transmitting agency') is the Ministry of Justice and Public Order.⁴⁹

The competent authority in Cyprus for the receipt of judicial or extrajudicial documents from another Member State ('receiving agency') is the Ministry of Justice and Public Order, which has territorial competence for the whole of Cyprus.⁵⁰

The central body for Cyprus is the Ministry of Justice and Public Order, which has territorial competence for the whole country.⁵¹

⁴⁴ Rule 26(2) CPR.

⁴⁵ Rule 26(3) CPR.

⁴⁶ Hadjidemetri-Kara, D., *Introduction to Cyprus Civil Procedure* (Hippasus 2019), p. 65-66.

⁴⁷ https://e-justice.europa.eu/38580/EN/serving_documents_recast?CYPRUS&member=1

⁴⁸ https://e-justice.europa.eu/38580/EN/serving_documents_recast?CYPRUS&member=1

⁴⁹ Article 3(1) Regulation 2020/1784.

⁵⁰ Article 3(2) Regulation 2020/1784.

⁵¹ Article 4 Regulation 2020/1784.



The means of receipt of documents is post, fax and email. In the event of a technical problem or disruption of the system provided for by Article 5 of the Regulation, or in exceptional circumstances, documents may be transmitted by email.

The decision-making process concerning methods of service to be used by the authorities in Cyprus has not been publicly disclosed but this is a matter handled by the Attorney General's Office.

The costs of service are EUR21.00 for each document service request and payment of the fee should be made by bank transfer to a designated bank account of the Ministry of Justice and Public Order.

All applications for service of documents must be made in the publicly described manner. If applications are not accompanied by the corresponding bank receipt proving payment of the statutory fees will not be processed although reasonable efforts will be made by the Ministry to complete or supplement incomplete or insufficient requests before not acting on them.

The languages in which the standardised forms can be completed are Greek and English.

For address enquiries, Cyprus provides the assistance described in Article 7(1)(a) of the Regulation, i.e. it provides for designated authorities to which transmitting agencies may address requests on the determination of the address of the person to be served. The transmitting agency referred to above is the Ministry of Justice and Public Order, as central body, which will contact the designated authorities itself in the event of address enquiries. The authorities do not submit requests for information to databases on their own initiative, in accordance with Article 7(2)(c) of the Regulation.

Cyprus is opposed to service of judicial documents, as referred to in Article 17(1) of the Regulation, within its territory, unless the documents are to be served on nationals of the Member State in which the documents originate.

Direct service is permitted under Cyprus law and is effected by private bailiffs.

Cyprus is a Party to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Law 40/82) and does not intend to conclude agreements or arrangements under Article 29(2) of the Regulation. It is worth noting though that Cyprus has already signed several bilateral agreements relating to legal and judicial cooperation with many countries such as the Czech Republic (Law No. 68/82); Hungary (Law No. 7/83); Bulgaria (Law No. 18/84; Greece (Law No. 55/84); Syria (Law No. 160/86); the Russian Federation (Law No.172/86); Ukraine (Law No. 8(III)/05); the states of former Yugoslavia (Serbia and Slovenia) (Law No. 179/86); Egypt (Law No. 32(III)/96); China (Law No. 19(III)/95); Poland (Law No. 10(III)/97); and Germany (Law No. 5/84).

Cyprus does not intend to use the decentralised IT system earlier than required.



RIGHT OF REFUSAL

There is no tangible right of refusal in Cyprus unless it a case of mistaken identity or lack of authority to be served.

ELECTRONIC METHODS OF SERVICE

Cyprus does not allow for documents to be served electronically except in cases of fax service or court-approved substitute delivery of the writ of summons as explained above whereby the claimant may seek and obtain the court's permission to serve the writ of summons to the defendant electronically for example via email or social media or any other electronic platform.

PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE

National issues arising out of the service of documents in Cyprus are a result of the size of the country and population as well as litigation culture. Cyprus is a small country of less than 1 million whereby service could easily evaded in an effort to delay and/or derail the civil procedure process disregarding any costs that may be involved. The employment of such tactics is not an uncommon phenomenon which will hopefully be solved with the entering into force of the new CPR on 1 September 2023 introducing pre-action conduct via related protocols and stronger court management powers.⁵²

The provisions on service in Cyprus be improved in order to facilitate cross-border service and prevent legal uncertainty through increased transparency and the ready dissemination of relevant information online in a centralised website in English. Conducting research and/or obtaining information on Cyprus law is extremely cumbersome for the non-expert who does not speak Greek.

In *Stavros Demosthenous and Myria Antoniou v Unicars Ltd and Automobili Lamborghini S.P.A* (No.5488/2009),⁵³ the car manufacturer, *Automobili Lamborghini S.P.A.* based in Italy, applied for the setting aside of the writ of summons and/or notice of writ of summons and/or service of the writ of summons out of jurisdiction on the basis that no court order was issued allowing the sealing of the writ of summons arguably a strictly procedural and/or technical ground. See also *Alpha Bank Cyprus Ltd v Mark Woodward, Gerard-Lee Woodward and Between Friends Ltd* (No.1619/2014);⁵⁴ *Larticon Co. v. Detergenta Developments Ltd.* (2004) 1 A.A.Δ. 1121 and *Niki Christoforou Cosmetics v. Agathocli (Laki) Stylianou and others* (2005) 1 A.A.Δ. 273.

⁵² See Kyriakides, N., 'Civil Procedure Reform in Cyprus: looking to England and beyond' (2016) 16 (2) *Oxford University Commonwealth Law Journal* 262-291; Mouttotos, N., 'Reform of civil procedure in Cyprus: Delivering justice in a more efficient and timely way' (2020) 49 (2) *Common Law World Review* 99-130.

⁵³ <http://www.cylaw.org/cgi-bin/open.pl?file=apofasei-sed/pol/2012/2120120486.htm&qstring=%E5%F0%E9%E4%EF%F3%2A%20and%20%E5%EA%F4%EF%F3%2A%20and%20%E4%E9%EA%E1%E9%EF%F3%2A>

⁵⁴ <http://www.cylaw.org/cgi-bin/open.pl?file=apofasei-sed/pol/2017/4120170198.htm&qstring=%E5%F0%E9%E4%EF%F3%2A%20and%20%E5%EA%F4%EF%F3%2A%20and%20%E4%E9%EA%E1%E9%EF%F3%2A>