NATIONAL REPORT FOR FRANCE ON CROSS-BORDER SERVICE OF DOCUMENTS

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DIGI-GUARD

Questionnaire for National Reports on the Cross-border Service of Documents

NATIONAL SERVICE OF DOCUMENTS

NATIONAL REPORT: FRANCE

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.

In France: Provisions about service of documents are spread over the articles of the Code of Civil Procedure, in particular from Art. 651 to 694.

Article 651 provides that "*the interested parties shall be informed of the documents by the notification made to them. The notification made by a bailiff's act is a service. The notification can always be made by way of service even if the law would have provided for it in another form".*

Traditionally, there are three methods of notification:

1° service by a judicial officer document, called **"signification**", which is regulated in Section I Service of documents (Articles 653 to 664-1 Code of civil procedure)

2° notification by registered letter with acknowledgement of receipt (or by hand delivery against a receipt), known as **notification in the "ordinary form**" provided for in Section II on the notification of documents in the ordinary form (Articles 665 to 670-3)

3° notifications **between lawyers** (Articles 671 to 673)

Then, special rules for the **notification of judgments** (Articles 675 to 682)

Finally, Articles 748-1 to 748-9 of the Code of Civil Procedure are devoted **to communication by electronic means**. These texts allow, since 1 January 2009, "*the sending, delivery and notification of procedural documents, documents, notices, warnings or summonses, reports, minutes, as well as copies and enforceable copies of court decisions may be carried out by electronic means under the conditions and in accordance with the procedures laid down by this title*" (C. pr. civ., art. 748-1).

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

In France, the term service refers to two different types of notification.

The Code uses the generic word "notification" to refer to all the times when a document is brought to the attention of the interested parties, according to the definition used by art. 651, para. 1. i.e. by means of a recommended letter with receipt sent by the clerk of the court's office.

The word 'signification' refers to a particular kind of notification, that carried out by a judicial officer (huissier de justice) according to certain rules (art. 651, para. 2).

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?

In France, civil justice settles disputes between private individuals. It judges:

- family disputes arising from marriage, divorce, death or difficulties relating to the education of children
- disputes relating to property, unpaid debts and badly executed contracts
- disputes arising in the context of employment or commercial relations.

A civil case is always judged according to the rules of the Civil Code and the Code of Civil Procedure.

Commercial law is an area of private law which aims to regulate activities relating to trade. It governs both traders and all commercial transactions.

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

In France for the need to identify certain branches of private law.

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.

In France extrajudicial document means a document issued by a judicial officer when it is not issued in the context of proceedings currently pending before a court. This is the case, for example, of the service by which the owner of the property notifies one of his tenants by a judicial officer that he is giving him notice to vacate. This is also the case with the service of the assignment of a claim or the assignment of shares in a limited liability company. The document by which a court clerk receives a renunciation of an estate is also an extrajudicial document.

Judicial documents are those that are issued in the course of proceedings or a trial. They must be served.

The French Code of Civil Procedure refers in several articles in the matters of service of documents to both acts, for example in article 683 (international service of documents), article 687-2 (service of documents to a foreign country).

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?

In France service of documents is the process by which something is brought to someone's knowledge.

Information is the motivation for service: a common objective that can be seen from the first paragraph of Article 651 CPC. The signed receipt and the report of service will give rise to the presumption that the addressee is informed of its content[1].

The rules on the notification of documents can be linked to the principle of adversarial proceedings and respect for the equality of arms in civil proceedings.

7. Who is responsible for the service of documents?

In France:
Service of document in normal way is carried out by the Registry of the Court by certified letter.
Service of document called “signification” is the notification carried out by the judicial officer (“huissier de justice”)
Between lawyers, service is made directly (Article 671 CPC)

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

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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?

[1] S. Jobert, La connaissance des actes du procès civil par les parties, thèse dactyl., Paris déc. 2016, (dir. Ph. Théry), LGDJ ; N. Cayrol, Procédure civile, Dalloz, 4 ed., 2022, n°714 ss.; C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°995 ss. ; S. Guinchard, F. Ferrand, C. Chainais, L. Mayer, Procédure civile, Dalloz, 7. ed., n°626.

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

In France :
The conditions for valid service are listed in the Code of Civil Procedure.

For general service of documents "notification"

Article 665 CPC states that *The notification must contain all indications relating to the surname and forenames or the name or business name of the person from whom it emanates and the domicile or registered office of that person. It must also designate in the same way the person to whom it is addressed.*

Article 665-1 CPC states " *Where it is effected at the registry's request, notification to the defendant of a document instituting proceedings shall include, in a very conspicuous manner*
1° Its date ;
2° An indication of the court before which the claim is brought;
3° An indication that, if the defendant fails to appear, he is liable to have judgment given against him solely on the basis of the information provided by his opponent;
4° Where applicable, the date of the hearing to which the defendant is summoned and the conditions under which he may be assisted or represented".

Article 666 CPC states *The other information which must be included in the notification shall be determined, according to the nature of the document notified, by the rules specific to each matter.*

Article 667 CPC states *Service shall be made in a sealed envelope or envelope, either by post or by delivery of the document to the addressee against a certificate of attendance or receipt. Service in the ordinary form may always be made by delivery against a receipt or a certificate of attendance even if the law only provides for service by post.*

Concerning service of documents called "signification"

Article 653 CPC *Service shall be effected on paper or by electronic means.*

Article 654 CPC *Service shall be effected personally. Service on a legal person shall be effected personally where the document is delivered to its legal representative, to an authorised representative of the latter or to any other person authorised for that purpose.*

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

According to article 652 CPC states *Where a party has instructed a person to represent him in court, the documents intended for him shall be served on his representative, subject to the special rules on the service of judgments.*

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

The document must contain the information required by the articles 665 and 665-1 Code of civil procedure mentioned above in question 7.4.

9.1. Please provide the definition of the term "address for service" under your national legal system.

Reference should be made to Title VI: Le lieu des notifications. (Articles 689 à 691) of Civil procedural Code.

a) natural persons: Service must in principle be effected personally, Article 689, par.1 CPC requires that it be effected at the place where "***the addressee of the document resides***", then par. 2 of the text makes it possible to broaden the scope of possible investigations and points of contact with the addressee of the document. Hence the possibility of service "*wherever it is delivered, including the place of work*"; Third rule, where the law permits or requires, service is to be effected at an elected domicile (par. 3). But an express text is required and this is not the case for documents relating to the procedure for seizure of property and served on the seized debtor. A new Article 689-1, created by Decree No 2017-892 of 6 May 2017, allows any party living abroad to declare to the registry of the court seised, as soon as the proceedings are instituted, that he has elected domicile in France.
b) Company: Article 690 CPC The notification intended for a legal person governed by private law or a public establishment of an industrial or commercial nature shall be made at the **place of its establishment.** In the absence of such a place, it shall be made in the person of one of its members empowered to receive it.
c) Article 691 CPC Notifications intended for the **public prosecutor** and those to be made to the public prosecutor's office shall be made, as the case may be, to the public prosecutor's office of the court before which the claim is brought, to that of the court which has given judgment or to that of the last known address. If there is no public prosecutor's office at the court, notification shall be made to the public prosecutor's office of the judicial court in whose jurisdiction the court has its seat[2].

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

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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

By the ordinary law of service, civil procedure means all cases in which none of the following three factors is involved:

- service is not affected between lawyers,
- it does not concern a judgment
- it is not affected by a foreign factor, i.e. the addressee is not domiciled abroad or, being domiciled in France, the document does not come from abroad;

indeed, when one of these three factors exist, the rules of service of the ordinary law are either disregarded or adapted.

Service is made either by post or by delivery of the document to the addressee against a receipt or stamp (Article 667). In the event of the use of the postal channel, it is naturally the registered letter with receipt that will be favoured by the interested parties. The Code only states that, in both cases, the notification is made in a sealed envelope or cover (Art. 667).

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

[2] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°999 ss.

No, if the addressee of the document is actually domiciled abroad, Article 683 states that the transmission of judicial and extrajudicial documents abroad is made by means of international service under the conditions laid down in Articles 684 to 688.

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

Service between lawyers (article 671-673), of decisions (articles 675-682), to legal persons (article 692)

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? (e.g. of equal rank, subordinate)

The rules of ordinary law are set aside for notifications between lawyers (C. pr. civ., art. 671), on the grounds that they take place within the court.

The Code provides for two types of notification, both of which are very simplified:

- Firstly, service, but which is not subject to the formalities of Articles 653 to 664; it is established by the affixing of the bailiff's stamp and signature on the document and its copy, with an indication of the date and the name of the lawyer to whom it is addressed (Art. 672); it is therefore not necessary to hand over the document in a sealed envelope, which is perfectly justifiable in relations between legal auxiliaries bound by professional confidentiality.

- Secondly, there is an even simpler system of direct delivery of the document in duplicate to the recipient lawyer, who immediately returns one of the copies to his colleague after dating and signing it (art. 423). Documents from lawyer to lawyer may only be regularly served in the manner provided for by Articles 671 to 673[3].

10.4. What considerations must the deciding court consider when choosing the method of service?

The respective domain of the two procedures is expressed by two rules:

-**The first rule** is that whenever the law expressly allows it, the notification can take place by the ordinary way, without resorting to the services of a bailiff. If the texts are silent, service remains the rule and notification by ordinary means is impossible.

-**The second rule** is indicated by article 651, paragraph 3: when the law allows recourse to the ordinary way, the notification can always be made by "signification". Conversely, if a text requires service called "signification" recourse to the ordinary way is prohibited.

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?

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

Section V: Special rules for international notifications (Articles 683 to 688-8) in Book 1 of the Code of Civil Procedure dictates the rules for international notifications.

As general rule, **Article 683** provides that Service of judicial and extrajudicial documents abroad or from abroad is governed by the rules laid down in this Section, subject to the application of European regulations and international treaties.

[3] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°1037 ss. ; Guinchard, F. Ferrand, C. Chainais, L. Mayer, Procédure civile, Dalloz, 7. ed., n°679.

This is followed by a sub-section on service of documents abroad and a sub-section on the rules for receiving service from abroad.

In particular, service must be made abroad when a person has his habitual residence abroad. In this case, the document is delivered to the public prosecutor, except in cases where a European regulation or an international treaty authorises the bailiff or the registry to transmit the document directly to the addressee or to a competent authority of the State of destination (**Article 684, paragraph** 1)

If the document intended to be served on a foreign State concerns a foreign diplomatic agent in France or any other beneficiary of immunity from jurisdiction, the document will be given to the public prosecutor's office and transmitted through the intermediary of the Minister of Justice for the purposes of service by diplomatic channels, unless, by virtue of a European regulation or an international treaty, transmission can be made by another means (**Article 684, paragraph 2**)

The public prosecutor's office to which service is to be made shall be the public prosecutor's office of the court before which the claim is brought, the public prosecutor's office of the court that has given judgment or the public prosecutor's office of the court within whose jurisdiction the claimant resides, as appropriate. If there is no public prosecutor's office near the court, the document is delivered to the public prosecutor's office of the court within whose jurisdiction the court has its seat (Article 684, par. 3).

The requirements for the authority responsible for service (bailiff or registry) are contained in Articles **685 to 688:**

- The authority gives two copies of the document to the public prosecutor who endorses the original (**Article 685, par.**1) and sends the two copies of the document, without delay, to the Minister of Justice for transmission or to the authority designated under the applicable Community regulation or international treaty (**par. 2**). He shall attach an order from the judge prescribing the transmission of the document, where the intervention of the judge is required by the recipient country (**par. 3**).
- Unless it was possible to effect service by post, the notifying authority shall send to the addressee of the document, by registered letter with advice of delivery, a certified copy of the document, indicating very clearly that it constitutes a simple copy (**Article 686**).

In any case, the person responsible for service (the bailiff) or notification (the court clerk) must indicate in the document the methods of dispatch, transmission or delivery (**Article 684-1**), on the same day or, at the latest, on the first working day thereafter, send to the addressee, by registered letter with acknowledgement of receipt, a certified copy of the document to be served, indicating very clearly that it is a simple addressee copy (**Article 686**)

The public prosecutor shall inform the requesting authority of the steps taken and shall, where appropriate, forward to it any minutes or receipts recording the delivery of the copy of the document, to be attached to the first original. If service has been requested by a bailiff, the bailiff shall keep these documents at the disposal of the court (**Article 687**)[4].

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

- **Simplification of notifications sent by the registry to the parties.** Recent decrees have simplified the methods of notification that the court registry must use when it sends the parties a notice or summons to a hearing.

[4] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°1039 ss.

a) Simplification of notification when the notice, summons or receipt must in principle be sent by the court registry *'by any means'*, by simple letter or by registered letter without acknowledgement of receipt (C. pr. civ., art. 748-8). In such cases, **article 748-8**, in its version amended by decree no. 2019-402 of 3 May 2019 authorises transmission by means of the 'Portal of the litigant', provided that the recipient party has given prior consent.

b) Simplification of notification where the notice, summons or receipt must in principle be sent by the registry "by any means", by simple letter or by registered letter without acknowledgement of receipt to a legal person (C. pr. civ, art. 748-9). It is then provided that the court registry may send the addressee an electronic mail under conditions that ensure the confidentiality of the information transmitted, if the person has previously consented to this (see ss 996).

***c)* Simplification of the notification when the summons must in principle be sent by the court registry by registered letter with acknowledgement of receipt (C. pr. civ., art. 692-2).** Decree no. 2017-892 of 6 May 2017 introduced an article 692-2 according to which: "*When, in application of the present code, the court registry convenes the parties to the hearing by registered letter with acknowledgement of receipt, the parties or some of them may, upon mention by the judge in the file, be notified of this hearing date by simple letter. If a party notified by simple letter does not appear at the hearing or is not represented, he shall be summoned by registered letter with acknowledgement of receipt to a later hearing.*[5]

In this case, the method of notification is free, which in practice makes it possible to be satisfied with an e-mail. The idea is to keep things simple and inexpensive.

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

Service in the ordinary form is not subject to any time conditions; there are no prohibited times or days, except for the opening hours of the postal service. If service is made by delivery, the date is that of the endorsement or receipt (**C. pr. civ., art. 669, para. 2**); it is therefore common to both the sender and the recipient. If the notification is made by post, the solutions vary according to the person concerned (**C. pr. civ, art. 668 and 669**): with regard to the person who sent the document, the date of service is, subject to the cases referred to in article 647-1 (French Polynesia, Wallis and Futuna Islands, New Caledonia, French Southern and Antarctic Territories), the date of dispatch (**art. 668**), it being specified that this date is the one which appears on the stamp of the issuing office (C. pr. Civ 669). With regard to the addressee, the date of notification is the date of receipt of the letter (**art. 668);** when the letter is registered with a request for acknowledgement of receipt, the date of receipt is the date stamped by the postal administration when the letter is handed to the addressee (C. pr. civ., **art. 669, para. 3).**

A reference to a time frame is made in reference to the service called “signification” : **Article 664** *No service may be made before six o'clock and after twenty-one o'clock, nor on Sundays, public holidays or non-working days, except by virtue of the permission of the judge in case of necessity.*

The date of service of a bailiff's document is that of the day on which it is made, depending on the case

3), the date of service on the person present at the home or residence if he accepts it, and not that of the dispatch of the simple letter provided for in Article 658.

[5] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°1031 ss.

c) At the bailiff's office (Article 656): date of the notice of passage

d) By a search and failure to act report in the event that the bailiff has found neither domicile, nor residence, nor place of work (art. 659): date of this report.

e) By way of derogation from these rules (Article 653, future 664-1, states "subject to Article 647-1"), in the event of notification "in French Polynesia, the Wallis and Futuna Islands, New Caledonia or the French Southern and Antarctic Territories as well as abroad, the date is, with regard to the person who proceeds to it, that of the dispatch of the document by the bailiff or by the registry or, failing that, that of the reception by the competent public prosecutor's office (C. pr. civ, art. 647-1).

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

A distinction must be made between service in the ordinary form and service.

Service in the ordinary form is made in a sealed envelope or envelope, either by post or by delivery of the document to the addressee against a receipt (**Article 667**) Consequently, notification is deemed to be made in person when the notice of receipt is signed by the addressee. Service is deemed to have been effected at the addressee's domicile or residence when the notice of receipt is signed by a person with authority to do so (**Article 670**).

As regards service called" signification" made by the bailiff, "*must be made personally*", i.e. it is when the bailiff hands over the copy of the document to the addressee that service is effected (**Article 654**).If personal service involves a legal person, it is considered to have been effected when the copy of the document is handed over to the legal representative of the legal person or to a person authorised to do so.

When a party is represented in court, the documents intended for him are served on his representative, where he is established.

In the case of service, if the bailiff is unable to meet the addressee because "**personal service is impossible**", the document must be delivered either at the addressee's home or, in the absence of a known address, at the person's residence (**Article 655, par.1**)

But this method of service is valid only if, and only if, all the steps to serve the document personally have been taken and have remained fruitless*: "the bailiff must relate in the document the steps he has taken to effect service on the addressee and the circumstances characterising the impossibility of such service*" (**Article 655, par. 2**).

If the conditions are met, the bailiff serves the document by giving a copy to a person present at the domicile provided that the person present accepts it and declares his name, first names and capacity.

In all these cases, the bailiff must leave a notice at the addressee's home or residence (**Article 655, par.3) to par.5**).

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?

The articles of reference for answering this question are those concerning notification which is made by delivery of a registered letter with acknowledgement of receipt,

Article 670-1 CPC *In the event of the return to the court registry of a letter of notification for which the acknowledgement of receipt has not been signed under the conditions laid down in Article 670, the registrar shall invite the party to proceed by way of service.*

If the letter is returned, the rules on service called “signification” will have to be applied. Traditionally, the Code recognises the existence of graduated methods of service.

The Principle is service to the person (**art. 654** lays down an important rule: "*service must be made on the person*". Failing that: service at the bailiff's residence or office (**art. 655 to 658**).

If personal service proves impossible, the document will be delivered at the person's domicile or, if the person's domicile in France is unknown, at the person's residence (**Article 655, par. 1).** It is then necessary, as in the past, to provide for two series of hypotheses in this eventuality, depending on whether the person present at the domicile or residence of the addressee agrees to receive the document or not. Moreover, certain additional formalities must be observed in these two cases.

- ➔ **First hypothesis** (**Art. 655, paras. 3 to 5**): delivery to any person present at the domicile or residence of the addressee. The simplest solution consists in the bailiff giving the copy to any person present at the domicile or residence (**art. 655, para. 3**), provided that it is not the person who requested the service and that it is indeed the domicile or residence of the addressee of the document.

But the bailiff will only leave a copy of the writ if the person present agrees to receive it and makes known his full name and capacity (**Art. 655, para. 4**). The bailiff will then leave a dated notice at the home or residence, notifying him of the delivery of the copy to a third party, mentioning the nature of the document, the name of the applicant and informing the addressee of the details of the person to whom the copy has been delivered (**Art. 655, para. 5**). This notice is not subject to any formality, but will be mentioned on the original of the document.

- ➔ **Failing that, the second hypothesis (Article 656**): delivery to the bailiff's office. If none of the persons referred to in Article 655 is able or willing to receive the copy of the document and if it is clear from the checks made by the bailiff, which will be mentioned in the document of service, that the addressee does indeed live at the address indicated, the new **Article 656** provides that the bailiff must leave a notice at the addressee's home or residence, as the case may be, which complies with the requirements of Article 655, para. 5 which must also mention that the copy of the document must be collected, as soon as possible, from the bailiff's office, against a receipt or a receipt, by the person concerned or by any person specially authorised to do so (**art. 656,** para. 1). The bailiff must keep the document in his office for three months and after this period he is "discharged" (para. 2). Finally, in order to facilitate service, the addressee of the document may request that the bailiff transmit the copy to another office where it can be collected under the same conditions (para. 3). Failing that, the addressee has no known domicile, residence or place of work (**Articles 659 and 662).** the judicial officer draws up a report in which he relates in detail the steps he has taken to find the addressee of the document. On the same day, or at the latest on the first working day thereafter, the bailiff sends to the addressee, at the last known address, by registered letter with acknowledgement of receipt, a copy of the report to which a copy of the document served is attached; this last formality has made it possible to remove the information given to the addressee on the conservation of the copy of the document for three months, at the bailiff's office. The sending of the registered letter is required on pain of nullity. On the same day as the letter is sent, the bailiff notifies the addressee by simple letter of the completion of this formality.

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).

All the steps mentioned in the previous answer must be accomplished

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

The decree of 11 December 2019 reforming the Code of Civil Procedure introduced the novelty of electronic summonses by providing that if 'the initial application was still made by summons or by petition delivered or addressed to the court registry' (Articles 54 to 58 of the CPC), the new text specified that it could henceforth be made 'by electronic means'.

The electronic medium thus became a medium competing with the paper medium. And in this case, the text added that the application had to include "also, on pain of nullity, the electronic addresses and mobile telephone number of the applicant when he consents to the dematerialisation. It may include the defendant's e-mail address and telephone number".

Article 1 of Decree No. 2020-1452 of 27 November 2020 containing various provisions relating in particular to civil procedure and the procedure for compensating victims of acts of terrorism and other offences deleted the second paragraph of Article 54 concerning electronic summons.

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

The entire procedure listed in the answer to question 14 must be followed.

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 consider when assessing the admissibility of such service?

No

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

No

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?

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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?

Article 659 states that "*where the addressee has no known domicile, residence or place of work in France, the bailiff will draw up a report in which he will give a precise account of the steps he has taken to find the addressee of the document and will send the addressee, the last known address, by registered letter with acknowledgement of receipt"* and "*a copy of the report to which a copy of the document served is attached. On the same day that the document is sent, he notifies the addressee by simple letter of the completion of this formality*"

It is surprising that the legislator thought it appropriate to send two letters to someone whose address is unknown. This was not deemed contrary to the guarantee of a fair trial by the Court of Cassation[6], whereas the European Court of Human Rights considered that, in a case where it is true that the applicant had had his property seized, the inadmissibility of the plea of nullity on the grounds of lateness, when

[6] Civ. 2e, 19 déc. 2002, D. 2003. 177 et 1398, obs. Julien ; Dr. et proc. 2003/ 3. 165, obs. Douchy.

the service of the writ of seizure was null and void due to the fact that the bailiff had failed to take due care, in a case where the applicant's place of residence was not known, violated Article 6(1)[7].

Perhaps could provide for an additional guarantee such as posting in the municipal house or in a newspaper, but in the past, the possibility of service at municipal house was provided for, but this was eliminated because the practice had given rise to difficulties[8].

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

It is possible to raise the nullity of the articles mentioned in Article 693, compliance with which is required on pain of nullity

Article 693 states "*The provisions of Articles 654 to 659, 663 to 665-1, 672, 675, 678, 680, 683 to 684-1, 686, the first paragraph of Article 688 and Articles 689 to 692 shall be observed on pain of nullity.*

The provisions of Articles 8, 10, 11 and paragraphs 1, 2, 3, 4, 6 and 7 of Article 12 of Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 must also be observed, on pain of nullity, in the case of dispatch of a document to another Member State of the European Union"

Article 694 *"The nullity of notifications shall be governed by the provisions governing the nullity of procedural documents"*

Examples of the possibility of obtaining annulment of the notification

Following **article 680** *The act of notification of a judgment to a party must indicate in a very apparent manner the time limit for opposition, appeal or appeal in cassation in the event that one of these means of appeal is open, as well as the methods by which the appeal may be exercised; it shall also indicate that the author of an abusive or dilatory appeal may be condemned to a civil fine and to the payment of an indemnity to the other party".*

On 13 November 2014, the Court of Cassation ruled that *"the absence of mention or the erroneous mention in the act of notification of a judgment of the appeal procedure available, its time limit or its terms and conditions does not cause the time period for appeal to run"* (Court of Cassation, Second Civil Chamber, 13 November 2014, Appeal No.: 13-24547)[9].

However, the absence of mention or erroneous mention in the act vitiates it. All other effects of the act are maintained. The sanction is thus proportionate to the irregularity in question.

The regime of nullity for formal defects is applied, also, for example, when the judgment has not been notified in advance to the representative (C. pr. civ., art. 678; Civ. 2e, 22 Sept. 2016, no 15-22386), or when the bailiff is not territorially competent (Civ. 2e, 5 June 2014, no 13-13765, RTD civ. 2014. 943, obs. Théry).

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?

There are no fictitious methods of notification or meaning

[7] CEDH 6 déc. 2001, Tsironis c/ Grèce, Dr. et proc. 2002/ 2. 92, obs. Fricero.
[8] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°1015 ss.
[9] Also, Cass. Civ. 2e, 24 sept. 2015, no 14-23768 ; Cass. Civ. 2e, 3 mars 2022, no 20-17.419, D. actu. 19 mars 2022, note Laffly ; JCP G 2022. 315, act. Tirvaudey.

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

France: Yes, the internal notification rules or those of the title for international notifications must be followed according with the proper situation.

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

France: The **article 656 CPC** provides for the case where the addressee does not wish to receive the document providing that "*If no one* is able or *willing to receive the copy of the document and if it is clear from the checks made by the bailiff, which shall be mentioned in the document of service, that the addressee does indeed live at the address indicated, service shall be made at home. In this case, the bailiff shall leave a notice at the domicile or residence of the addressee in accordance with the provisions of the last paragraph of Article 655. This notice shall also mention that the copy of the document must be collected as soon as possible from the office of the bailiff, against a receipt or a receipt, by the interested party or by any person specially authorised.*

The copy of the document shall be kept at the office for three months. After this period, the judicial officer shall be discharged.

The bailiff may, at the request of the addressee, transmit the copy of the document to another office where the addressee may collect it under the same conditions".

16.8 What language is to be used for domestic service?

France: In principle, according to **Article 688-6 CPC**, "*the document shall be served in the language of the State of origin*".

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.

the use of claim forms is not envisaged with the exception of European orders for payments or other European forms such as in small claim procedures and in general provided by international tools.

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

The Commercial Code in articles (Articles A444-10 to A444-52) sets the tariffs of bailiffs

LEGAL IMPLICATIONS OF SERVICE

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

It is possible to raise the nullity of the articles mentioned in Article 693, compliance with which is required on pain of nullity. In conséquence, these rules constitute the minimum legal elements of an effective service (articles 654 à 659, 663 à 665-1, 672, 675, 678, 680, 683 à 684-1, 686, le premier alinéa de l'article 688 et les articles 689 à 692)

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

The time period for appeals starts from the date of service of the document and is therefore necessary so that later res judicata and enforceability occurs.

Article 680 cpc *The document notifying a party of a judgement shall indicate in a very visible manner the time limit for opposition, appeal or appeal to the Supreme Court in the event that one of these means of appeal is available, as well as the methods by which the appeal may be exercised; it shall also indicate*

that the author of an abusive or dilatory appeal may be sentenced to a civil fine and the payment of compensation to the other party.

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

Section II: Failure to appear. (Articles 467 to 479) Sub-section II: Judgment rendered by default and judgment deemed to be contradictory. (Articles 471 to 479) regulate this situation

Article 471 *A defendant who does not appear may, on the initiative of the plaintiff or on a decision taken ex officio by the judge, be invited to appear again if the summons was not delivered in person.*

The summons is, except in the case of the application of rules specific to certain jurisdictions, repeated in the same way as the first summons. The judge may, however, order that it be made by a bailiff's writ where the first summons was made by the court clerk. The new summons must mention, as appropriate, the provisions of Articles 472 and 473 or those of Article 474 (paragraph 2).

The judge may also inform the person concerned, by simple letter, of the consequences of his abstention.

Article 472 *If the defendant does not appear, the case shall nevertheless be decided on the merits.*

The court shall grant the application only to the extent that it considers it to be in order, admissible and well-founded.

Article 473 *Where the defendant does not appear, the judgment shall be rendered by default if the decision is final and if the summons was not delivered in person.*

The judgment shall be deemed to be contradictory where the decision is subject to appeal or where the summons was delivered to the defendant in person.

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

As mentioned above (see question n. 16), it is possible to invoke on the basis of Article 693 of the Code of Civil Procedure the nullity of the document of notification or service on the basis of the violation of the articles listed below[10].

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

Article 468

If, without legitimate reason, the plaintiff does not appear, the defendant may request a judgment on the merits of the case, which shall be adversarial, except that the judge may postpone the case to a later hearing.

The judge may also, even of his own motion, declare the summons null and void. The declaration of nullity may be revoked if the plaintiff informs the court registry within fifteen days of the legitimate reason that he was unable to invoke in due course. In this case, the parties are summoned to a later hearing.

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

As mentioned above (see question n. 16), it is possible to invoke on the basis of Article 693 of the Code of Civil Procedure the nullity of the document of notification or service on the basis of the violation of the articles listed below.

[10] DYMANT, Les nullités de forme et de fond en matière de signification d'acte, Bull. avoués 1985.

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

As mentioned above (see question n. 16), it is possible to invoke on the basis of Article 693 of the Code of Civil Procedure the nullity of the document of notification or service on the basis of the violation of the articles listed below.

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?

Only the violations of the forms prescribed by the articles mentioned by the article 693 code of civil procedure determine the nullity, the other violations can be regularized.

Article 473 states that *Where the defendant does not appear, the judgment shall be rendered by default if the decision is final and if the summons was not delivered in person.*

Article 467 cpc states that The *judgment is contradictory when the parties appear in person or by proxy, in accordance with the procedures of the court before which the claim is brought.*

2**5.2. Can a deficiency in service be cured in your national jurisdiction? If so, how?**

Only the violations of the forms prescribed by the articles mentioned by the article 693 code of civil procedure determine the nullity, the other violations can be regularized repeating the notification.

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?

Sub-section II: Default judgment and judgment deemed to be contradictory. (Articles 471 to 479) provides that (Article 472) *If the defendant does not appear, a decision shall nevertheless be taken on the merits. The court shall grant the application only insofar as it considers it to be regular, admissible and well-founded.*

An, following **Article 473** *Where the defendant does not appear, the judgment shall be rendered by default if the decision is final and if the summons was not delivered in person.*

The judgment shall be deemed to be contradictory where the decision is subject to appeal or where the summons was delivered to the defendant in person.

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?

The Code of Civil Procedure provides that

Article 475 *The judge may not give a ruling before the expiry of the longest time limit for appearance, on first or second summons.*

He shall rule on all the defendants in one and the same judgment, unless the circumstances require that he rule on some of them only.

Article 479 *The default judgment or the judgment deemed to be contradictory rendered against a party living abroad shall expressly state the steps taken to inform the defendant of the document initiating the proceedings.*

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

It provides for a similar solution

Article 688 provides that *the court shall be seized of the claim made by writ by the delivery to it of the document completed with the particulars provided for in Article 684-1 or, as the case may be, in Article 687-1, accompanied, where appropriate, by proof of the steps taken to serve it on the addressee.*

If it is not established that the addressee of a document was aware of it in good time, the court hearing the case may decide on the merits only if the following conditions are met

1° The document was transmitted in accordance with the methods provided for by the applicable European regulations or international treaties or, in the absence of these, in accordance with the provisions of Articles 684 to 687 ;

2° A period of at least six months has elapsed since the document was sent;

3° It has not been possible to obtain proof of delivery of the document despite the steps taken with the competent authorities of the State where the document must be delivered.

The judge may, ex officio, prescribe any additional steps, in particular to give a letter rogatory to any competent authority in order to ensure that the addressee has been informed of the document and to inform him of the consequences of his failure to act.

However, the judge may immediately order the provisional or protective measures necessary to safeguard the rights of the applicant.

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?

Article 540 *If the judgment was rendered by default or if it is deemed to be contradictory, the court may relieve the defendant of the time limit if the defendant, through no fault of his own, did not learn of the judgment in time to exercise his right of appeal, or if he found it impossible to act.*

The president of the court with jurisdiction to hear the opposition or appeal shall be asked to relieve the foreclosure. The president is seized by way of a writ of summons.

The application shall be admissible until the expiry of a period of two months following the first document served personally or, failing that, following the first enforcement measure having the effect of rendering the debtor's assets unavailable in whole or in part.

The President shall decide without appeal.

If he grants the request, the time limit for opposition or appeal shall run from the date of his decision, unless the president reduces the time limit or orders that the summons be made for the day he fixes.

Nothing is specified about the right to obtain restitutio in integrum

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

No, Article 540 of the Code of Civil Procedure, which provides for this possibility of appeal, is located in the section on Ordinary remedies. (Articles 538 to 578)

Article 540 *If the judgment was rendered by default or if it is deemed to be contradictory, the judge may relieve the defendant of the foreclosure resulting from the expiry of the time limit if the defendant, through no fault of his own, did not have knowledge of the judgment in time to exercise his right of appeal, or if he found it impossible to act.*

The president of the court with jurisdiction to hear the opposition or appeal shall be asked to relieve the foreclosure. The president is seized by way of a writ of summons.

The application shall be admissible until the expiry of a period of two months following the first document served personally or, failing that, following the first enforcement measure having the effect of rendering the debtor's assets unavailable in whole or in part.

The President shall decide without appeal.

If he grants the request, the time limit for opposition or appeal shall run from the date of his decision, unless the president reduces the time limit or orders that the summons be made for the day he fixes.

As an exception to the above, the right to review provided for in Article 19 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations is exercised by way of appeal.

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?

In France, the judicial officer must, in all these cases, leave a dated notice at the domicile or residence of the addressee, informing him of the delivery of the copy and mentioning the nature of the document, the name of the applicant as well as the indications relating to the person to whom the copy has been delivered (**Article 655**)

The originals of the bailiff's documents must mention the formalities and steps to which the application of the provisions of this section gives rise, with an indication of their dates. In the case of service by electronic means made to the person, they shall mention the date and time when the addressee of the document became aware of it (**Article 663**)

Concerning the date of service , some articles précises that

- ➔ **Service in the ordinary form** is not subject to any time conditions; there are no prohibited times or days, except for the opening hours of the postal service.
    - If service is made by delivery, the date is that of the endorsement or receipt (C. pr. civ., art. 669, para. 2); it is therefore common to both the sender and the recipient.
    - If the notification is made by post, the solutions vary according to the person concerned (C. pr. civ, art. 668 and 669): with regard to the person who sent the document, the date of service is, subject to the cases referred to in article 647-1 (French Polynesia, Wallis and Futuna Islands, New Caledonia, French Southern and Antarctic Territories), the date of dispatch (art. 668), it being specified that this date is the one which appears on the stamp of the issuing office (C. pr. civ, With regard to the addressee, the date of notification is that of receipt of the letter (Article 668);
    - when the letter is registered with a request for acknowledgement of receipt, the date of receipt is that which is stamped by the postal administration when the letter is handed to the addressee (C. pr. civ., Article 669, paragraph 3).

    - **Service called signification** Paper service cannot validly be made at any time and on any day (C. pr. civ., art. 664): -Working days: Sundays and public holidays do not allow the bailiff to effect service of a document, but the judge may authorise service on that day "in case of necessity". In addition to Sundays, public holidays are 1 January, Easter Monday, 1 May, 8 May, Whit Monday, 14 July, 15 August, All Saints' Day, 11 November and Christmas (C. trav., art. L. 3133-1). -Authorised hours: between 6 a.m. and 11 p.m. These rules apply to electronic service (see ss 661).

Article 664-1 (ex-653) of the Code of civil procedure, indicates in its paragraph 1 and for the only services in paper form, that subject to article 647-1 (see ss 661), the date of the service of a document of judicial officer is that of the day when it is made, according to the case:

-In person (C. pr. civ, at home or at residence (Art. 655, para. 3): date of service on the person present at the home or residence if he accepts it, and not that of the dispatch of the simple letter provided for in Art. 658;

-at the office of the bailiff (Art. 655, para. 4): date of service on the person present at the home or residence if he accepts it. in the bailiff's office (art. 656): date of the notice of visit;

-by report of search and failure to act in the event that the bailiff has been unable to find the domicile, residence or place of work (art. 659): date of this report.

By way of derogation from these rules, in the case of notification in French Polynesia, the Wallis and Futuna Islands, New Caledonia and the French Southern and Antarctic Territories, as well as abroad, the date is, with regard to the person who carries it out, that of the dispatch of the document by the bailiff or by the registry or, failing that, that of the receipt by the competent public prosecutor's office (C. pr. civ., art. 647-1).

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.

Article 652 *Where a party has instructed a person to represent him in court, the documents intended for him shall be served on his representative, subject to the special rules on the service of judgments.*

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

Not all formalities relating to notification are prescribed on pain of nullity. Article 693 of the Code of Civil Procedure lists the texts whose observance is prescribed on pain of nullity: these are Articles 654 to 659, 663 to 665-1, 672, 675, 678, 680, 683 to 684-1, 686, the first paragraph of Article 688 and Articles 689 to 692, which contain formalities of an essential nature[11]. A distinction must be made between nullity on formal grounds (in which case it will be necessary to prove the existence of a grievance) and nullity on substantive grounds (in which case it is not necessary to establish a grievance). Where the omitted or irregularly performed formality is prescribed on pain of nullity, the provisions on the nullity of procedural documents should be applied (Art. 694 for notifications, and Art. 649 for judicial officers' documents in general).

According to Article 115 of the Code of Civil Procedure, *the nullity is covered by the subsequent regularisation of the act if no preclusion has occurred and if the regularisation does not leave any prejudice.*

30. What is considered a timely service of documents?

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31. Who bears the risk of an untimely service of documents?
The burden of proof of the defect in the notification lies with the party who invokes it, but if proven the responsibility will be on who is responsible for making the notification

CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION

[11] DYMANT, Les < nullités > de forme et de fond en matière de signification d'acte, Bull. avoués 1985. 34).

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.

Les entités d'origine en France sont les huissiers de justice et les services (greffes, secrétariat-greffe ou secrétariats) des juridictions compétents en matière de notification d'actes (Circulaire de la DACS 11-08 D3 du 10 novembre 2008 relative aux notifications internationales des actes judiciaires et extrajudiciaires en matière civile et commerciale

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.

The required entities are the bailiffs and the registry of the jurisdiction.

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

Article 4 of Circulaire de la DACS 11-08 D3 du 10 nov. 2008 prescribes that any means of transmission is permissible provided that the content is faithful and legible.

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

The central body in France is the Ministry of Justice, Directorate of Civil Affairs and the Seal, Office of International Mutual Assistance in Civil and Commercial Matters (DACS Circular 11-08 D3 of 10 November 2008, above, Art. 5.4.2)

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

Article 5 of the Circular prescribes that the receiving agency shall serve or cause to be served the document either in accordance with the law of the Member State addressed or in the particular form requested by the transmitting agency, unless this method is incompatible with the law of that Member State

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

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

For example, in the case of a document refused for lack of translation,

Article 688-6 cpc

The document shall be served in the language of the State of origin.

However, an addressee who does not know the language in which the document is drawn up may refuse service and request that it be translated or accompanied by a translation into French, at the request and expense of the requesting party.

The authority responsible for delivery or service shall inform the addressee of this possibility. Mention shall be made of this information in the document establishing delivery or service.

Article 5.6.3. of the DACS Circular 11-08 D3 of 10 November 2008 provides for the possibility to remedy the situation resulting from a refusal to accept the document by re-serving it to the addressee, this time accompanied by a translation to the addressee:

- either in a language which he understands

- or in the official language of the Member State addressed (or, if there are several official languages in that Member State, in the official language or the language of the other Member State) official language or one of the official languages of the place where service is to be effected).

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

France has accepted that the application form (standard form) can be completed in English, German, Italian or Spanish, in addition to French (art. DACS Circular 11-08 D3 of 10 November 2008, above, Art. 5.4.3)[12].

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

Article 5.1.1. of the Circular states that the Regulation applies to the service of judicial and extrajudicial documents in the Member States in civil and commercial matters (including labour law), except where the address of the addressee is unknown: in this case, the rules of ordinary law must be applied.

Therefore, if the address is unknown, the search rules provided for in the Code of Civil Procedure must be applied.

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?

Article 5.5.2. of the Circular states that France has chosen, for the application of Regulation EC No 1393/2007, not to oppose the use on its territory of the faculty of service of documents by officers, on the contrary it does not oppose the use of the faculty of service of documents by judicial officers, civil servants or other competent persons of the requested 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?

Nothing is said about this in the Circular

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

Yes, a list of France's agreements with certain countries is available at the following address

http://www.justice.gouv.fr/europe-et-international-10045/entraide-civile-internationale-11847/telechargement-des-instruments-internationaux-et-formulaires-20570.html

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?

Nothing is said about this

[12] MAUGAI G., Répertoire de procédure civile, Actes de procédure, Avril 2022, n°321

RIGHT OF REFUSAL

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

Yes.

Article 656 refers to the case of the person who cannot or does not want to receive a copy of the document

And **Article 688-6,** in the case of service from abroad, provides that the document is served in the language of the State of origin. However, an addressee who does not know the language in which the document is drawn up may refuse service and request that it be translated or accompanied by a translation into French, at the request and expense of the requesting party.

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

In the case referred to in Article 688-6 on the basis of the language of the document served from abroad, in the case referred to in Article 656 it would seem that no specific reasoning is required.

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

There is no indication of a possibility to refuse an electronic act in the legislative rules.

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

No particular factors are specified for consideration.

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

Article 656 CPC provides

If no one is able or willing to receive the copy of the document and if it results from the verifications made by the bailiff, which shall be mentioned in the document of service, that the addressee does indeed live at the address indicated, service shall be made at home. In this case, the bailiff shall leave a notice at the domicile or residence of the addressee in accordance with the provisions of the last paragraph of Article 655. This notice shall also mention that the copy of the document must be collected as soon as possible from the office of the bailiff, against a receipt or a receipt, by the interested party or by any person specially authorised.

The copy of the document shall be kept at the office for three months. After this period, the judicial officer shall be discharged.

The bailiff may, at the request of the addressee, transmit the copy of the document to another office where the addressee may collect it under the same conditions.

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?

Nothing is said about this

ELECTRONIC METHODS OF SERVICE

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

Book I: Provisions common to all courts (Articles 1 to 749) provides for a

Title XXI on communication by electronic means (Articles 748-1 to 748-9)

Article 748-1 CPC *Sending, delivery and notification of procedural documents, documents, notices, warnings or summonses, reports, minutes and copies and enforceable copies of court decisions may be carried out by electronic means under the conditions and in accordance with the procedures laid down in this Title, without prejudice to the special provisions requiring the use of this method of communication*[13].

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

The PORTALIS project is a digital transformation project for justice in France, which aims to dematerialise civil proceedings from the moment the case is referred to the court until the decision is notified. The portal for litigants, developed within the framework of the PORTALIS project, enables litigants - natural persons - to consult the progress of their proceedings and gives them the possibility of consulting the notices, summonses and receipts issued by the registry (in accordance with Article 748-8 of the CPC).

This consultation is made possible from the secure personal space, accessible via the justice.fr homepage, after authentication via the FranceConnect authentication platform. The portal for the public also makes it possible to refer cases to the courts online for certain procedures without mandatory representation by a lawyer[14].

Two technical decrees on electronic communication were subsequently published:

The first Arrêté du 28 mai 2019 autorisant la mise en œuvre d'un traitement automatisé de données à caractère personnel dénommé « portail du justiciable » (suivi en ligne par le justiciable de l'état d'avancement de son affaire judiciaire (Order of 28 May 2019 authorising the implementation of an automated processing of personal data known as the "litigant's portal" (online monitoring by litigants of the progress of their legal case) and Arrêté du 21 octobre 2021 relatif aux caractéristiques techniques de la communication par voie électronique via le « Portail du justiciable » provides for the technical rules of the platform and in particular the identification rules[15].

Two other decrees on two electronic document communication platforms : Arrêté du 24 oct. 2019, JO 3 nov., autorisant la mise en œuvre d'un traitement automatisé de données personnelles dénommé « PLINE » et « PLEX » and Arrêté 24 oct. 2019, JO 3 nov., relatif aux caractéristiques techniques de la communication par voie électronique via la plateforme sécurisée d'échange de fichiers « PLINE » et « PLEX »[16].

Yes, all these platforms are subject to prior identification of the user, e.g. article 4 of the Decree of 24 Oct. 2019, OJ 3 Nov, article 7 of the Decree establishing the justice portal.

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?

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[13] C. Chainais, F. Ferrand, L. Mayer, S. Guinchard Procédure civile Droit commun et spécial du procès civil, MARD et arbitrage, Dalloz, 36 ed., 2022, n°995 ss. ; S. Guinchard, F. Ferrand, C. Chainais, L. Mayer, Procédure civile, Dalloz, 7. ed., n°661.

[14] On theses topics, see C. Bléry, « Portail du justiciable : complexité juridique mais faible avancée technique », D. act. 17 juillet 2019 ; B. Mallet-Bricout, « Dématérialisation des actes judiciaires : mouvement s'accélère », RTD civ. 2019. 671 ; S. Hardouin, « La transformation numérique au service de la Justice », JGP H, 2018, 1321.

[15] C. Bléry et T. Douville, « Petite brique apportée au Portail du justiciable : deux nouveaux arrêtés », D. actu. 29 oct. 2021.

[16] BLERY C.- Teboul J.P., *PLINE et PLEX ou les mystères de la nouvelle « communication par voie électronique* », Dalloz actualité, 18 novembre 2019 ; Théo Scherer, *« [Focus] De la communication par voie électronique en matière civile à la communication électronique pénale ?* », La lettre juridique, octobre 2022.

Article 7 document of 21.10.2021 relating to the technical characteristics of electronic communication of notices, summonses or receipts via the "portal for litigants".

Viewing is only possible if the litigant has first attached his case to his account. This attachment is done by means of an identification number (number specific to the litigant and unique to each case) sent to his or her e-mail address and a temporary code sent to his or her mobile phone number. The e-mail address and mobile phone number are those declared by the litigant.

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

Nothing is said specifically

47.4. How is the time of service determined?

Nothing is said specifically

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

Yes

Article 748-2 *The addressee of the mailings, deliveries and notifications mentioned in Article 748-1 must expressly consent to the use of electronic means, unless special provisions impose the use of this mode of communication.*

Consent within the meaning of the preceding paragraph shall be deemed to be the adherence by a court officer, assisting or representing a party, to an electronic communication network as defined by a decree taken in application of Article 748-6.

Article 5 Order of 21 October 2021 relating to the technical characteristics of communication by electronic means via the "litigant's portal.

The litigant who sends his request via the "Portal of the litigant" must accept the general conditions of use.

In order to consult his or her file on his or her account at www.monespace.justice.fr, the litigant must first give his or her consent to electronic communication with the court or from his or her personal space if he or she has sent his or her application via the "litigant's portal" when he or she files an application online. By doing so, the litigant consents to receive on his personal space information specific to the procedure followed and waives that these documents be sent to him by simple letter, by registered letter without acknowledgement of receipt or by any means by the court registry. These editions are received in .pdf format.

The consent is unique for each case.

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

Would appear from the legal provision arrêté du 21 octobre 2021 relatif aux caractéristiques techniques de la communication par voie électronique via le « Portail du justiciable » as a consent that must be given every time (Article 5, al. 3).

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

The consent of the parties to communication by electronic means is imperative.

Article 748-2, paragraph 1, of the Code of Civil Procedure makes communication by electronic means subject to the condition of express consent to its use by the addressee of the mailings, deliveries and notifications - unless the use of this means is imposed by special provisions. Thus, express consent is no longer required before the court of appeal, since Article 930-1 of the Code of Civil Procedure, which is a special provision, requires the electronic delivery of documents to (para. 1) and by (para. 3) the court.

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

No,

Article 748-5

The use of electronic communication shall not preclude the right of the interested party to request the delivery, in paper form, of the enforceable copy of the court decision.

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)

generally provides that the use of electronic communication shall not preclude the right of the interested party to request the delivery, in paper form, of the enforceable copy of the court decision (Article 748-5).

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

In France the Minister of Justice

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

Article 748-6

The technical procedures used must guarantee, under conditions fixed by order of the Minister of Justice, the reliability of the identification of the parties to the electronic communication, the integrity of the documents sent, the security and confidentiality of the exchanges, the preservation of the transmissions made and make it possible to establish with certainty the date of dispatch and the date of availability or receipt by the recipient.

For the application of the provisions of the present code, the identification carried out at the time of transmission by electronic means, according to the methods provided for in the first paragraph, shall be considered as a signature for the application of the provisions of the present code to the documents that the parties, the public prosecutor's office or the auxiliary officers of justice assisting or representing the parties notify or hand over on the occasion of the procedures followed before the courts of the first and second degree.

To this end, a series of technical orders have been adopted which set out the technical rules

The conditions under which these guarantees are provided are set by order of the Minister of Justice.

– arrêté du 17 juin 2008, portant application anticipée pour la procédure devant la Cour de cassation des dispositions relatives à la communication par voie électronique ;

– arrêté du 7 avril 2009, relatif à la communication par voie électronique devant les tribunaux de grande instance ;

– arrêté du 5 mai 2010, relatif à la communication par voie électronique dans la procédure sans représentation obligatoire devant les cours d'appel ;

– arrêté du 22 février 2011, relatif à la communication par voie électronique en matière de protection judiciaire des majeurs ;

– arrêté du 30 mars 2011 (consolidé au 22 avr. 2013), relatif à la communication par voie électronique dans les procédures avec représentation obligatoire devant les cours d'appel ;

– arrêté du 22 mai 2012 (mod. le 1er oct. 2012) fixant la liste des pièces justifiant de l'identité de l'auteur de la déclaration de consentement à la signification par voie électronique d'un acte d'huissier de justice et arrêté du 28 août 2012, portant application des dispositions du titre XXI du livre Ier du code de procédure civile aux huissiers de justice ;

– arrêté du 24 décembre 2012, relatif à la communication par voie électronique devant les tribunaux d'instance et les juridictions de proximité pour les procédures d'injonction de payer ;

– arrêté du 21 juin 2013, portant communication par voie électronique entre les avocats et entre les avocats et la juridiction dans les procédures devant les tribunaux de commerce ;

– arrêté du 1er octobre 2015, relatif à la mise en œuvre du portail électronique prévu aux articles L. 814-2 et L. 814-13 du code de commerce ;

– arrêté du 9 février 2016, portant application des dispositions du titre XXI du livre Ier du code de procédure civile aux greffiers des tribunaux de commerce (Securigreffe) ;

– arrêté du 30 mai 2016, relatif à la délégation de droit d'accès pour la communication électronique des avocats avec les juridictions civiles de premier et de second degré.

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

Nothing is said about this aspect

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

Article 748-7 CPC expressly envisages a malfunction of electronic communication and its remedy: "*Where an act must be performed before the expiry of a time limit and cannot be transmitted electronically on the last day of the time limit for a reason unrelated to the person performing it, the time limit shall be extended until the next working day*".

However, the remedy is not very satisfactory. For example, the Second Civil Chamber ruled that the delay in installing the connection of the lawyer's office to the AVR, through the fault of e-barreau, constitutes such a cause (Civ. 2e, 15 May 2014, no. 13-16.132).

54. What are the costs of electronic service?

I do not have this information

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

Pursuant to **Article 748 CPC** as amended by Decree No. 2019-402 of 3 May 2019 on various measures relating to electronic communication in civil matters and the service of documents abroad, OJ 4 May), an order was to be issued specifying the technical procedures used to guarantee:

- the reliability of the integrity of the documents drawn up
- the security and confidentiality of exchanges;
- the preservation of transmissions and the ability to establish with certainty the date on which the parties to the electronic communication were identified;

This was done by order of 28 May 2019 authorising the implementation of an automated processing of personal data called "*portal of the justiciable*".

And by the order of 28 May 2019 authorising the implementation of an automated processing of personal data called "Portal of the litigant" (online monitoring by the litigant of the progress of his legal case)

Article 1

The Ministry of Justice is authorised to implement the "Litigant's Portal", an automated processing of personal data collected from the source files of the computer applications used in the civil courts, enabling :

- remote consultation by the litigant of the progress of his or her legal case on a personal and secure portal

- access, through secure transmission on the portal, to certain dematerialised documents relating to these same procedures, such as notices, summonses and receipts;

- the consultation of a court case, for the purposes of informing the litigant, by the registry agents referred to in Article 3, via the portal of the unique reception service for litigants, an internal service of the Ministry of Justice;

- the production of statistics.

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?

It seems to me that the legislative framework (Section V : Règles particulières aux notifications internationales. (Articles 683 à 688-8) is quite exhaustive and ensures the certainty of notifications from and to abroad

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

No information on this subject

PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE

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

No particular elements to report

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

No particular elements to report

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

No particular elements to report

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

Civ. 2e, 24 March 2022, F-B, n° 20-17.394

Enforcement measure against a foreign State: service of a document by diplomatic channels and proof of its delivery to the addressee

The delivery to the public prosecutor of the decision to be served by diplomatic means does not constitute proof of the delivery of the document to its addressee and cannot be considered as notification.

Cass. 2e civ., 23 févr. 2017, n° 16-15.493, P+B+I

As a matter of principle, when the addressee of a document served abroad is neither present nor represented at a hearing, judges can only rule after having established that all the conditions set out in Article 688 of the Code of Civil Procedure have been cumulatively met (see e.g. Cass. 2e civ., 31 May 2012, no 10-28.350, Bull. civ. II, no 98). The Second Civil Chamber of the Court of Cassation has once again clarified the application of these rules in the context of a dispute between Pôle emploi and a person residing in Morocco. The Court of Cassation overturned the Dijon Court of Appeal, which had rejected the exception of nullity of the summons and the judgment, considering that "Article 688 of the Code of Civil Procedure does not require proof, by the bailiff, of the steps taken with the competent authorities of the State where the document is to be delivered", of the steps taken with the competent authorities of the State where the document must be delivered', stating that by ruling in this way, without it having been justified that steps had been taken with a view to obtaining proof of delivery of the document from the competent authorities of the State where the document was to be delivered, the Court of Appeal violated the aforementioned texts.

Civ. 1st, 19 Dec. 2012

Service by the secretary of a court on a person who lives abroad is effected by the transmission of the document of service to the public prosecutor. The summons to the hearing sent to the appellant simply by post is therefore not duly notified.