NATIONAL REPORT FOR NORTH MACEDONIA ON CROSS-BORDER SERVICE OF DOCUMENTS

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

National Report
North Macedonia

prepared by

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Questionnaire for National Reports

On the Cross-border Service of

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

For useful information please refer (among other sources) to:

- Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast) (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1784)
- Impact assessment of the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:287:FIN)
- Opinion of the European Economic and Social Committee on a) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (COM[2018] 378 final — 2018/203 [COD]) and on b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (COM[2018] 379 final — 2018/204 [COD]) (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2019.062.01.0056.01.ENG&toc=OJ%3AC%3A2019%3A062%3ATOC)
- The provided information in the European Judicial Atlas in civil matters on the service of documents (https://e-justice.europa.eu/38580/EN/serving_documents_recast)
- Briefing of the European Parliamentary Research Service (EPRS) on the reform of the service of documents regulation (2019) (https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/642240/EPRS_BRI(2019)642240_EN.pdf)
- Other *travaux preparatoires* of the Recast Taking of Evidence Regulation (see e.g. https://www.europeansources.info/record/proposal-for-a-regulation-amending-regulation-ec-no-1393-2007-on-the-service-in-the-member-states-of-judicial-and-extrajudicial-documents-in-civil-or-commercial-matters-service-of-documents/)

The structure of each individual report should follow, to the utmost extent possible, the list of questionsenumerated below and the given structure. If authors choose to address certain issues elsewhere withinthe questionnaire, they are urgently requested to make cross-references and specify where they have provided an answer for the respective question (e.g. "the/an answer to this question is already providedin 1.6."). Following the structure of the questionnaire will enable and ease comparisons between the various jurisdictions.

The list of questions is not to be regarded conclusive. It might be that important issues in certain juris- dictions are not mentioned. Please address such issues on your own initiative where appropriate. On theother hand, questions that are of no relevance for your legal system can be left aside; in this case, you are requested to add a reference to the lack of relevance.

Please provide representative references to court decisions and literature. You are also asked to illustrate important issues by providing examples from court practice. If possible, please include empirical and statistical data. **Where the answer would be "no" or "not applicable", because something is not regulated in your national legal order, if possible please specify how you think it should be regu- lated**.

Please do not repeat the full questions in your text. There is no limitation as to the length of the reports.

Language of national reports: English.

Deadline: 31 March 2023.

In case of any questions, remarks or suggestions please contact the project coordinators, prof. dr. VesnaRijavec: vesna.rijavec@um.si and prof. dr. Tjaša Ivanc: tjasa.ivanc@um.si.

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NATIONAL SERVICE OF DOCUMENTS

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

In Macedonian legal system, the Law on Civil Procedure (hereafter: LCP)[1] offers a legal basis for service of documents in civil proceedings. Chapter ten of the LCP (Arts. 125 - 143) provide rules which are generally applicable in civil proceedings in regard to service of documents. In addition, the Law on Enforcement ((hereafter: LE)[2] contains provisions on service of documents in enforcement proceedings. Pursuant to Art.40(1) line 3 LE, during the conducting of enforcement, the enforcement agent (bailiff) is authorised to effect service of documents (orders, minutes, conclusions and other documents) resulting from the performance of his work. Service of documents by an enforcement agent in enforcement proceedings is regulated by Arts. 47- 48 LE. An enforcement agent can perform service of documents based on a court decision for the purposes of other civil proceedings, whereas he/she effects the service of a document pursuant to the provisions of the LCP (Art. 40(1) line 2 LE.)

Relevant provisions for the service of documents, which particularly refer to the affairs of the judicial administration are also contained in the Rules of Court.[3]

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

The legal sourses that regulate civil proceedings do not provide for a legal definition of the term "service". In legal theory, and within the context of the LCP, the service of documents is defined as a procedural activity undertaken by the court in a manner prescribed by law in order to enable a certain person (addressee) to become familiar with the contents of the document being delivered.[4] Service is intended to ensure that the addressee actually becomes aware of legal proceedings or, at the very least, that he/she has an unimpeded opportunity to become aware of them. The LCP makes an emphasis on the court's duty to enable the person (addressee) to become aware of the document being delivered. It is irrelevant whether the document will actually be served on the addressee and whether he/she will actually get known with its content. If the court performed the service in the prescribed manner, it fulfilled its legal duty, regardless of the fact that the document did not reach the addressee and that he/she is not familiar with the content of the document.

In Macedonian legislation there is no definitive list governing which particular documents have to be served formally. However, formal service is required primarily for documents for which the LCP expressly stipulated that they should be served on the parties or other participants in the procedure (e.g. where time limits start running by virtue of notice being given, such as statements of claim or court judgments and decisions that can be challenged etc.). Formal service is also required wherever appropriate and meaningful, i.e. documents are served even it not expressly prescribed by law, if the court considers that certain persons should be familiar with their content.[5]

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?

The LCP lays down for a statutory definition of civil and commercial matters (disputes) as a subject matter of civil proceedings. Thereby, the definition of civil matter as a subject matter of civil procedure is wider than the substantive concept of civil law relations. As provided in Art. 1 LCP, it covers the disputes arising out of personal, family, labor, commercial, property and other civil law

[1] Official Gazette of RM, No.79/2005, 110/2008, 83/2009, 116/2010 and 124/2015.
[2] Official Gazette of RM, No. 72/2016, 142/2016, 233/2018 and 14/2020.
[3] Official Gazette of RM, No. 66/2013 and 114/2014.
[4] A. Janevski, T. Zoroska Kamilovska, Граѓанско процесно право, книга прва, Парнично право, второ изменето и дополнето издание [Civil Procedural Law, Book I, Litigation Law, Second Revised Edition] (Faculty of Law in Skopje, 2011) p. 276.
[5] Janevski, Zoroska Kamilovska, supra n.4 p. 277.

relations, unless the law does not prescribe for some of these disputes that the court shall resolve them according to the rules of some other procedure. Even though, from the perspective of substantive law, some of these disputes do not arise out of civil law relations (e.g. labor disputes), they are resolved by the courts in civil procedure according to the provisions of the LCP.

In regard to commercial matters, Art. 1 LCP clearly states that civil matters are a wider category than commercial matters, as each commercial matter constitutes a "civil case" as a subject matter of civil proceedings.

On the other side, Arts.462-464 LCP provides for a definition of commercial matters as a subject matter of special civil proceedings. Pursuant to these Articles, the commercial disputes include: 1) disputes arising out of commercial relations in which both parties are legal entities; 2) disputes relating to shipping and inland navigation, as well as to disputes concerning navigation law (navigation disputes), except for disputes over the carriage of passengers; 3) disputes arising out of commercial relations of owners of stores and other individuals who perform certain commercial activity in form of registered occupation, as well as disputes from the commercial relations of those persons and the legal entities; 4) disputes between the domestic legal entities and foreign natural persons and legal entities arising out of their commercial relations, as well as the disputes between foreign natural persons and legal entities.

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

The concept "civil and commercial matters", as described above, refers to pure domestic cases. As North Macedonia is not yet a Member State of EU and thus the Regulation is not directly applicable, the explained concept of "civil and commercial matters" is not used for the application of European 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 Macedonian LCP no distinction is explicitly made between judicial and extrajudicial documents in the context of (official) service. As explained above in 1, the LCP regulates the service of documents related to civil (court) proceedings, while the LE deals with the service of documents in enforcement proceedings, which are conducted by enforcement agents.

However, it has to be noted that the LCP contains only general provision on international legal assistance and cooperation, including service of document abroad, which is further subject of regulation of several international treaties and agreements, such as Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (hereinafter: HCCH 1965 Service Convention)[6], to which North Macedonia is a Contracting Party. Hence, the distinction made by this Convention between judicial and extrajudicial documents is also relevant for North Macedonia. HCCH 1965 Service Convention does not explicitly define the term judicial document. However, it is generally accepted that it is a legal document issued in the course of or related to civil or commercial proceedings (e.g. summons, statement of claim, judgment, other court decisions etc.). On the other side, Art 17 of HCCH 1965 Service Convention states that extrajudicial documents are document emanating from authorities and judicial officers of a Contracting State (e.g. notarial deeds etc.).

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

The right to be heard, as a universally accepted principle, is a cornerstone of Macedonian civil proceedings, as well. Specifically, Art.5(1) LCP states that the court shall give each party an opportunity to declare itself regarding the claims and allegations of the opposing party. As a

[6] The Law on the ratification of this Convention was published in the Official Gazette of RM, No. 107/2008 and it is in force since 1 September 2009.

fundamental procedural right, the right to be heard requires that parties in proceedings have a basic right to receive notice and an opportunity to be heard. The right to be heard has little reality or no worth unless one is informed that the matter is pending and can choose for himself/herself whether to appear or default, acquiesce or contest.[7] The right of the party to be informed about the course and content of the procedural activities is implemented through the service of process.[8] In that regard, service is intended to ensure the addressees actually become aware of civil procedure or, at the very least, that they have an unimpeded opportunity to become aware of it. Without the efficient and timely service of documents, parties would not know about the proceedings or their different stages, which could have serious adverse effects on their ability to defend their rights and protect their legally recognised interests. More broadly, the service of process is intertwined with the implementation of some other procedural rights and principals such as: the right to access to court; adversarial principal, principles of orality and publicity, concentration and efficiency of the procedure is ensured, possible abuse of procedural rights is prevented etc.

7. Who is responsible for the service of documents?

In Macedonian civil procedure, responsibility for service of documents lies with the court as a general rule. In litigation proceedings, the service of documents is effected by the court itself or with the assistance of some other (non-judicial) authorities (postal service, notary, bailiff, military command, superior police officer, diplomatic or consular representative, prison administration etc). There is no possibility for the court to entrust the parties with service of documents. However, the claimant is responsible for enabling the court to effects service by providing sufficient information.

On the other side, in enforcement proceeding, the responsibility for service lies with the enforcement agent. The service of documents is effected by direct service of documents by an enforcement agent or via postal service.

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

The failure of the court to effect the necessary service, and due to that a party is not given the opportunity to argue before the court, it constitutes a substantial violation of the provisions of the civil procedure (Art. 343 (2), item 7 LCP), which is the ground for an appeal and other means of recourse against the decision issued in the procedure in which the court failed to effect the service.

In addition, the LCP lays down some other provisions in regard to defective service. According to Art.125 (5) LCP, the court may impose a fine from 700 to 1000 Euros on a person effecting service who does not perform the service conscientiously and as a result there is a significant delay in the proceedings. On the other hand, a party, who incurs additional costs in the proceedings as a result of the unconscientious performance of duty by the person effecting service, can in the same proceedings request the court to order that person on the payment of damages to refund those costs in accordance with the general rules for compensation of damages (Art.125 (6) LCP).

Apart from the mentioned, there are no other provisions in the Macedonian legislation that provide the possibility to sue the state and claim damage, or sue the court to initiate the service.

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

As stated above, in Macedonian civil proceedings, there is no possibility for the court to entrust the parties with service of documents.

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?

As mentioned previously, responsibility for service of process lies with the court only.

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[7] T. Zoroska Kamilovska, 'Dostavuvanjeto - uslov za efikasna parnična postapka', (2) Sudiska revija (2004) p.175 at p. 177

[8] Janevski, Zoroska Kamilovska, supra n.4 p.277.

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

The formal requirements for a valid service of document in North Macedonia are laid down by the LCP. A document is deemed to have been served properly when it is delivered in a manner, time and place as prescribed by law. The service is recorded in the form established for the purpose. The formal requirements differ considering the method of service, and they are explained in detail in 10 below.

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

Under the LCP, the document instituting the proceedings (statement of claim) or any other procedural documents amending the relief sought or seeking new relief (all prepared by the claimant) should be served on the respondent guaranteeing the respondent's right to be heard. Enclosures thereto must be served as well. Additionally, in order to reduce the possibility of entering a default judgment, the respondent must receive due information about the procedural steps necessary to contest the claim.

In that regard, Art. 269(1) LCP states that the claim and the enclosures thereto shall be served on the respondent for a written response within eight days as of the day of receipt in the court, unless it is necessary to undertake actions to edit the claim by the claimant or to collect the court fee by the court. If it is necessary to undertake actions to edit the claim by the claimant, the claim shall be served on the respondent for a written response within eight days after such actions have been taken. With the summons for service of the claim, the respondent shall be warned that he/she is obliged to give a written response to the statement of claim within a time limit determined by the court, which cannot be shorter than 15 days, or longer than 30 days as of the date of receipt of the claim. In the summons, the court is obliged to warn the defendant of the legal consequences of not giving a written response to the statement of claim within the time limit set (Art. 269 (2) LCP). The legal consequences - the possibility that a judgment may be entered against the respondent in default of responding to the claim - are prescribed in Art.319 LCP.

According to Art.202 of the Rules of Court, an appropriate delivery note (forms No.27-60) is attached to the summons. Along with the invitation, other enclosures determined by the special laws are submitted. The appropriate text on the method of service is marked on the delivery note.

The necessity of service on the respondent the procedural documents amending the relief sought or seeking new relief arises from the Arts.180-182 LCP.

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

The document instituting the proceedings (statement of claim) must contain minimum mandatory elements as prescribed by the LCP. Namely, in line with Art.176 (1) LCP, the statement of claim must contain a specific claim regarding the main issue and the secondary claims, facts on which the claimant has based the claim, evidence supporting the facts, as well as other data that each submission must contain as stated in Art.98 LCP. The wording of Art.98 LCP clearly states that the claimant has to provide names, addresses and other information necessary to identify the parties in the proceedings or their legal representatives or attorneys. When a party/parties in the procedure are legal entities, the statement of claim should contain information about the legal name and headquarters of the legal entity registered in the Central Register of the Republic of North Macedonia or another register, supported by evidence from the appropriate registry. Furthermore, the subject matter, the value of the dispute, e-mail address and contact phone number should be indicated. If the statement of claim does not contain any of those mandatory elements, and is submitted by the claimant personally, the court will return it to the claimant for addition within a certain period, which cannot be longer than 8 days. But, if statement of claim is not complete, and it is submitted by the claimant's attorney, the court will automatically reject it, without returning it for addition (Art. 101 LCP). In that regard, the Supreme Court has ruled that if the statement of claim is not supported by evidence from the appropriate register in terms of the legal name and headquarters of the respondent in the sense of Art. 98 (3) LCP, and the statement of claim is filed by an attorney who is a lawyer, the conditions for

rejecting the statement of claim are met.[9] The same has been ruled is the case when the name of the respondent's representative by law was not stated in the statement of claim.[10]

The statement of claim and other submissions submitted by attorneys, state bodies, state administrative bodies, local self-government units, legal entities and persons exercising public authorization should also contain data on an electronic mailbox for the service of the documents registered in accordance with law (Art.98(4) LCP).

The same provisions apply to the counterclaim. In that sense, the judicial practice has taken the position that the counterclaim, like any submission, should contain the necessary data provided by the provisions of Art.98 LCP, so that if it contains only the names of the parties, without data on the addresses, i.e. the place of residence of the parties, or the legal name and headquarters of the legal entity registered in the Central Register of of the Republic of North Macedonia, will be dismissed as incomplete.[11]

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

Regarding the term "address for service", the LCP makes a distinction between service on natural and legal persons.

The service on a natural person is carried out at the address specified in the statement of claim. If the service on that address fails, then service is carried out at the address recorded in the ID card. Whether the service by registered mail on the address recorded in the ID also fails, the service is effected by posting the document on the court's notice board on the court's website, and service is considered to be effected after the expiration of eight days from the day of publication (Art. 128(4) and (5) LCP).

The service on legal entities is carried out, as a rule, electronically via the information system of the court at the address of the electronic mailbox of the addressee (Art.125-a in conjunction with Art.126-b LCP). However, when there are no technical conditions for registering an electronic mailbox, service on a legal entity registered in the commercial or other register is carried out at the address registered in the the appropriate registry. If the service at that address fails, the service is made by posting the document on the court's notice board on the court's website, and it is considered that the service was effected properly after the expiration of eight days from the day of publication (Art. 128 (1) and (2) LCP). The same provisions also applied to natural persons who perform a specific activity registered in the commercial or other register, when service is made to those persons in connection with the activity they perform.

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

The terms are already explained above.

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

Article 125(1) LCP, which applies to documents without a cross-border element, contains a general rule in regard to the methods of service, stating that "the documents shall be served by postal service, by electronic means, through an official of the court, directly at the court, through a notary, an enforcement agent (bailiff) or other person designated by law." The court determines how service will be effected in a specific case. At first glance, it may appear that none of the intended methods of service have priority over the others. Nevertheless, the more thorough analysis of the LCP, shows that it puts in place a certain hierarchy of service methods giving priority to: a) personal service on natural persons of the documents instituting the proceedings and some other documents determined by the law or specified by the court and b) service via the Court's Electronic Information System

[9] Decision of the Supreme Court, Rev. No. 20/2014 of 27.10.2014.
[10] Decision of the Supreme Court, Rev.3 No. 120/2016 of 1.11.2017.
[11] Decision of the Appellate Court in Bitola No.103/2014 of 18.3.2014.

(hereinafter: CEIS) on lawyers, public authorities, legal entities and persons performing public authorizations. Actually, in-depth analysis of the provisions of the LCP brings up to conclusion that regarding the methods of service, the law provides for: methods of service which generate proof of receipt, alternative methods of service and methods of service of last resort. On the other hand, with respect to the subjects to who documents are to be served, and specific characteristics of individual addressees, the LCP provides for differences in the method of service depending on whether it is a matter of service on natural or legal persons. As for natural persons, the LCP lays down two methods of service - ordinary and personal service. On the other hand, taking into account the particular features of legal entities and public authorities, the LCP lays down a special regime for the delivery of documents to these entities. Regardless of the type of document to be served, the service on legal entities and state bodies is effected in a uniform manner.[12] This means that procedural rules governing personal service do not apply to these subjects (Art. 137(3) LCP). All mentioned method of service will be explained in detail below

Under the LCP, the permitted service methods which generate the proof of receipt are: a) service by physical delivery by a court officer, postal officer, notary, bailiff or other person designated to effect service (Arts.125, 129, 143 LCP), b) service via the CEIS attested by proof of receipt generated by the system (Arts.125-a, 126-a LCP) and c) service by other electronic means if the addressee has previously explicitly agreed to this type of service (Art.125(4) LCP).

Regarding the service by physical delivery attested by proof of service, the LCP specifies the time and place - when and where - the documents may be served on the addressee. The service may be effected every day from 6:00 am to 9:00 pm, at home or workplace of the person to whom the document is to be served or at the court when the said person shall be found there or wherever the addressee shall be encountered (Art. 135(1) LCP). The confirmation for effected service (proof of service) is signed by the addressee/recipient and the person effecting the service. The addressee/ recipient himself writes down on the proof of service the date of receipt (Art.143 LCP). The proof of service (or acknowledgment of receipt) is a standard form set forth by the Rules of Court.

It has to be noted that if a party is represented by an attorney or other legal representative, service of documents is normally be effected on the attorney/legal representative (Arts. 133 and 134 LCP). If the party's attorney is a lawyer, service can also be done by handing over the document to a person who performs any work in the law office (Art. 134 LCP). On the other side, in Macedonian civil procedure service of documents from attorney-to-attorney without court intervention is not allowed.

In court practice, the usual and most common ways of service of judicial documents is via postal service or by a court officer (Art.235 of the Rules of Court). The postal service in civil proceedings is effected as a registered postal service (register mail) on the address of the person to whom the document is addressed. The service is considered to be effected when the document is handed over to the addressee, or if he/she was called to collect the document but did not do so, within eight days from the day he/she was called to collect the document (Art. 125 (3) LCP).

However, at the request of the party who declares that he/she agrees to compensate the costs and the reward that will be incurred for the service, the court can determine the physical delivery to be effected by a notary or a bailiff (Art.129 LCP). A notary or a bailiff designated for service is obliged to effect the service in accordance with the provisions of the LCP, whereby he/she has all the rights and duties that the LCP prescribes for the delivery agents. For the receipt of the document for delivery and for the actions taken for the purpose of delivery, the notary prepares minutes, while the bailiff an official note.

In some specific cases, the physical delivery may be effected by other persons designated by law. Thus: a) to military personnel, to persons employed in the police and to persons employed in land, water and air traffic, the service of summons, and, if necessary, other document, may be effected by their command, i.e. by the immediate superior (Art. 130 LCP), b) to persons or institutions abroad or to foreigners who enjoy the right of immunity, the service is effected through diplomatic channels, unless otherwise determined by an international agreement or by the LCP, c) If the delivery of the document is to be made to a citizen of the Republic of North Macedonia abroad, the service is effected by postal service, courier service, electronically or through the competent consular representative or diplomatic representative of the Republic of North Macedonia who performs consular affairs in the respective foreign country (Art. 131 LCP) and d) to persons deprived of liberty, service is effected

[12] Janevski, Zoroska Kamilovska, supra n.4 p.281-284.

exclusively[13] through the administration of the prison or other penal institution (Art. 132 LCP).

The documents instituting the proceedings and some other documents determined by the law or specified by the court are served on a natural person (or on his /her legal representative or attorney) by the method of personal service. In line with Art.137 (1) LCP, documents subject to personal service are: a claim, a payment order, a judgment, a court's decision delivered in a procedure for disturbance of possession, a court's decision subject to separate appeal, as well as extraordinary means of recourse. The other documents shall be personally served when it is expressly determined by LCP (e.g. summons for the hearing where the parties will be interrogated as witnesses, Art. 253(1) LCP) or when the court considers that due to the documents enclosed in the originals or for some other reason more caution is needed. The document, subject to personal service, is handed over to the addressee directly. If the addressee shall not be encountered in a place where the service should be effected, the document shall be send by registered postal service (so called second attempt). If the document is not collected within eight days as of the day of the notification that the document should be collected, it shall be deemed that the service has been duly effected (fictitious service).

In respect to documents which are not subject to personal service, the LCP permits service to be effected on persons who are willing or obliged to accept the document and deliver it to the addressee - so called recipient - (Art. 136 LCP). Specifically, if the person to be served is not found at home, the service shall be effected by delivering the document to any adult member of his household, who is obliged to accept the document. If the service is effected at workplace of the person supposed to be served, and the person is not found there, the service may be effected on a person working at the same place, provided he/she is willing to accept the document. Handing over the document to another person is not allowed if that person is an opposing party to the addressee. The persons to whom the document was served in place of the addressee, are obliged to forward (deliver) the document to the addressee. Yet, the LCP does not set forth the legal consequences such as a liability for damages for recipient if the documents are not forwarded (delivered) to the addressee.

Service via CEIS is, as a rule, mandatory for certain categories of persons, who have an obligation to register an electronic mailbox at the CEIS. Nevertheless, since 2010, when the rules on service by registered electronic mailbox were first introduced till nowadays, the electronic service has not become the default method of service of document. However, in the last few years (especially with the beginning of the COVID-19 pandemic), a significant increase in electronic service has been noticeable, with a tendency for full and consistent application of legal provisions, which significantly affects the reduction of delivery costs and the improvement of efficiency.

In accordance with Art.125-a LCP, the service of documents on lawyers, state bodies, state administration bodies, local self-government unites, legal entities and persons performing public authorizations shall be effected via electronic way in an electronic mailbox. More precise provisions for electronic service on these entities are contained in Art.126-a LCR. Service by electronic way is considered to have been made on the day of receipt of the document. At the same time as sending the document to the recipient to his electronic address, the CEIS also sends a notification that a document, which needs to be downloaded, has been sent from the CEIS. The LCP requires the secure identification and transmission standards, stating that the recipient of the electronic mail proves his identity with his/her electronic signature inspects the electronic mailbox and electronically signs the document he/she submits to the court, or confirms the receipt of the e-mail. Furthermore, it imposes on obligation for the mentioned entities to check the electronic mailbox on regular basis: the document must be downloaded from the electronic mailbox no later than eight days as of the date of its sending. Afterwards, the service shall be deemed to have been effected.[14]

By exception, the LCP provides for a physical delivery to these persons instead of service via electronic mailbox. When there are no technical conditions for service via electronic mailbox on the entities mentioned above, the service shall be effected by delivering the document to the person authorized to receive service or to an employee found in an office or business premises or in an archive of state body or to a business unit (branch) if the dispute arises out of the activity of that unit (Art.127 of LCP). Nevertheless, it should be noted that, although by law the use of paper transmission would be an exception, available only in the event of a failure of the electronic system, in practice it is still the main method of service of documents even for these persons.

[13] Conclusion of the Department for Civil Cases of the Supreme Court, 23.2.2015.

[14] In this direction, Decision of the Appellate Court in Bitola, No, 1622/2015 of 14.7.2015.

Apart from what is stipulated in Art.125-a LCP, the LCP also provides for the possibility to effect the service electronically upon party's request. That is to say, the party can request the court to effect the service via electronic way in an electronic mailbox at the address provided in the request. The party is obliged to inform the court of the change of e-mail address, or of revoking the request to effect the service via electronic way in a electronic mailbox without delay (Art. 125(4) LCP).

It should be noted that even though Art. 125 LCP failed to mention, the service can also be effected by postal boxes in line with Art.127(4) and (5) LCP. The documents are left in a postal box in sealed envelopes, and they couldn't be accessible to the persons to whom they are served before they sign the delivery note (proof of service). When checking the postal box, the addressee must retrieve all documents left. Every document that is delivered through a postal box is marked with the day when the letter was left in the postal box. If the document is not collected within eight days from the day of leaving the letter in the postal box, it is considered that the service has been properly effected.

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

The methods of service provided by the ZPP refer to the service of documents in the territory of North Macedonia, with the exception of the delivery covered in Art. 131, as explained above. For cross-border service, the regime of service as described below in 10 operates. The analysis of the provisions of the LC shows that it mainly follows modern trends in the service of documents (including electronic service), but there are some problems in practical application. Hence, the modernization of service methods and their real functionality in practice are undoubtedly challenges that North Macedonia has to deal with.

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

It was also stated in 10 that the most common types of service encountered in practice are postal service or physical delivery by a court officer. At the request of the party, the court can determine the service to be effected by a notary or a bailiff or in some specific cases by other persons designated by law.

Some of the aforementioned methods of service can also be alternative ones for electronic service. Namely, where there are no technical conditions for service via electronic mailbox registered on CEIS, service on persons subject to electronic delivery via CEIS are carried out by the most appropriate alternative means, i.e. by a physical delivery to the person authorized to receive service or to an employee found in an office or business premises or in an archive of state body or to a business unit (branch) if the dispute arises out of the activity of that unit (Art.127 LCP).

Furthermore, if the document that is to be delivered electronically contains attachments (enclosures) which is not technically possible to deliver electronically (e.g. voluminous documentation), in the document that it is to be delivered, the court informs the addressee (whose seat or residence is at the seat of the court), that he/she should collect the attachments directly at the court within three days from the day of notification, and if the attachment are not collected within that period, it is considered that the service of the attachments have been effected. If addressee's seat or residence is outside the seat of the court, service of the attachment is effected on one of the methods mentioned in Art.125(1) LCP.

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?

As was explained above, since the amendment to the LCP of 2010, service of document on lawyers, state bodies, state administration bodies, local self-government units, legal entities and persons performing public authorizations (e.g. notaries, enforcement agents (bailiffs) etc.) shall be effected via electronic way in an electronic mailbox. The service via electronic has priority and can

be replaced by physical service only if there is no technical conditions for service via electronic mailbox.

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

Except for the cases where the law expressly determines the method of service or where a party requires the service to be carried out in a certain way (e.g. by a notary, a bailiff, or via e-mail), the LCP does not contain an explicit provision in regard to the considerations that the deciding court must take into account when choosing the method of service. However, in practice, when determining the method of service, the court takes care to effect the service in a way that consumes the least time and costs.

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

North Macedonia is not yet a Member State of EU, and therefore the Regulation is not directly applicable in North Macedonia. As previously explained, the last amendments to LCP in regard to service of documents were enacted in 2010. However, it is worth mentioning that in 2019 the Ministry of Justice established the working group for drafting the new LCP. The whole process (including public debate) lasts for two years and the draft new LCP is now pending before the Parliament. Regarding the service of documents, the draft new LCP introduces significant novelties, particularly in regard to electronic service in line with the Law on Electronic Documents, Electronic Identification, and Confidential Services[15], which is in compliance with the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC. In that regard, it should be noted that North Macedonia has already taken the first steps on the normative level for the future replacement of the existing mechanisms of paper transmission with an upgraded electronic system, which is consistent with the objectives of the Regulation.

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

As North Macedonia is not yet a Member State of EU, the Regulation is not directly applicable for cross-border service of document. Therefore, the service of documents in the Member States of the EU falls under the general regime of service of documents in other countries, which will be explained below.

Chapter 20 of the LCP contains general provisions on international legal assistance, which includes the service of documents abroad. Art. 171(1) LCP states that the courts will provide legal assistance to foreign courts in cases provided for by an international agreement, as well as when there is reciprocity in providing legal assistance. In case of doubt about the existence of reciprocity, the explanation is provided by the Minister of Justice.

North Macedonia is a member of several international agreements (multilateral and bilateral) on international legal assistance and cooperation in regard to the service of documents. The central place has HCCH 1965 Service Convention. As it is generally known, HCCH 1965 Service Convention provides for the channels of transmission to be used when a judicial or extrajudicial document is to be transmitted from one Contracting Party to another Contracting Party for service in the latter. The Convention establishes a main channel of transmission via a designated Central Authority, as well as alternative channels of transmission. The Convention deals primarily with the expedient transmission of documents; it does not address or comprise substantive rules relating to the actual service of process.

For the purposes of HCCH 1965 Service Convention, a designated Central Authority in North Macedonia is Ministry of Justice.

[15] Official gazette of RNM No.101/2019 and 275/2019.

It is important to highlight that regarding the HCCH 1965 Service Convention, North Macedonia has made the following declarations and reservations as to Arts. 5, 6, 8, 9, 10, 15, 16 and 21 of the Convention:

1) The Republic of Macedonia declares that all documents which are served pursuant to Article 5, paragraph 1, of the Convention should be written in or translated into, the Macedonian language according to the Article 7 of the Constitution of the Republic of Macedonia dated 17 November 1991.
2) In accordance with Article 6 of the Convention, the Republic of Macedonia declares that the courts of first instance in the Republic of Macedonia shall be competent to complete the certificate in the form of the model annexed to this Convention.
3) In accordance with Article 15 of the Convention, the Republic of Macedonia declares that courts in the Republic of Macedonia may give judgment if all the conditions set out in paragraph 2 of Article 15 of the Convention are fulfilled.
4) In accordance with Article 16, paragraph 3, of the Convention the Republic of Macedonia declares that an application for relief set out in Article 16 of the Convention will not be entertained if it is filed after the expiration of a period of one year following the date when the judgment was given.
5) In accordance with paragraph 2(a) of Article 21 of the Convention, the Republic of Macedonia objects to the use of methods of service pursuant to Article 8 and 10. In accordance with Article 8, paragraph 2, of the Convention, within the territory of the Republic of Macedonia judicial documents may not be served directly through the diplomatic or consular agents of another Contracting State unless the document is to be served upon a national of the State in which the documents originate.
6) The Republic of Macedonia objects to the use of the service methods prescribed in Article 10 of the Convention.

The Republic of Macedonia declares that the documents served in accordance with Article 9 of the Convention are forwarded to the Ministry of Justice of the Republic of Macedonia for the purpose of service to the parties.

Nevertheless, Arts.11, 19, 24 and 25 of HCCH 1965 Service Convention, provides for so called derogatory channels, i.e. bilateral or multilateral agreements or internal law permitting other transmission channels.

North Macedonia has signed bilateral agreements for legal assistance in civil and commercial matters (which includes the service of documents) with several countries such as: Agreement between the Macedonian Government and the Albanian Government for legal assistance in civil and criminal matters[16]; Agreement between the Republic of Macedonia and Bosnia and Herzegovina for legal assistance in civil and criminal matters[17]; Agreement for legal assistance in civil matters between the Republic of Macedonia and the Republic of Bulgaria[18]; Agreement for legal assistance in civil and criminal matters between the Republic of Macedonia and the Republic of Slovenia[19]; Agreement for legal assistance between the Republic of Macedonia and the Republic of Croatia in civil and criminal matters[20]; Agreement between the Republic of Macedonia and the Republic of Serbia for legal assistance in civil and criminal matters[21]; Agreement between the Republic of Macedonia and the Republic of Montenegro for legal assistance in civil and criminal matters[22] etc.

In accordance with these Agreements, for the purpose of providing legal assistance, the courts and other authorities of the contracting states communicate with each other through the ministries responsible for justice affairs. However, some of the agreements do not exclude the possibility of direct communication between the courts and other authorities regarding the service of documents.

[16] Official gazette of RM, Supplement International agreements, No.16/1998.
[17] Official gazette of RM, Supplement International agreements, No.10/2006 and 13/2014.
[18] Official gazette of RM, Supplement International agreements, No.13/2002.
[19] Official gazette of the RM, Supplement International agreements, No.24/1996.
[20] Official gazette of RM Supplement International agreements, No.15/1995.
[21] Official gazette of RM, Supplement International agreements, No.15/2013.
[22] Official gazette of RM, Supplement International agreements, No.55/2016.

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

In the Macedonian civil procedure, there is a special regime for the service of a summons for a hearing or notifications concerning the undertaking of certain procedural actions. Namely, in 2005, the Macedonian LCP introduced the so-called "once invited, always invited" rule according to which a party who has been duly invited to attend the hearing or has been informed about undertaking of certain procedural action but does not respond to the court's invitation, regardless of the reason for which it was prevented, the court has no future obligation to invite him/her. Only at the request of the party, the court is obliged again to hand over the party a summons for the day and time of the hearing, as well as a copy of the minutes in written or electronic form, or in the form of an audio recording of the previously held hearing (Art.126(1) LCP). This rule has a stimulating role in relation to the position of the parties in the proceedings. Its introduction is aimed at activating the parties so that they continuously take an interest in the course of the procedure and that it is their duty to follow the development of the procedure. Once notified of the litigation, the party is obliged to take care of being properly informed about the future course of the proceedings. However, the application of this rule can only occur if very important assumptions are fulfilled, namely that the party must have been properly invited beforehand, and that he/she did not respond to the invitation and did not justify his/her absence[23]. In judicial practice, this rule is also applied in the situations when the party justified his/her absence, since the LCP states "regardless of the reason for which it was prevented", which seems to be in a conflict with the right to be heard.

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

According to the data received from the courts, postal service takes around 1-3 days, while the service via CEIS for the electronic service of documents is immediate.

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

The moment at which a document is considered to be served depends on the method of service. As explained above in 10, in cases of physical delivery, a document is generally served once it is handed over to the addresses followed by the confirmation for effected service (proof of service, Art. 143 LCP). The same applies in situation where the service is effected by handing over the document on a actual recipient (or so called substitute recipient) and not on an addressee.[24] The moment when the actual recipient delivered the document to the addressee or at least informed him about it is irrelevant.

However, in some case (e.g. service of a document subject to personal service under Art.137 LCP), after a second attempt for delivering a document by registered postal service failed (i.e. once a document is deposited at a post office, with notification of that deposit and time limit to collect the document), the service ends fictitious. Particularly, if the letter is not collected within eight days from the day of the notification, it will be considered that the service has been properly effected.

In cases of service via the CEIS in line with Art.125-a LCP, the service is considered to have been effected on the day of receipt of the document, which is confirmed electronically by the addressee. In other cases where, at the request of a party, the service is made electronically to an address indicated by the party, the LCP does not determine when the document is considered to be served, since it does not impose a legal obligation on the addressee to return a receipt. It should be noted that this legal gap appeared in 2010 when the provision that was previously introduced by the amendments to the LCP of 2008 was omitted, namely that the service by electronic means in a secure electronic mailbox is considered to be effected when a return signal is received that the e-mail has been opened and a confirmation with an electronic signature of the recipient that the e-mail has been

[23] A. Janevski, 'Dostava prema Zakonu o parničnom postupku Republike Makedonije i njegovim novelama', 63 (3-4) Zbornik PFZ (2013) p. 633 at p. 651.

[24] Janevski, Zoroska Kamilovska, supra n.4 p. 282.

received. However, Art. 237 (5) of the Rules of Court states that: "Each party who has a personal account for communication with the court is obliged to review it regularly in order to download the documents from the court in a timely manner. All the documents that arrived from the court are considered to have been successfully delivered to the party during the next login to the personal account, and if the party has not logged in, it is considered to have been successfully delivered, after the legally stipulated period after the placement of the document."

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?

Art.140 LCP imposes an obligation on the parties, their legal representatives or attorneys to notify the court immediately of any change of their address during the proceedings. This obligation exists until the legally effective closure of the proceedings. If the party fails to do so, and a postal officer or other responsible person of service cannot find out where the party has been moved, the court will order all further service in the proceedings on that party to be done by hanging on the document on the court's notice board on the court's web site. The service is considered to be served after the expiration of eight days as of the day of the hanging on the document on the court's notice board on the court's web site. This means that any non-notification of the court by the party about the change of address may have harmful consequences for the party itself.

According to the provisions of the current LCP there is no explicit obligation on the court on its own initiative to try and establish the whereabouts of the addressee of the documents to be served if the addressee no longer resides at the address known, which existed in the previous LCP. However, in practice the court addresses an inquiry to the competent authority (Ministry of Interior), in order to the correct address of the person to whom the document is to be served especially in regard to the documents that are subject to personal service.

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

As explained above, Art. 140 LCP imposes an obligation on the parties, their legal representatives or attorneys to notify the court immediately of any change of their address during the proceedings. This obligation exists until the legally effective closure of the proceedings. If the party fails to do so, and a postal officer or other responsible person of service cannot find out where the party has been moved, the court will order all further service in the proceedings on that party to be done by hanging on the document on the court's notice board on the court's web site. The service is considered to be served after the expiration of eight days as of the day of the hanging on the document on the court's notice board on the court's web site.

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

According to Art.98(1) of LCP, the statement of claim, the response to the statement of claim, legal remedies and other statements, proposals and announcements that are made outside the hearing are submitted in writing or electronically to the reception department of the competent court.

More specific rules for the electronic receipt of submissions in court are contained in the Rules of Court (Art. 159), which will be elaborated as follows.

The submissions sent electronically to the court are received at any time, if the conditions for such a method of reception are met. Submissions are sent to the court through a special web portal for that purpose. Every party who has previously registered their personal account on the court web portal has the possibility of electronic submission according to the instructions for electronic

submission. To use this possibility on the web portal, the party identifies itself with an electronic certificate during the login. After the announcement, the party sends the submission with all supporting documents in electronic format through the court electronic mailbox to the reception department of the corresponding court. Submissions and attachments to be delivered to the opposing party, who is not bound by law and does not have an electronic mailbox, are submitted to the court in a sufficient number of copies for the opposing party. If on the opposite side there are several persons who have a common legal representative or attorney, for all those persons the submissions and attachments can be submitted in one copy.

Access to the electronic submission is only available to the designated court officer for electronic reception in the court's electronic reception department, who reviews the electronic submissions and confirms their receipt by sending a confirmation of successful delivery through the party's personal account.

If the submission received electronically is not classified information, the submission is printed (without files and attachments) and forwarded to the appropriate court registry. The printed submission is handled in the same way as the submission received by postal service mail in accordance with the provisions of the Rules of Court. If the submissions received electronically are marked as classified information with an appropriate degree of secrecy or are addressed personally to the president of the court or the judge, without opening the files, they were forwarded electronically to the president of the court or the judge.

In the registry office, the court officer electronically records these submissions in the automated computer system for managing court cases, opening new cases for the same or recording them as an external file of one of the existing cases.

Even though the possibility of filling the submissions to the court electronically has been introduced since the amendments to the LCP of 2010, it is not functional in practice. Namely, the existing CEIS is not yet functional for receiving submissions and documents in the court electronically. It operates in the first phase of implementation, which involves the service of court documents (summons for hearings, judgments, decisions, various acts etc.) from the courts on the registered users, but not vice versa.

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

As explained above in 14, if the exact whereaboutsof the recipient are unknown, the service of documents is effected by publication of the document on the court's notice board on the court's web site.

Namely, as stated, Art.140 LCP imposes an obligation on the parties, their legal representatives or attorneys to notify the court immediately of any change of their address during the proceedings. This obligation exists until the legally effective closure of the proceedings. If the party fails to do so, and the person who performs the service cannot find out the exact whereabouts of the party, the court will order all further service in the proceedings on that party to be done by hanging on the document on the court's notice board on the court's web site. The service is considered to be served after the expiration of eight days as of the day of the hanging on the document on the court's notice board on the court's web site.

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

If it is not possible to serve the documents on the addressee directly, a procedure called "substituted service" may be followed instead. It means service **on a "substitute recipient".** To be specific, in respect to documents which are not subject to personal service, the LCP permits substitute service to be effected on persons who are willing or obliged to accept the document and deliver it to the addressee (Art. 136 LCP). If the person to be served is not found at home, the service shall be effected by delivering the document to any adult member of his household, who is obliged to accept the document. If the service is effected at the workplace of the person supposed to be served, and the

person is not found there, the service may be effected on a person working at the same place, provided he/she is willing to accept the document. Handing over the document to another person is not allowed if that person is an opposing party to the addressee. The persons to whom the document was served in place of the addressee, are obliged to forward (deliver) the document to the addressee. Nevertheless, if the person effecting service determines that the person to whom the document should be delivered is absent and that the persons previously mentioned cannot hand over the document to him/her on time, the document will be returned to the court with the note where the whereabouts of the absent person are (Art.138 LCP).

As explained above, substituted service on persons other than the addressee does not apply to documents subject to personal service under Art.137 LCP, where a second attempt by registered postal service should be attempted. If it failed, the substitute method is used: the documents are deposited at a post office, with notification of that deposit and time limit to collect the document. With the expiration of that time limit, documents deemed to have been served (fictitious service).

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

As stated above, in some cases the LCP allows fictitious service. For example, regarding service of a document subject to personal service under Art.137 LCP, after a second attempt to deliver a document to an addressee by registered postal service failed (i.e. once a document is deposited at a post office, with notification of that deposit and time limit to collect the document), the service ends fictitious.

The service of document may end fictitiously also in cases where the party (or its legal representative or attorney) failed to notify the court of any change of the address during the proceedings, and a responsible person of service cannot find out where the party has been moved. Thereby, the court will order all further service in the proceedings on that party to be done by hanging on the document on the court's notice board on the court's web site.

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?

In the case where fictitious service is allowed, the LCP prescribes when this method of service unfolds its effects. To be specific, where the document is deposited at a post office for the purposes of collection, if the document is not collected within eight days from the day of the notification, it will be considered that the service has been properly effected (Art. 137(2) LCP). Where the service is effected by hanging on the document on the court's notice board on the court's web site, the service is considered to be effected after the expiration of eight days as of the day of the hanging on the document.

In regard to the effects, the fictitious service is equivalent to the service where the document is served directly to the recipient. Namely, in case of fictitious service, the LCP expressly sets forth that "it shall be deemed that the service has been duly effected" (Art. 137 (2) LCP.)

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?

Apart from what is expressly set forth by the law - publication of the document on a notice board on the court's website as service of last resort, no other possibilities are at hand in order to insure that the document was actually made known to the recipient.

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

In the Macedonian civil procedure, there are no special legal remedies in cases where the service ended fictitiously, and the respondent did not obtain actual knowledge about it. The only legal

remedy that comes into consideration is *restitutio in integrum* under the conditions established by Art. 109(1) LCP. According to this article, if the party misses a hearing or a deadline for taking an action in the procedure and because of that loses the right to take that action, the court will allow that party, at its proposal, to additionally perform that action (*restitutio in integrum*), if it finds that there are justifiable reasons for the omission. When a return to the previous state is allowed, the procedure returns to the state it was in before the omission and all decisions made by the court due to the omission are annulled (Art. 109(2) LCP).

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?

In theory, there is a prevailing opinion that the regime of personal service of documents as regulated by Art.137 (2) LCP, after its amendments of 2010, represents a threat to the right of the party to be informed about the procedure, and thus also limits its right to be heard.[25] There are several arguments in support of this opinion. By definition, personal service implies investing more effort and taking longer-term measures in order to ensure that the document was actually made known to the addressee. These enhanced efforts refer to the duty of the person responsible for service, to try again to serve the document, if the service failed on the first attempt. It is quite understandable that there is a necessity of re-attempt to serve the document taking into account the nature of the documents that are served personally, primarily the document instituting the proceedings. It does not explicitly follow from the wording of the Art. 137(2) LCP that the addressee becomes aware of a first attempt for delivery. Art 137(2) of LCP does not explicitly state that after the first unsuccessful attempt for personal service, the person effecting service should inform the addressee about the attempted service, and that there is a document that the addressee should receive. Instead, the document is immediately sent by postal service and it may result in the fiction that the service has been properly effected, only after eight days after the notification to collect the document from the post where it has been left. In regard to these, it quite possible for the service to end fictitiously in cases for example, where the party does not live at all at that address or lives at that address but is away e.g. 20-30 days, and sometimes even only 15 days when on vacation. Nevertheless, the service will be considered properly effected, but the party will not even know that a certain court document has been sent to him/her. Therefore, it seems obvious that the current regime of personal service limits the right of a party to be heard in the proceedings.

It is true that Art 143(4) LCP states that if the service is effected according to the provision referred to in Art. 137(2), on the delivery note, in addition to the conformation for receipt of the document, it shall be noted on the proof of service that a written notification has preceded. But this provision has been in the LCP since 2005, when there was a completely different regime for personal service, which included leaving a written notification with one of the persons listed in Art. 136 (2) and (2) LCP. Additionally Art. 213 (4) of the Rules of Court (which were adopted in 2013) stipulates that if the person is not found at the specified address during the personal service, a notification is left in accordance with the law. But as explained previously the current provisions of Art.137(2) LCP does not regulate where and to who this notification should be left. Hence, it is obvious that there is a gap in the LCP, which has been overcome by the new law.

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

No, the same provisions apply regardless of whether the person's whereabouts is assumed to be within the country or abroad.

[25] See A. Janevski, supra n.22, p.633 at 651-653, T. Zoroska Kamilovska, M. Rakočević, 'Novi režim ličnog dostavljanja u parničnom postupku Republike Makedonije - Da li je ugroženo pravo stranke da bude saslušana u postupku?', 12 Pravni život (2013) p. 55-67.

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

Under the LCP, the recipient can refuse to accept the document only if there is a justified reason as explained below in 45. Where an addressee or recipient deliberately refuses to accept the document and therefore is responsible for the failure to serve, the procedure prescribed in Art. 139 LCP applies. Namely, when the addressee, or the adult member of his/her household or an authorized person or employee of a state body or legal entity, refuses to accept the document without any justified reason, the person effecting the service shall leave the document in the dwelling house or business premises or pin the document to the door of the dwelling house or premises. The person effecting service shall note on the proof of service the day, time and reason for such refusal, as well as the place where the document was left, and thereby, it shall be deemed that the service has been effected.

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

In Macedonian civil procedure, the documents are written and the domestic service of documents in carried out in a language of the procedure in accordance with the Art.6 and Arts.94-95 LCP. The civil procedure is carried out in the Macedonian language and its Cyrillic alphabet, as a general rule. However, in the civil procedure, another official language and its alphabet spoken by at least 20% of the citizens shall be used in accordance with the LCP.

In terms of service of documents, Art. 94 LCP lays dawn that summons, decisions and other court documents are addressed to the parties and to the other participants in the procedure in Macedonian language and its Cyrillic alphabet. To the parties and other participants who are citizens of the Republic of North Macedonia, whose language is an official language other than the Macedonian language, summons, decisions and other court documents are delivered in that language as well.

The parties and other participants in the procedure submit the statements of claim, appeals and others submissions to the court in Macedonian language and its Cyrillic alphabet. The parties and other participants in the procedure, citizens of the Republic of North Macedonia, whose language is an official language other than the Macedonian language and its Cyrillic alphabet, can submit the statements of claim, appeals and other submissions to the court in their language and alphabet. Such submissions are translated by the court into the Macedonian language and its Cyrillic alphabet and served on the other parties and participants in the proceedings (Art. 95 LCP).

The LCP lays down provisions on the language of the delivery note (proof of service). The text of the delivery note is written in Macedonian language and its Cyrillic alphabet. Nevertheless, in the courts located in the area of the local self-government units, in which besides the Macedonian language, official language is the language of the members of the community which is spoken by at least 20% of the citizens, the text of the delivery note is written as well as in that language and alphabet (Art. 143(7) and (8) LCP).

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.

In Macedonian civil procedure there are no specific claim forms to be used for domestic service.

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

Except in cases where, at the request of a party, the service of documents is effected by a notary or a bailiff, no special fee is paid for service.

The Tariff for the reward and compensation of other costs for the work of the bailiffs[26] governs the costs of service by a bailiff. Thus, successful immediate personal service of court documents and other documents resulting from the work of the bailiff on a debtor, a third party or on an employer of the debtor, outside the bailiff's office, costs 15 Euros per person. Service of court documents and other documents resulting from the work of the bailiff on state authorities, public institutions, holders

[26] Official Gazette of RM, No. 32/2019.

of payment transactions or creditors cost 3 Euros. Service of court and other documents resulting from the work of the bailiffs by postal service is in the amount of the actual amount of postal costs.

Under the Notary Tariff[27] for service as an entrusted work according to special laws (e.g. service for the purpose of litigation procedure by virtue of the LCP), the notary is entitled to a reward, namely: a) for drawing up a record of receipt of a document for the purpose of delivery and the actions taken during the service in accordance with the law, a reward of 200,00 Denari; b) for preparing a minutes for successful service of document in accordance with the law, a reward of 1,200.00 Denari.

LEGAL IMPLICATIONS OF SERVICE

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

The formal requirements for a valid service of document in North Macedonia are laid down by the LCP. A document is deemed to have been served properly when it is delivered: a) in a manner, b) time and c) place as prescribed by law. The service is recorded in the form established for the purpose. The formal requirements differ in regard of the method of service, and there are explained exhaustively in detail in 10 above.

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

Under the LCP, service of a document initiating the proceedings (statement of claim) on the respondent marks the beginning of the course of litigation (lis pendens): litigation begins with the service of the claim on the respondent (Art. 184 (1) LCP). With regard to the claim made by the party during the procedure (e.g. an incidental claim for determination, a counterclaim etc.), the litigation begins from the moment when the opposing party is notified of that claim (Art. 184 (2) LCP).

The most significant procedural effect of the occurrence of lis pendens is the prohibition of double lis pendens. In line with Art.184 (3) LCP, double lis pendens represents an obstacle to proceedings. Accordingly, a claim is inadmissible if the claimant has previously brought a claim against the same party in the same dispute and this other claim is already pending. As long as the litigation is pending, new litigation may not be instituted in relation to the same claim between the same parties before another court or tribunal. Double lis pendens leads to the dismissal of the second claim as inadmissible, depending exclusively on which of the two claims first became pending.[28] In this regard, lis pendens aims at preserving the future negative effect of res judicata in cases of proceedings with identical subject matters.

The date of service is also important in the view of exercising certain procedural rights, where the service of a document fixes the date on which a deadline starts to run. For example, the time limits for an appeal and a revision start form the date of service of the judgment on the parties (Arts. 337(1) and 372 (1) LCP). Furthermore, with the expiration of the appeal time period, counted as of the date of service, the judgment becomes legally valid and the dispute is res iudicata. The time period for voluntary fulfillment of the obligation imposed by the judgment begins to run on the first day after the service of the judgment to the party who is ordered to perform the obligation, and with the expiration of this time limit, the judgment becomes enforceable (Art. 14 LE).

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

In Macedonian civil procedure, where the respondent has not responded to the statement of claim or not appeared in court, a default judgment shall only be rendered according to Arts.319 and 320

[27] Official Gazette of RM, No. 226/2016 and 33/2019.

[28] Janevski, Zoroska Kamilovska, supra n.4 p.400.

LCP). The LCP provides special safeguards against an early judgment by default issued against the respondent (particularly those relating to service, articulated in Art.137 LCP).

Arts.319 and 320 of LCP explicitly provides for that the judgment by default shall not be entered until it is established that: a) the claim and the summons for giving the written response to the statement of claim were personally delivered to the respondent; or b) the respondent was duly summoned for a court hearing.

The court may postpone the passing of a default judgment if there is no proof that the respondent was properly served with the claim and the summons to provide a response to the statement of claim, or was not duly summoned for a court hearing, and there is no doubt that these documents were addressed to him/her. In such a case, the court will determine a time limit that cannot be longer than 30 days for service in North Macedonia, i.e. not longer than six months for service abroad, during which it will be checked whether the mentioned documents are properly served on the respondent. If so, the court will issue a default judgment.

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

If a judgment was passed due to respondent's default (either where the respondent has not responded to the statement of claim or not appeared in court), and the respondent claims that proper service was not effected, he/she can file an appeal against the judgment in accordance with Art. 343 (2) point 7 LCP ("where by illegal action by the court, and especially by omitting the service, the party was not given the opportunity to discuss in court").

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

In Macedonian civil proceedings, there is no possibility to pass a default judgment against the claimant (either at the request of the respondent, or by the court ex officio) due to the claimant's failure to appear in the proceedings. A default judgment is exclusively related to the defendant's not entering an appearance.

However, the LCP sets forth the legal consequences in regard to the claimant's failure to appear in the proceedings. If the claimant, who is duly summoned, does not come to the preparatory hearing (which is mandatory, except in small claim proceedings), and does not justify the absence, the claim is considered withdrawn, provided the respondent agrees to it. Whether the respondent is not present at the hearing, the claim will be considered withdrawn if within eight days after receiving the notification about the withdrawal, the respondent did not declare that he/she was opposed to it (Art. 277(1) LCP). The same applies in cases where the claimant, who was duly summoned, did not come to the first session of the main hearing, or to a later session and did not justify his absence (Art. 280(1) LCP).

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

In cases where due to the claimant's absence, the claim is considered withdrawn in accordance with Arts.277(1) and 280(1) LCP, the court issues a decision stating that the claim is considered withdrawn. If the claimant claims that he/she was not properly invited, the claimant can file an appeal against this decision according to Art. 343 (2) point 7 in conjunction with Arts.368 and 371 LCP.

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

Under the LCP, improper service constitutes a fundamental violation of the rules of civil procedure. To be more specific, Art. 343(2) point 7 states that there is a fundamental violation of the rules of civil procedure of absolute character "where by illegal action by the court, and especially by omitting the service, the party was not given the opportunity to discuss in court"). This fundamental

violation of the rules of civil procedure is a ground for lodging an appeal, but also extraordinary mean of recourse (revision and reopening the proceedings in line with Arts. 375 and 392 of LCP).

In addition to this, since the amendment to the LCP of 2010, some other legal consequences are prescribed in Macedonian civil procedure regarding the improper service (Art. 125 (5) and (6) LCP). Specifically, the court may impose a fine from 700 to 1000 Euros on a person effecting service who does not perform the service conscientiously and as a result there is a significant delay in the proceedings. On the other hand, a party who incurs additional costs in the proceedings, as a result of the unconscientious performance of duty by the person effecting service, may in those proceedings request the court to order that person on the payment of damages to refund those costs in accordance with the general rules for compensation of damages.

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

The LCP does not expressly regulate this situation, i.e., It does not know provide for the possibility of validating the improper service with the actual behavior of the recipient in the procedure, or with the fact that despite the improper service, the addressee/recipient had the opportunity to prepare for the hearing before the court. The illegal action by the court and especially the omission of service, resulting with not giving the opportunity to the party to discuss in court constitutes a fundamental violation of the rules of civil procedure of absolute character, which cannot be remedied with an actual behavior of the recipient.

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

Unlike many European jurisdictions' national procedural codes, the Macedonian LCP does not explicitly provide for provisions on the cure of defective service. The service is ineffective if mandatory service provisions have been violated.

Taking into account the purpose of service, we consider that provisions for cure of defective service should be introduced in the Macedonian legislation. Non-compliance with the service rules may be cured if addressee's conduct proves that he/she received the document to be served personally and in sufficient time for him/her to arrange the defense or in any other way respond as required by the nature of the document. In such cases, a formal defect in service falls away as irrelevant. The function of service of documents is fulfilled by actual receipt.

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, howis this issue dealt with?

Since in Macedonian legislation there are no provisions on the cure of defective service, there is no judicial practice in this regard, so it is not possible to provide an answer to this question.

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?

As has been mentioned several times, the Regulation is not yet applicable in North Macedonia. However, comparing the provisions of the Macedonian LCP with the provisions in Art.22 of the Regulation, it can be concluded that the conditions to issue a judgment in the absence of a respondent (default judgment) in the national legislation generally correspond to those of the Regulation (Art. 22 (1). Yet, it is worth to mention that the possibility to relieve respondent of effects of deadline expiry under conditions set forth in Art. 22(4) of the Regulation, does not exist in Macedonian legislation.

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

The Regulation is not yet applicable in North Macedonia, so not option has been made.

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

As was stated above, the possibility to relieve respondent of effects of deadline expiry under conditions set forth in Art. 22(4) of the Regulation, does not exist in Macedonian legislation. Since the Regulation is not yet applicable in North Macedonia, North Macedonia has not set and communicated the deadline in line with the provisions of Art 22(4) of the Regulation.

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

As mentioned above in 25, the incorrect service is ground for lodging an extraordinary mean of recourse in line with Arts.375 and 392 of LCP. Revision and reopening the proceedings, as extraordinary means of recourse, may be lodged against a legally valid judgment (res judicata), if by illegal action by the court, and especially by omitting the service; the party was not given the opportunity to discuss in court. If deciding upon the lodged legal remedy the court found that the service of document were effected improperly, and as a result the party was not given the opportunity to be heard in court, it shall cancel the judgment that was made on the basis of such a procedure, and sent the case back for retrial to the lower court or shall re-open the legally completed procedure.

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?

The LCP sets forth a specific written proof (delivery note) that the document has been served (Art. 142). The delivery note is a record (public document) of the effected service, therefore, it serves as proof that delivery has been made. Except when service is effected electronically, in order to prove that the documents have been served, a record of service must be made on the pre-printed form provided for this purpose. The proof of service (or acknowledgment of receipt) is a standard form set forth by the Court Rules of Procedure (many different forms are set forth for all court proceedings, forms No.27-60). The form of the delivery note contains all the details required for proof of service, including in particular: the name of the person on whom the document is to be served, the name of the person to whom the document has been physically delivered, the name of the document that is delivered, the time of service, signature of the recipient and signature of the person effecting the service etc. According to Art.202 of the Rules of Court, the appropriate text on the method of service is marked on the delivery note, as well.

In accordance with Art.143 LCP, the confirmation for effected service (proof of service) is signed by the recipient and the person effecting the service. The recipient himself/herself writes down on the proof of service the date of receipt. If the recipient is illiterate or unable to sign, the person effecting the service writes his/her first and family name and in letters write out the day of receipt, noting why the recipient did not place his/her signature. If the recipient refuses to sign the delivery note, the person effecting the service notes this on the delivery note and writes in letters the day of service and thereby service is deemed to have been effected. If the service is effected according to the provision referred to in Art. 137(2) LCP (personal service), on the delivery note in addition to the conformation for receipt of the document, it shall be noted on the proof of service that a written notification has preceded. In cases of substituted service, where the document is handed over on substitute recipient, the relationship of those two persons is indicated in the delivery note.

However, the delivery note is not the only means of proof of the service. If the delivery note has disappeared, the service can be proven in another way (Art.143 (9) of LCP (e.g. with witnesses etc.).

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

In addition to the so-called substitute recipients, as explained above in 16, for certain cases the LCP provides for other authorized recipients of documents. When the party has a legal representative or an attorney, the service is effected on the legal representative or attorney, unless otherwise provided by law. If the party has several legal representatives or attorneys, serving one of them shall be sufficient (Art. 133 LCP). Service on an attorney may be also effected by delivering the document to the person performing any kind of activities in his office (Art. 134 LCP).

The LCP lays down provisions for special proxy (representative) authorised to accept service. In Macedonian civil procedure, the party can appoint a proxy for receiving document and authorize him/her to accept service on its behalf and to notify the party regularly on that.

However, in certain cases, the court is obliged to call on the party to appoint a representative authorised to accept service. Thus, if the party or its legal representative is abroad and does not have a proxy in North Macedonia, the court will call upon them within a certain period to appoint a representative authorised to accept service in North Macedonia. If the party or its legal representative does not appoint such a representative, the court shall, at party's expense, appoint a temporary representative authorized to receive document for that party and shall notify the party or its legal representative for that (Art.141 LCP).

In another cases, the court may call the party to appoint a representative authorised to accept service. Thus, when several persons jointly sue, or are sued as sole litigants, and do not have a joint legal representative or a proxy, the court may call upon them within a certain period to appoint a joint representative authorised to accept service. At the same time, the court notifies the claimant or respondents, which of them will be considered as a joint representative authorised to accept service, if they do not appoint such a representative themselves (Art. 142 LCP).

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

As stated above in 25, in Macedonian civil procedure the service is rendered ineffective if it fails to adhere to the legally prescribed form and thereby breaches fundamental regulations. This means that the service procedure is invalid and must be performed again from the beginning.

Unlike many European jurisdictions' national procedural codes, the Macedonian LCP does not explicitly provide for provisions on the cure of defective service. This means that the LCP does not allow exceptions to the principle of invalid service, when considering the purpose of service there is an opportunity to prove whether the addressee received the document to be served and, if so, when. Only Art.143 LCP stipulates that if the date of service is incorrectly indicated on the delivery note, it will be considered that service was effected on the day when the document was handed over. However, this provision refers only to the situation when the date of service is incorrectly indicated on the delivery note.

Taking into account of purpose of service, we consider that provisions for cure of defective service should be introduced in the Macedonian legislation. Non-compliance with the service rules may be cured if addressee's conduct proves that he/she received the document to be served personally and in sufficient time for him/her to arrange the defence or in any other way respond as required by the nature of the document. In such cases a formal defect in service falls away as irrelevant. The function of service of documents is fulfilled by actual receipt.

30. What is considered a timely service of documents?

The LCP does not contain provisions on what is considered timely delivery. However, having in mind that according to Art. 9 LCP the court is obliged to conduct the procedure without delay, within a reasonable time, with fewer costs and to prevent any abuse of the rights of the parties belong in the procedure, on one hand, and that the responsibility for service lies with court as well, it is the court's duty to ensure expeditious delivery.

In regard to that, Art. 214 of the Rules of Court set forth that the documents intended for delivery are sent within the deadline according to the law and these rules of procedure. Documents of an urgent nature are sent immediately after receipt by the first post or by an official of the court. Documents received after closing the delivery book for postal service, are sent the next working day. It should be noted that, the LCP prescribed deadlines for delivery of certain document after they are received in court, e.g. the statements of claim with enclosures shall be delivered to the respondent for a response within eight days as of the day of receipt in court (Art. 269(1) LCP).

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

Since the responsibility of service lies with the court, the Rules of Court also contains provisions on the supervision of delivery service (Art. 238). The president of the court or the court administrator is obliged every 15 days of the month to carry out supervision in the administrative delivery service when the delivery is carried out by an official of the court, by post or by electronic delivery, if delivery is carried out electronically in the court. The supervision includes the entire operation of the delivery service: the method of service, promptness in delivery, in receiving and is effecting service of document, possible problems etc. The president of the court or the court administrator takes all the measures to overcome the problems with the delivery, and for this purpose he/she obliges the head of the court registry to carry out the tasks that he/she has directed to him/her.

In addition to this, some other legal consequences are prescribed in Macedonian civil procedure regarding the untimely service (Art. 125 (5) and (6) LCP). Specifically, the court may impose a fine from 700 to 1000 Euros on a person effecting service who does not perform the service conscientiously and as a result there is a significant delay in the proceedings. On the other hand, a party who incurs additional costs in the proceedings, as a result of the unconscientious performance of duty by the person effecting service, may in those proceedings request the court to order that person on the payment of damages to refund those costs in accordance with the general rules for compensation of damages. Three imposed fines for the same person constitutes a basis for initiating disciplinary proceedings in accordance with law. The president of the court ex officio notifies the court administrator, the Chamber of Notaries, the Chamber of Executors and the responsible person in the legal entity for the purpose of initiating disciplinary proceedings.

CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION

North Macedonia is not yet a Member State of EU, and therefore the Regulation is not directly applicable in North Macedonia. Therefore, it is not possible to provide answers the questions contained in this part of the Questionnaire. However, it should be noted that with the start of negotiations for EU membership, the process of preparations for the implementation of obligations arising from EU law, including this Regulation, is ongoing.

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.

(e.g. in Germany: § 183 ZPO regulates the service abroad. For the purposes of implementing the Regulation, §§ 1067 (1), 1069 (1), 1070 and 1071 ZPO shall apply according to § 183 (1) ZPO.

§ 1069 (1) no. 1 ZPO provides the German court which is in charge of the service with competencefor the service of judicial documents and no. 2 declares that generally, the court at the residence orhabitual residence is competent for extrajudicial documents.)

(e.g. in Austria: The trial courts are considered transmitting agencies.)

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.

(e.g. in Germany: § 1069 (2) ZPO regulates which bodies are considered to be "receiving agencies", Within the meaning of Article 3 (2) of the Regulation the office of the local court in whose district the document is to be served shall be the receiving agency, § 1069 (2) cl. 1 ZPO. The state governments may assign the duties of receiving agency to a district court for the districts of several district courts by statutory order, § 1069 (2) cl. 2 ZPO.)

(e.g. in Austria: The district courts are considered receiving agencies.)

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

(e.g. in Germany: The following means of communication are available for receiving and sending:mail and private delivery services, fax; and for informal communications: telephone and e-mail.[8])

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

(e.g. in Germany: The state governments "determine by statutory order the body responsible in therespective state as the German central office pursuant to Article 4 of Regulation [… It] shall be theFederal Office of Justice", § 1069(3) and (4) ZPO.)

(e.g. in Austria: The Federal Ministry of Justice)

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

37. **What are the costs of service under the Regulation if your Member State is the receiving State?**
(e.g. in German: Expenses may be up to 20.50 EURO under ordinary circumstances. They are calculated according to the type of service requested in accordance with the Judicial Costs Acts.[9])

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

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

(e.g. in Germany: According to § 1070 ZPO, requests for service, certificates of service and other notices pursuant to the Regulation received from abroad must be in German or in English or ac- companied by a translation into German or English.)

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

(e.g. in Austria: The "Zentrales Melderegister" [Central Register of Residents] can be consulted by various official bodies. Only a small administrative fee is charged.)

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?

(e.g. in Germany: "Service pursuant to Article 17 of Regulation (EU) 2020/1784 by the competent German diplomatic mission or consular post abroad shall only be effected in justified exceptional cases. Service pursuant to sentence 1 on an addressee who is not a German national shall only be admissible if the Member State in which service is to be effected has not excluded this by a declara-tion pursuant to the first sentence of Article 33(1) of Regulation (EU) 2020/1784. Service pursuantto Article 17 of Regulation (EU) 2020/1784 to be effected in the Federal Republic of Germany shallbe admissible only if the addressee of the document to be served is a national of the transmitting State", § 1067 ZPO.)

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

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.

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?

RIGHT OF REFUSAL

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

Under the LCP, an addressee or person who is willing or obliged to accept the document in place of the addressee (so called recipient), can refuse to accept the document only if the service is made at a time, place and in a way that is not provided by law (arg. ex. Art. 139 LCP). Since in such cases, the service is improper (defective), there are justified reasons to refuse to accept a document. Therefore, the refusal of acceptance does not cause harmful consequences for the addressee.[29]

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

As explained above, the acceptance of a document can be refused if there are justified reasons, meaning that the service of document is made at a time, place and in a way that is not provided by law. If the refusal of acceptance is deliberately made, it does not prevent the harmful consequences for the addressee.

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

There is no possibility to refuse acceptance of document served electronically, either in cases where such method of service is prescribed by law and works in the appropriate court, as well as in cases where the party itself requested that service be done electronically.

Service by electronic way is considered to have been made on the day of receipt of the document. At the same time as sending the document to the recipient to his electronic address, the CEIS also sends a notification that a document, which needs to be downloaded, has been sent from the CEIS. The LCP requires the secure identification and transmission standards, stating that the recipient of the electronic mail proves his identity with his/her electronic signature inspects the electronic mailbox and electronically signs the document he/she submits to the court, or confirms the receipt of the e-mail. Furthermore, it imposes on obligation for the mentioned entities to check the electronic mailbox on regular basis: the document must be downloaded from the electronic mailbox no later than eight days as of the date of its sending. Afterwards, the service shall be deemed to have been effected (Art. 126-a LCP). In addition, Art. 237 (5) of the Rules of Court states that: "Each party who has a personal account for communication with the court is obliged to review it regularly in order to download the documents from the court in a timely manner. All the documents that arrived from the court are considered to have been successfully delivered to the party during the next login to the personal account, and if the party has not logged in, it is considered to have been successfully delivered, after the legally stipulated period after the placement of the document."

[29] Janevski, Zoroska Kamilovska, supra n.4, p. 284.

The electronic file in the court records when the document has been successfully uploaded to the court web portal, the date of successful delivery and the method of successful delivery (with login or after the expiration of the legally provided deadline (Art. 237(7) of the Rules of Court).

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

The court assesses the justification of the reasons for refusing the receipt of the letter on a case-by-case basis, taking into account the legal provisions relating to the time, place and method of service.

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

As stated above, in cases of justified refusal of acceptance, the refusal itself does not cause harmful consequences for the addressee. Where an addressee deliberately refuses to accept the documents to be served, an addressee's refusal to accept service should not prevent the legal effects of service to come into force. In such cases the refusal to accept the documents has the same consequences as a delivery of the documents. In that regard, Art.139 of LCP states as follows: "When the addressee, or the adult member of his household or an authorized person or employee of a state body or legal entity, refuses to accept the document without any justified reason, the person effecting the service shall leave the document in the dwelling house or business premises or pin the document to the door of the dwelling house or premises. The person effecting service shall note on the proof of service the day, time and reason for such refusal, as well as the place where the document was left, and in that way, it shall be deemed that the service has been effected. In that direction, there is a conclusion of the Supreme Court that "it is not considered that a legal entity has been duly invited to a the main hearing, if the court officer on the return note merely stated that the person authorized to receive the summons refused to accept it, and did not leave it in the legal entity premises".[30]

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?

Since the Regulation is not yet applicable in North Macedonia, there is no court practice in regard to this situation.

ELECTRONIC METHODS OF SERVICE

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

As explained in detail above in 10, the LCP lays down provisions on electronic service of documents.

Service via CEIS is, as a rule, is mandatory for certain categories of persons, who have an obligation to register an electronic mailbox at the CEIS. In accordance with Art.125-a LCP, the service of documents on lawyers, state bodies, state administration bodies, local self-government unites, legal entities and persons performing public authorizations shall be effected via electronic way in an electronic mailbox. Nevertheless, since 2010, when the rules on service by registered electronic mailbox were first introduced till nowadays, the electronic service has not become the default method of service of document. However, in the last few years (especially with the beginning

[30] Conclusion of the Department for Civil Cases of the Supreme Court of RNM, 23.2.2015.

of the COVID-19 pandemic), a significant increase in electronic service has been noticeable, with a tendency for full and consistent application of legal provisions, which significantly affects the reduction of delivery costs and the improvement of efficiency. Nevertheless, the physical delivery is still in option, being an exception as provided by the LCP.

Namely, the LCP provides for a physical delivery to these persons instead of service via electronic mailbox. When there are no technical conditions for service via electronic mailbox on the persons and entities mentioned above, the service shall be effected by delivering the document to the person authorized to receive service or to an employee found in an office or business premises or in an archive of state body or to a business unit (branch) if the dispute arises out of the activity of that unit (Art.127 LCP). In addition, the LCP sets forth that when there are no technical conditions for registering an electronic mailbox, service on a legal entity registered in the commercial or other register is carried out at the address registered in the the appropriate registry. If the service at that address fails, the service is made by posting the document on courts's notice board on the court's website, and it is considered that the service was made properly after the expiration of eight days from the day of publication (Art. 128 (1) and (2) LCP). The same provisions also applied to natural persons who perform a specific activity registered in the commercial or other register, when service is made to those persons in connection with the activity they perform.

The LCP also provides for the possibility to effect service electronically upon party's request. That is to say, the party can request the court to effect the service via electronic way in an electronic mailbox at the address provided in the request. The party is obliged to inform the court of the change of e-mail address, or of revoking the request to effect the service via electronic way in a electronic mailbox without delay (Art. 125(4) the LCP).

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

As stated above the service of documents on lawyers, state bodies, state administration bodies, local self-government unites, legal entities and persons performing public authorizations shall be effected via electronic way through court's electronic information system (CEIS). These persons or entities have an obligation to register an electronic mailbox at the CEIS.

Pursuant to Article 99 of the Law on Courts, an Informatics Center with a database for the Court Information System is established in the Supreme Court of the Republic of North Macedonia. Courts have IT services as separate organizational units. The Center, i.e. the IT service, is managed by the president of the court or by him/her designated judge. The Ministry of Justice ensures the installation, maintenance and operation of the information system on the common methodological and technological basis. In addition, a single information center is established in the Ministry of Justice with a base of data for all judicial authorities. By a special by-law the Minister of Justice determines the manner of functioning of the information system in the courts.

Since 2012, the Informatics Center of the Supreme Court operates a system for electronic service of court documents that uses public certificates for the identification of registered users and operates in the first phase of implementation, which involves the service of court documents (summons for hearings, judgments, decisions, various acts etc.) from the courts on the registered users. Each court delivers the documents for service through the special ACCMIS (i.e. Automated Information System for Managing Court Cases) applications to the electronic mailboxes of the users served by the Informatics Center of the Supreme Court. After users identify themselves with a digital certificate and log in with a username and password, they have insight into incoming documents.[31] It should be noted that ACCMIS is three-layer architecture (Database Server, Application Server, Client part), made with DELPHI software, which works on Microsoft Windows Server platform 2008 R2, Microsoft SQL Server 2008 and is installed in every court in North Macedonia. The application keeps a complete record of court proceedings from receipt of submissions, automatic distribution of cases by judges, to archiving of each case. The basic data on the cases of each court and all the documents that are generated during the court proceedings are entered into the local ACCMIS databases located

[31] Strategy for Information - Communication Technology in the Judiciary for 2019-2014 (revised strategy), p.16 < https://pravda.gov.mk/resursi/12 >, visited 18 January 2023.

in each court in North Macedonia. For the needs of ACCMIS, the Informatics Center of the Supreme Court serves a central database of nomenclature data for lawyers, notaries, bailiffs, mediators, bankruptcy trustees, courts, states, municipalities, etc. which is replicated in local ACCMIS databases of the courts.[32]

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?

The Macedonian LCP requires the secure identification and transmission standards, which guarantee that electronic documents will be delivered via a secure transmission channel (electronic mailboxes) and protected against unauthorized access by third parties. According to Art.126-a (6) LCP the recipient of the electronic mail proves his identity with his/her electronic signature, inspects the electronic mailbox and electronically signs the document he/she submits to the court, or confirms the receipt of the e-mail (Art. 126-a (6).

See also an answer in 50 below.

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

As stated above, the Macedonian LCP expressly states that the recipient of the electronic mail proves his identity with his/her electronic signature, inspects the electronic mailbox and electronically signs the document he/she submits to the court, or confirms the receipt of the e-mail (Art. 126-a (6). On a technical level as it has been explained Each court delivers the documents for service through the special ACCMIS applications to the electronic mailboxes of the users served by the Informatics Center of the Supreme Court. After users identify themselves with a digital certificate and log in with a username and password, they have insight into incoming documents.

47.4. How is the time of service determined?

According to Art.126-a of LCP, service by electronic way via CEIS is considered to have been made on the day the of receipt of document. At the same time as sending the document to the recipient to his electronic address, the CEIS also sends a notification that a document, which needs to be downloaded, has been sent from the CEIS. Furthermore, the LCP imposes on obligation for the persons or entities to whom service is effected via CEIS to check the electronic mailbox on regular basis: the document must be downloaded from the electronic mailbox no later than eight days as of the date of its sending. Afterwards, the service shall be deemed to have been effected. In the same direction, Art. 237 (5) of the Rules of Court states that each party who has a personal account for communication with the court is obliged to review it regularly in order to download the documents from the court in a timely manner. All the documents that arrived from the court are considered to have been successfully delivered to the party during the next login to the personal account, and if the party has not logged in, it is considered to have been successfully delivered, after the legally stipulated period after the placement of the document.

Under Art.237(6) of the Rules of Court, the court portal can also offer services for notifying the registered party about an act placed on his account (e-mail, SMS message). These services are used only if the party gave the consent when registering and do not have a confirmation function for successful delivery.

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

Aside from the cases where by virtue of law the service of documents should be effected electronically as explained above in 47, documents may only be served electronically on other parties to the proceedings if they have expressly agreed to the transfer of electronic documents. Namely, the LCP provides for the possibility to effect the service electronically upon party's request. The party

[32] Strategy for Information - Communication Technology in the Judiciary for 2019-2014, supra n. 31, p.15.

can request the court to effect the service via electronic way in an electronic mailbox at the address provided in the request. The party is obliged to inform the court of the change of e-mail address, or of revoking the request to effect the service via electronic way in a electronic mailbox without delay (Art. 125(4) LCP).

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

Although the LCP does not explicitly prescribe it, the provision of the Art.125 (4) is interpreted so that where documents are served electronically on parties to the proceedings upon their request i.e. expressly given consent, it is considered that the consent is given for the purposes of service for the particular civil proceedings, and not universally for any case in which the person may occur as a party.

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

As stated above the given consent for electronic service is not universal - it refers to a particular civil procedure.

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

According to Macedonian LCP, outside the scope of legally stipulated cases (i.e. when there is an obligation to register electronic mailbox or upon expressly given consent), no one is obliged to accept electronic service of document.

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

Not applicable**.**

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

As stated in 47 above pursuant to Article 99 of the Law on Courts, an Informatics Center with a database for the Court Information System was established in the Supreme Court of the Republic of North Macedonia. Besides, a single information center is established in the Ministry of Justice with a base of data for all judicial authorities.

The Informatics Center of the Supreme Court operates a system for electronic service of court documents that uses public certificates for the identification of registered users and operates in the first phase of implementation, which involves the service of court documents (summons for hearings, judgments, decisions, various acts etc.) from the courts on the registered users. Each court delivers the documents for service through the special ACCMIS (i.e. Automated Information System for Managing Court Cases) applications to the electronic mailboxes of the users served by the Informatics Center of the Supreme Court. After users identify themselves with a digital certificate and log in with a username and password, they have insight into incoming documents.[33] For the needs of ACCMIS, the Informatics Center of the Supreme Court serves a central database of nomenclature data for lawyers, notaries, bailiffs, mediators, bankruptcy trustees, courts, states, municipalities, etc. which is replicated in local ACCMIS databases of the courts

[33] Strategy for Information - Communication Technology in the Judiciary for 2019-2014, supra n. 31, p. 16

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

Given the facts that information and communication technologies in the judiciary are not at a satisfactory level, the priorities and measures to be taken in this field have been defined by the Strategy for Information-Communication Technology in the Judiciary for 2019-2014 (revised strategy), which includes the electronic service of documents. The Strategy states that in relation to formal security procedures and policies, the main shortcoming is the lack of a unified security policy (fragmented through segments). Hence, one of the priorities is the introduction of a comprehensive security policy (identity management and confidential and undeniable communication between the system and its users).[34]

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

With the development and/or upgrade of Information System in the judiciary through the implementation of the measures defined by the Strategy for Information - Communication Technology in the Judiciary for 2019-2014, it is expected that the efficiency in the total operation of the courts will increase, including the electronic service of documents. One of the main things that the new IS architecture should include is interoperability (information systems architecture should support all identified interoperability and communication patterns between applications).[35]

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

Apart from the provision under which when there are no technical conditions for service via electronic mailbox of CEIS, the service shall be effected by physical delivery (Art.127 LCP), the LCP does not contain any other provisions in regard to the consequences if electronic service is not possible.

54. What are the costs of electronic service?

Courts do not charge a separate fee for the electronic service of documents via CEIS in the cases provided for by law.

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

In Macedonian legislation, the protection of personal data is governed by the Law on Protection of Personal Data[36], which is in compliance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. Everyone responsible for using personal data has to follow strict rules called 'data protection principles'. They must make sure the information is: used fairly lawfully and transparently; used for specified, explicit purposes; used in a way that is adequate, relevant and limited to only what is necessary; accurate and, where necessary, kept up to date; kept for no longer than is necessary; handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage (Art. 9 of the Law on Protection of Personal Data). Pursuant to Art.119 of this law, the controllers and processors (which include entities that perform electronic service) were obliged to harmonize their operations with the provisions of this law within 18 months from the date of its entry into force (which was on 1 September 2020). The existing CEIS system is in compliance with the principles of personal data protection. It should be noted that it is expected that the new upgraded IT system in the judiciary,

[34] Strategy for Information - Communication Technology in the Judiciary for 2019-2014, supra n. 31, p.22 and p. 26.

[35] Strategy for Information - Communication Technology in the Judiciary for 2019-2014, supra n. 31, p. 26 - 27.

[36] Official Gazette of RNM, No. 42/2020 and 294/2021.

according to the Strategy for Information - Communication Technology in the Judiciary for 2019-2014, will offer even more sophisticated solutions in this domain.

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?

As stated above with the start of negotiations for EU membership, the process of preparations for the implementation of obligations arising from EU law, including this Regulation, is ongoing. This will have implications on national legislation and in regard to cross-border service of documents.

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

Not applicable, since North Macedonia is not EU Member State.

PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE

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

As explained above in 11, since North Macedonia is not yet a Member State of EU, the Regulation is not directly applicable for cross-border service of document. Therefore, the service of documents in the Member States of the EU falls under the general regime of service of documents in other countries, in accordance with international agreements (multilateral and bilateral) on international legal assistance and cooperation in regard to the service of documents to which North Macedonia is a member state. For the purposes of HCCH 1965 Service Convention, but also many other bilateral agreements, a designated Central Authority in North Macedonia is Ministry of Justice. As of 2020, within the Ministry of Justice, there is a special Department for International Legal Assistance in Civil Matters, which among other, deals with matters of cross-border service, i.e. acting on letters of request of domestic and foreign courts for delivery of document. Regarding the efficiency of the Department for International Legal Assistance, it can be stated that it is at a satisfactory level due to the fact that the department has its own archive, which files the cases electronically and they are immediately assigned to the work of the employees, who in accordance with the deadlines, accept, process, and dispatch the cases. However, it should be noted that the efficient functioning of this sector to a large extent depends on external communication with other national authorities and institutions in the process of providing international legal assistance, including service of documents. For those reasons, it is necessary to address the lack of appropriate electronic exchange of data with other authorities and institutions.[37]

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

Not applicable, since North Macedonia is not EU Member State.

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

As stated above with the start of negotiations for EU membership, the process of preparations for the implementation of obligations arising from EU law, including this Regulation, is ongoing. This will have implications on national legislation and in regard to cross-border service of documents.

[37] Functional analysis for the Ministry of Justice, 2021 < https://www.pravda.gov.mk/resursi/10 >, visited 18 January 2023.

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.

Not applicable, since North Macedonia is not EU Member State.

Instructions for contributors

1. References

As a rule, specific references should be avoided in the main text and, preferably, should be placed in the footnotes. Footnote numbers are placed after the final punctuation mark when referring to the sentenceand directly after a word when referring to that word only. We humbly invite our authors to examine carefully our sample references which are preceded by [-]. These sample references put the theory of our authors' guidelines into practice and we believe that they may serve to further clarify the preferred style of reference.

Reference to judicial decisions

When citing national judicial authorities, the national style of reference should be respected. References to decisions of European courts should present the following form:

[Court] [Date], [Case number], [Party 1] [v] [Party 2], [ECLI] (NB: the "v" is not italicised)

- ECJ 9 April 1989, Case C-34/89, Smith v EC Commission, ECLI:EU:C:1990:353.
- ECtHR 4 May 2000, Case No. 51 891/9, Naletilic v Croatia.

Reference to legislation and treaties

When first referring to legislation or treaties, please include the article to which reference is made as well as the (unabbreviated) official name of the document containing that article. The name of a piece of legislation in a language other than English, French or German should be followed by an italicised English translation between brackets. In combination with an article number, the abbreviations TEU, TFEU, ECHR and UN Charter may always be used instead of the full title of the document to which the abbreviation refers. If the title of a piece of legislation constitutes a noun phrase, it may, after proper introduction, be abbreviated by omission of its complement. Thus:

- Art. 2 Protocol on Environmental Protection to the Antarctic Treaty (henceforth: the Protocol).
- Art. 267 TFEU.
- Art. 5 Uitleveringswet [Extradition Act].

Reference to literature

First reference

Any first reference to a book should present the following form: [Initial(s) and surname(s) of the author(s)], [Title] [(Publisher Year)] [Page(s) referred to]

- J.E.S. Fawcett, The Law of Nations (Penguin Press 1968) p. 11.

If a book is written by two co-authors, the surname and initials of both authors are given. If a book hasbeen written by three or more co-authors, 'et al.' will follow the name of the first author and the other authors will be omitted. Book titles in a language other than English, French or German are to be followed by an italicised English translation between brackets. Thus:

- L. Erades and W.L. Gould, The Relation Between International Law and Municipal Law in the Netherlands and the United States (Sijthoff 1961) p. 10 – 13.

- D. Chalmers et al., European Union Law: cases and materials (Cambridge University Press 2010) p. 171.
- F.B. Verwayen, Recht en rechtvaardigheid in Japan [Law and Justice in Japan] (Amsterdam University Press 2004) p. 11.

Subsequent references

Any subsequent reference to a book should present the following form (NB: if more than one work by the same author is cited in the same footnote, the name of the author should be followed by the year in which each book was published):

[Surname of the author], [supra] [n.] [Footnote in which first reference is made], [Page(s) referred to] Fawcett, supra n. 16, p. 88.

- Fawcett 1968, supra n. 16, p. 127; Fawcett 1981, supra n. 24, p. 17 – 19.

Reference to contributions in edited collections

For references to contributions in edited collections please abide by the following form (NB: analogousto the style of reference for books, if a collection is edited by three or more co- editors only the name and initials of the first editor are given, followed by 'et al.'):

[Author's initial(s) and surname(s)], ['Title of contribution'], [in] [Editor's initial(s) and surname(s)] [(ed.) or (eds.)], [Title of the collection] [(Publisher Year)] [Starting page of the article] [at] [Page(s) referred to]

- M. Pollack, 'The Growth and Retreat of Federal Competence in the EU', in R. Howse and K. Nicolaidis (eds.), The Federal Vision (Oxford University Press 2001) p. 40 at p. 46.

Subsequent references follow the rules of 1.3.2 supra.

Reference to an article in a periodical

References to an article in a periodical should present the following form (NB: titles of well- known journals must be abbreviated according to each journal's preferred style of citation):

[Author's initial(s) and surname(s)], ['Title of article'], [Volume] [Title of periodical] [(Year)] [Starting page of the article] [at] [Page(s) referred to]

- R. Joseph, 'Re-Creating Legal Space for the First Law of Aotearoa-New Zealand', 17 Waikato Law Review (2009) p. 74 at p. 80 – 82.
- S. Hagemann and B. Høyland, 'Bicameral Politics in the European Union', 48 JCMS (2010) p. 811 at p. 822.

Subsequent references follow the rules of 1.3.2 supra.

Reference to an article in a newspaper

When referring to an article in a newspaper, please abide by the following form (NB: if the title of an article is not written in English, French or German, an italicised English translation should be providedbetween brackets):

- [Author's initial(s) and surname(s)], ['Title of article'], [Title of newspaper], [Date], [Page(s)]: T. Padoa-Schioppa, 'Il carattere dell' Europa' [The Character of Europe], Corriere della Serra,22 June 2004, p. 1.

Reference to the internet

Reference to documents published on the internet should present the following form: [Author's initial(s)and surname(s)], ['Title of document'], [<www.example.com/[...]>], [Date of visit]

- M. Benlolo Carabot, 'Les Roms sont aussi des citoyens européens', <www.lemonde.fr/idees/article/2010/09/09/les-roms-sont-aussi-des-citoyens- europeens_1409065_3232.html>, visited 24 October 2010. (NB: 'http://' is always omitted when citing websites)

2. Spelling, style and quotation

In this section of the authors' guidelines sheet, we would like to set out some general principles of spelling, style and quotation. We would like to emphasise that all principles in this section are governed by another principle – the principle of consistency. Authors might, for instance, disagree as to whether a particular Latin abbreviation is to be considered as 'common' and, as a consequence, as to whether or not that abbreviation should be italicised. However, we do humbly ask our authors to apply the principle of consistency, so that the same expression is either always italicised or never italicised throughout the article.

General principles of spelling

- Aim for consistency in spelling and use of English throughout the article.
- Only the use of British English is allowed.
- If words such as member states, directives, regulations, etc., are used to refer to a concept in general, such words are to be spelled in lower case. If, however, the word is intended to designate a specific entity which is the manifestation of a general concept, the first letter of the word should be capitalised (NB: this rule does not apply to quotations). Thus:
- [...] the Court's case-law concerning direct effect of directives [...]
- The Court ruled on the applicability of Directive 2004/38. The Directive was to be implemented in the national law of the member states by 29 April 2006.
- There is no requirement that the spouse, in the words of the Court, 'has previously been lawfully resident in another Member State before arriving in the host Member State'.
- Avoid the use of contractions.
- Non-English words should be italicised, except for common Latin abbreviations.

General principles of style

- Subdivisions with headings are required, but these should not be numbered.
- Use abbreviations in footnotes, but avoid abbreviations in the main text as much as possible.
- If abbreviations in the main text improve its legibility, they may, nevertheless, be used. Acronyms are to be avoided as much as possible. Instead, noun phrases are to be reduced to the noun only (e.g., 'the Court' for 'the European Court of Human Rights'). If this should prove to be problematic, for instance because several courts are mentioned in the text (e.g., the Court of Justice and the European Court of Human Rights), we ask our authors to use adjectives to complement the noun in order to render clear the distinction between the designated objects (e.g., the Luxembourg Court/the European Court and the Strasbourg Court/the Human Rights Court). As much will depend on context, we offer considerable liberty to our authors in their use of abbreviations, insofar as these are not confusing and ameliorate the legibility of the article.

- In English titles, use Title Case; in non-English titles, use the national style.

General principles of quotation

- Quotations are to be placed between single quotation marks, both in the main text and in the footnotes (thus: 'aaaaa').
- When a quotation forms part of another quotation, it is to be placed between double quotation marks (thus: 'aaaaa "bbbbb" aaaaa').
- Should a contributor wish to insert his own words into a quotation, such words are to be placed between square brackets.
- When a quotation includes italics supplied by the contributor, state: [emphasis added].