NATIONAL REPORT FOR BULGARIA ON CROSS-BORDER SERVICE OF DOCUMENTS

Musseva B

Project DIGI-GUARD 2023

Questionnaire for National Reports

On the Cross-border Service of Documents

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

For useful information 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 questions enumerated below and the given structure. If authors choose to address certain issues elsewhere within the 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 provided in 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 jurisdictions are not mentioned. Please address such issues on your own initiative where appropriate. On the other 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 regulated**.

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. Vesna Rijavec: vesna.rijavec@um.si and prof. dr. Tjaša Ivanc: tjasa.ivanc@um.si.

For general assistance please contact Denis Baghrizabehi: denis.baghrizabehi@um.si

NATIONAL SERVICE OF DOCUMENTS

1. **What is the legal basis for service of documents in your Member State? Is there a special act regulating the service of documents within your national legal system.**
   The Bulgarian Civil Procedural Code (hereafter: CPC) offers the legal basis for service of documents within Bulgaria. Chapter 6 "Notifications and Summons" of the first part "General Rules" provides a general overview on the procedure for service of notifications, including of summons.

   There is no special act dealing only with the domestic service of documents. However further acts also contain provisions devoted to the service of documents (for example the Law on notaries and notarial activity).

2. **Explain the term "service" as used in your national legal system. If there is a legal definition, please quote it.**
   We do not have legal definition of "service". In the legal literature it is explained mostly with reference to its purpose: to notify the party of the procedural actions carried out by the opposing party or the court, or of pending procedural actions, so that the party can take part in their performance[1].

   The provided definition in the legal literature go along the lines that this is a formal act, subject to legally established rules, through which the addressee is given the opportunity to familiarize himself with a certain judicial or extrajudicial document[2].

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

   Bulgaria does not use this term in pure domestic cases.

4. **For what purpose does your legal system define the concept "civil and commercial matters"?**
   Our CPC uses the terms "civil case/dispute" and "commercial case/dispute". The reason is that for commercial disputes there is a special faster procedure.

   Please find below the provisions of the CPC defining the commercial disputes:

   Applicable provisions

   Art. 365. Under the procedure of this Chapter, the district court as a court of first instance shall hear claims which have as a subject matter any right or legal relationship, arising or relating to:

   1. any trade transaction, including the concluding, interpretation, the validity, performance, failure to perform or its termination, the consequences of its termination, as well as filling deficiency in a trade transaction or its adapting to newly arose circumstances;

   2. (amend. – SG 45/12, in force from 01.01.2013, amend. – SG 96/17, in force from 02.01.2018) privatisation contract, public procurement contract and concession contract;

---

[1] Zh. Stalev, A. Mingova, V. Popova and R. Ivanova, Bulgarian Civil Procedural Law (Ciela 2006) p. 238, B. Punev, V. Gigova, B. Nikolova, M. Obretenova, B. Musseva The Amendments in the Civil Procedural Code (IK Trud i Pravo 2020) p. 22.

[2] B. Musseva, Problems in serving judicial and extrajudicial documents in civil and commercial matters pursuant to Regulation (EC) 1348/2000, Regulation (EC) 1393/2007 and Part VII of CPC in: Private International Law and some provisions of Part VII pf CPC in the frame of the EU instruments (Ciela 2008),p. 23-24, K. Atanasova, V. Puncheva, Service of summons and judicial documents (Sofia 2019) p. 61.

3. participation in a trade company or another legal person – trader, as well as for finding inadmissibility or voidness of the entry or for non-existence of a circumstance, entered the trade register;

4. establishing the insolvency mass, including the ascertaining claims of the creditors;

5. cartel agreements, decisions and co-ordinated practices, concentration of economic activity, unfair competition and abuse of monopoly or dominant market position.

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.**

This notion is not expressly defined. The judicial documents are enlisted in CPC and are served only officially (by the court, major, bailiff and so on).

The extrajudicial documents that are served officially are the so called "notary invitations".

The service within an enforcement procedure created some doubts as to weather the documents served are of judicial or of extrajudicial nature.

The enforcement procedure is regulated in CPC and is a continuation of already closed civil procedure done under the supervision of the court. On the other hand, BG did not enlist the bailiffs as judicial authority on the E-Justice Portal. The draft proposal for amendments of CPC following the entry into application of the Regulation should clarify this issue.

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?**

As described above, the purpose of the service stated in the legal literature is mostly to notify the party of the procedural actions carried out by the opposing party or the court, or of pending procedural actions, so that the party can take part in their performance[3]*. This purpose secures the **right to be heard**[4][5], which, together with the need to complete the legal proceedings within reasonable time frames, is considered as an expression of the **right of fair trail**[6] (ECHR). More generally, the proper service is deemed as an important tool for provision of legal, qualitative, and effective **administration of justice** and as a bases for the **trust in the judicial system**[7]. Of course, the service of documents enables the **access to justice and the equality of arms**, as well as provides **legal certainty** and **predictability**.*

7. **Who is responsible for the service of documents?**
The court is generally responsible for transmitting the judicial documents and is obligated to monitor their service. The service is executed by an employee of the court. Where there is no court at the place of serving, serving may be done through the municipality or the mayoralty (Article 42(1) CPC). Upon request by the party, the court may allow service by a private bailiff (Article 42(1) CPC).

[3] Zh. Stalev… 2006, supra n. 1 p. 238, , B. Punev 2020, supra n.1 p. 22.
[4] Zh. Stalev… 2006, supra n. 1 p. 238.
[5] N. Natov, Commentary of the Code of Private International Law (Ciela 2006) p. 262.
[6] A. Atavasova…. 2019, supra n. 2 p. 26.
[7] A. Atavasova…. 2019, supra n. 2 p. 13.

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?

No special rules on the matter. In general, it could be possible to sue the state and claim damage but the parties need to exhaust all domestic legal possibilities.

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

N/A

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?

N/A

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

See the explanations below in point 10.

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

In Bulgaria the court has first to send a copy of the ***claim*** *together with the attachments to it to the respondent, instructing him to lodge a written reply within one month, and explaining the mandatory content of the reply as well as the consequences of non-reply, or non-exercise of rights, as well as of the option to use legal aid, if needed (Article 131(1) CPC). The claim and the attachments as prepared by the claimant and the additional information by the court.*

The court serves a ***summon to a court hearing*** *also containing rulings on preliminary matters, as well as on the admission of the requested evidence (Article 140 (1) and (3) CPC). These documents are prepared by the court.*

The court is obliged to serve further its ***decision*** *(Article 295 CPC), the* ***appeal*** *with its attachments (Article 263(1) CPC), the* ***summon to the hearing before the second instance*** *(Article 268 CPC), the second instance decision (Article 283 CPC) and the* ***cassation appeal*** *(Article 287(1)CPC). By each 1st day of the month, the Supreme Court of Cassation published in the State Gazette the days, on which it shall have court hearings in the next month, and the cases subject to hearing. As an exception, the parties may be notified (Article 289 CPC).*

It may happen that the court has to notify the respondent for other the actions that have been carried out by the court or need to be carried out; for actions that have been carried out by the parties or need to be carried out; the actions that have been carried out by the participants in the proceedings or need to be carried out or other legal acts issued by the court.

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

The claim shall include:

1. indication of the court;
2. name and address of the claimant and of the respondent, of their ex-lege representatives or lawyers, if any, email address for serving under the conditions of CPC and an application whether he wishes to be served on the indicated e-

mail address, as well as the telephone number of the claimant and his representatives or proxies, the personal identification number of the claimant and his fax or telex number, if any;
3. the amount of the claim, if it can be evaluated;
4. statement of the circumstanced, on which the claim is based;
5. the substance of the claim;
6. signature of the person submitting the claim.

In the claim, the claimant is required to state the evidence and the specific circumstances he will prove with them, and to present along with it all the written evidence. In a monetary claim the claimant shall indicate a bank account or other means of payment (Article 127 CPC).

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

Under Article 38(1) CPC the service shall be executed at the ***address, which is given*** *for the case. Serving may be effected at an electronic address for service chosen by the party through the single portal for e-justice or a qualified service for electronic registered mail according to Art. 3, paragraph 37 of Regulation (EU) № 910/2014 (Article 38(2) CPC). In any case, if the party has indicated an e-mail address, the service shall be performed at the indicated address (Article 38(3) CPC). When service described so far cannot be effected, the notification shall be delivered to the* ***current address*** *of the party, and in the absence of such - to its* ***permanent*** *one (Article 38(5) CPC).*

The address, given by the claimant, is not defined.

For the permanent and for the current address the Law on the civil registration (LCR) provides definitions.

Pursuant to Article 93 LCR the permanent address is the place where a person chooses to be entered in the population register. The permanent address is always on the territory of the Republic of Bulgaria. Each person may have only one permanent address. Bulgarian citizens living abroad who are not entered in the population register and cannot indicate a permanent address in the Republic Bulgaria, are officially registered in the population register from the "Sredets" district of the city of Sofia. The permanent address may coincide with the current address.

The current address as per Article 94 is the address where the person lives. Each person has only one current address. The current address of Bulgarian citizens whose place of residence is abroad, is reflected in the population register only with the name of the country in which they live.

The permanent and the current address is applicable only to Bulgarian citizens as well as to foreigners (not EU-citizens) who have received a permit for long-term or permanent residence in the Republic of Bulgaria or who have received refugee status or humanitarian status or who have been granted asylum in the Republic (Article 3 CPC).

According to Article 53 Serving on foreigners residing in Bulgaria shall be done at the address declared in the respective administrative districts.

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

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.**

Domestic service of documents is done in accordance with Articles 38-57 CPC, in practice mainly via an employee of the court, postal service or via the municipality or the mayoralty (Article 38(1)

CPC). The service may be executed by a bailiff if requested by a party and allowed by the court Article 38(2) CPC). Where these types of service fail, as well as in the cases of disasters, accidents and other unforeseen circumstances, the court may exceptionally order the service to be done by an employee of the court by telephone, e-mail address, telex, fax or telegram (Article 38(2) CPC). For electronic service see below.

*As per Article 43 CPC the documents shall be served **personally** or **through another person**. The court may order the serving be made by **enclosing the notification with the case**, or by **sticking a notification**. The court may order the serving be made by **publication**.*
*In any case the service may be done via a **representative**.*

Personal serving (Article 45 CPC)
The notifications shall be served personally to the addressee. Serving a representative and to an email address for serving shall be considered personal serving.

Serving on another person (Article 46 CPC)
Where the notification cannot be served personally to the addressee, it shall be served to another person, who agrees to accept it. This other person may be any family member of age, or whoever lives at that address, or is a worker, employee or employer of the addressee, respectively. The person through whom serving is done shall sign on the receipt undertaking the obligation to forward the summons to the addressee. Persons who are involved in the case as opposing party to the addressee must not be served. The court shall exclude from the other persons these, who are interested of the result of the lawsuit or are explicitly pointed in a written statement of the addressee. By serving the notification on another person, it shall be deemed served on the addressee. The addressee may require recovery of the term, if he was absent at the address and it was not possible for him to learn in time about the serving.

Enclosing the notification with the case (Article 40 and 41 CPC)
The party living abroad or leaving for more than one month abroad shall be obliged to provide a person at the seat of the court, to whom the notifications shall be served – a proceedings addressee, if the party has no lawyer for the lawsuit in the Republic of Bulgaria. The same obligation shall have the ex-lege representative, the guardian and the lawyer of the party.
Where that persons do not state proceedings addressee, each and all notifications of the case shall be considered served. For these consequences, they must be warned by the court when the first notification is served.

The party who is absent for more than a month from the address it has provided for the case or to which a notification was once served shall be obliged to inform the court of its new address. Such obligation shall also befall to the party when the latter has indicated an electronic address for service. The same obligation shall lie with the legal representative, trustee and lawyer of the party.
In case of non-fulfillment of the obligation under para. 1, as well as when the party has indicated an electronic address for service, but has changed it without notifying the court, or has given an incorrect or non-existent address, all notifications shall be attached to the case and shall be deemed served. For these consequences, the party must be warned by the court when the first notification is served.

Serving by sticking the notification (Article 47 CPC)
If the defendant cannot be found at the address stated for a period of one month, and a person to agree to receive the notification has not been found, the person serving the papers shall stick the notification on the door or on the mail box, and where access to them is not provided – on the entrance door or at a visible spot around it. Where access to the mail box exists, the person serving the papers shall put notification into it. The inability to locate the defendant at the address given for the case shall be ascertained by visiting the address at least three times, with at least one week interval between each visit, whereby at least one of the visits is in a non-working day. This rule

shall not apply when the person serving the papers has gathered information that the defendant does not live at the address by consulting with the condominium manager, the mayor of the respective settlement or otherwise, and has certified this information by indicating the source thereof in the notification.
In the notification shall be noted that the papers have been left at the court office, if the serving is being executed by a clerk of the court or by a private bailiff, respectively in the municipality, if the serving is being executed by its employee, as well as that they may be received there within two weeks term from sticking the notification.
Where the defendant does not appear to receive the papers, the court shall check ex-officio his address registration, except in the cases, when the notification shall be attached to the file. If the stated address does not coincide with the current address of the party, the court shall rule serving at the current address of the party under the previous procedure. The court shall also ex-officio check the defendant's place of work and shall order serving at the place of employment, respectively the place of service or the place of performed economic activity.
The notification shall be considered served when the term to receive it from the court office or from the municipality has expired.
When court finds the serving is due, the court shall rule notification shall be enclosed to the file and shall appoint a special representative on expenses of the claimant. The remuneration of the special representative shall be determined by the court according to the factual and legal complexity of the case, whereby the amount of the remuneration may also be below the minimum for the respective type of work according to Art. 36, para. 2 of the Lawyers Act, but not less than one half of it.

Serving by a public announcement (Article 48 CPC)
If at the moment of filing the lawsuit, the defendant has no registered permanent or current address, upon request of the claimant, announcement to him about filing the lawsuit, shall be executed by publication in the Private Section of the State Gazette, done at least one month before the session. The court shall allow serving to be done under this procedure, after the claimant certifies by a reference, that the defendant has no address registration and the claimant confirms by an affidavit that the address of the defendant abroad is not known to him.
If, although the publication, the defendant does not appear at the court to receive copies of the claim motion and the attchments, the court shall appoint for him a special representative on expenses of the claimant.

Service by e – mail (Article 38 CPC)
When service is affected under Art. 38, Para. 2, the message containing information for withdrawal of the summons, the message or the papers shall be considered served on the day of its download by the addressee. In case the message has not been downloaded within 7 days of its sending, it shall be considered served on the first day after the download deadline.
When the service is carried out under Art. 38, Para. 3 and 6, the message containing information for download of the summons, the message or the papers shall be considered served on the day on which the addressee has confirmed its receipt. In case the receipt has not been confirmed within 7 days from its sending, the message shall be served in the general order.

Serving on a representative (Article 39 CPC)
Where the party has stated at the seat of the court a person, to whom the notifications may be served – proceedings addressee, or has a lawyer for the lawsuit, serving shall be executed to that person or to the lawyer.
If several claimants or defendants have stated common proceedings addressee or have a lawyer at the seat of the court, for all the persons one notification shall be made, where their names shall be inserted.
In the event of more than one claimants or defendants, where their interests are not in collision, the court – upon request of the opposite party or at its discretion - may oblige them to state one of

them or another person as mutual proceedings addressee. In event of failure to perform this obligation, the court may appoint a representative to whom papers shall be served at their expense and risk.
Where the addressee is not procedurally able, notification shall be served to his ex-lege representative.

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

Yes, some see 10.

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

Yes, see 10.

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

Yes, for: 1) Serving on traders and legal entities, 2) Serving on state institutions and municipalities and 3) Serving on foreigners residing in the country.
The specific method applies to the specific service, where some default rules enter into application, if needed (for example sticking of notification).

Serving on traders and legal entities (Article 50 CPC)

Art. 50. (1) The place of serving on traders or on legal entities listed in the respective register shall be the latest stated address in said register.
(2) If the person has left the address and there is no new address entered, all notifications shall be enclosed to the file and considered validly served.
(3) Serving on traders and legal entities shall be done in their offices and may be done on every employee or worker who agrees to accept it. When certifying the serving, the person serving the papers shall note the names and position of the accepting person.
(4) In event the person serving the papers does not find access to the office or does not find anybody to agree to accept the notification, he shall stick the notification under Art. 47, Para 1. A second notification shall not be stuck.
(5) Serving on credit and financial institutions, including debt collectors, insurance and reinsurance companies and traders supplying energy, gas or postal, electronic, communications or water and sewage services, notaries and private bailiffs shall be carried out only by the order of Art. 38, Para. 2 to the e-mail address indicated by them (see point 10 above).

Serving on State institutions and municipalities (Article 52 CPC)
Art. 52. (1) State institutions and municipalities shall be obliged to provide an employee, who shall receive notifications during working hours.
(2) Serving on state institutions and municipalities shall be carried out only by the order of Art. 38, Para. 2 to the e-mail address indicated by them.

Serving on foreigners residing in the country (Article 53 CPC)
Art. 53. Serving on foreigners residing in the country shall be done to the address declared in the respective administrative services.

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

The court should consider different aspects like for example the type of the addressee (natural person, judicial person, BG citizen or foreigners and so on), the provided addresses, including an e-mail, the need to stick a notification or to do a public notification.

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?

No.

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

It is regulated in different legal aid treaties and in the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

There also several provisions in the Code on Private International Law (CPIL) applicable to services in third countries.

> *Article. 32. (1) The summons, as well as the service of norifications and documents abroad, is carried out through the Bulgarian diplomatic or consular representatives or the competent foreign authorities. The Bulgarian authorities address them through the Ministry of Justice in accordance with the procedure determined by the Minister of Justice.*
> *(2) Assistance from Bulgarian diplomatic and consular representatives is requested only for actions against Bulgarian citizens.*
>
> *Article 33. (1) A party with a known address abroad is summoned on this address, and in the summons it is specified that he must indicate a court address in the Republic of Bulgaria.*
> *(2) The obligation under para. 1 also have the legal representative, guardian and proxy of a person in the Republic of Bulgaria, if they go abroad.*
> *(3) In case of non-fulfilment of the obligation under para. 1 and 2 the documents intended to be serviced to the party are attached to the case and are considered served. The party shall be notified of these consequences at the first summons.*
>
> *Article 34 When the party has a known address abroad, it can be summoned through its representative in the Republic of Bulgaria, if he concluded on its behalf the transaction in connection with which the proceedings were initiated.*
>
> *Article 35. (1) When the party has a known address abroad and an unsuccessful service attempt has been made, the party is summoned by publication in the unofficial section of the "State Gazette" made at least one month before the date of the hearing. (2) If, despite the publication, the party does not appear at the hearing, the court shall appoint a representative.*

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

There are special procedural rules for service of notary invitations as regards their execution form the point of view of the notary. Pursuant to Article 592 CPC for delivery of a notarial invitation, the applicant must submit the invitation with the notary in three identical copies. The notary notes on each of them that the invitation has been communicated to the person to whom it relates, after which one copy of the invitation is given to the person from whom the invitation originates, and the other copy is arranged in a special book at the notary.

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

There is no statistical information. Usually, it happens in 2-3 weeks if served in the classical way without a need for sticking a notification. The postal service is quicker (a week) and the e-mail produces an effect instantly.

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

A document is in general served once it is handed over to the respondent; actual knowledge is not important and, in some cases, service is even fictitious (e.g. public announcement).

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

The principle that all Bulgarian citizens should have a permanent address (see 9.1.) and the possibility to use this address for the service of documents may lead to a situation where the person lives abroad, but form the point of view of the Bulgaria court this person may be subject to the sticking of notification rules (see 10). The same may also apply to Bulgarian citizens that have changed their current addresses from Bulgaria to another country, or to a foreigner who can be served via public notification (….., see 10).

If the actual address of the respondent is know that all these services in case of appeal will be considered unlawful, the first instance decision will be set aside and the case will be returned to the first instance court for new proceedings.

If the decision has entered into force it can be revoked by the Supreme Court of Cassation in case the party, as a result of breaching the relevant rules, has been deprived of the opportunity to participate in the proceedings, or was not duly represented, or where it could not attend in person or through a lawyer as a result of special unforeseen circumstances, which it could not have overcome (Article 303 (1)(point 5)).

13.2. Please elaborate in this regard, how the national law of your Member State treats the following scenario: The claim contains the official, duly registered address of the respondent. However, when the postman (or responsible person of service) wishes to serve the document at that address, it is clear that the recipient does not live there any longer (i.e., the post-box has a different name, neighbours confirm that the person has moved or a new tenant opens the door and confirms that the recipient has moved there some months ago and he neither has any relation with the former tenant nor does he know where they live now).

See point 10 as regards the sticking of notification under Article 47 CPC.

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

In general, via e-mail to the special e-mail address of the court or though the so called Secure Electronic Delivery System.

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

See Article 47 and Article 48 CPC presented in point 10, as well as Article 35 CPIL presented in point 11.

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

Yes, see Article 47 CPC (point 10).

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

Yes, see Article 48 CPC (point 10) and Article 35 CPIL (point 11).

15.3. 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?

Yes, see Article 48 CPC (point 10) and Article 35 CPIL (point 11).

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

No.

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

If the decision has entered into force it can be revoked by the Supreme Court of Cassation in case the party, as a result of breaching the relevant rules, has been deprived of the opportunity to participate in the proceedings, or was not duly represented, or where it could not attend in person or through a lawyer as a result of special unforeseen circumstances, which it could not have overcome (Article 303 (1)(point 5)).

15.6. 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?

It is possible but the balance is assured by the possibility to revoke the decision as explained in point 15.5.

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

Our law does not know a presumption in this regard. The person either has an address in Bulgaria (given by the party, current, permanent, place of work) or has a known address abroad. In the last case the service shall be executed there (see Article 33(1) CPIL). If the address is unknow and the claimant confirms by an affidavit that the address of the defendant abroad is not known to him the service is done via public announcement (see Article 48 CPC).

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

The Bulgarian CPC provides rules for cases in which the acceptance of the document to be served is refused without justification (Article 44 (1) CPC). The refusal to accept the notification is indicated on the receipt and is certified by the signature of the person serving the papers. That document is returned to the court and is deemed served notwithstanding the refusal of acceptance.

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

The court language is Bulgarian (Article 4 CPC)

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

There are regularly no claim forms to be used with the exception the domestic orders for payments (like the European standard forms), the European orders for payments or other European forms such as in small claim procedures.

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

As a principle, the service is included in the state fee. However, upon request of the party, the court may rule notifications to be served by a private bailiff. In this case the expenses for the private bailiff shall be borne by the party (Article 42(2)). If the service is to be executed in another Member State, the party

may request a courier service provided by a registered person entered in the public register for operators of non-universal postal services. In this case, the costs are covered by the requesting party (Article 609(2) CPC).

LEGAL IMPLICATIONS OF SERVICE

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

See above point 10.

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

Lis pendens, procedural effects: Where, in the same court or in different courts, there are two cases pending between the same parties, on the same matter and for the same claim, the case initiated later shall be terminated ex-officio by the court (Article 126(1) CPC).

Material effects (e.g. suspension of the limitation period), Interest during legal proceedings.

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

22. **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 Bulgaria where, within the prescribed period, the defendant does not submit a written reply, does not make a statement, does not object, does not contest the truthfulness of a submitted document and in general react, he or she shall lose the opportunity to do so later, unless the omission is due to special unforeseen circumstances (Article 133 CPC). Further, there is a threat of judgment in absentia (Article 238 CPC).

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

See point 13.1.

The legal remedies against judgment in absentia as per Article 240 CPC:

(1) Within one month from the serving of the judgement in absentia, the party against which it has been given may request the Appellate court to revoke it, if it has been deprived of the opportunity to participate in the case due to:

1. invalid service of the copy of the claim or the summons for the court hearing;

2. inability to know in due time of the service of the copy of the claim motion or the summons for the hearing due to special unforeseen circumstances;

3. impossibility to appear personally or through a lawyer due to special unforeseen circumstances, which could not be overcome.

(2) The party against whom a judgement in absentia has been given shall be entitled to bring a claim for the same right or to challenge it, when newly discovered circumstances or new documentary evidence essential to the case have been found which could not have been known to the party during the cases's resolution, or which could not have been obtained by the party in a timely manner.

(3) The claim under para. 2 may be filed within three months from the day, on which the new circumstance became known to the party, or from the day on which it was able to obtain the new written evidence, but not later than one year of repayment of the claim.

Remedy against an order for payment as per Article 423(1) CPC

(1) Within one month term from learning about the enforcement warrant, the debtor, who was deprived from the opportunity to contest the receivable, may submit an objection to the court of appeal, if:

1. the enforcement warrant was not served under the due procedure;

2. the enforcement warrant was not served in person and at the day of its serving he had not common place of stay in the territory of the Republic of Bulgaria;

3. the debtor could not learn in time about the serving due to special unforeseen circumstances;

4. the debtor could not file his objection due to special unforeseen circumstances, which he could not surmount

23. **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)**

See point 22 above.

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

See point 22 above.

24. **What are the consequences of improper service in your national jurisdiction?**
- *Right to appeal*
- *Right to request revocation of the judgement – see point 13.1.*
- *Legal remedies against judgment in absentia – see point 22.*
- *Legal remedies against an order for payment – see point 22.*

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

If the service is not valid but the respondent replies to the claim and/or appears in a court hearing the failures in the service procedure are in principle ignored.

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

The service is ineffective if mandatory service provisions have been violated (for example if the recipient of service is not a part of the group of persons defined in Article 46 CPC. Ineffective service can be remedied by retroactive approval. The ineffectiveness of the earlier service can also be overcome by reperformance. However, the new service has no retroactive effect (Article 54 CPC).

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

N/A

24.4. 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?

Article 303(1)(5) CPC is applicable to domestic situations, whereas for the situation of Article 22 of the Regulation applies Article 613a CPC according to it the interested party may file with the Supreme Court of Cassation an application for revocation of the decision on the grounds of Art. 19.4 of Regulation (EC) No 1393/2007 (Article 22.4 of the new Regulation). The application may be filed within one year from delivery of the decision.

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

No

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

As per Article 613a CPC the interested party may file with the Supreme Court of Cassation an application for revocation of the decision on the grounds of Art. 19.4 of Regulation (EC) No 1393/2007 (Article 22.4 of the new Regulation). The application may be filed within one year from delivery of the decision.

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

Yes, see point 13.1.

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

<u>There is a special provision in CPC as regards the proof: Article 44 Certification of serving</u>

> *(1) The person serving the papers shall certify with his signature the date and the way of service, and all actions in relation to the serving. He shall also note the capacity of the person to whom the notification was served, by requesting that person provide a proof of identity and present an identity document. Upon refusal to present the identity document, the person serving the papers may request the assistance of the General Directorate of Security at the Ministry of Justice. The recipient shall also certify with their signature that they have received the notification. Refusal to accept the notification shall be indicated on the receipt and shall be certified by the signature of the person serving the papers. The refusal of the recipient shall not affect the validity of the serving.*
> *(2) Serving by telephone or fax shall be certified in writing by the person serving the papers; serving by telegram shall be certified with a notification of delivery and, if serving is done by telex - with written confirmation for a message sent. Serving by post shall be certified by the return receipt.*
> *(3) Serving by electronic mail shall be certified by:*
> *1. an electronic record from the information system of the portal, stamped with a qualified electronic seal of the court with certified time or with a qualified electronic time stamp - upon service under Art. 38, Para. 2, item 1;*
> *2. an electronic record of the service by the qualified provider of electronic trust services - upon service under Art. 38, Para. 2, item 2;*
> *3. a confirmation that the notification has been received - upon service under Art. 38, Para. 3 and 6.*
> *(4) The receipt certifying the serving by a court official or by a private enforcement agent, the return receipt certifying the serving by an employee of the post, a telegram delivery notification and the written confirmation of a telex message sent shall be returned to the court immediately after their drafting*

The relevant date is the date recorded in the notification. If the service is done via sticking a notification in this notification shall be noted that the papers have been left at the court office, as well as that they may be received there within two weeks term from sticking the notification |(Article 47(2) CPC). When the party has a known address abroad and an unsuccessful service attempt has been made, the party is summoned by publication in the unofficial section of the "State Gazette" made at least one month before the date of the hearing (Article 35 CPIL).

<u>Service by mail (Article 41a)</u>

(1) When service is effected under Art. 38, Para. 2 (electronically see…..), the message containing information for withdrawal of the summons, the message or the papers shall be considered served on the day of its download by the addressee. In case the message has not been downloaded within 7 days of its sending, it shall be considered served on the first day after the download deadline.
(2) When the service is carried out under Art. 38, Para. 3 and 6, the message containing information for download of the summons, the message or the papers shall be considered served on the day on which the addressee has confirmed its receipt. In case the receipt has not been confirmed within 7 days from its sending, the message shall be served in the general order.

27. **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.**

See point 10 above.

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

Fresh service, corrections, restoration of term, possibility to appeal, to revoke and so on.

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

N/A

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

N/A

CROSS-BORDER SERVICE WITHIN THE SCOPE OF THE REGULATION

31. **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.**

    Transmitting agency in case of serving abroad of judicial notifications and summons is the court, before which the lawsuit is pending (Article 611(1) CPC).
    Transmitting agency in case of serving abroad of extrajudicial documents is the regional court at the present or the permanent address of the person, who required the serving, or at the person's seat, and for notary certified documents – also the district court, in which territory the notary acts (Article 611(2) CPC).

32. **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.**

    Receiving agency is the district court, in which region the service shall be performed (Article 611(3) CPC).

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

    District courts accept requests for service and attached documents subject to service received by mail.

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

    Ministry of Justice Directorate "International Legal Cooperation and European Affairs" Department "Cooperation in Civil Law Matters".

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

As per Article 611(4) CPC the receiving agency shall execute the service by a clerk of the court, by post or in a manner requested by the party. If the inhabited place where the serving shall be executed has no court institution, serving may be executed by the municipality or the mayoralty.

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

Bulgarian legislation does not provide for a fee for the service of documents under the general procedure. When using a special method of service, a fee is payable in the amount determined under the Fees and Expenses Tariff under the Law on Private Bailiffs.

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

The district court may check for proper address, may forward the request to another territorially competent district court, require additional information from the requesting court.

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

The district courts accept forms completed only in Bulgarian.

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

Bulgarian courts have access to the national data base "Population register".

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

Yes, Bulgaria has declared that it allows service under Art. 17, par. 1, which must be carried out in the Republic of Bulgaria, only when the addressee is a citizen of the member state in which the document was issued.

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

No

42. **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.**

No

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

No

RIGHT OF REFUSAL

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

Yes, e.g. if the person is not among the persons enlisted in Article 46, the documents an not complete.

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

See above.

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

E.g. as the consent for service under Para. 2 and 3 of Article 38 CPC may be withdrawn at any time by the party, and the withdrawal shall not affect the regularity of the actions already performed.

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

Depends on the grounds.

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

As a principle, if justified, a fresh service follows, if not justified – the service is deemed valid.

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

Within the evaluation concerning the validity of the service.

ELECTRONIC METHODS OF SERVICE

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

Court documents can be served electronically in accordance with Article 19 (1) (a) of the Regulation as it stems from Article 38(2) (point 2) CPC. In addition to that, Article 38 and 38a CPC regulate the general service of electronic documents.)

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

Yes, the so called "single portal for e-justice", the users need to register upfront.

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

There is a platform operated by the Ministry of electronic governance called "System for secured electronic delivery". The access to the system requires qualified digital signature. The system time stamps the documents and the communication.

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

Registration if the *"Single portal for e-justice" is used, express choice of e-service.*

46.4. How is the time of service determined?

See point 26.

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

Yes, as per Article 38(4) and Article 38a CPC.

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

As a principle, for the specific case (Article 38 and 38a CPC).

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

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

Not everyone is obligated to accept electronic service so far (see Article 38a CPC).

48.1. 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)

49. **Is there a central body responsible for electronic service in your Member State?**
In Bulgaria - the Ministry of electronic governance running the so called "System for secured electronic delivery".

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

Access only with qualified electronic signature of special personal code.

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

In case a person acts electronically he or she is obliged to indicate an electronic address for notification for certifying the receipt of the electronic statement and for the result of the technical inspection of the performed action (Article 38a(1) CPC). The person, who has performed a procedural action in the unified portal for electronic justice, shall agree to accept electronic statements and electronic documents, communications, summons and papers in the proceedings before the respective court instance and before all instances (Article 38a(4) CPC).

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

When service under Para. 1-3 of Article 38 cannot be effected, the notification shall be delivered to the current address of the party, and in the absence of such - to the permanent one (Article 38 (5) CPC).

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

No costs for the parties are envisaged.

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

Secured access. No access of third persons.

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

Effective E-identification and compulsory e-service foe some categories of persons.

56. **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.**

N/A

PROBLEMS RESULTING OUT OF CROSS-BORDER SERVICE

57. **What national issues arise out of the service of documents in your member state?**
    - *The main service method is still via an employee of the court and the e-service is yet to be developed in full;*
    - *The current and the permanent addresses of natural persons very often do not reflect the real place of residence and thus open the access to service via sticking of notification;*
    - *The EU citizens residing in Bulgaria are registered by the Ministry of Interior and are not to be found in the Population Register, the last accessible for the court. The establishment of that address requires much more formalities and takes additional time.*
58. **What European issues arise out of the service in your member state?**
    - *Due to the political instability in Bulgaria, we are still lacking legal provisions enabling the proper application of some parts of the Regulation, e.g. as regards the establishment of an whereabouts of persons pursuant to Article 7;*
    - *Despite the Adler Hypoteční banka a.s. CJEU judgment the Bulgarian procedural law still has the fictious service which provides that judicial documents addressed to a party who lives or leaves Bulgaria for mor than a month are placed in the case file, and deemed to have been effectively served, if that party has failed to appoint a representative who is authorised to accept service and is resident in Bulgaria (Articles 40 and 41 CPC);*
    - *It is not very clear how to apply the imperative of the Hypoteční banka a.s. CJEU judgment as regards the need to undertake all investigations required by the principles of diligence and good faith with a view to tracing the defendant – it this an obligation of the court, of the party or of both of them; are the Bulgarian last resort rules of Article 35 CPIL and Article 48 CPC in compliance with this requirements; how to apply it when it comes to service of out of court documents;*
    - *Uncertainty when it comes to the treatment of documents to be served by a bailiff as judicial or extrajudicial;*
    - *The notion of extrajudicial documents as it stems from the Tecom Mican SL judgment of CJEU;*

59. **How could the provisions on service in your national legislation be improved in order to facilitate cross-border service and prevent legal uncertainty?**
    - *Extended e-service using the e-identification of the persons;*
    - *Adoption of measure of execution of the Regulation when needed asap;*
    - *Limitation or deletion of Articles 40 and 41 CPC;*
    - *Amendment of the law in light of the Hypoteční banka a.s. CJEU judgment;*
60. **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.**
    - *Order of the Supreme Court of Cassation № 353 of 27.06.2011, Civil Chamber, 3 compartment in civil case № 126/2011*
        - *The respondent was habitually resident in another Member State but was first served via the addresses in Bulgaria;*
        - *The establishment of the habitual residence in another Member State in the course of the proceedings was a ground for restoration of a term.*
    - *Judgment of the Supreme Court of Cassation № 229 of 23.11.2016 Civil Chamber, 1 compartment in civil case № 3866/2016*
        - *The respondent was habitually resident in another Member State but was first served via sticking of notification in Bulgaria ;*
        - *The establishment of the habitual residence in another Member State was a ground for revocation of the judgment.*
    - *Judgment of the Supreme Court of Cassation № 149 of 12.06.2014 Civil Chamber, 1 compartment in civil case № 1859/2014*

- *The respondent was habitually resident in another Member State but was first served via public announcement in Bulgaria;*
- *The establishment of the habitual residence in another Member State was a ground for revocation of the judgment.*

However:

- *Judgment of the Supreme Court of Cassation № 49 of 27.04.2022 Civil Chamber, 4 compartment in civil case № 1913/2021*
    - *The court established ex officio that the respondent has a permanent address in Bulgaria but since 21.06.2001 has current address is in France;*
    - *The address in France was not specified in the Population Register as this is not required;*
    - *The court decided that the previous Service Regulation does not apply when the addressee of the document to be served is unknown.*
    - *Therefore, there was no procedural violation when using the sticking of notification procedure as per Art. 47 CPC at permanent address of the respondent.*
- *Judgment of the Supreme Court of Cassation № 60144 of 24.11.2021 Commercial Chamber, 1 compartment in commercial case № 1069/2021*
    - *The court has no obligation to look for the defendant's address in other countries, nor to call him by phone, just because a phone number is indicated in the evidence in the case....*

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 sentence and 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.

1.1. 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.

1.2. 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].

1.3. Reference to literature

1.3.1 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 has been 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.

1.3.2 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.

1.4. Reference to contributions in edited collections

For references to contributions in edited collections please abide by the following form (NB: analogous to 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.

<u>Subsequent references follow the rules of 1.3.2 supra.</u>

1.5. 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.

<u>Subsequent references follow the rules of 1.3.2 supra.</u>

1.6. 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 provided between 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.

1.7. 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.

2.1 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.

2.2. 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.

2.3. 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].