## Abstract

The act of service is of considerable procedural importance. The proper performance of the service has significant consequences for the conduct of proceedings and for protection of interests of the parties to the proceedings. It is therefore not merely a means of notification of acts taken by the court or a party. The service is one of the most important institutions in communication as part of the ongoing proceedings. They guarantee the interests of the parties by introducing a specific order of action to determine effectiveness and stability of the examination of a particular case.

The decision to choose the subject matter of the work is dictated by the conviction that, in the current state of literature, a structured set of rules on the service is needed, while deepening doctrinal considerations and referring to judicature. Although at least three comprehensive studies have been produced on this subject to date, numerous amendments to civil proceedings and their progressing computerization – and now the challenges posed by the COVID-19 threat – make the studies partially outdated over time or needing to be supplemented by new or revised aspects. All the more so since the analysis of subsequent amendments to the provisions of the Code of Civil Procedure in the field of the service makes it possible to risk a claim that this is still not the end of the changes. In view of the expected continuation of the legislature's modification of the service, the author will formulate proposals concerning the existing law and the future law in terms of the directions of change desired in the opinion of the author.

The considerations set out in this study focus on the act of service in civil litigation proceedings which, of all civil proceedings, are of a model nature. Outside the scope of the consideration are the provisions relating to other civil proceedings, including non-litigation, enforcement, injunctive, insolvency and restructuring proceedings. The focus solely on the civil litigation is also due to the vastness, complexity and multidimensionality of this issue.

The purpose of this work is to present the role of the act of service in the civil litigation and its impact on the proper conduct of the civil litigation, as well as to assess whether, in the current legal situation, it would be desirable to introduce regulations that could contribute to improving the service in the civil litigation. In particular, the possibilities offered by modern communication techniques will be verified in this respect. The author will attempt to verify the thesis that the digitalization of the service in the civil litigation is a prerequisite for achieving speed, efficiency and effectiveness of the service without harm to the most important procedural guarantees.

The legal-comparative method, in which the comparison of the act of service in civil litigations in Poland and in Germany, proved helpful in achieving this objective. Since the

German service is characterized by outstanding efficiency in terms of its advanced computerization, this has made it possible to simulate how and with what effect the solutions implemented in Germany could function in the Polish context. In addition, the legal-comparative method was used to study the act of service under the French civil litigation, based on the service by the prosecutor's office *(remise au parquet)* and on the service by the bailiff *(huissiers de justice)*.

The work also used an empirical method, which consists in examining the files and assessing on the basis of them whether the bailiff's service implemented in the Polish legal system can contribute to increasing the efficiency of the civil litigation.

The other research methods used in the study are primarily the legal-dogmatic method and the historical-legal method. The use of the legal-dogmatic method consisted in studying legal literature, as well as a detailed analysis of legal acts and the judicial case law. Historical sources were also taken into account to justify the interpretation of the regulations under review. The historical-legal reasoning also allowed to characterize the evolution of individual institutions and to see trends and directions of the legislator during subsequent amendments. In general, however, the considerations of this work focus on the analysis of the current legislation.

The work consists of seven chapters, each including subchapters.

Chapter I is devoted entirely to the theoretical-legal aspects of the act of service. In the first place, an attempt was made to define the concept of "service" in the general and in the legal sense. Based on the literature of the subject, an analysis of the service as a procedural, auxiliary and conventional act was carried out. Furthermore, while sharing the view presented in the literature that any general and holistic study on the civil litigation should include a more or less elaborate thread on procedural rules, the institution of the service is discussed in the light of selected principles of the civil litigation. The service was also analyzed in terms of speed, efficiency and effectiveness of the civil litigation. The last subchapter examines consequences of a failure to comply with the requirements for the act of service, taking into account that the degree of defectiveness may vary and, consequently, its effects will also vary.

Chapter II contains a legal-comparative analysis of the German and French service in the civil litigation. The author characterized the national regulations of these countries and determined whether the Polish legislation contains provisions of similar or different design in its structure. Next, the author attempted to answer the question whether the German or French solutions could improve the Polish service in the civil litigation.

Chapters III and IV provide a subjective view on the act of service.

Chapter III presents and discusses the individual addressees of the act of service for which letters are served during the civil litigation based on the provisions of the litigation law. The structure of the chapter was determined by dividing the subjects of the service into six main categories. The first category includes the parties to the litigation. The second and third categories are subjects that act on behalf of the parties to the litigation, provided that in the second category the subjects act on behalf of the parties at the will of the legislature or a competent authority (statutory representatives) while in the third category the subjects act as on behalf of the parties based on relevant authority given by acts of will of the parties (attorneys). The fourth group includes participants who act on the rights of parties to the litigation and are tasked with protecting public or individual interests (e.g. a prosecutor, ombudsman or NGO). The fifth group consists of so-called "other service subjects" of a diverse nature (an outside intervener, a person called upon to the ongoing trial, an enforcement authority, etc.). The sixth category covers other persons (third parties) who, although not directly interested in the specific civil litigation, have a well-defined procedural role to play (e.g. a witness or translator). Depending on which of the abovementioned subjects is the addressee of the service, there are differences in the manner in which the service is made. This chapter highlights and discusses these differences.

Chapter IV is devoted to intermediaries in the service during the civil litigation. The substantive scope of this chapter essentially amounts to the provision of art. 131(1) of the Code of Civil Procedure, which establishes a catalogue of subjects mediating in the service in the civil litigation. In this catalogue the legislature placed the postal operator, court employees, the judicial service and the bailiff. In addition, Chapter IV uses a method of file research, which made it possible to verify the problems of so-called "bailiff service" found in the doctrine and judicature.

Chapter V discusses the subject-matter of the service, distinguishing between judicial and procedural letters.

Chapter VI addresses the means of service in the civil litigation, understood as a method of making a letter available to the addressee at the final stage of the service. This chapter distinguishes between the conventional service and the electronic service. The conventional service includes the service proper, the substitute service, the service by the advice note, the service to the hands of the custodian and the service by leaving the document in the case files. Much of the chapter is devoted to the electronic service, which undoubtedly represents the future of the civil litigation law. By the way, it was assumed that, despite the progressive computerization of the civil litigation, the potential of the Internet is not being exploited satisfactorily. In the last 10 years, a number of projects have emerged that would allow courts and parties to the civil litigation to communicate electronically, not only in the electronic writ-of-payment proceedings, but these ideas have largely failed. Even the threat of COVID-19 has not

yet convinced the legislator to extend the applicability of the so-called “e-service” in the civil litigation.

Chapter VII analyses the direct service between professional attorneys, starting with their evolution in recent years, by characterizing their material and subjective scope, and ending with their linking to the computerization of the civil litigation.

The whole body of the deliberations are topped by final conclusions.