

Judicial auctions - France

1. 1. Advertising and setting the price of seized assets

In cases involving property seizures, the petitioning creditor is responsible for drawing up the conditions of sale. This sets the reserve price amount, which can however be contested by the debtor, with the judge being required to issue a ruling after the repossession hearing.

Generally, the professional who performs the sale sets the reserve price in sales of moveable property at public auctions, namely the starting price of the sale, with the property then being awarded to the highest and final bidder. The professional who performs the sale may call on the services of an expert to estimate the value of the property if required.

In forced sales of immovable property, the petitioning creditor may arrange optional advertising (see below, next item); in cases involving forced sales of moveable property, the professional who will perform the sale may also advertise the property on their own website or, in the case of auctioneers, on the appropriate websites of the profession: <http://www.interencheres.com/> or <http://www.drouot.com/>

In cases involving the forced sale of moveable property, advertising in the press is possible; in cases involving the forced sale of immovable property, the notice drawn up by the creditor must be published in a newspaper that publishes legal announcements, and a simplified notice must be placed in two periodical editions of local or regional newspapers. Optional advertising is also possible using any other means.

For forced sales of immovable property, the notice drawn up by the petitioning creditor must be displayed in a place that is easily accessible to the public on court premises.

For forced sales of tangible moveable property, advertising should take the form of notices displayed at the town hall of the municipality in which the debtor resides, and at the place of sale.

In cases involving the forced sale of moveable property, advertising in a prospectus or catalogue is possible.

In cases involving seizure of moveable property for sale, advertisement of the sale may include a description of the property and its estimated value.

In cases involving seizure of immovable property, the notice published and displayed at the court premises should state the immovable property seized, provide a summary description (nature, any occupation, all the details known about its surface area) and mention the reserve price.

Property for sale at public auction is presented during the sale by the auctioneer or the authorised professional organising the sale. An optional prior viewing of the property may be arranged.

Immovable property seized may be visited on the dates and at the times set by the judge (article R. 322-26 of the Civil Enforcement Procedure Code [CPCE]) and visitors will be accompanied by a bailiff.

As regards auctions and in terms of moveable property, the highest and final bidder will be awarded the property. It should be noted that auctions are not limited in time, and a property can only be awarded after counting down the three calls to the end of the auction. In cases involving seized immovable assets, the system used is one of increasing bids, where each bid must be higher than the one before; the auction is stopped after 90 seconds have expired since the last bid (this time is counted down by a visual and acoustic method that signals each passing second to the public).

For the forced sale of moveable property, no security deposit or guarantee is required. In contrast, in cases involving the forced sale of immovable property, anyone interested in participating in the auction must issue their lawyer with a non-returnable bank security or a bank cheque payable to the receiver or the Deposits and Consignments Fund (Caisse des Dépôts et Consignations) representing 10 % of the amount of the reserve price (this amount may not be less than EUR 3 000). This sum is returned to the bidder at the end of the auction if they are not declared the successful bidder.

2. Third parties authorised to carry out the sale

Auctioneers, notaries, sworn commodities brokers and bailiffs are the only professionals authorised to organise public judicial auctions of moveable property (in particular seized moveable property).

3. Types of judicial auction to which the rules may only partially apply

In cases involving moveable property, voluntary sales at public auctions can occur and are subject to much more flexible rules than judicial auctions. Articles L. 321-1 et seq. and R. 321-1 et seq. of the Commercial Code apply. Voluntary sales fall outside the framework of forced execution procedures, which are judicial.

4. Information on the national property registers

In cases involving immovable property, the land register, which is an administrative and fiscal document, can provide information for the creditor on the immovable property held by the debtor within a municipality and what it comprises (real estate already built or under construction, the volume of plots and the nature of each site). In addition, the land advertising services (administrative services of the General Directorate of Public Finances [Direction Générale des Finances Publiques]) maintain a property file for each municipality that lists extracts of the documents published under the name of each owner and for each property, and presents the legal status of each property.

In respect of moveable property, the SIV (Système d'Immatriculation des Véhicules [vehicle registration system]) provides information on the civil status of the holders of registration certificates for motor vehicles and two-wheeled vehicles, and the registration number and characteristics of the vehicle. There are national files for the compulsory registration of ships (decrees currently being drawn up), boats (digitised register maintained by the Ministry for Transport) and aircraft (register maintained by the ministry in charge of civil aviation). Intellectual property rights are listed in a national file which can be accessed directly by creditors and is maintained by the National Institute of Intellectual Property (Institut national de la propriété intellectuelle, INPI). The titles of films intended for public showings in France are listed in the public cinema and audiovisual register, which is administered by a tax administration official, and the titles of literary works with the option to purchase adaptation rights are compiled in a register of options.

In terms of immovable property, the land register is maintained by each municipality and includes several series of documents (cadastral map, subdivision listing, land tax register), of which only the cadastral map is maintained online. The property file is stored by the land advertising services, which are based locally, under the responsibility of each Regional Court (Tribunal de grand instance). There is no national file.

For motor vehicles, each prefecture has one register, but the SIV maintains a national data file.

For boats, the computerised register is maintained by the Ministry for Transport; for ships, there are six different registers that are also maintained by the Ministry for Transport.

For aircraft, the register maintained by the ministry in charge of civil aviation can be accessed online for information purposes.

Information on the various intellectual property rights is maintained centrally by a single body, the National Institute for Industrial Property (INPI), which provides access to various documentary records through its website.

Some, but not all, land register services can be accessed  on line. Only the cadastral map can be viewed, but not the land tax register which provides information on property owners, in a similar way to the SIV, the French international register of French-registered ships, and the INPI registers.

Generally, most of the publically available registers are subject to the provisions of the Code on Relations between the Public and the Authorities, which stipulates that access to administrative documents should be free of charge when viewed at their location, or charged for at a cost equivalent to the cost of copying them if a copy is provided, or free of charge when sent by email if the document is available in digital format.

5. Information on the databases that enable creditors to identify assets and a debtor's debt obligations

Article L.152-1 of the CPCE allows bailiffs to obtain information identifying the debtor's address, the identity and address of their employer or of any third-party debtor or custodian of liquid or payable sums and the composition of their real-estate assets from State, regional, departmental and municipal administrations and public institutions or bodies controlled by the administrative authority.

Bailiffs can request information directly from FICOBA (the national database of bank accounts, managed by the tax authorities and with entries provided by the banks) to obtain information on the possible existence of bank accounts in the name of the debtor, and where these accounts are held.

They may also request information from health and unemployment insurance funds.

Under article L. 152-2 of the CPCE, the banks are required to inform the bailiff mandated by the creditor if one or more accounts are open in the name of the debtor and the locations of these accounts, but not to provide any other information.

The SIV, which the bailiff mandated by the creditor may access, provides information on the civil status of the holder of registration certificates for motor vehicles and two-wheeled vehicles, the registration number and the vehicle's characteristics.

The creditor may not access these databases directly, but can do so through the bailiff mandated to perform the forced execution.

6. Information about online judicial auctions

There are two types of online auction in France for the auctioning of moveable property:

- - **'Live auctions'**, which are partially computerised: the sale physically takes place at a given location and is broadcast live online on the website of the professional person or body performing the sale, or on one of the appropriate websites available to professional auctioneers (<http://www.interencheres.com/> or <https://www.drouotlive.com/>) **These judicial auctions are permitted** as there is nothing to prevent them. They are becoming increasingly common.
- - **'Online auctions'**, which are entirely computerised: the sale takes place solely online, without a physical presence at a given location. **These sales are not permitted in judicial cases under the current law** (although they are in voluntary cases) owing to technical judicial obstacles.

(Partially) computerised auctions are only possible for moveable property.

The professionals who perform the sales may advertise them outside France, and bids may be submitted from any bidder irrespective of their location or nationality and whether the sale is live or not (there are also remote auction procedures such as bids sent in writing or by telephone).

In order to take part in a computerised auction, the person (potential bidder) is not required to provide their signature, but the professional in charge of the sale may require credit card details. The professional in charge of the sale takes registrations, which can in principle be conveyed by any means, the most common being through the website on which the auction will be broadcast. Written bids are possible on any medium.

The professional in charge of the sale determines the accepted means of payment.

Remote bidders are not required to attend in person (but they may do so if they wish). They can follow the auction live and bid in real time. They may also register one or more bids before the sale. In such cases the bids will increase progressively, taking the proposed bid into account from the beginning. A telephone link is also generally available during the auction.

Translation depends on the professional in charge of the sale and their assistants as there are no specific provisions in this regard.

Given the configurations of auction websites, only people who have registered for the online auction may access the sale through the website in question. However, the sale is open to the public at its physical location.

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Last update: 16/03/2018