

## Judicial auctions - France



Ta strona została przetłumaczona maszynowo – nie ma więc gwarancji co do jakości tłumaczenia.

### 1. Advertising and pricing of seized property

#### A. Preparatory measures for compulsory sale

Compulsory property sales are the subject of compulsory advertisements at the initiative of the creditor:

- by displaying a position easily accessible to the public at the premises of the court, the notice shall refer to the building used, giving a summary description (nature, possible occupation, all known elements relating to its surface area), and shall mention the amount of the price.
- by displaying a simplified notice when the goods are sold,
- inclusion of an opinion in a legal ad journal for local dissemination.

The creditor may carry out additional advertisements, under his responsibility or with the permission of the judge.

The compulsory sale of movable property is the subject of compulsory advertising by posting to the town hall of the commune where the debtor remains and at the point of sale.

Additional advertisements may be made by the trader who will make the sale on his own website, or, in the case of judicial auctioneers, on the relevant websites of the profession: <https://www.interencheres.com/> or <https://www.interencheres.com/>, by means of a press, a prospectus or a catalogue. This publicity may include the description of the goods and their estimation.

The cabinets put up for sale by public auction shall be presented at the time of sale by the auctioneer or by the authorised professional who arranges the sale. A prior exhibition of the property may be carried out.

The buildings seized may be visited on dates and times fixed by the judge (Article R.322-26 CPCE), and visits are carried out with the support of a judicial officer. The terms of reference, which contain, inter alia, a record of the description of goods sold by a judicial officer and the main terms of the sale, may be freely consulted at the registry of the court responsible for the sale or, subject to conditions, in the law of the law firm pursuing it.

#### B. The setting up and running of the auctions:

As regards the seizure of immovable property, the conditions of sale are drawn up under the responsibility of the creditor who seeks to: that court therefore fixes the amount of the price, which may, however, be challenged by the debtor, the enforcement judge being called upon to issue a decision at the end of the orientation hearing.

As regards the seizure of securities, the selling trader freely sets the price, that is to say the price at which the goods are sold. The trader who carries out the sale may use the services of an expert if the estimate of the goods so requires.

With regard to the auction, the highest bidder and final bidder in the auction are allotted the property, noting that auctions are not limited in time, but can only be made after three auctions. Bidding shall not be contingent on any deposit of a guarantee or deposit.

As regards property foreclosure, the system shall be a system of auctions in which each auction has to cover the previous auction; auctions shall be stopped when 90 seconds have passed since the last auction (with a visual and sound means of reporting to the public every second time).

Interested parties wishing to participate in the auction must provide their lawyer with an irrevocable bank guarantee or a bank cheque drawn up in the order of the escrow or deposit fund, representing 10 % of the amount of the price charged (but the amount may not be less than EUR 3000). This sum shall be returned to the bidder at the end of the tendering procedure, if it has not been declared successful.

## **2. Third party authorised to conduct the sales transaction**

Auctioneers, notaries, sworn commodity brokers and bailiffs are the only professionals authorised to organise the judicial sales of movable property (in particular the movable property seized) to the public auction.

Auction sales of real estate shall be made exclusively before the court of the execution of the court.

## **3. Types of court sales to which the rules could apply only partially**

Voluntary public auctions are possible for voluntary auctions, which are subject to much more flexible rules than auctions. Articles L. 321-1 et seq. and R. 321-1 et seq. of the Commercial Code apply. Voluntary sales are not part of enforcement proceedings which are judicial.

In the case of immovable property, the sale may be ordered on the basis of a summons in the context of a division between the owners in undivided shares, or by the Commissioner in the context of collective proceedings against the owner. In both cases, the conditions for the sale are laid down in the judicial decision ordering the sale.

## **4. Information on national property registers**

As regards property ownership, the land register — which is an administrative and fiscal document — can provide the creditor with information on the property held by the debtor in the territory of a municipality, and on their consistency (immovable or unbuilt buildings, capacity of the plots, nature of each room). In addition, the land advertising services (administrative departments of the Directorate-General for Public Finances) keep a building file for each municipality, which lists, under the name of each owner and for each building, extracts of the published documents, thus presenting the legal situation of each building.

As regards movable property, the Vehicle Identification System (VRS) provides information on the civil status of the holder of the registration certificate for motor vehicles and the two wheels on the registration number and characteristics of the vehicle. There are national files where vessels are to be registered (decrees are being drawn up), vessels (registration register, computerised system maintained by the Ministry of Transport) and aircraft (register of registration kept by the Ministry responsible for civil aviation). Intellectual property rights are listed in a national file, accessible directly by creditors, and held by the INPI (National Intellectual Property Institute). The titles of cinematographic works for public projection in France are listed in the public cinema and audiovisual register, managed by an agent of the tax administration, and the titles of the literary works which have been the subject of an option for the purchase of the conversion rights are listed in the register of options.

In the field of buildings: the land register is kept by each municipality, with several series of documents (cadastral map, section status, cadastral matrix); only the cadastral survey is kept electronically. The property register is kept by the local land advertising services in each district court (there is no national file).

In the case of motor vehicles, each prefecture maintains a register, but the SIVs keep a national computer file.

In the case of vessels, the register is computerised, maintained by the Ministry of Transport; for vessels, there are six different registers, also held by the Ministry of Transport.

For aircraft, the registration register is kept by the Ministry responsible for civil aviation and is accessible via the Internet for information purposes.

Information concerning the various intellectual property rights is centralised by a single body, the INPI, which provides access to various documentary resources via its website.

The cadastre services are partially accessible online. It is only a cadastral survey service, and not the cadastral matrix (which can be used as information on owners), as is the French international register, which lists the freeboard vessels, and the INPI registers.

In general, most of the registers, when they are public, are subject to the provisions of the code of relations between the public and the administration, which provide that access to administrative documents may be made free of charge, by means of consultation on the spot, or by the issue of a copy, free of charge, to the cost of the reproduction, or by electronic mail, free of charge, where the document is available in electronic form.

## **5. Information on databases enabling creditors to identify the assets and claims of a debtor**

Article L.152-1 of the CPCE enables the judicial officer to obtain information enabling the address of the debtor, the identity and address of his employer or any third party who is the debtor or the depositary of a cash flow or payable and the composition of his property to be disclosed to the authorities of the State, regions, departments, municipalities, public establishments or bodies inspected by the administrative authority.

The usher can ask directly FICOPA (the national bank account file, managed by the tax authorities and funded by the banks), to obtain information on the existence of bank accounts opened in the name of the debtor, and the places where these accounts are kept.

The usher can ask the sickness or unemployment insurance funds.

Under Article L.152-2 of the CPCE, banks are required to make known to the judicial officer authorised by the creditor if one or more accounts are opened in the name of the debtor and the places where those accounts are held, to the exclusion of any other information.

The Vehicle Identification System (VRS), to which the judicial officer authorised by the creditor may have access, makes it possible to obtain information on the civil status of the holder of the registration certificate for motor vehicles and the two wheels on the registration number and characteristics of the vehicle.

The creditor cannot access these databases directly, but it can do so through the competition of the judicial officer authorised to carry out the enforcement procedure.

## 6. Information on online judicial sales

There are two types of internet auctions in the system of auctions for movable goods in France:

- 'live' sales, or 'live' sales, which are partially dematerialised: The sale takes place physically in a given place and is broadcast live online, on the trader's website, or at one of the relevant sites available for the profession of the auctioneer (<https://www.interencheres.com/> or <https://www.drouotlive.com>). Such judicial sales are permitted, as nothing prevents them, and is currently on the rise.
- Online sales, which are fully paperless: the sale takes place only on the internet, without any physical presence in a given place. These sales are not possible in judicial matters (unlike voluntary sales), as the texts state, since there are legal technical obstacles to this.

(partial) paperless sales are possible only for movable property.

Traders engaging in sales may advertise cross-border, and the auctions may originate from any successful bidder, regardless of its location and nationality, irrespective of whether the sale is "live" or not (distance auction mechanisms also exist: purchase orders transmitted in writing or by telephone).

In order to participate in a paperless auction, the person (potential bidder) does not have to provide his or her signature, but the trader in charge of the sale may require a bank card stamp. Registration must be obtained from the trader in charge of the sale, and can, in principle, be carried out by any means, most likely to be registration via the website on which the sale is retransmitted. Written orders for purchases are possible, whatever the medium.

The accepted methods of payment shall be laid down by the trader in charge of the sale.

The remote bidder does not need to be present in person (it may, if it so wishes). He/she may follow the live auction and forward his/her order in real time. He may also register one or more purchase orders before the sale, in which case the auction shall be increased progressively, taking into account from the time of the departure of the proposed auction. A telephone link is also usually possible during the auction.

The possibilities for translation depend on the capacity of the trader in charge of the sale and its auxiliaries, since the rules do not impose any obligations in this regard.

In the case of sales website configurations, only persons registered for online sales can access the sales via the website. On the other hand, the public has access to the sale at the place where it takes place.

---

**This is a machine translated version of the content. The owner of this page accepts no responsibility or liability whatsoever with regard to the quality of this machine translated text.**

Last update: 25/09/2020