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France

ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in France.

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FRANCE

ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS



1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

France, as a member state, adheres to the regulatory framework of the European Union. Regarding the recognition and enforcement of foreign judgments, the applicable EU regulations are as follows:

- The Regulation No. 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of foreign judgments in civil and commercial matters ("**Recast Brussels Regulation**") applies between EU member states for proceedings initiated on or after 10 January 2015, and judgments rendered in proceedings instituted on or after this date. Following the departure of the United Kingdom from the EU, the Recast Brussels Regulation has ceased to apply between EU member states and the UK to proceedings instituted after 1 January 2021, the end of the transition period.
- The Regulation No. 44/2001 of 2001 on jurisdiction and the recognition and enforcement of foreign judgments in civil and commercial matters ("**the Brussels Regulation**"), repealed by the Recast Brussels I Regulation, remains applicable for judgments rendered in proceedings initiated before 10 January 2015.

France is also party to the following international conventions:

- The Lugano Convention of 30 October 2007 on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("**the Lugano**

Convention") which applies between the EU and EFTA countries for judgments rendered on or after 1 January 2011.

- The Hague Convention of 30 June 2005 on Choice of Courts Agreements ("**the HCCH 2005 Convention**"), through the European Union, which applies between the state parties to the Convention in the presence of exclusive choice of court agreements concluded in civil and commercial matters. The Convention counts 32 state parties including Mexico, Montenegro, Singapore, and the United Kingdom.
- The Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters ("**the HCCH 2019 Judgments Convention**"), which will go into force from 1 September 2023 after its ratification by EU member states except Denmark, and Ukraine. The Convention has several signatory states including Costa Rica, Israel, Montenegro, North Macedonia, Russian Federation and United States of America.

France is also party to bilateral and multilateral treaties governing the enforcement of foreign judgments with a large number of countries.

2. What, if any, reservations has your jurisdiction made to such treaties?

France has not made any reservations to the European regulations, the Lugano Convention, the Hague Convention of 2005 and the HCCH 2019 Judgments Convention.

3. Can foreign judgments be enforced in

your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

Yes, in absence of an applicable convention, treaty or other agreement, **French general law** governs the enforcement of foreign judgments through a specific procedure called exequatur. The relevant provisions are contained in the code of civil procedure.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

Under the EU regime, judgments rendered in a member state are directly enforceable in France without any further procedure required.

Under the Lugano Convention, any judgment will be enforceable in France if, upon application of any interested party, the decision rendered in a state party to the Convention is declared enforceable in that state.

Under the HCCH Convention of 2005, a judgment rendered in a contracting state can only be enforced in France if the judgment is enforceable in its country of origin.

Under the HCCH 2019 Judgments Convention, a judgment will be enforceable in France if it has been rendered by a court having jurisdiction in accordance with article 5 of the Convention and if it is enforceable in its country of origin.

Under French general law, the enforcement of foreign judgments is possible if three conditions are fulfilled:

- The foreign court that rendered the judgment had jurisdiction over the claim;
- The foreign judgment must be compatible with French international public policy, in compliance with fundamental procedural and substantive principles applicable in France;

The choice of the foreign court is not fraudulent.

Any foreign judgment can be enforced in France regardless of the form of relief, provided that it fulfils the above conditions (article 509 of the French code of civil procedure).

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

Under the EU regime, there is no need for an exequatur procedure or any further declaration for the enforcement of a judgment. Article 42 of the Recast Brussels Regulation only provides that the applicant shall address to the competent enforcement authority in France an authenticated copy of the judgment and a certificate issued by the court of origin attesting that the decision is enforceable.

Under the Lugano Convention, judgments rendered in a state party to the Convention, and declared enforceable in that state party, can be enforced in France upon request of any interested party, in accordance with French law. The applicant must address its request to the chief clerk of the competent French court and produce an authenticated copy of the judgment.

Under the HCCH 2005 Convention, in the presence of a valid choice of court agreement conferring jurisdiction to the courts of a contracting State, the enforcement procedure will be governed by French law. The documents to be produced are listed in article 13 of the Convention.

Under the HCCH 2019 Judgments Convention, the enforcement procedure for judgments rendered in a State party to the Convention will be governed by French law. The documents to be produced by the party applying for enforcement are listed in article 12 of the Convention.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

Under French general law, the party seeking enforcement of a foreign judgment must file a request for exequatur in accordance with the civil code of procedure.

The request for exequatur must be addressed to the clerk in chief of the competent court, that is, the civil court (Tribunal judiciaire), ruling as a single judge.

In particular, the party seeking exequatur must provide a judgment that is enforceable in its country of origin. The request must be filed by way of a subpoena, and the party must be represented by a lawyer.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

Under the EU regime, the only requirement is for the party seeking enforcement in France to provide a copy of the decision that meets the conditions necessary to establish its authenticity (i) and a certificate issued by the court of origin in accordance with the form set out in Annex V to the Regulation (ii). A translation of the necessary documents by a sworn translator can be required.

Under the Lugano Convention, no legalisation or other formality is required.

Under the HCCH Convention of 2005, judgments are exempt from legalisation or any formality such as apostille.

Under the HCCH 2019 Judgments Convention, there is no such formal requirement imposed.

Under French general law, a foreign judgment must be legalised to produce its effects in France. This procedure, which allows the French authority to verify the authenticity of a foreign act, requires the intervention of the Consulate of the foreign country in France. However, France has signed the Hague Convention of 1961 on apostille which enables to bypass this procedure. The apostille is a simplified formality for the legalisation of public documents that must be produced in a State Party to the Convention. It replaces the legalisation of public documents and produces the same effects. The only formality required to certify the authenticity of the document is the affixing of an apostille by the competent authority of the country of origin. The Convention has been signed by 123 states.

French courts will generally require that foreign judgments be accompanied by a translation issued by a sworn translator.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

Under the EU Regime, the foreign judgment can be declared enforceable in France within days.

Under the HCCH Convention of 2005, article 14 specifies that the court shall act "expeditiously".

Under the HCCH 2019 Judgments Convention, article 13 specifies that the court shall act "expeditiously".

Under French general law, an enforcement procedure can usually take from three to twelve months.

There is no summary procedure available under French law. However, bilateral conventions often provide an expedited procedure for the enforcement of judgments rendered in States Parties to the convention.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while the enforcement or registration procedure takes place?

Under the EU Regulation (article 40), it is possible to obtain interim measures in France during enforcement proceedings, in accordance with French law.

Under the Lugano Convention (article 31), provisional measures can take place in accordance with the law of the state where the measure is requested prior to a declaration of enforceability.

Under the HCCH Convention of 2005, there are no rules governing interim measures.

Under the HCCH 2019 Judgments Convention, there are no rules governing interim measures.

Under French law, conservatory measures can be ordered before the applicant has an enforceable decision, subject to prior authorisation of a judge.

Such prior authorisation is not required when the applicant relies on a court decision, even if this decision:

- is not yet enforceable, for example in case of a pending appellate proceeding (article L511-2 of the civil code on enforcement procedures);
- has not been granted exequatur (Paris Court of Appeal, 6 September 2018, no. 18/02624).

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

In France, judgments can be enforced within 10 years from the date of issuance (Cour de cassation, 4 November 2015, no. 14-11.881).

Accordingly, article L111-4 of the code of civil

enforcement procedures provides that foreign judgments can be enforced **within 10 years from the date of the exequatur decision.**

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

Under the EU regime:

Despite the restrictive approach adopted by the EU in application of the principle of free circulation of judgments, it is possible to challenge the enforcement of foreign judgments in France on three grounds (article 45 of the Recast Brussels Regulation):

- Firstly, when it is contrary to French public policy. However, for European judgments, the public policy ground “ought to operate only in exceptional cases” (CJEU, Hoffmann v. Krieg, 4 February 1988, no. 145/86).
- Secondly, in case of a default judgment that cannot benefit from the free circulation. If the defendant was not properly notified of the proceedings in sufficient time and in such a way that enables them to arrange for their defence, and unless the defendant failed to commence proceedings to challenge the judgment in due time, the default judgment shall not be enforced;
- Lastly, if a judgment rendered in a member state is incompatible with another judgment rendered between the same parties in another member state, or if the judgment is incompatible with an earlier judgment given in another member state or in a third state involving the same cause of action and between the same parties (provided that the earlier judgment fulfils the conditions necessary for recognition and enforcement in the member state where it is sought).

Under the Lugano Convention, article 34 provides that the recognition of a judgment conditioning its enforcement will not be granted in France if:

- The judgment is manifestly contrary to French public policy;
- The judgment rendered in default was not properly notified to the defendant;
- The judgment is irreconcilable with a judgment rendered in France in a dispute between the same parties;
- The judgment is incompatible with an earlier judgment rendered in another state in a

dispute including the same parties and the same cause of action.

Under the HCCH Convention of 2005, article 9 provides that enforcement of a judgment in France may be refused if:

- The choice of court agreement is null;
- A party lacked capacity to conclude the agreement under French law;
- The judgment was obtained by fraud;
- The judgment was not properly notified to the defendant;
- The judgment is manifestly incompatible with French public policy;
- The judgment rendered is inconsistent with a judgment rendered in France including the same parties;
- The judgment is incompatible with an earlier judgment rendered in another State Party including the same parties and the same cause of action, provided that the earlier judgment fulfils the conditions necessary for its recognition in France.

Under the HCCH 2019 Judgments Convention, article 7 provides that enforcement of a judgment may be refused if:

- The document which instituted the proceedings was not properly notified to the defendant;
- The judgment was obtained by fraud;
- Enforcement is manifestly incompatible with French public policy;
- The proceedings in the court of origin were contrary to an agreement, or a designation in a trust instrument, under which the dispute in question was to be determined in a court of a State other than the State of origin;
- The judgment rendered is inconsistent with a judgment rendered in France including the same parties;
- The judgment is inconsistent with an earlier judgment given by a court of another State between the same parties on the same subject matter, provided that the earlier judgment fulfils the conditions necessary for its recognition in France.

Article 7 provides that recognition or enforcement may be postponed or refused if proceedings between the same parties on the same subject matter are pending before a French court, where:

- The French court was seized before the court of origin; and

- There is a close connection between the dispute and France.

Under French general law:

To challenge the enforcement in France of a foreign judgment rendered in a non-EU country, the defendant to an exequatur procedure may rely on the following:

- Firstly, if the claim in question falls under the **exclusive jurisdiction of French courts** (even when this exclusive jurisdiction results from a choice of jurisdiction clause). Still, French courts are rarely exclusively competent since French case law has established that (i) the jurisdiction of the French courts is not exclusive merely by application of the French rules on jurisdiction (for example of the place where the defendant has its residence is France), (ii) the jurisdiction of the French courts is not exclusive merely because the claimant or the defendant is French;
- Secondly, if the judgment **does not comply with French public policy**, whether substantive (i.e., the fundamental principles of French law) or procedural (i.e., the principle of fairness in legal proceedings and the respect of the defendant's rights, the absence of a previous conflicting decision);
- Lastly, if the foreign judgment was obtained by **fraud**, whether through the choice of the foreign court or through the choice of the applicable law.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

The three conditions mentioned above are sufficient for the French court to assess the regularity of the foreign judgment, without having to review the merits of the case (Munzer case, Cour de cassation, 7 January 1964). The review of the merits is prohibited under French general law as well as the EU regime, the Lugano Convention, the HCCH Convention of 2005 and the HCCH 2019 Judgments Convention.

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

French courts will examine whether the foreign court

had jurisdiction over the claim.

To do so, French courts will verify three elements:

Firstly, that there was not an exclusive jurisdiction of a French court over the claim;

Secondly, that the claim had a sufficient connection with the country whose court rendered the judgment;

Lastly, that the choice of jurisdiction was not fraudulent.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

Under the EU regime, when the judgment has been rendered in default, the courts can refuse enforcement if the notification of the proceedings to the defendant was not conducted in sufficient time and in such a way as to arrange for their defence, unless the defendant did not challenge the decision in due time (article 45 of the Recast Brussels Regulation).

Under the Lugano Convention, the documents which instituted the proceedings must be served to the defendant in sufficient time and in such a way as to arrange for their defence, unless the defendant did not challenge the decision in due time. Foreign judgments in default can be enforced.

Under the HCCH Convention of 2005, the document initiating the proceedings, or the equivalent document, must be notified to the defendant (i) in sufficient time and in such a way as to arrange for their defence, unless the defendant appeared without challenging the notification in the court of origin, provided that such challenge is permitted by the country of origin; (ii) in a manner that is compatible with the fundamental principles on the servicing of documents applicable in France. Foreign judgments in default can be enforced.

Under the HCCH 2019 Judgments Convention, the document which instituted the proceedings or an equivalent document, must be notified to the defendant (i) in sufficient time and in a way that enables them to arrange for their defence, unless the defendant appeared without challenging the notification in the court of origin, provided that such challenge is permitted by the country of origin; (ii) in a manner that is compatible with the fundamental principles on the servicing of documents applicable in France. Foreign judgments in default can be enforced.

Under general law, one of the three conditions set out above to obtain the exequatur of a foreign judgment is the compliance of the judgment to French public policy.

French High Court (Cour de Cassation) has specified that “a foreign decision can only be considered as contrary to French public policy if it is shown that the interests of a party have been objectively compromised by a violation of the fundamental principles of procedure” (Cour de cassation, 19 September 2007, no. 06-17.096).

The defendant must have been notified of the judgment proceedings and put in a position to arrange for their defence effectively. The defendant must be able to exercise their rights, in accordance with the adversarial principle.

Where the subpoena was issued in accordance with the requirements of French public policy, and it appears that the defendant's failure to appear was due to a failure of action, the unilateral nature of the proceedings leading to the judgment does not render the judgment incompatible with French public policy. Therefore, a foreign judgement in default can be enforced in France.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

Since it is prohibited to review the judgment on the merits, French courts do not have wide discretion on the recognition of foreign judgments which fulfil the conditions set out above.

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

The foreign judgments which are not compatible with French public policy cannot be enforced in France.

The Cour de cassation ruled that punitive damages are compatible with French public policy. However, the ordered damages shall not result in the award of an amount that is disproportionate to the harm suffered and the debtor's breach of obligations (Cour de cassation, 21 December 2010, no. 09-13.303).

17. Can enforcement procedures be started in your jurisdiction if there is a pending

appeal in the foreign jurisdiction?

The enforcement procedure cannot give to the foreign decision more effect in France than it does in its country of origin. Therefore, French courts will have to verify whether the appellate court seized in the country of origin has stayed the proceedings. If no stay of proceedings in the country of origin has been ordered, the judgment can be enforced in France. Otherwise, the action will be dismissed.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

In France, the judgment ruling on the recognition or enforcement of a foreign judgment can be subject to an appeal procedure, under the EU regime, the Lugano Convention, the HCCH Convention of 2005, the HCCH 2019 Judgments Convention as well as under French general law.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

In France, a judgment ordering the payment of a sum of money carries interests on the amount due at a legal rate made public each semester (article 1153 of the civil code; article 1231-6 and article 1231-7 of the code of civil procedure).

Once the foreign judgment is declared enforceable, qualifying as an enforcement order, the foreign judgement fully produces its effects in France. As a result, interests apply from the date of the decision of exequatur, in accordance with the French civil code. Even if the foreign judge did not rule on interests, French case law considers that, for the enforcement of a judgment in France, the amount ordered carries interests at the legal rate (Cour de cassation, 6 March 2007, no. 04-17.127; Paris Court of Appeal, 9 October 2012, no. 11/15467).

As the foreign judgment is deprived of authority in France before its exequatur, the interest applicable to the judgment sum is calculated as of the date of the exequatur decision, not the date of the foreign judgment, even if the judgment provided interests (Cour de cassation, 19 November 2015, no. 14-25.162).

20. Do the courts of your jurisdiction

require a foreign judgment to be converted into local currency for the purposes of enforcement?

If a foreign judgment orders the payment of a sum of money in a foreign currency, the amount due can be converted in euros. French case law allows the judge to order for all financial penalties expressed in foreign currencies to be paid in euros, upon the request of the applicant (e.g. Versailles Court of Appeal, 1 July 2010, no. 09/02985; Paris Court of Appeal, 29 October 2009, no. 08/02509).

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

The losing party to an enforcement procedure may be ordered to pay the costs of enforcement, including the claimant's legal costs (article 700 of the civil code of procedure). However, the costs ordered by the court under article 700 will generally be lower than the costs effectively incurred by the parties.

The judgment ruling on the exequatur action may also order the losing party to pay the translation costs.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

French law does not prevent the practice of litigation funding. Therefore, an exequatur procedure can be funded by a third party, under the terms of an agreement with the party to a procedure.

As long as the third party is not considered a party to the proceedings, it cannot be held liable for the costs incurred. Only the party to the proceedings can be held liable by the court.

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The HCCH 2019 Judgments Convention (into force from 1

September 2023), adopted under the auspices of the Hague Conference on Private International Law, could significantly improve the current system for the circulation of foreign judgments worldwide, by expanding the perimeter beyond the system currently applicable between the EU states (and neighbour states through the Lugano Convention). Indeed, to the exception of the HCCH Convention of 2005, which has a limited scope, there is no multilateral framework for the circulation of judgments.

Although EU states, including France, have been particularly welcoming towards foreign judgments, their own judgments encounter significant obstacles in foreign legal systems, even among their major trading partners such as United States of America.

The Convention, if it achieves to garner a significant number of acceptances, especially from states that have historically been less open to the circulation of judgements, it could make it less cumbersome for judgments rendered in the EU to be enforced in a third country.

A comprehensive international framework for the recognition and enforcement of foreign judgments in civil and commercial matters would therefore be a source of legal certainty for litigants seeking to enforce a foreign judgment.

To date, only EU and Ukraine are member states of the Convention and 7 Signatories, which are Costa Rica, Israel, Montenegro, North Macedonia, Russian Federation and United States of America are expected to ratify it.

We can only hope that the Convention will be ratified by many states and mirror the widely adopted 1958 New York Convention on the recognition and enforcement of foreign arbitral awards.

24. Has your country ratified the Hague Choice of Courts Convention 2005? If not, do you expect it to in the foreseeable future?

France has ratified the Hague Choice of Courts Convention of 2005.

25. Has your country ratified the Hague Judgments Convention 2019? If not, do you expect it to in the foreseeable future?

France has ratified the Hague Judgments Convention of 2019.

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