

Procedures for enforcing a judgment - France

TABLE OF CONTENTS

- 1 What does 'enforcement' mean in civil and commercial matters?
- 2 Which authority or authorities are competent for enforcement?
- 3 What are the conditions under which an enforceable title or decision may be issued?
 - 3.1 The procedure
 - 3.2 The main conditions
- 4 Object and nature of enforcement measures
 - 4.1 What types of assets can be subject to enforcement?
 - 4.2 What are the effects of enforcement measures?
 - 4.3 What is the validity of such measures?
- 5 Is there a possibility of appeal against the decision granting such a measure?
- 6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?



1 What does 'enforcement' mean in civil and commercial matters?

Enforcement (implying compulsory enforcement, since voluntary compliance by the debtor with his obligations does not require proceedings) covers all proceedings permitting the carrying out of 'enforceable' obligations against the debtor's will. French law contains three categories of civil obligations: to pay, to do something or to refrain from doing something, and lastly to give or return.

The right of enforcement concerns the debtor's assets: enforcement against persons does not exist. However, a refusal to comply with certain obligations (maintenance obligations) is a criminal offence, making the debtor liable to prosecution and a prison sentence. The same applies to the fraudulent organisation of insolvency by a debtor.

The law concerning enforcement measures is based on a trilogy of paying, doing and giving.

Obligations to pay are enforceable by means of attachments. If the attachment concerns a sum of money, the sum attached will be assigned to the creditor (for instance, attachment of a bank account). If the attachment concerns an asset belonging to the debtor, the attachment will result in the compulsory sale of the asset and the proceeds of the sale will be assigned to the creditor, up to the limit of his claim.

Obligations to give or to return vary depending on the nature of the asset. In the case of movable property, the asset is seized, by way of an attachment, to be returned to the legitimate owner. In the case of immovable property, possession of the property is returned to the owner by evicting the occupant.

Obligations to do or refrain from doing something are enforced by means of a pecuniary penalty, which is a sum of money the debtor must pay in addition to the obligation he must perform. The sum, fixed by a judge, is calculated in proportion to the period of failure to perform (in the case of obligations to do something) or according to the number of breaches of the obligation to refrain from doing something. Since obligations to pay, to give or to return are also interpreted as obligations to do something, a pecuniary penalty may be ordered in addition to other compulsory enforcement measures.

2 Which authority or authorities are competent for enforcement?

Bailiffs in principle have a monopoly for undertaking compulsory enforcement. However, two enforcement procedures always require prior authorisation by the courts:

- attachment of earned income, authorised by the district court of the place of residence of the debtor or the garnishee, if the debtor lives abroad or has no fixed residence,
- attachment of immovable property, which is undertaken by the enforcement court of the place where the property is situated.

3 What are the conditions under which an enforceable title or decision may be issued?

3.1 The procedure

All enforceable titles can be the subject of compulsory enforcement measures; they are defined by Article L. 111-3 of the Civil Enforcement Proceedings Code (*Code des procédures civiles d'exécution*):

- Legally binding decisions by ordinary courts or administrative courts and agreements which these courts have made legally enforceable;
- Foreign measures and judgments and arbitral awards declared enforceable by a ruling not subject to an appeal suspending enforcement;
- Extracts from official conciliation reports signed by the judge and parties;
- Notarial acts that contain a clause granting authority to enforce;
- Title issued by a bailiff in the event of non-payment of a cheque;
- Titles issued by corporate persons established under public law and described as such by the law, or decisions to which the law grants the same effects as a judgment.

Court rulings not subject to an appeal suspending enforcement are enforceable without another judgment. These rulings, like notarial acts, are **certified enforceable** by the clerk of the court or by the notary. There is no other intermediate procedure that permits enforcement.

In the absence of a court ruling, all creditors may obtain authorisation to proceed with **attachments or judicial liens**. The measures taken under these conditions lapse rapidly if the other party has not been notified (within eight days) and if the creditor has not initiated proceedings on the merits to obtain a court ruling endorsing his claim.

Compulsory enforcement measures relating to movable property and sums of money, as well as eviction, must be carried out by a bailiff, who is a public and professional officer, i.e. an enforcement officer appointed by the Minister for Justice. The bailiff discharges his duties under private law conditions but, in the case of enforcement, enjoys public authority prerogatives determined by precise regulation and a strictly controlled ethical code.

Attachment of immovable property is carried out by means of special proceedings before the enforcement judge of the regional court, for which the creditor must be represented by a lawyer.

Costs arising from enforcement measures are, in principle, ultimately paid by the debtor, who must pay them in addition to his debt.

These enforcement costs are subject to a scale of charges which establishes the remuneration owed to bailiffs for each enforcement measure. Under Decree No 96-1080 of 12 December 1996, the remuneration scale for bailiffs comprises a fixed amount expressed, either cumulatively or alternatively depending on the case, in fixed or proportional charges, plus, where appropriate, a charge for initiation of prosecution.

The fixed charges must be paid by the debtor. The proportional charges, calculated according to a sliding scale applied to the amounts recovered, are paid partly by the creditor and partly by the debtor.

For example, for a claim recovered of EUR 10 000, the scale of charges for some enforcement measures is as follows:

- preventive attachment of bank account: fixed charge, incl. taxes: EUR 187.53
- attachment of movable property: fixed charge, incl. taxes: EUR 66.98
- attachment of vehicle by declaration at the prefecture: fixed charge, incl. taxes: EUR 133.95
- formal notice served with a view to attachment of immovable property: fixed charge, incl. taxes: EUR 80.37

In addition to these fixed charges, there are proportional charges which, for the entire claim, amount to EUR 723.44 incl. taxes, of which EUR 121.35 is payable by the debtor and EUR 602.09 by the creditor.

3.2 The main conditions

No court order is required to proceed with enforcement measures based on enforceable titles.

The criteria for authorising precautionary measures in favour of a creditor who does not yet have an enforceable title are as follows: the claim appears to be founded in principle and recovery of the claim appears to be at risk. The competent judge for ordering attachment is the enforcement judge (a judge in the regional court) or the president of the commercial court within the limits of the jurisdiction of that court.

4 Object and nature of enforcement measures

4.1 What types of assets can be subject to enforcement?

The creditor may enforce his claim against the debtor's entire property, therefore in principle all the assets belonging to the debtor may be attached. Special rules exist depending on the nature of these assets: claims (rent, salaries, sums placed in a bank account), movable property of all kinds, immovable property and rights *in rem*, securities and contributories' rights, vehicles (land, ships, boats or aircraft), copyright, sums of money placed in a safe, etc.

The law may, however, state that certain assets may not be attached, for instance:

- sums needed for maintenance (in particular a proportion of the salary fixed according to a sliding scale depending on the amount of income and dependants, re-evaluated each year),
- movable goods needed for the debtor's everyday life and work, which cannot be attached unless to pay their price or if they are of significant value,
- assets necessary for the sick or disabled.

4.2 What are the effects of enforcement measures?

Enforcement measures on property and claims are carried out in two phases. First, the enforcement agent carries out the attachment of property or sums of money. This attachment means that the property cannot be disposed of, but the debtor remains in possession and is made custodian of it. If he misappropriates this property, he commits an offence. In the case of sums of money, they remain blocked in the account, but are immediately, albeit virtually, assigned to the attachment creditor.

The debtor is informed of the attachment. If the debtor does not inform the enforcement judge that he is challenging the attachment, the enforcement agent may proceed with the second phase of the attachment, namely seizing the property to have it sold at auction or asking the garnishee (usually the banker) to hand over the amounts attached.

The banker, called the 'garnishee', is obliged at the time of the attachment to inform the bailiff of all sums he holds for the debtor. If he fails to do so or if he hands over to the debtor the sums attached which are in his hands, the judicial penalty, at the request of the creditor, is that he shall be ordered to pay the debt instead of the debtor.

4.3 What is the validity of such measures?

Enforceable titles lapse after 10 years. Enforcement measures must therefore be undertaken within that time limit (L. 111-4 of the Civil Enforcement Procedures Code).

Orders by the enforcement judge to proceed with attachments lapse if the precautionary measure is not taken within a period of three months from the order.

5 Is there a possibility of appeal against the decision granting such a measure?

This question applies only to orders relating to attachments. In the case of enforceable titles, resort to appeal is linked to a judicial challenge of the claim itself.

Once the precautionary measure has been taken and the debtor has been informed of this, the latter may challenge the conditions leading to the order before the enforcement judge who ordered the measure. A challenge may be brought before the judge provided that the attachment has not been converted into a forced sale following judicial confirmation of the claim.

6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?

In terms of time limits, enforceable titles in principle lapse after ten years.

Moreover, enforcement procedures must be limited to that which proves necessary to recover the claim and there must be no abuse in the choice of these measures.

Whereas the creditor can in principle attach all the goods belonging to the debtor, there are limits in the form of goods which by law may not be attached. This is the case in principle for maintenance payments, movable goods necessary for the debtor's everyday life and work, objects which are essential for a disabled person, certain social minima and family allowances, which cannot be attached. In addition, sums in a bank account exceeding the minimum income ('active solidarity income' (*revenu de solidarité active*)) cannot be attached for a single person. Finally, in principle earned income is eligible for attachment only within the limits set by a decree, which determines the attachable amount according to the debtor's earned income and dependants.

Sole proprietors, in certain cases, also benefit from special protection of all or part of their assets.

Finally, enforcement measures may be carried out only between 6:00 and 21:00 and not on Sundays and public holidays, unless prior authorisation has been given by the enforcement judge. Any attachment for an amount of less than EUR 535 in living quarters also requires prior authorisation by the enforcement judge.

Related links

[Legifrance](#)

[Chambre Nationale des Huissiers de Justice \(National Chamber of Judicial Officers\) website](#)

The national language version of this page is maintained by the respective EJM contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. Neither the EJM nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Last update: 20/03/2017