APRIL 2025

OPEN SOCIETY
JUSTICE INITIATIVE

LEGAL POSSIBILITIES OF USING RUSSIAN CENTRAL BANK ASSETS TO ENFORCE EUROPEAN COURT OF HUMAN RIGHTS JUDGMENTS

Annex: Applicable Laws in France

TABLE OF CONTENTS

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This country study is an annex to the report *Legal Possibilities of Using Russian Central Bank Assets to Enforce European Court of Human Rights Judgments* and contains the full analysis of applicable laws in France.

A. ENFORCEMENT OF FOREIGN JUDGMENTS IN FRANCE

In order to enforce a judgment issued by foreign national courts to access assets of the debtor in France, the claimant needs to first proceed with an exequatur procedure under which the foreign decision is examined and recognized by a French judge before proceeding to enforcing it through attachment or other means.1

I. Recognition via exequatur procedure

The set of rules applicable to the recognition of foreign judgments can differ if the foreign decision emanates from a member state of the European Union or a country which had a bilateral or multilateral convention with France on the matter. These two options will be discussed in less detail than the alternative as these rules would not apply to ECtHR judgments. In the absence of any international agreements on recognition, the ordinary exequatur procedure applies.

Rules under the ordinary exequatur procedure

Article 509 of the French Civil Procedure Code (CPC)[2] provides that "judgments issued by foreign tribunals and acts issued by foreign officials can be enforced within the French territory with respect to the conditions provided by the law" (unofficial translation).[3] This applies to judgments on civil and commercial matters under private law relationships, which include, among others, judgments establishing proprietary rights (i.e., ordering one party to pay a monetary compensation to another). This also includes civil claims adjudicated as part of a criminal judgment, e.g., damages for the victim of a crime.[4]

An application for the exequatur procedure must be filed with the competent Tribunal Judiciaire[5] (court of first instance for civil and criminal matters) through a summons to court ("*assignation*") or a joint request of both parties ("*requête conjointe*").[6] It is an adversarial procedure, and the assistance of a lawyer is compulsory. The competent tribunal is the one where the defendant resides; if the defendant does not reside in France, the competent tribunal is the place where the plaintiff resides, or the tribunal of the plaintiff's choice if they reside in a foreign country.[7]

The decision on the exequatur procedure is called an ordinance ("*ordonnance*"). The ordinance granting the recognition of a foreign judgment cannot be appealed.[8] The ordinance refusing it can be appealed within one month.[9] If the defendant is a state, the foreign state must be notified of the ordinance to be used as a basis for an enforcement procedure.[10] It then carries the same enforceable force as a French judgment.

Foreign judgments can be recognized under the conditions set out below, including (1) the nature of the foreign judgment, (2) the admissibility of the exequatur procedure, and (3) the required documents.

Nature of the foreign judgment

French jurisprudence developed three cumulative conditions that need to be met to allow the recognition of a foreign judgment:[11]

i) the foreign judge had jurisdiction to rule on the dispute

ii) the foreign decision is in conformity with the international public order

iii) the absence of a fraudulent use of the law

On the first requirement, the jurisdiction of the foreign judge is presumed as long as there is no exclusive jurisdiction in favor of the French courts and there is a link between the dispute and the foreign state.[12]

On the second requirement, the public international order is a set of fundamental principles of law inspired by French and international law.[13] The judge examines the merits of the decision as well as procedural matters. For example, she or he notably considers the rights of the defendant, equality of rights between men and women, and independence and impartiality of the court.

According to the third requirement, the choice of the foreign jurisdiction must not have been fraudulent, in the sense that the claimant did not seize the foreign judge for the sole aim of obtaining a right that French courts would not have granted.[14]

Admissibility requirements

The exequatur procedure has to respect the general rules of admissibility under French law which require that (1) the claimant has an interest to act, in particular that the judgment is enforceable, (2) the claimant has standing to act, and (3) the principle of res judicata is upheld regarding the same dispute.

Interest to act

Article 31 CPC requires the claimant of a judicial procedure to have an interest to act. The interest to act in the exequatur procedure is independent from the interest to act that the claimant had in the original dispute, which resulted in the foreign judgment.[15] The interest

to act must also be current, i.e., the foreign decision must not have been enforced yet.[16] Finally, the interest to act must be legitimate. This element is examined on a case-by-case basis by the judge, and aims to prevent claimants from making demands that seem immoral or based on an illegal act.[17] It can be said that a claimant has an interest to act whenever they were a party to the foreign judgment that the exequatur is being sought for, since it is a sine qua non condition for its enforcement in France.[18]

Under the interest to act in an exequatur procedure, the French jurisprudence has added the enforceable nature of the judgment as a separate condition: the foreign judgment cannot be recognized if it is not enforceable in its country of origin.[19] The burden of proof lies on the claimant who seeks recognition.[20] The rationale is that the exequatur procedure cannot confer more effects on the judgment in France than it does in its country of origin. This requirement will be discussed in more detail below.

Standing

The beneficiary of the foreign judgment (or their inheritors) always has the standing to act in an exequatur procedure.[21] Only the parties before the foreign judgment have standing to act when the enforcement of the foreign decision is being sought.[22] The losing party of the foreign judgment will be the defendant in the exequatur procedure.

Principle of res judicata

The exequatur procedure cannot recognize a foreign judgment that is contrary to a previous French judgment on the same dispute. This would contravene the principle of res judicata of the French judgment.[23] It does not matter whether the French judgment was adopted before or after the foreign one as long as the French judgment was adopted before the recognition request.[24]

Required documents

The necessary documents for the exequatur procedure include, notably,

i) an original copy of the judgment (usually with an apostille[25] from the foreign state);

ii) a certificate by the foreign registrar that confirms the finality of the judgment (i.e., that no appeal was made against the judgment); and

iii) if the judgment is in a foreign language, a sworn translation made by a sworn translator registered in the expert list of a French court of appeal.

Rules under multilateral or bilateral treaties

Within the EU, several EU regulations provide for the recognition of judgments from other EU member states in certain areas of law, e.g., civil and commercial matters,[26] succession / inheritance,[27] and matrimonial and parental responsibilities.[28] There is no need for a procedure to recognize them in France, but their enforcement can be opposed on a limited set of grounds.[29]

Beyond the EU, international conventions on judicial cooperation matters provide for the procedure of recognition of foreign judgments in state parties to the relevant convention. France adopted many bilateral conventions in regards to judicial cooperation, which include provisions on enforcement,[30] notably for civil and commercial matters. The conditions set forth in these bilateral conventions are usually stricter than the ordinary rules of an exequatur procedure, as they were adopted at a time when the past jurisprudence in France demanded more conditions than currently for recognitions of foreign judgments.

For example, France is state party to the Lugano Convention on the Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters.[31] The Lugano Convention establishes the principle that a judgment rendered in a state party shall be recognized in other state parties without any special procedure being required.[32] Several exceptions exist, such as where the judgment is contrary to the public national order of the state in which the recognition is sought, or if the defendant was not served with the document instituting the foreign procedure or did not have enough time to prepare their defense.[33]

II. Enforcement procedure

Following the recognition of the foreign judgment, if a claimant seeks to attach monetary assets held in a bank account, the procedure to follow is referred to as "*saisie attribution*", which allows a creditor in possession of a writ of execution (enforceable title) to attach the amount owed by the debtor which is held by a third party (the bank).[34] The following lists the documents that are considered writs of execution:

> 2° Foreign acts and judgments as well as arbitral awards declared enforceable by a decision not subject to an appeal suspending execution, without prejudice to the provisions of applicable European Union law.[35] (unofficial translation)

These include decisions mentioned in Article 509 CPC, i.e., foreign judgments that were recognized and declared enforceable after a successful exequatur procedure. It is also possible to request a preliminary freezing of the funds ("*saisie conservatoire de créances*") first if the creditor does not have a writ of execution yet (e.g., the proceedings are still pending).[36]

With a valid writ of execution, the creditor mandates a bailiff to notify the writ to the bank, which must immediately freeze the amount of money to be attached.[37] The bailiff must also notify the attachment to the debtor within eight days starting from the notification to the bank.

Once notified, the debtor has one month to challenge the pending attachment before the enforcement judge (*juge de l'exécution*).[38] In that case, the money to be attached is frozen until the enforcement judge rules on the matter, or until the expiry of the one-month appeal period without a challenge. The enforcement judge can confirm the attachment or annul it and order the release of the assets.

If the creditor seeks to attach assets belonging to a foreign state, according to Articles L. 111-1-1 and L. 111-1-2 of the Code of Civil Enforcement Procedures (CCEP),[39] enforcement first requires the authorization from the enforcement judge on the basis of a request by the creditor. Authorization can be granted if one of the following three conditions is fulfilled (alternative conditions):

> 1° the state involved has expressly consented to the application of such a measure;
>
> 2° the state concerned has reserved or assigned the property in accordance with the request;
>
> 3° where a judgment or arbitral award has been made against the state concerned and the property in question is specifically used or intended for use by that state other than for the purposes of noncommercial public service, and there is a link with the entity against which the proceedings is instituted. For the application of 3°, the following assets are considered as specifically used or intended for use by the state for the purposes of noncommercial public service:
>
> a) property, including bank accounts, used or intended for use in the performance of the functions of the diplomatic mission of the state, or its consular posts, special missions, or missions to international organizations, or its delegations to the organs of international organizations or international conferences (diplomatic property)

b) property belonging to the military, or property used or intended for use by the military

c) property forming part of the cultural heritage of the state, or its archives, which is not intended to be offered for sale

d) property forming part of an exhibition that is of scientific, cultural, or historical interest which is not intended to be offered for sale

e) The tax or social revenues of the state[40] (unofficial translation)

Regarding diplomatic assets, Article L. 111-1-3 CCEP, reaffirmed by case law,[41] requires a special and express waiver from the state to implement an enforcement measure:

> Interim measures or coercive enforcement measures can be implemented on assets, including bank accounts, used or intended to be used in the exercise of the functions of the diplomatic mission of foreign states or their consular posts, of their special missions or their missions to international organizations, only in the event of express and special waiver by the states concerned.[42] (unofficial translation)

The accounts held by a diplomatic or special mission benefit from a presumption of being used for the exercise of the functions of these missions; the burden of proof that they are not lies on the creditor.[43]

In essence, these conditions codify exceptions to state immunity from enforcement which is discussed in more detail below.

Only the enforcement judge of the Tribunal Judiciaire of Paris has jurisdiction to authorize the attachment of a foreign state's assets.[44] This process is not an adversarial procedure, which means the defendant state is not informed of it.[45] However, if the judge grants the enforcement, the state will be notified of this decision when the enforcement measures take place, and has the right to appeal it before the enforcement judge.

If the assets of an entity are frozen under an EU council regulation, the regulation may provide that no enforcement measure can be carried out without a prior authorization from the national competent authority.[46] In France, the director general of the Treasury of the Ministry of Economy and Finances carries this competency.

B. ENFORCEMENT OF ECTHR JUDGMENTS IN FRANCE

Whether ECtHR judgments can be enforced against third states has not been decided yet by French courts and thus remains unclear. A comparable case was filed in 2023 seeking the recognition and enforcement of a judgment by the Court of Justice of the Economic Community of West African States that awarded compensation to victims of torture and killings committed by security forces in Guinea, but the outcome of the case is still pending.[47]

The first question that arises would be whether or not ECtHR judgments could be recognized via an exequatur procedure, as foreign national judgments are, which would allow them to be enforced.

I. Recognition of ECtHR judgments via exequatur procedure

As described above, foreign judgment of national courts must generally be recognized by French courts via the exequatur procedure. It is uncertain whether such a recognition would be possible for ECtHR judgments. It seems there is no precedent to this day of an exequatur procedure applied to an international judgment in France.[48]

The exequatur procedure is intended for foreign judgments concerning a private law relationship (civil or commercial matters). It appears that ECtHR judgments might not meet either of these two criteria.

Element of foreign judgment

The exequatur procedure applies to foreign judgments. According to French case law, a foreign judgment is defined as originating from a sovereign state: "The judgments produced during the debates contain no mention of the sovereign authority in which name they were adopted; [. . .] so that consequently the said judgments have no legal existence and do not meet this necessary and essential condition for exequatur to be conferred on them"[49] (unofficial translation). In that case, the judgment in question dating from 1922 was delivered by a Russian consular tribunal reestablished by Russian emigrants in the Ottoman territory, which was no longer recognized by the Russian state since it had been replaced in 1917 by the U.S.S.R.

A more recent judgment also mentions this notion of sovereignty: "all acts pronounced in the name of a foreign sovereignty regarding a private law relationship, whatever the authority from which they emanate, whether or not resulting from a litigation procedure, provided however that they have a truly decision-making character" can be recognized under the exequatur procedure of Article 509 CPC (unofficial translation).[50]

The Court of Cassation ruled that "any intervention of the judge which produces effects with regard to persons or on property, rights, or obligations" constitutes a decision that can obtain recognition via the exequatur procedure.[51] The decision in that case was a declaration of insolvency issued by a company where a United States judge only added his name and signature to the document. This act by a foreign judge was considered sufficient to produce effects because it suspended the creditors' lawsuits.

Applying these criteria, the ECtHR appears to lack the requirement of sovereignty to be considered a foreign judgment for the purposes of the exequatur procedure. It is difficult to argue that by creating and accepting the jurisdiction of the ECtHR, state parties delegated their sovereignty or part thereof to the court.

Scholarly views opine that the recognition of an international judgment via an exequatur procedure is questionable not because it would not be considered equivalent to a foreign judgment, but because of its international nature.[52] Firstly, the domestic procedures do not provide for the possibility or conditions of the recognition of an international judgment. Secondly and most importantly, the state already consented to respect the international judgment by accepting the jurisdiction of the international court, and it must guarantee its execution without further conditions. Therefore, submitting such a judgment to an exequatur procedure is considered to be in contradiction with the obligation of the state to execute the international judgment, as it gives the national judge the ability to control—and theoretically refuse—its execution in the country.[53]

Element of private law relationships

The monetary compensation awarded by the ECtHR to the injured party (so-called "just satisfaction" according to Article 41 ECHR) is based on the provisions of the ECHR and not on civil or administrative liability rules or commercial law provisions which exist in domestic laws. Just satisfaction awards can be considered a form of remedy which awards damages to the claimant who seeks to obtain compensation from a defendant state based on the state's responsibility for a wrongful act. Thus they are comparable to criminal judgments of foreign national courts that award civil damages together with the verdict against the accused. Such domestic civil claims (awarded in conjunction with a criminal conviction) can be recognized through an exequatur procedure.[54] This could be an argument in favor of equating ECtHR judgments with decisions on private law relationships.

However, it could be argued to the contrary that the state's act is related to a public service mission or implements a prerogative of public authority which is not a private law relationship.[55] This is also reflected in the EU Regulation on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, which specifies that it does not apply to the liability of states for facts and commissions in the exercise of state authority (*jure imperii*).[56] Therefore, if the acts for which the ECtHR held the state liable were committed during an armed conflict, the state could argue it was exercising its public authority prerogatives and the ECtHR judgment does not concern a private law relationship.

For inter-state cases, where the judgments adjudicate on matters between two sovereign states without providing relief to a private individual, it might be even more difficult to argue that these could be characterized as a private law relationship.

In light of the above, it would be difficult to argue that ECtHR could be recognized in France via an exequatur procedure. As this remains an unsettled question, this report will examine both scenarios, namely where the exequatur procedure does not apply to ECtHR judgments (scenario 1) and where it would apply (scenario 2).

II. Scenario 1: Exequatur procedure does not apply to ECtHR judgments

If the exequatur procedure were not to be applied to ECtHR judgments, French courts could not recognize them. Without the possibility of recognition declaring ECtHR judgments as an enforceable title that can serve as a basis to seek coercive enforcement measures, such as attachment, it is uncertain if ECtHR could be enforced in France.

Enforcement without recognition could only be possible if ECtHR judgments by their nature are directly enforceable in France without the need to be recognized by French courts first. While there is no jurisprudence on this matter, the majority of scholars reject the theory of direct enforceability.[57] Adopting this view would lead to the result that ECtHR judgments (against Russia) could not be enforced in France.

For judgments by national courts, each country determines under its own laws when such a judgment is enforceable. This is usually the case when the decision becomes final, i.e., when appeals are no longer allowed and there is no other remedy available. In the case of ECtHR judgments, the question of enforceability would be determined by the European Convention on Human Rights. The answer hinges on whether state parties to the EHCR intended to confer direct enforceability on ECtHR judgments. The following arguments are made as to why such judgments are not directly enforceable.

The binding nature of ECtHR judgments does not render them directly enforceable

Article 46(1) ECHR stipulates: "The High Contracting Parties undertake to abide by the final judgment of the Court **in any case to which they are parties**" (emphasis added). This does not necessarily mean that ECtHR judgments are also binding on states which were not parties to the case. Thus, it is argued that they cannot be directly enforced in a third state.

Moreover, the binding force set out in Article 46(1) ECHR means the state which is party to a case is obliged to respect and execute the decision (e.g., by changing its legislation through its parliament or compensating victims) but has the freedom of choice regarding the means to be employed in order to meet its obligations. The ECtHR judgment thus is not directly enforceable in itself as claimants cannot enforce the decision against the state through domestic proceedings, even within the defendant state.[58]

In addition, the ECtHR consistently states that its "judgments **are essentially declaratory in nature** and that, in general, it is primarily for the State concerned to choose the means to be employed in its domestic legal order to fulfil its obligation under Article 46 of the Convention" (emphasis added).[59] In cases of ECtHR judgments issued against France, the Court of Cassation ruled that ECtHR judgments, while enabling the person invoking it to seek compensation, have no effect on the validity of proceedings under domestic law[60] and that they have no direct effect in domestic law on the decisions of national courts.[61] In the same way, the Conseil d'Etat (the highest administrative court in France) ruled that the enforcement of ECtHR judgments, based on their declaratory nature, cannot have the effect of depriving national courts' decisions of their enforceability.[62]

ECtHR judgments against France are not enforced through French courts

In the case of ECtHR judgments ordering just satisfaction against France, a c*irculaire*[63] issued by the prime minister provides that they have to be executed by the Sub-Directorate for Human Rights of the Legal Affairs Directorate of the Ministry of Europe and Foreign Affairs, which is also responsible for preparing France's position in ECtHR litigation.[64] If other ministries are involved in the execution of the judgment, including for the payment of the compensation ordered by the court, the sub-directorate coordinates their action and the follow-up. Therefore, French courts do not play a role in executing ECtHR judgments (against France). This could be put forward as an argument that ECtHR judgments against third states are not directly enforceable.

ECHR does not provide for enforcement by domestic courts

Articles 46(2) to 46(5) ECHR set out the role of the Committee of Ministers (CoM) of the Council of Europe to supervise the implementation of ECtHR judgments. If the CoM considers that the state fails to abide by the judgment, it can refer to the court the question of whether that party has failed to fulfil its obligation; and if the court finds that is the case, it refers the case back to the CoM for consideration of the measures to be taken.[65] These measures are limited to political pressure, or in the worst case, a potential suspension of rights of representation in the Council of Europe[66] or a request to leave the organization,[67] but none amount to coercive enforcement measures.

One may argue that as the enforcement of ECtHR judgments is specifically provided for under the provisions of Article 46 ECHR, the CoM's supervision and the choice usually given to the states to decide on the measures to be taken to comply with the judgment, bars any other way to have the judgments directly enforced.

Lack of direct enforceability does not mean French courts can ignore ECtHR judgments

France and its courts respect and follow the judgments of international courts when interpreting international provisions. French courts, like the courts of other member states of the Council of Europe, have to take judgments of the ECtHR into consideration when it comes to the interpretation of the ECHR. This does not change if ECtHR judgments are not considered directly enforceable.

The Court of Cassation affirmed that "States acceding to [the ECHR] are bound to respect the decisions of the European Court of Human Rights, without waiting to be challenged before it or to have amended their legislation."[68] (unofficial translation) That decision was adopted by its plenary chamber, where all the chambers of the Court of Cassation are represented to rule on a legal matter of importance. It had before explicitly made a reference to an ECtHR judgment in 1984[69] or to the ECHR "as interpreted by the ECtHR."[70] (unofficial translation)

The Conseil d'État made an explicit reference to an ECtHR judgment in 2005,[71] and it sometimes uses the phrasing "as interpreted by the ECtHR" (unofficial translation) when mentioning an article of the ECHR.[72] The vice president of the Conseil d'État declared in 2015 that "in creating their case law, national courts are obliged to 'take into account' the judgments of the [ECtHR], although in most legal traditions they do not have the absolute force of res judicata, but they do have a real persuasive force and even fairly clear interpretative authority in most of those traditions"[73] (unofficial translation).

Outside of ECtHR judgments, some French court rulings acknowledged the obligation to abide by decisions of international courts. As early as 1952, the Rabat Court of Appeal implicitly recognized that the decisions of the International Court of Justice (ICJ) have a binding effect on French courts by overturning the first instance court's decision in light of a subsequent decision of the ICJ.[74] In a more recent case, another court of appeal underlined the obligation of the French state to comply with decisions of the International Tribunal for the Law of the Sea, stating that "France has ratified the United Nations Convention on the Law of the Sea [. . .]. Article 292 provides that [. . .] the authorities of the detaining state shall comply with the court's or tribunal's decision concerning the release of the vessel"[75] (unofficial translation). None of the two cases dealt with the question of enforcement but both demonstrate the primacy of international court decisions in general.

III. Scenario 2: Exequatur procedure applies to ECtHR judgments

If the exequatur procedure applies to an ECtHR judgment, most conditions under French law set out above to grant its recognition would be met. However, the issue of enforceability (as discussed above under scenario 1) would arise as well in this scenario.

Regarding the three conditions related to the nature of the foreign judgment, it could hardly be disputed that the ECtHR has jurisdiction. Its judgments are in principle in conformity with the public international order, that is, not contrary to basic principles of law. Fraud could also not be argued regarding the initial seizing of the ECtHR as the claimant has a right to do so under the ECHR in case of a violation of the convention.

Regarding the required documents, it should be possible to get an original copy of the judgment and a certification of its definitive character from the ECtHR. Article 44 ECHR also establishes the definitive character of an ECtHR judgment. The translation could be done if the judgment is only in English.

Regarding the admissibility requirements, the claimant as a party to the initial judgment would have interest and standing to act and there would be no concerns regarding the principle of res judicata.

However, the main contention would arise as to the enforceability of the ECtHR judgment which is discussed in detail above. If one were to follow the view that ECtHR judgments are not enforceable, they would not meet the requirements for recognition. Without recognition, enforcement in France would not be possible.

IV. Practical obstacles at enforcement stage

Even if the hurdle of enforceability could be overcome and the claimant could proceed to the enforcement stage (with or without recognition), additional obstacles would arise.

As set out above, because the enforcement measure concerns assets of a foreign state, the claimant would need to first obtain authorization by the enforcement judge to attach assets as a means of enforcing the ECtHR judgment. The question of state immunity (discussed below) would arise at that point.

Following authorization, the attachment procedure executed by a bailiff requires a writ of execution.[76] For domestic decisions, the final judgment itself usually constitutes the writ. In the case of a foreign judgment, the writ is embodied in the foreign judgment recognized via an exequatur procedure. Without either, it is unlikely that a bailiff would regard a ECtHR judgment itself as a writ of execution within the meaning of French legal provisions, and they might thus refuse to proceed with an attachment procedure even with the authorization of the enforcement judge.

C. STATE IMMUNITY

The question of whether or not the principle of state immunity can block the enforcement of ECtHR judgments in France would arise in both of the two scenarios discussed above. The only difference would be that without the application of the exequatur procedure (see scenario 1 above), only immunity from enforcement would need to be overcome, as there would be no need for a judicial process of recognition that would trigger immunity from jurisdiction. On the other hand, in case the exequatur procedure would be applied (see scenario 2 above), both immunity from jurisdiction (during the recognition stage) and immunity from enforcement (during authorization of enforcement) could be invoked. This section will thus elaborate on both forms of immunity.

In addition, French domestic law provides for an additional protection from attachment when it comes to foreign central bank assets. This could be raised at the enforcement stage and thus would have to be overcome in both scenarios.

I. Immunity from jurisdiction

For many years, French case law established that equality and independence of states were an obstacle preventing one state from setting itself up to judge another.[77] A French court could not adjudicate another state in light of this principle of immunity from jurisdiction.

This position evolved and the application of this immunity now depends on the litigious act of the State *rationae materiae*: whether it is an act of jure imperii—i.e., an act which is performed in the exercise of the sovereignty of the State, linked with the public services—or an act of *jure gestionis*—i.e., a commercial and private "management act" ("*acte de gestion*").[78] When the act, by its nature or finality, exercises sovereignty of the state, the state benefits from immunity from jurisdiction.[79] For example, a contract with the United Arab Emirates aiming to promote the establishment of a private university in Abu Dhabi with the Paris-Sorbonne label was considered an act of jure imperii as it was in the interest of the public service of education.[80]

Scope of review by French courts

Until recently, the position of the Court of Cassation seemed to be that the judge in an exequatur procedure should not confer immunity from jurisdiction to the defendant state when the foreign court that issued the judgment (that was the subject of the exequatur procedure) ruled it did not apply. This was on the grounds that the judge of the exequatur procedure could not review the foreign decision brought before them.[81]

A recent case is seen as having changed that position.[82] It followed the *Germany v. Italy* case before the ICJ, where the ICJ held:

> Where a court is seised, as in the present case, of an application for exequatur of a foreign judgment against a third State, it is itself being called upon to exercise its jurisdiction in respect of the third State in question. It is true that the purpose of exequatur proceedings is not to decide on the merits of a dispute, but simply to render an existing judgment enforceable on the territory of a State other than that of the court which ruled on the merits. It is thus not the role of the exequatur court to re-examine in all its aspects the substance of the case which has been decided. The fact nonetheless remains that, **in granting or refusing exequatur, the court exercises a jurisdictional power** which results in the foreign judgment being given effects corresponding to those of a judgment rendered on the merits in the requested State. The proceedings brought before that court must therefore be regarded as being conducted against the third State which was the subject of the foreign judgment.[83] (emphasis added)

The Court of Cassation adopted the same reasoning in a case in June 2023 against the Republic of Iran following a judgment issued by a United States court ordering Iran to compensate the heirs of a victim of a bomb attack committed by a faction of the Palestinian Islamic Jihad.[84] In that case, the Court of Cassation refused to recognize the United States judgment due to Iran's immunity from jurisdiction by arguing that the French court must examine the question of immunity from jurisdiction when it is claimed by the defendant state, even if such immunity had been rejected in the foreign judgment: "the fact that the American court had itself ruled out such immunity from jurisdiction, under its own law [. . .] did not absolve the French court from exercising its jurisdictional power in order to assess whether the Islamic Republic of Iran was entitled and well-founded to invoke that immunity before it."[85] (unofficial translation)

Exception from immunity for violations of jus cogens norms

As jurisdictional immunity applies to exequatur proceedings, the question arises if exceptions could be argued based on a violation of customary international law, such as aggression.

In the same decision on Iran, the Court of Cassation quoted the ICJ's ruling on *Germany v. Italy*, which concluded that "under customary international law as it presently stands, a State is not deprived of immunity by reason of the fact that it is accused of serious violations of international human rights law or the international law of armed conflict."[86] It thus confirmed that Iran could claim immunity from jurisdiction and held that

> even supposing that the prohibition of acts of terrorism could constitute a jus cogens norm of international law capable of being a legitimate restriction on immunity from jurisdiction, **which is not apparent from the current state of international law**, the circumstances of the case did not allow an exception to be made to that immunity, since the award of damages against the Iranian State made by the American court was not based on proof of the direct involvement of the Islamic Republic of Iran and its agents in the attack, but solely on the basis of the civil liability that that State should bear in respect of the aid or material resources provided to the group that claimed responsibility for the attack.[87] (emphasis added)

In a previous ruling in 2011 (which did not concern an exequatur procedure) on the liability of Libya for supporting the destruction of a DC-10 plane carried out by Libyan terrorists in 1989 killing 170 passengers, the Court of Cassation appeared to leave the question of an exception to immunity open, by stating

> even supposing that the prohibition of acts of terrorism could be raised to the level of a jus cogens norm of international law, which takes precedence over other rules of international law and **may constitute a legitimate restriction on immunity from jurisdiction**, such a restriction would in the present case be disproportionate in the light of the aim pursued, since the claim against the foreign State is not based on the commission of acts of terrorism but on its moral responsibility.[88] (emphasis added)

In a recent case (which did not concern an exequatur procedure), French nationals imprisoned in Guantanamo sought to hold the former president of the United States and his agents accountable for acts of kidnapping, arbitrary detention, torture and acts of barbarism. The Court of Cassation ruled that these acts committed by the United States cannot be considered as simple management acts (jure gestionis) but constitute acts that exercise the sovereignty of the state.[89] It added that as international law stands, these crimes, however serious, are not covered by the exceptions to the principle of immunity from jurisdiction.

At the time of writing, the Court of Cassation has not ruled yet on the question of whether an exception to immunity from jurisdictions applies to genocide, crimes against humanity, war crimes, and aggression.

Application to ECtHR judgments

There is no previous case law on the application of immunity from jurisdiction during an exequatur procedure to recognize an ECtHR judgment. However, the abovementioned June 2023 decision on Iran where the Court of Cassation refused to recognize the judgment issued by a United States court due to Iran's immunity from jurisdiction could be used to argue that the same should apply when considering ECtHR judgments. Outside of French municipal law, scholars have discussed exceptions under customary international law that could be invoked.[90]

II. Special protection of foreign central banks assets

Under French law, foreign central bank assets enjoy an additional layer of protection which impose restrictions on attachment on top of the principle of state immunity from enforcement discussed below. Even though there has been no French case law yet on its application to the enforcement of ECtHR judgments, it would potentially pose an extra hurdle.

According to Article L. 153-1 of the Monetary and Financial Code (MFC),[91] in principle, the assets of foreign central banks held for its own account or on behalf of its state cannot be attached:

> Assets of whatever kind, including foreign exchange reserve assets, which foreign central banks or foreign monetary authorities hold or manage for their own account or on behalf of the state or foreign state(s) that govern them cannot be attached. (unofficial translation)

Interpretation by the Court of Cassation

The Court of Cassation confirmed in the *Commisinpex* case in May 2021 that the provision of Article L.153-1 MFC does not contravene Article 6 ECHR on the right to remedy.[92] A case filed before the ECtHR against France regarding this question is still pending.[93]

In the *Commisinpex* case, the Court of Cassation found that the restriction on attachment was proportionate as "it only applies to securities or assets held in France by central banks or foreign monetary authorities, and not to all assets of the foreign states to which they belong" and that the restriction had the "legitimate aim to preserve the functioning of institutions which contribute to the definition and implementation of monetary policy and to prevent a blocking of foreign exchange reserves placed in France."[94] (unofficial translations)

The court also stated in the same decision that the restriction on attachment of foreign central banks assets is independent from the question of immunity from enforcement.[95] This view is purely a jurisprudential creation and not based on French legal provisions. The claimant had argued that the foreign state had expressly waived its immunity from enforcement through a prior agreement between both parties, which the Court of Cassation deemed irrelevant.

This Commisinpex decision might have been adopted in reaction to a previous Court of Appeal's decision in the Bank of Central African States case, which found that state immunity from enforcement was not applicable because the claimant did not have any other remedy to execute the French judgment against the foreign state, which would constitute a violation of the right to a fair trial (Art. 6(1) of the ECHR).[96] The Court of Appeal's decision was overturned by the Court of Cassation in May 2016, which stated that "the litigant, who is confronted with the absolute nature of the immunity from enforcement of an international organization, has, through the implementation of the liability of the state, a legal remedy allowing him to have an effective right to access to court"[97] (unofficial translation).

Critique of the Court of Cassation

The *Commisinpex* decision was criticized by scholars who argue that in practice, it has become nearly impossible to attach central bank accounts in France, regardless of their holder or the purpose of their use.[98]

Moreover, it renders a state's waiver of its immunity from enforcement ineffective, as the protection of Article L.153-1 MFC is regarded as independent from the state's immunity.[99] This position contravenes the previous position of the Court of Cassation, where it had held that the provisions of Article L153-1 MFC "comes within the scope of the principles of immunity from enforcement laid down by customary international law, as reflected by the United Nations Convention of 2 December 2004."[100] (unofficial translation) Although the law does not specify whether a state can waive its immunity from enforcement on the assets held by its central bank, the Court of Cassation simply stated there is no need to examine whether the state had waived its immunity. This is seen as contrary to international customary law, which provides for this possibility.[101]

Narrow exception to special protection

Article L.153-1 MFC allows for a narrow exception to the restriction on attachment of foreign central bank assets:

> As an exception to the provisions of the first paragraph, a creditor holding a writ of execution establishing a certain and payable debt may request the enforcement judge to authorize enforcement as provided for in Act No. 91-650 of July 9, 1991, reforming the civil enforcement procedures if the creditor can establish that the assets held or managed by a foreign central bank or a foreign monetary authority **for its own account** form part of **resources allocated to a primary activity governed by private law**.[102] (emphasis added, unofficial translation)

The burden of proof that the funds are allocated to a private activity lies on the claimant.[103] The claimant must prove that their claim meets these conditions before the enforcement judge to obtain a court authorization to attach the funds.

Little case law exists on the application of this exception. Most of the existing decisions concern cases where a foreign judgment made an order against a foreign central bank, hence the attachment procedures were sought against the central banks (notably *Novoparc v. Central Bank of Iraq*,[104] *X v. Bank of Central African States*,[105] *X v. Central Bank of the United Arab Emirates*[106]). A few others concern foreign judgments or arbitral awards against foreign states (Commissions Import–Export—"Commisimpex" v. Republic of Congo,[107] *Noga v. Russia*[108]).

Some court decisions annulled attachment because there had been no prior authorization by the enforcement judge,[109] or because the creditor did not have a writ of execution.[110] Most commonly, attachments were annulled because it was not established whether the assets belonged to the central bank or to the foreign state.

The formulation of Article L. 153-1 MFC seems to exclude the attachment of assets held for the account of the state, since the exception provided for in the second paragraph of this article only mentions assets held or managed by the central bank for its own account. This position was adopted by the Court of Appeal of Versailles, where the company Noga tried to attach monetary assets held by the Russian Central Bank in a French account to satisfy a debt owned by Russia.[111] The creditor had obtained an arbitral award against Russia which was recognized in France via the exequatur procedure. The Versailles Court of Appeal found that a notification of the attachment had been issued by the bailiff against "the Russian Central Bank in its capacity of agent and depositor of the Russian state's assets." (unofficial translation) As the assets targeted did not belong to the central bank

but to the Russian state, the prohibition of attachment applied. Furthermore, the court underlined that it was not sufficiently specified whether the central bank's accounts were held for its own use or for the account of the state. The court annulled the attachment.

In the *Commisinpex* case described above, the Court of Cassation did not explicitly determine if the state's assets held by its central bank fell under the exception in Article L. 153-1 MFC, although the company intended to attach money owned by the Democratic Republic of the Congo (DRC) held in accounts of the Bank of Central African States (BEAC).[112] However, because the BEAC's role is to manage the exchange reserves of its member states and it was not established whether the attached assets belonged to the DRC, the court reaffirmed the protection of the exchange reserves of central banks and confirmed the prohibition of attachment in this case.

Application to ECtHR judgments

Russian Central Bank assets frozen by EU sanctions appear to fall within the remit of the special protection in Article L. 153-1 MFC. To be able to seek attachment as means to enforce an ECtHR judgment, the claimant would have to obtain a writ of execution either by arguing that the ECtHR judgment itself constitutes a writ (see scenario 1 above) or by obtaining recognition of the ECtHR judgment via an exequatur procedure to serve as a writ (see scenario 2 above). Both options faces challenges as described above.

Moreover, the claimant would need to argue that the narrow exception set out in Article L. 153-1 MFC applies to the targeted assets. For this, the claimant must show that the funds are allocated to a private activity and that they are held for the central bank's own account rather than on behalf of Russia. Both might be difficult.

III. Immunity from enforcement

In addition to the Article L. 153-1 MFC protection of central bank assets discussed above, assets of foreign states in general are in principle protected by immunity from enforcement. As set out above, enforcement in such cases requires the authorization from the enforcement judge on the basis of a request by the creditor.[113] Authorization can be granted in three alternative situations, namely (1) when there is an express waiver, (2) when the foreign state has reserved or assigned the property in accordance with the request, or (3) when the asset in question is used or intended for commercial purposes. The following section discussions the first and third of these exceptions as they are the most relevant in the context of Russian Central Bank assets.

Express waiver exception

As set out above, according to Article L. 111-1-2 CCEP, a property belonging to a state may be attached if the state has expressly consented to the application of such a measure. This can be in relation to either commercial or noncommercial assets. If the state consented to the attachment there is no need to examine the nature of the asset in question.

Express waivers can also pertain to goods used or intended to be used in the exercise of the functions of the diplomatic mission of foreign states or their consular posts, their special missions or their missions to international organizations, according to Article L. 111-1-3 CCEP.

In the past, the Court of Cassation ruled that implied waivers can be valid by finding that "the commitment made by the state signatory to the arbitration clause to execute the award in the terms of article 24 of the arbitration regulations of the International Chamber of Commerce implied a waiver by that state to its immunity from enforcement."[114] However, this judgment dating from 2000 predates the United Nations Convention on Jurisdictional Immunities of States and Their Property of December 2, 2004 (hereinafter UN Convention on Jurisdictional Immunities) and the Sapin 2 Law, which all require an express waiver.

More recent case law of the Court of Cassation mentions this requirement of express and special waiver. In one of these cases, the state had expressly waived its immunity from execution, except in regards to the money reserves included in the central bank's balance sheet, assets belonging to the public domain or relating to the implementation of the budget.[115] Banking assets of its embassy and diplomatic mission were later targeted for attachment by the creditor, who argued the contract had only three exceptions to the waiver, and diplomatic goods were not enumerated among those exceptions. However, the Court of Cassation ruled there had been no express and special waiver in relation to these assets. It followed the reasoning of the Court of Appeal stating that "if states may waive, by written contract, their immunity from enforcement in respect of property or categories of property used or intended to be used for public purposes, such waiver may only be made expressly and specifically, specifying the property or category of property in respect of which the waiver is made."[116] (unofficial translation)

The UN Convention on Jurisdictional Immunities and their Property, which appears to offer a broader definition of express waiver, refers to waivers made "by an international agreement," "a written contract," or "a declaration before the court or by a written communication in a specific proceeding."[117] However, it is recognized in international case law that the possible waiver of jurisdictional immunity, through the consent to submit a dispute to an arbitral tribunal, does not in itself constitute a waiver of immunity from enforcement.[118]

Commercial activity exception

In 1984, the Court of Cassation recognized an exception from immunity from execution when the assets seized are related to an economic or commercial activity of the state.[119] France then adopted a new law in 2016 (known as the "Sapin 2 Law") regarding foreign states' assets, following the ratification in 2011 of the UN Convention on Jurisdictional Immunities.[120] This convention has not entered into force yet as not enough states have ratified it as of today.

The Sapin 2 Law of 2016 redefined the conditions under which the assets of a foreign State can be attached and is now codified in Articles L. 111-1-1 and following of the CCEP, as described above on the execution procedure for foreign national judgments. Notably, these rules allow attachment of assets "used or intended for use by that state other than for the purposes of noncommercial public service, and there is a link with the entity against which the proceedings is instituted," (unofficial translation) and they include a list of assets that are considered non-commercial.[121] The Sapin 2 Law amending the CCEP rendered attachment more difficult, as the claimant must now prove to the enforcement judge that the assets exist and that they are for commercial use, which can be difficult when it comes to monetary assets in bank accounts.

In a 2018 decision, banks accounts in a commercial bank that were owned by the "Embassy of the Congo in France" and the "Permanent delegation of the Congo to UNESCO" were held to be protected from attachment because of the names of the account holders. The Court of Cassation ruled that the presumption of noncommercial public purposes was met and the burden of proof to overturn this presumption lays on the claimant.[122]

With regard to the link between the assets and the entity, the Court of Cassation recently found that there is no need for a link between the assets and the original dispute but a link between the foreign state and the entity against which the seizure is carried out.[123] For example, in the case of the company Hulley Enterprises which sought attachment of assets of the Russian company FGUP held in a French bank based on an arbitral decision against the Russian Federation as debtor of Hulley Enterprises (which was recognized via an exequatur procedure), Hulley Enterprises argued that FGUP only managed assets the State of Russia had assigned to it and that in the absence of FGUP's own assets, the products of this management would in reality be the property of Russia.[124]

However, the Court of Appeal of Paris ruled that FGUP had a legal personality distinct from the Russian Federation and that it was not responsible for the obligations of the Russian Federation. They noted that it enjoyed an organic and decision-making independence, had its own assets that it managed autonomously, which included assets entrusted to it by the Russian Federation under the right of economic management. Consequently, the court ruled there was no debt owed by FGUP to Hulley Enterprises, and the release of the frozen assets was ordered.

In a similar case, Hulley Enterprises had sought attachment against assets of the Russian space agency Roscosmos for a debt owed by the company Arianespace.[125] The Court of Appeal of Paris ruled that Roscomos was not an extended arm of the Russian state for the same reasons as in the previous FGUP case, and therefore the Russian state did not owe the debt. The court ordered the release of the frozen assets.

Application to ECtHR judgments

It is unlikely that Russia would issue an express waiver of immunity from enforcement for ECtHR just satisfaction awards. In fact, Russia already announced its intention not to comply with ECtHR judgments in the future. The commercial activity exception is unlikely due to the nature of central bank assets. Therefore, it would be difficult to overcome the hurdle of immunity against enforcement based on exceptions under French municipal laws. However, this does not rule out customary international law exceptions that have been discussed by some scholars.[126]

ENDNOTES

1 Court of Cassation, Chambre civile 1, September 12, 2012, No. 11-17023, https://juricaf.org/arret/FRANCE-COURDECASSATION-20120912-1117023.

2 Code de procédure civile (Civil Procedure Code), version in force as of January 1, 2022, https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070716/2022-01-01 (hereinafter CPC).

3 Original text: "*Les jugements rendus par les tribunaux étrangers et les actes reçus par les officiers étrangers sont exécutoires sur le territoire de la République de la manière et dans les cas prévus par la loi.*"

4 Court of Cassation, Chamber civile 1, July 10, 1990, No. 89-11.724, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007024948.

5 Article R. 212-8 of the Code de l'organisation judiciaire (Code for Judicial Organisation), version in force as of November 28, 2024, https://www.legifrance.gouv.fr/loda/id/LEGITEXT000006071164/.

6 Article 750 CPC.

7 Article 42 CPC.

8 Article 1499 CPC. However, a decision recognizing a foreign arbitral award can be appealed (Article 1525 CPC).

9 Article 1500 CPC.

10 Court of Cassation, Chambre civile 2, March 24, 2022, No. 20-17.394, https://www.legifrance.gouv.fr/juri/id/JURITEXT000045422118.

11 Court of Cassation, Chamber civil 1, February 20, 2007, No. 05-14082: "pour accorder l'exequatur hors de toute convention internationale, le juge français doit s'assurer que trois conditions sont remplies, à savoir la compétence indirecte du juge étranger, fondée sur le rattachement du litige au juge saisi, la conformité à l'ordre public international de fond et de procédure et l'absence de fraude à la loi," https://www.legifrance.gouv.fr/juri/id/JURITEXT000017636147/.

12 Court of Cassation, Chamber civile 1, February 6, 1985, No. 83-11.241, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007015413.

13 Court of Cassation, Chamber civile 1, January 15, 2020, No. 18-24.261, https://www.legifrance.gouv.fr/juri/id/JURITEXT000041490377.

14 Court of Cassation, Chambre civile 1, February 6, 1985, No. 83-11.241, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007015413.

15 M.-L. Niboyet-Hoegy, "L'action en justice dans les rapports internationaux de droit privé," *Economica* 608 (1986).

16 Court of Appeal of Paris, October 18, 1962, *Revue Critique de Droit International Privé* (1964): note Y.-L.

17 For instance, the owner of trademarks that are contrary to the public order and likely to mislead the consumer does not have a legally protected legitimate interest that allows the owner to claim damages for the imitation of these trademarks. See Court of Cassation, Chamber commerciale, June 28, 1976, No. 75-10.193, https://www.legifrance.gouv.fr/juri/id/JURITEXT000006996495/.

18 P. Mayer and V. Heuze, *Droit international privé*, 10th ed. (Montchrestien, 2010), No. 413.

19 High Court of Paris (Tribunal de Grande Instance Paris), July 1, 1987, *Revue Critique de Droit International Privé* (1988): 720, note Ancel; Court of Cassation, Chambre civile 1, October 3, 2006, No. 04-10.447, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007054649 (in this case, the defendant had not received formal notification of the foreign judgment, a necessary condition under domestic law to make the decision enforceable).

20 Court of Cassation, Chambre civile, October 19, 1999, *Revue Critique de Droit International Privé* (2000): 49, note H. Muir Watt; Court of Cassation, Chambre civile 1, 3 October 2006, No. 04-10.447, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007054649.

21 H, Batiffol and P. Lagarde, *Droit international privé*, t. 2, 7th ed. (Librarie Générale de Droit et Jurisprudence, 1983), No. 731, 599.

22 D. Holleaux, J. Foyer, and G. Geouffre de la Pradelle, Droit international privé, (Masson, 1987), No. 1018.

23 For the same reason, a claimant cannot petition the French judge to obtain a new decision on a matter previously ruled on by French courts, cf. Article 122 CPC regarding procedural exceptions on inadmissibility

24 Court of Cassation, Chambre civile 1, April 27, 2004, No. 02-13.490, https://justice.pappers.fr/decision/61f6cf705df9954b53ec6e5dac778dcfd4677e85.

25 An apostille is the authentication issued by the competent authority of the country of origin of a document, which aims to certify the conformity of a signature, seal, or stamp on a public document intended for a foreign authority.

26 Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:351:0001:0032:en:PDF. Several civil or commercial matters are excluded (e.g., status or legal capacity of natural persons, maintenance obligations arising from a family relationship). The regulation does not apply to administrative matters or to the liability of the state for facts and commissions in the exercise of state authority (jure imperii).

27 Regulation (EU) No. 650/2012 of the European Parliament and of the Council of July 4, 2012, on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0650.

28 Council Regulation (EC) No. 2201/2203 of November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX-:32003R2201.

29 For instance, enforcement can be opposed if it is contrary to the international public order of the state where the recognition is sought, or if the defendant was not notified of the summons to court in a foreign judgment delivered by default.

30 For example, with Algeria (August 27, 1964), Cameroun (February 21, 1974), Ivory Coast (April 24, 1961), Morocco (October 5, 1957), and Senegal (March 29, 1974).

31 Convention on the Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (October 30, 2007), https://eur-lex.europa.eu/eli/convention/2007/712/oj (hereinafter Lugano Convention).

32 Article 33-1 Lugano Convention.

33 Article 34 Lugano Convention.

34 The procedure is primarily provided under Articles L211-1 to L211-6, L211-9, and R211-1 to R211-14 of the Code of Civil Enforcement Procedures.

35 Article L. 111-3 of the Code of Civil Enforcement Procedures: "*1° Les décisions des juridictions de l'ordre judiciaire ou de l'ordre administratif lorsqu'elles ont force exécutoire, ainsi que les accords auxquels ces juridictions ont conféré force exécutoire ;2° Les actes et les jugements étrangers ainsi que les sentences arbitrales déclarés exécutoires par une décision non susceptible d'un recours suspensif d'exécution, sans préjudice des dispositions du droit de l'Union européenne applicables*."

36 The procedure is primarily provided under Articles 521-1, L. 523-1 to L. 523-2, R. 521-1, R. 523-1 to R. 523-10 of the Code on Civil Enforcement Procedures.

37 Formerly called "*huissier de justice*," they have been called "*commissaire de justice*" since July 2022.

38 Article R211-11 of the Code on Civil Enforcement Procedures.

39 Code on Civil Enforcement Procedures, version in force as of January 1, 2020, https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000025024948/2020-01-01.

40 Original text: "*1° L'Etat concerné a expressément consenti à l'application d'une telle mesure ; 2° L'Etat concerné a réservé ou affecté ce bien à la satisfaction de la demande qui fait l'objet de la procédure ; 3° Lorsqu'un jugement ou une sentence arbitrale a été rendu contre l'Etat concerné et que le bien en question est spécifiquement utilisé ou destiné à être utilisé par ledit Etat autrement qu'à des fins de service public non commerciales et entretient un lien avec l'entité contre laquelle la procédure a été intentée. Pour l'application du 3°, sont notamment considérés comme spécifiquement utilisés ou destinés à être utilisés par l'Etat à des fins de service public non commerciales, les biens suivants :*

a) Les biens, y compris les comptes bancaires, utilisés ou destinés à être utilisés dans l'exercice des fonctions de la mission diplomatique de l'Etat ou de ses postes consulaires, de ses missions spéciales, de ses missions auprès des organisations internationales, ou de ses délégations dans les organes des organisations internationales ou aux conférences internationales ;

b) Les biens de caractère militaire ou les biens utilisés ou destinés à être utilisés dans l'exercice des fonctions militaires ;

c) Les biens faisant partie du patrimoine culturel de l'Etat ou de ses archives qui ne sont pas mis ou destinés à être mis en vente ;

d) Les biens faisant partie d'une exposition d'objet d'intérêt scientifique, culturel ou historique qui ne sont pas mis ou destinés à être mis en vente ;

e) Les créances fiscales ou sociales de l'Etat."

41 Court of Cassation, Chambre civile 1, January 10, 2018, No. 16-22.494, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036670374.

42 Original text: "*Des mesures conservatoires ou des mesures d'exécution forcée ne peuvent être mises en œuvre sur les biens, y compris les comptes bancaires, utilisés ou destinés à être utilisés dans l'exercice des fonctions de la mission diplomatique des Etats étrangers ou de leurs postes consulaires, de leurs missions spéciales ou de leurs missions auprès des organisations internationales qu'en cas de renonciation expresse et spéciale des Etats concernés*."

43 Court of Cassation, Chamber civile 1, January 10, 2018, No. 16-22.494, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036670374; Court of Cassation, Chamber civile 1, February 3, 2021, No. 19-10.669, https://www.courdecassation.fr/decision/602255512fcf2640c5572e86.

44 Articles R111-1 ff. of the Code of Civil Enforcement Procedures.

45 Articles 493 ff. CPC.

46 The regulation usually provides for the possibility for a national authority in each country to authorize the release of frozen assets under certain conditions; see Court of Appeal of Paris, Pole 1 Chambre 10, November 23, 2023, No. RG 22/05055.

47 Sherpa, "Zogota Massacre Victims in Paris for Justice," press release, October 31, 2023, https://www.asso-sherpa.org/zogota-massacre-victims-in-paris-for-justice.

48 Ibid., para. 73.

49 Civil Court of Seine (*Tribunal civil de la Seine*), December 6, 1934, JDI 1935, 106, 116, original text: "*Attendu que les jugements produits aux débats ne contiennent aucune mention de l'autorité souveraine au nom de laquelle ils ont été rendus; qu'il est contant qu'ils émanent de certains émigrés russes qui, de leur seule autorité, ont reconstitué en territoire ottoman une juridiction consulaire préexistante alors qu'à cette époque (1921) cette prétendue juridiction consulaire ne se rattachait plus à l'Etat russe, remplacé dès 1917 par l'URSS, que par suite lesdits jugements n'ont point d'existence légale et ne répondent pas à cette condition nécessaire et essentielle pour que l'exequatur puisse leur être conféré*."

50 Court of Appeal of Paris, April 2, 1998, Rev. Crit. DIP 1999, 102, original text: "*En application de l'art. 509, peuvent être reconnus et exécutés en France, d'une part et sous réserve de leur régularité internationale, tous les actes prononcés au nom d'une souveraineté étrangère au sujet d'un rapport de droit privé, quelle que soit l'autorité dont ils émanent, issus ou non d'une procédure contentieuse, à condition toutefois de revêtir un caractère véritablement décisionnel, d'autre part, les actes publics étrangers dits « instruments » publics étrangers dépourvus quand à eux de tout caractère décisionnel*."

51 Court of Cassation, Chambre civile 1, October 17, 2000, No. 98-19.913, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007042905, original text: "*Constitue une décision pouvant recevoir exequatur toute intervention du juge qui produit des effets à l'égard des personnes ou sur les biens, droits ou obligations*."

52 For an extensive study of the enforcement of international judgments by national judges, see G. Marino, "L'exécution des jugements internationaux par les juges internes" (Doctoral thesis, Droit, Université Panthéon-Sorbonne—Paris I, 2022), https://hal.science/tel-04079958/document.

53 Ibid.

54 Court of Cassation, Chamber civile 1, July 10, 1990, No. 89-11.724, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007024948.

55 P. Tifine, "Droit administratif français Partie 4—Chapitre 1—Section 1," *Revue générale du droit* online, 2019, 40340 (2019), www.revue-generaledudroit.eu/?p=40340.

56 Article 1 of the Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:351:0001:0032:en:PDF.

57 Marino, *L'exécution des jugements internationaux par les juges internes*, para. 77; De Bernardinis, "B. Juges ordinaires et droit européen," Revue générale du droit online, 55540 (2021), www.revuegeneraledudroit.eu/?p=55540, para. 843.

58 De Bernardinis, "B. Juges ordinaires et droit européen," para. 843.

59 For example, the European Court of Human Rights (hereinafter ECtHR), *Assanidze v. Georgia*, Application No. 71503/01, Judgment (Merits and Just Satisfaction, April 8, 2004, para. 203; *Aydoğdu v. Turkey*, Application No. 40448/06, Judgement (Merits and Just Satisfaction), August 30, 2016, paras. 118–122; *Ilgar Mammadov v. Azerbaijan*, Application No. 15172/13, Grand Chamber Judgment, May 29, 2019, para. 182.

60 Court of Cassation, Chambre criminelle, February 3, 1993, No. 92-83.443, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007067885: "*un arrêt de la Cour européenne des droits de l'homme [...], s'il permet à celui qui s'en prévaut de demander réparation, est sans incidence sur la validité des procédures relevant du droit interne*." The case did not concern compensation awarded by the ECtHR but rather the claimant tried to annul a national court decision that had sentenced him, although the ECtHR had ruled prior to that decision during the criminal proceedings that he was not being tried without undue delay, thus in contradiction to Article 6 of the European Convention on Human Rights.

61 Court of Cassation, Chambre criminelle, May 4, 1994, No. 93-84.547, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007067573: "*les décisions rendues par ladite Cour [...] n'ont aucune incidence directe en droit interne sur les décisions des juridictions nationales*." In this case, the claimant tried to annul national judgments that had convicted him, in light of a later ECtHR decision ruling these French judgments violated Article 6 of the European Convention on Human Rights.

62 Conseil d'État, Section du contentieux, October 4, 2012, No. 328502, https://www.legifrance.gouv.fr/ceta/id/CETATEXT000026458454: "*eu égard à la nature essentiellement déclaratoire des arrêts de la Cour, il appartient à l'Etat condamné de déterminer les moyens de s'acquitter de l'obligation qui lui incombe ainsi ; [...] Considérant que l'autorité qui s'attache aux arrêts de la Cour implique en conséquence non seulement que l'Etat verse à l'intéressé les sommes que la Cour lui a allouées au titre de la satisfaction équitable prévue par l'article 41 de la convention mais aussi qu'il adopte les mesures individuelles et, le cas échéant, générales nécessaires pour mettre un terme à la violation constatée ; que l'exécution de l'arrêt de la Cour ne peut toutefois, en l'absence de procédures organisées pour prévoir le réexamen d'une affaire définitivement jugée, avoir pour effet de priver les décisions juridictionnelles de leur caractère exécutoire*."; Conseil d'État, 6th to 1st SSR, March 9, 2016, No. 392782, https://www.legifrance.gouv.fr/ceta/id/CETATEXT000032189031.

63 A *circulaire* is an administrative act issued to ministries or other public officials in order to explain and detail the application of legal dispositions.

64 Prime Minister, "Circulaire du Premier ministre sur l'exécution des arrêts de la Cour européenne des droits de l'homme," September 22, 2017, https://www.legifrance.gouv.fr/download/pdf/circ?id=42607.

65 Articles 46.4 and 46.5 ECHR.

66 E. Lambert Abdelgawad, *L'exécution des arrêts de la Cour Européenne des Droits de l'Homme*, 2nd ed., (Council of Europe, 2008), 45.

67 In an interim resolution concerning the non-enforcement of a ECtHR judgment by Turkey, the Committee of Ministers stressed that the "acceptance of the Convention, including the compulsory jurisdiction of the Court and the binding nature of its judgments, has become a requirement for membership of the Organisation"; see Council of Europe, Committee of Ministers, Interim Resolution ResDH(2001)80 concerning the judgment of the European Court of Human Rights of July 28, 1998, in the case of Loizidou against Turkey, June 26, 2001, https://rm.coe.int/09000016805e2497.

68 Court of Cassation, Assemblée plénière, April 15, 2011, No. 10-17.049, https://www.legifrance.gouv.fr/juri/id/JURITEXT000023908698.

69 Court of Cassation, Chambre civile 1, January 10, 1984, No. 82-16.968, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007012751

70 Court of Cassation, Chambre social, January 14, 1999, No. 97-12.487, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007041026

71 Conseil d'État, December 20, 2015, No. 288253, https://www.legifrance.gouv.fr/ceta/id/CETATEXT000008255274.

72 Conseil d'État, 4th and 5th united sub-sections, May 25, 2007, No. 296327, https://www.legifrance.gouv.fr/ceta/id/CETATEXT000020541063.

73 J.-M. Sauvé, "La subsidiarité: une médaille à deux faces?," Colloque à Strasbourg, January 30, 2015, https://www.conseil-etat.fr/publications-colloques/discours-et-interventions/la-subsidiarite-une-medaille-a-deux-faces, original text: "*dans l'élaboration de leur jurisprudence, les juges nationaux sont tenus de « prendre en considération » les arrêts de la Cour, bien que ceux-ci n'aient pas, dans la plupart des traditions juridiques, l'autorité absolue de chose jugée. Mais ils revêtent une réelle force persuasive et même une assez claire autorité interprétative dans la plupart de ces traditions*."

74 Court of Appeal of Rabat, 1st Chamber, November 12, 1952, *Administration des Habous v. Deal*, *Revue Critique de Droit International Privé* 42 (1953): 154.

75 Court of Appeal of Saint-Denis de la Réunion, 1st Civil Chamber (France), *Hombre Sobrido v. French Republic and Merce Pesca Company v. French Republic*, March 21, 2000, No. 266-7/2000, *Yearbook of the International Tribunal of the Law of the Sea* 4 (2000): 151–5, p. 153, original text: "*Attendu que la France a ratifié la Convention des Nations Unies sur le droit de la mer [...], dont l'article 292 dispose que "dès le dépôt de la caution ou de l'autre garantie financière déterminée par la Cour ou le Tribunal (visés au paragraphe premier), les autorités de l'État qui a immobilisé le navire se conforment à la décision de la Cour ou du Tribunal concernant la mainlevée de l'immobilisation du navire*".

76 Article L. 111-3 of the Code of Civil Enforcement Procedures provides that the following constitute writ of executions, among others: "*Foreign acts and judgments as well as arbitral awards declared enforceable by a decision not subject to an appeal suspending execution, without prejudice to the provisions of applicable European Union law*." Thus, foreign acts and judgments and arbitral awards must be declared enforceable with an exequatur decision first.

77 Court of Cassation, Chambre civile, January 22, 1849, *Spanish Government v. Lambège and Pujol*.

78 Court of Cassation, Chambre civile 1, February 25, 1969, case of Société Levant Express Transport, https://www.legifrance.gouv.fr/juri/id/JURITEXT000006979300.

79 Court of Cassation, Chambre civile 1, July 23, 2017, No. 15-29.335, https://www.legifrance.gouv.fr/juri/id/JURITEXT000035196920; Court of Cassation, Chambre sociale, March 31, 2009, No. 07-45.618, https://www.legifrance.gouv.fr/juri/id/JURITEXT000020484055.

80 Court of Cassation, Chambre civile 1, July 12, 2017, Nos. 15-29.334 and 15-29.335, https://www.legifrance.gouv.fr/juri/id/JURITEXT000035196920/; reaffirmed in the same case Court of Cassation, Chambre civile 1, March 3, 2021, No. 19-22.855, https://www.legifrance.gouv.fr/juri/id/JURITEXT000043253021.

81 Court of Cassation, Chambre civile 1, April 19, 2005, No. 02-16.844, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007489951

82 Court of Cassation, Chambre civil 1, June 28, 2023, No. 21-19.766, https://www.courdecassation.fr/en/decision/649be058a10c4805db86fa8f; see commentary in *Le Monde du Droit*, "L'immunité de juridiction peut-elle être soulevée au stade de l'exequatur devant le juge français?," November 7, 2022, https://www.lemondedudroit.fr/decryptages/84336-l-immunite-de-juridiction-peut-elle-etre-soulevee-au-stade-de-l-exequatur-devant-le-juge-francais.html.

83 International Court of Justice, Jurisdictional Immunities of the State (*Germany v. Italy*; Greece intervening), Judgment of February 3, 2012, https://www.icj-cij.org/sites/default/files/case-related/143/143-20120203-JUD-01-00-EN.pdf, para. 128.

84 Court of Cassation, Chambre civile 1, June 28, 2023, No. 21-19.766, https://www.courdecassation.fr/en/decision/649be058a10c4805db86fa8f.

85 Ibid. Original text: "*dans une instance en exequatur, le juge français doit s'abstenir de toute révision au fond du jugement qui a été rendu par la juridiction étrangère et dont il apprécie la régularité internationale et que, lorsque l'immunité de juridiction est revendiquée par un État étranger, il lui incombe de statuer préalablement sur cette fin de non-recevoir. […] la circonstance que le juge américain avait lui-même écarté une telle immunité de juridiction, en vertu de sa propre loi, dans la décision dont l'exequatur était sollicité, ne dispensait pas le juge français d'exercer son pouvoir juridictionnel afin d'apprécier si la République islamique d'Iran était recevable et bien fondée à invoquer cette immunité devant lui*."

86 International Court of Justice, Jurisdictional Immunities of the State (*Germany v. Italy*; Greece intervening), Judgment of February 3, 2012, https://www.icj-cij.org/sites/default/files/case-related/143/143-20120203-JUD-01-00-EN.pdf, para. 91.

87 Court of Cassation, Chambre civile 1, June 28, 2023, No. 21-19.766, https://www.courdecassation.fr/en/decision/649be058a10c4805db86fa8f.

88 Court of Cassation, Chambre civile 1, March 9, 2011, No. 09-14.743, https://www.legifrance.gouv.fr/juri/id/JURITEXT000023694014.

89 Court of Cassation, Chambre criminelle, January 13, 2021, No. 20-80.511, https://www.courdecassation.fr/en/decision/600fe839e5e8160929976c86.

90 A. Moiseienko, "Sovereign Immunities, Sanctions, and Confiscation: The Case of Central Bank Assets," SSRN, April 17, 2023, <https://ssrn.com/abstract=4420459>; M. T. Kamminga, "Confiscating Russia's Frozen Central Bank Assets: A Permissible Third-Party Countermeasure?," (2023) *Netherlands International Law Review* 70(1) (2023); I. (Wuerth) Brunk, "Countermeasures and the Confiscation of Russian Central Bank Assets," Lawfare, May 3, 2023, <https://www.lawfaremedia.org/article/countermeasures-and-the-confiscation-of-russian-central-bank-assets>; A. Ripenko, "Should Third States Follow Ukraine's Lead and Confiscate Russian State Assets?" Lawfare, June 19, 2023, <https://voelkerrechtsblog.org/should-third-states-follow-ukraines-lead-and-confiscate-russian-state-assets/>.

91 Code monétaire et financier (Monetary and Financial Code; hereinafter MFC), version in force as of April 1, 2022, https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072026/2022-04-01/.

92 Court of Cassation, Chambre civile 1, May 12, 2021, No. 19-13.853. https://www.legifrance.gouv.fr/juri/id/JURITEXT000043506796; confirming Court of Cassation, Chambre civile 2, January 11, 2018, No. 16-10.661, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036635231.

93 ECtHR, No. 33015/18, July 3, 2018, *Novoparc v. France*; https ://hudoc.echr.coe.int/eng#{%22appno%22:[%2233015/18%22]}; https://www.echr.coe.int/documents/d/echr/CLIN_263_BIL, 19–20.

94 Court of Cassation, Chambre civile 1, May 12, 2021, No. 19-13.853. https://www.legifrance.gouv.fr/juri/id/JURITEXT000043506796.

95 Ibid.

96 Bank of Central African States case, Court of Appeal of Versailles, March 5, 2015, No. 13/08992: "*L'atteinte grave, rédhibitoire et définitive portée au droit de M. P. à un procès équitable instauré par l'article 6 §1 de la Convention européenne des droits de l'homme, au niveau de l'exécution d'une décision juridictionnelle exécutoire, alors qu'aucun recours effectif ne lui est par ailleurs offert, justifie que l'immunité d'exécution opposée par la BEAC soit écarté*."

97 Court of Cassation, Chambre civile 1, May 25, 2016, No. 15-18.646, https://www.legifrance.gouv.fr/juri/id/JURITEXT000032599097?init=true&page=1&query=15-18.646&searchField=ALL&tab_selection=all.

98 S. El Sawah, "'Waiver of State Immunity over Central Bank Accounts! Say No More!', French Supreme Court Rules," August 5, 2021, https://eapil.org/2021/08/05/waiver-of-state-immunity-over-central-bank-accounts-say-no-more-french-supreme-court-rules/.

99 d'Avout, *Dalloz actualité*, October 14, 2021, Dalloz 2021, 1834; J. Brosseau, "Les États ne sauraient renoncer aux mesures d'exécution sur leurs biens détenus par les banques centrales en France," *Revue de l'arbitrage* 4 (2021): 1134–53, https://shs.hal.science/halshs-03562310/document.

100 Court of Cassation, Chambre civile 2, January 11, 2018, No. 16-10 661, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036635231.

101 Brosseau, "Les États ne sauraient renoncer aux mesures d'exécution," 1134–53, https://shs.hal.science/halshs-03562310/document, 1147.

102 Original text: "*Ne peuvent être saisis les biens de toute nature, notamment les avoirs de réserves de change, que les banques centrales ou les autorités monétaires étrangères détiennent ou gèrent pour leur compte ou celui de l'Etat ou des Etats étrangers dont elles relèvent. Par exception aux dispositions du premier alinéa, le créancier muni d'un titre exécutoire constatant une créance liquide et exigible peut solliciter du juge de l'exécution l'autorisation de poursuivre l'exécution forcée dans les conditions prévues par la partie législative du code des procédures civiles d'exécution s'il établit que les biens détenus ou gérés pour son propre compte par la banque centrale ou l'autorité monétaire étrangère font partie d'un patrimoine qu'elle affecte à une activité principale relevant du droit privé*."

103 Court of Cassation, Chambre civile 2, January 11, 2018, No. 16-10 661, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036635231.

104 Court of Appeal of Versailles, October 1, 2015, No. 14/05200; Court of Cassation, Chambre civile 1, January 11, 2018, No. 16-10.661.

105 Court of Appeal of Paris, January 17, 2012, No. 11/12878; Court of Cassation, Chambre civile 1, November 6, 2013, No. 12-15.552 and No. 12-20.709; Court of Appeal of Versailles, March 5, 2015, No. 13/08992; Cour of Cassation, Chambre civile 1, May 5, 2016, No. 15-18.646.

106 Court of Appeal of Paris, March 15, 2018, No. 157/18.

107 Court of Appeal of Paris s, February 14, 2019, No. 18/14575; Court of Cassation, Chambre civile 1, May 12, 2021, No. 19-13.853.

108 Court of Appeal of Paris, June 12, 2011, No. 09/19983.

109 High Court of Nanterre (*Tribunal de Grande Instance Nanterre*), July 1, 2014, Banque and Dr. 3-4/2015.12, note Amir-Aslani and Albou; Court of Appeal of Paris, October 16, 2014, No. 12/20142.

110 Court of Appeal of Paris, October 16, 2014, No. 12/20142. In this case, the creditor had not yet been granted exequatur when he undertook the seizures.

111 Noga case, Court of Appeal of Versailles, January 7, 2010, No. 08/04300: "*Considérant que l'alinéa 1 de ce texte instaure une immunité d'exécution au profit de l'ensemble des avoirs détenus ou gérés par une banque centrale étrangère, pour son propre compte et pour celui de l'Etat dont elle relève ; qu'il s'infère de l'emploi de l'adverbe « notamment » que l'insaisissabilité s'applique quelle que soit la nature et l'origine des avoirs détenus par la banque centrale étrangère ; Que l'exception prévue au second alinéa ne vise que les avoirs détenus par la banque centrale pour son propre compte ; Considérant, en l'espèce, que la saisie litigieuse a été pratiquée à l'encontre de « la Banque de Russie prise en sa qualité de mandataire et/ou de déposante de fonds pour le compte du gouvernement de la Fédération de Russie » ; que seul l'aliéna 1er a vocation à s'appliquer dès lors que la saisie pratiquée par la société Noga ne porte pas sur les avoirs propres de la BCFR mais sur ceux qu'elle détient pour le compte de la Fédération de Russie ; que l'insaisissabilité s'appliquant à l'ensemble des fonds détenus ou gérés par la banque centrale, la recherche de l'origine et de la propriété des dépôts est inopérante*."

112 Court of Cassation, Chambre civile 1, May 12, 2021, No. 19-13.853, https://www.legifrance.gouv.fr/juri/id/JURITEXT000043506796.

113 Article L. 111-1-1 MFC: "*Des mesures conservatoires ou des mesures d'exécution forcée ne peuvent être mises en œuvre sur un bien appartenant à un Etat étranger que sur autorisation préalable du juge par ordonnance rendue sur requête*."

114 Court of Cassation, Chambre civile 1, July 6, 2000, No. 98-19.068, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007043044.

115 Court of Cassation, Chambre civile 1, September 28, 2011, No. 09-72.057, https://www.legifrance.gouv.fr/juri/id/JURITEXT000024617044.

116 Court of Cassation, Chambre civile 1, March 28, 2013, No. 10-25.938, https://www.legifrance.gouv.fr/juri/id/JURITEXT000027251601: "*si les Etats peuvent renoncer, par contrat écrit, à leur immunité d'exécution sur des biens ou des catégories de biens utilisés ou destinés à être utilisés à des fins publiques, il ne peut y être renoncé que de manière expresse et spéciale, en mentionnant les biens ou la catégorie de biens pour lesquels la renonciation est consentie*."

117 Article 7 of the United Nations Convention on Jurisdictional Immunities of States and Their Property, adopted on December 2, 2004, not yet in force, https://legal.un.org/ilc/texts/instruments/english/conventions/4_1_2004.pdf.

118 International Court of Justice, February 3, 2012, Jurisdictional immunities of the State (*Germany v. Italy*, Greece intervening), https://icj-cij.org/case/143, para. 113.

119 Court of Cassation, Chambre Civil 1, March 14, 1984, No. 82-12.462, https://www.legifrance.gouv.fr/juri/id/JURITEXT000007013482

120 *Loi n° 2016-1691 du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique* (Law No. 2016-1691 of 9 December 2016 on transparancy, fight against corruption and modernisation of economic life), https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000033558528.

121 Article L.111-1-2 CCEP.

122 Court of Cassation, Chambre civile 1, January 10, 2018, No. 16-22.494, https://www.legifrance.gouv.fr/juri/id/JURITEXT000036670374

123 Court of Cassation, Chambre civile 1, November 3, 2021, No. 19-25.404. https://www.courdecassation.fr/decision/618233ebbc6daf04fdc641d7; A. Malan and E. Brebant, "La Cour de cassation revient sur les critères des immunités des Etats et de leurs émanations," January 9, 2023, https://bmavocats.com/news/la-cour-de-cassation-revient-sur-les-criteres-des-immunites-des-etats-et-de-leurs-emanations/.

124 Court of Appeal of Paris, *Société Hulley Entreprises Limited v. Ria Novosti, Rossiya Segodnya, Fédération de Russie, No. 16/09464; Société Hulley Enterprises Limited v. Entreprise de gestion de la propriété à l'étranger de la Fédération de Russie, Fédération de Russie*, No. 16/09459; *Société Hulley Enterprises Limited v. Russian Satellite Communications Company, Fédération de Russie*, No. 16/09455, Ordonnance of November 23, 2016.

125 Court of Appeal of Paris, *Fédération de Russie v. Société Yukos Universal Limited*, No. 15/ 11668; Fédération de Russie v. Société Veteran Petroleum Limited, No. 15/ 11664; *Fédération de Russie v. Société Hulley Enterprises Limited*, No. 15/11666, 27 June 2017.

126 See comprehensive analysis in P. Webb, "Legal Options for Confiscation of Russian State Assets to Support the Reconstruction of Ukraine," European Parliamentary Research Service, February 2024, https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU(2024)759602_EN.pdf.

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