



# REGISTRATION & ENFORCEMENT OF FRENCH JUDGMENTS IN AUSTRALIA

A French business trading with an Australian one will not always enjoy payment security like a bank guarantee or letter of credit. If the French creditor is unsecured, it runs the risk that its Australian debtor might not pay and it will have to consider collection.

chances of a successful recovery having regard to the financial status of the debtor and the nature and location of its assets.

Not all French judgments are registrable in Australia. Most judgments under which money is payable are

of the judgment and a French speaking lawyer will be better placed than most to address them.

The judgment can be registered in euros or Australian dollars.

The debtor can challenge the registration of the judgment if it was



Legal action in France will probably be more convenient for obvious reasons. However, the creditor can not ignore any binding contractual choice of law or jurisdiction (common in large commercial contracts) which might stipulate for Australian law to apply and for Australian Courts to have jurisdiction, but this would be unusual if the creditor prepared the trading terms.

If the creditor sues in France and obtains a judgment, the next step for the creditor is to enforce it against the debtor's assets. The assets are likely to be in Australia. So how is this done?

Certain judgments of various superior courts of the French Republic can be registered in Australia under the Foreign Judgments Act 1991 and enforced as if they were Australian judgments.

The creditor can then opt for an enforcement method that maximizes the

registrable, including ones made in criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured person, as well as an arbitral award that has by the law of France become enforceable in a French court.

The creditor must apply for registration to the Supreme Court of a State or Territory of Australia, within 6 years of the date of the judgment. A judgment may be registered in one State or Territory even though the creditor intends to enforce the judgment against assets of the debtor in another. So if the creditor's preferred lawyer practices in Victoria but the debtor's assets are in New South Wales, the Victorian Supreme Court can register the judgment.

Various matters must be strictly proved in the application for registration

the judgment of (name of origin country of original court) dated ordered that (name of judgment expressed in judgment) together (amount as expressed in judgment creditor) be registered under Part Act 1991 (Commonwealth); and

obtained in breach of the Foreign Judgments Act 1991 or without adducing the necessary proofs in support of the application for registration.

French businesses with claims against Australian individuals or corporations sometimes decide to institute legal proceedings in Australia simply because the debtor is domiciled there. French businesses should consider suing in their own jurisdiction and then registering their judgment (if it is registrable) in Australia with a view to enforcing it under Australian law. Such a strategy can be more convenient, efficient and cost effective for the creditor.

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