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TRANSATLANTIC LITIGATION: WHEN U.S. DISCOVERY CLASHES WITH FRENCH INTERNATIONAL PUBLIC POLICY

Dispute Resolution Compliance | 17/03/26 | Olivier Attias Laura Bol



By a judgment dated 12 March 2026^[1], the Toulouse Judicial Court (“*Tribunal judiciaire*”) refused to grant recognition and enforcement of U.S. decisions based on a discovery process^[2] conducted outside the framework of the Hague Convention. In an area where French case law remains relatively limited, this decision provides useful guidance on the interplay between U.S. discovery, the French blocking statute, and the international procedural public policy.

Seized of an application for recognition and enforcement (“*exequatur*”) of four decisions rendered by a U.S. federal court, the Toulouse Judicial Court held that these decisions had been obtained through a procedure that infringed the defendant’s rights of defense.

Discovery requests confronting the French Blocking Statute

In this case, a French company involved in contractual litigation in the United States opposed a request for pre-trial discovery, arguing that it could only disclose the requested documents through the mechanisms provided for by the Hague Convention of 18 March 1970, in light of the prohibitions arising from French Law No. 68-678 of 26 July 1968 (the “French Blocking Statute”).

The U.S. court dismissed this argument as untimely and sanctioned the refusal to produce documents by drawing decisive evidentiary and monetary consequences. Based on this sanctions order, several monetary judgments were subsequently issued and later submitted to the French court for recognition and enforcement.

A mandatory rule governing the taking of evidence abroad

Enacted in 1968 and amended in 1980, the French Blocking Statute prohibits any person from communicating to foreign authorities, outside the applicable international judicial cooperation mechanisms, documents or information of an economic, commercial, industrial, financial or technical nature when such information is intended to be used as evidence in foreign judicial proceedings.

These provisions, which are designed to protect French economic sovereignty, are considered to be matters of public policy. French companies and their executives are therefore required to comply with them. In principle, such information must be transmitted through international judicial cooperation mechanisms, foremost among which is the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Any disclosure outside this framework may expose the relevant individuals to criminal sanctions, placing French companies facing discovery requests in a particularly sensitive legal position.

Violation of defense rights as a bar to recognition and enforcement

Ruling on the application, the French court first recalled the traditional framework governing recognition and enforcement in the absence of an international treaty on judgments: indirect jurisdiction of the foreign court, absence of fraud, and compliance with international public policy, both substantive and procedural. In this case, the analysis focused on the latter requirement, with the court emphasizing that respect for the rights of defense is a fundamental component of international procedural public policy.

The court drew a clear practical consequence: where documents requested from a French company fall within the scope of the French Blocking Statute, their disclosure in U.S. proceedings may only take place through the Hague Convention procedure, initiated by the foreign court. In this case, no letter of request had been issued; instead, the U.S. court rejected that route and imposed sanctions based on the refusal to produce documents.

The French court therefore held that the company had been deprived of the opportunity to exercise its rights of defense through the only legally available channel. As a result, the U.S. decisions, based on the sanctions order, were found to be contrary to international procedural public policy and could not be recognized or enforced in France.

A warning to U.S. claimants in cross-border evidence disputes



While the decision confirms that French companies remain bound to comply with the French Blocking Statute when facing discovery requests in foreign proceedings, its practical significance primarily concerns foreign claimants—particularly U.S. litigants.

Where a U.S. court disregards the mechanisms of the Hague Convention and draws adverse procedural or monetary consequences from a French company's refusal to produce documents, the resulting judgments may face refusal of recognition and enforcement in France on grounds of international public policy.

In this respect, the decision serves less as a reminder to French defendants — who are already bound by the Blocking Statute — than as a warning to foreign claimants: judgments based on discovery conducted outside the Hague Convention framework may ultimately be deprived of effect in France.

[1] Toulouse, 12 March 2026, n°24/00719.

[2] Under U.S. federal rules, each party may request the disclosure of evidence, as well as materials “reasonably calculated to lead to the discovery of admissible evidence.” The responding party is then required to produce all evidence in its possession, including evidence that may be unfavorable to its own case.
