

ANNULMENT & ENFORCEMENT SERIES: SUSPENSION OF THE ENFORCEMENT OF INTERNATIONAL AWARDS



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Suspension of the enforcement of awards: a reminder of the best practices to follow

In two orders handed down in December 2025, the judge reiterated that the suspension of the enforcement of an award is possible but subject to strict conditions, whether the debtor is a private individual or a State (Paris CA, ord., 16 December 2025, No. 25/13080; Paris CA, CME ord., 9 December 2025, No. 25/01855).

I. The legal framework

Under French law, an international arbitral award that has been granted exequatur is **immediately enforceable**. Indeed, under Article 1526, para. 1, of the French Code of Civil Procedure (“CPC”), neither an application for annulment nor an appeal against the exequatur order has suspensive effect on enforcement. However, there is an exception provided for in Article 1526, para. 2, of the CPC: enforcement may be **stayed or adjusted** where it is likely to **seriously prejudice the rights of one of the parties**. This concept must be distinguished from that provided for in domestic arbitration, namely Article 1497, para. 1, of the CPC, which provides for the possibility of staying or adjusting enforcement in the event of a risk of “*manifestly excessive consequences*”¹. The draft reform of arbitration law, however, proposes to remove this distinction and to apply the concept of risk of serious prejudice to domestic arbitration as well².

In this context, a question arises: what does the concept of the risk of serious prejudice actually entail?

II. The concept of risk of serious prejudice, in brief

Case law primarily recognises two scenarios:

- where immediate enforcement is likely to **jeopardise the debtor’s financial position**;

¹ It should also be noted that, in domestic arbitration, an appeal or application against the award has suspensive effect on enforcement, pursuant to Article 1496 of the CPC, unlike in international arbitration, unless the award is accompanied by a provision for provisional enforcement. This difference in the legal regime could, however, be set to disappear, as the draft reform proposes to remove the suspensive effect of an application for annulment in domestic arbitration (Proposal No. 33 of the draft decree reforming arbitration law published on 12 December 2025: <https://www.justice.gouv.fr/actualites/actualite/consultation-reforme-du-droit-larbitrage>).

² Proposal No. 33 of the draft decree reforming arbitration law published on 12 December 2025, Article 1497: Under the terms of the draft Article 1497 of the CPC, as amended by this proposal, the suspension or adjustment of the enforcement of a domestic arbitral award would only be possible where “*enforcement is likely to seriously prejudice the rights of one of the parties*”.

- and/or where the debtor has **no guarantee of restitution** should their application for setting aside be successful.

The principle therefore remains that of immediate enforcement, with suspension or adjustment being the exception, in particular to preserve Paris's attractiveness as an arbitration hub.

III. Concrete examples of serious prejudice

A review of the case law shows that the threshold is high and the evidence decisive:

- For **private debtors**, it is not sufficient merely to invoke financial difficulties. The courts require **accounting documents** contemporaneous with the application for a stay, as well as **detailed certificates from chartered accountants**, or even expert reports, demonstrating that enforcement would have the virtually inevitable effect of **jeopardising the survival of the business** (Paris CA, CME ord., 11 January 2018, No. 17/12354; Paris CA, CME ord., 11 October 2018, No. 18/03068; Paris CA, CME ord., 12 September 2023, No. 22/14963).
 - ⇒ Mere losses, cash flow difficulties or even a temporary lack of liquidity are, in principle, insufficient (Paris CA, CME ord., 28 September 2023, No. 22/16431; Paris CA, CME ord., 6 May 2025, No. 24/17129).
- For **debtor States**, the analysis is different: the court instead assesses the impact of enforcement on **sovereign functions** and the balance of public finances, or the sensitivity of the geopolitical situation (Paris CA, CME ord., 12 July 2022, No. 22/04007).

The two orders of December 2025 confirm a **contextual and rigorous** interpretation of the risk of serious harm, **adapted according to the status of the debtor**:

- in one case, enforcement was stayed on the grounds that it was likely to jeopardise **the continued operation of a private company and the long-term security of its employees' jobs**, following an analysis of precise, recent accounting data supported by a certified chartered accountant's report,
- whereas in the other, as the debtor was a State, enforcement was stayed due to its **immediate disruptive effect on the conduct and sovereign management of public affairs**, taking into account, in particular, the proportion of the sums at stake in relation to the budgets of the ministries concerned and the situation of the creditor, who was not in business.

The best practices to follow

When it comes to staying or adjusting enforcement proceedings, it is important **to plan ahead and document matters precisely**.

For a private company, it is essential to produce **up-to-date financial documents and robust certificates from chartered accountants**; or, in the absence of such evidence, not to hesitate to produce an expert's report demonstrating in concrete terms the immediate impact of enforcement.

For a State entity, it is advisable to document precisely the impact of enforcement on sovereign functions, putting the sums involved into perspective in relation to budgetary balances and public priorities.