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Small claims

France

#### Article 25 1 (a) Competent courts

Claims made under Regulation (EC) No 861/2007 establishing a European Small Claims Procedure are submitted either to the local chambers of the ordinary courts (*chambres de proximité des tribunaux judiciaires*), which have jurisdiction if the claim is of a civil nature (Articles L. 211-4-2 and L. 212-8 and Annex Table IV-II of the Code of Court Organisation) or to the commercial courts (*tribunaux de commerce*), which have jurisdiction if the claim concerns traders, commercial companies or finance companies (Article L. 721-3-1 of the Commercial Code).

Where 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 designates the courts of a Member State without further specification, the court with territorial jurisdiction is that of the place of residence of the defendant or of any of the defendants.

#### Article 25 1 (b) Means of communication

A request for institution of legal proceedings can be delivered to the court or sent by post.

Parties to a proceeding commenced under Regulation (EC) No 861/2007 establishing a European Small Claims Procedure can communicate with the courts by post.

#### Article 25 1 (c) Authorities or organisations providing practical assistance

The litigants may request information for filling in the forms annexed to the Regulation in accordance with Article 11 from:

clerks (*personnel de greffe*) at the courts with competence to handle claims lodged under Regulation (EC) No 861/2007 establishing a European Small Claims Procedure, i.e. the ordinary courts of first instance or commercial courts; it will usually be the clerks in the court's litigant reception service (*service d'accueil du justiciable* – SAUJ) who provide the necessary information on the procedures.

staff working in law centres (*maisons de la justice et du droit*) throughout the country;

lawyers, whom the parties can consult at the advice centres operated free of charge by the legal counselling services at *département* level (*centres départementaux d'accès au droit*).

#### Article 25 1 (d) Means of electronic service and communication and methods for expressing consent for thereof

Service of the documents in question by electronic means is not authorised. There are therefore no technical means available.

Communication with the French courts with competence to handle claims lodged under the Small Claims Regulation is by post only.

#### Article 25 1 (e) Persons or professions, obliged to accept service of documents or other written communications by electronic means

No person or professional is obliged to accept a document served by electronic means under Article 13.

#### Article 25 1 (f) Court fees and the methods of payment

If proceedings are brought before the ordinary court of first instance, there are no court fees. However, the court may order the losing party to pay expenses, including the cost of enforcing the decision. The cost of notification by registered letter is borne by the court. Any costs of service incurred under Article 1387 of the Code of Civil Procedure are subject to an enforcement order issued by the court, recovery of which is the responsibility of the State Treasury. The ordinary court of first instance may also order the losing party to pay non-recoverable expenses, i.e. any expenses for representation and assistance incurred by the winning party.

If the proceedings are brought before the commercial court, the amount of the court fees depends on whether or not a hearing is held. If there is no hearing, the court fee is around EUR 12 including tax (the cost of an application for an injunction other than an interim order not including postal charges and bailiff's fees); if a hearing is held, the court costs amount to around EUR 60 including tax (excluding postal charges and bailiff's fees). These amounts do not include any other additional expenses incurred due to the nature of the proceedings.

#### Article 25 1 (g) Appeal procedure and courts competent for an appeal

The following appeals can be brought under French law in accordance with Article 17 of the Regulation:

- If the decision is final, i.e. if it cannot or can no longer be appealed, the parties may lodge an appeal on points of law (*pourvoi en cassation*) before the court of cassation (*cour de cassation*) (Articles 605 to 618 of the Code of Civil Procedure). An appeal on a point of law may be lodged by the interested party within 2 months of notification of the decision (Article 612 of the Code of Civil Procedure).

- An objection (*opposition*) can be lodged by a defendant on whom the judgment has not been served personally in accordance with Article 5(2), and who has not responded in the forms laid down in Article 5(3) ('judgment rendered by default'). Such an objection is lodged before the court that delivered the judgment being challenged (Articles 571 to 578 of the Code of Civil Procedure).

#### Article 25 1 (h) Review of the judgment procedure and courts competent to conduct such a review

In the event of wilful circumvention of jurisdiction (*fraude au jugement*), the parties may bring an application for revision of the judgment (*recours en révision*) before the court that delivered the judgment being challenged (Articles 593 to 603 of the Code of Civil Procedure).

#### Article 25 1 (i) Accepted languages

The languages accepted pursuant to Article 21a(1) are: French, English, German, Italian and Spanish.

#### Article 25 1 (j) Authorities competent for enforcement

The competent authorities with respect to enforcement are court enforcement officers (*commissaires de justice*) and, in the case of attachment of remuneration (*saisie des rémunérations*) authorised by the enforcing court, the director of the registry (*directeur du greffe*) of the ordinary court of first instance.

For the purposes of the application of Article 23,

- in the case of a judgment by default, the court with which an objection is lodged can, before examining the substance of the case again, withdraw any provisional enforcement order it has granted, which has the effect of staying enforcement (Article 514-3 of the Code of Civil Procedure);

- in all cases, the enforcing judge, after service of a notice of dstraint (*commandement*) or distraining order (*acte de saisie*), may defer enforcement by granting a period of grace to the debtor (Article 510 of the Code of Civil Procedure).

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