



EURAVOCAT LAW HANDBOOK

DEBT COLLECTION IN FRANCE

From our members in Lyon and Paris



1. Pre litigation Proceedings

A prior formal notice shall be sent by the creditor to the debtor by register letter with acknowledgement of receipt.

Such formal notice has two advantages:

- As attempts to solve amicably the dispute is mandatory, an unsuccessful notice can be used as evidence of such attempts before a jurisdiction.
-
- Legal interests can be claimed from the presentation of the notice (1231-6 Code Civil for contracts, 1344-1 Code Civil for general cases)

Rates of legal interests are different whether the debt is or is not a professional one, e.g. for the 2nd semester 2023 : 6,82 % for nonprofessional debts and 4,22% for professional ones.

Contractual interest can also be applicable.

Debts can usually be claimed, except specific issues, for 5 years from their due date.

Formal notice does not interrupt such time limit to claim debts.

2. Recovery Costs

Debts between professionals cause a lump indemnity of EUR 40 for recovery costs.

In fact, costs and expenses caused by recovery actions can be claimed for reimbursement before jurisdictions, which are free to take all or part of them into account.

3. Litigation

Territorial competence

Usually, the debtor's place unless a jurisdiction clause has been agreed exclusively between professionals.

Material competence

Different jurisdictions are competent in consideration of the quality of the parties and the amount of the debt.

	CREDITOR		
DEBTOR	Non professional individual	Professional (company, craftsman, etc)	
Non professional individual	Different chambers of the "Tribunal Judiciaire"		
	≤ EUR 5000 <i>"Juge des contentieux de la protection"</i> Lawyer non mandatory	≤ EUR 10 000 <i>« Chambre ou Tribunal de proximité »</i> Lawyer non mandatory	> EUR 10 000 <i>"Tribunal judiciaire"</i> Lawyer registered before the Court of Appeal which is territorially competent
Professional (company, craftsman, etc.)	The non professional creditor has the choice between the different chambers of the "Tribunal judiciaire" with regard to the amount of the debt or the "Tribunal de Commerce" Same rules apply for lawyers	Tribunal de Commerce Whatever the amount of the debts. Lawyer mandatory for debts ≥ to EUR 10 000 Wherever the lawyer's place of registration.	

4. Proceedings

Order for payment

The debt shall come from a contract, a promissory note, a professional assignment (DAILLY act).

The creditor lodges a request before the jurisdiction which issues the Order for payment.

Order for payment shall be served within 6 months.

The debtor has one month from the date of service to register a statement of opposition.

Order for payment can be easy and quick if the debtor does not want to bear expenses of longer proceedings.

In case of contestation, orders for payment are usually a waste of time

“Urgent” proceedings

For obvious debts cases, a “procedure de référé” can be engaged.

A summons shall be served by a bailiff 15 days before the date of hearing.

The case can be settled on the first or after very few hearings (usually less than two months).

Substantial proceedings

Substantial proceedings are used for more complex cases or mutual debts implying compensation.

A summons shall be served by a bailiff 15 days before the date of hearing.

The decision shall usually occur within from 12 to 18 months.

Nb : special proceedings exist for certain types of debts e.g. :

- title to property for commercial debts
- alimony for civil debts.

5. Judgments Enforcement

Pre litigation measures

Securities can be obtained before proceedings to secure at the end the effective payment of the debts.

A request shall be lodged before the President of the jurisdiction or his delegates to obtain measures to block money, assets, or properties, etc ..., including in a third-party hands.

The protective attachment shall be served within 3 months of the Judge's authorisation and proceedings shall be engaged within one

month of the date of service to validate the debt and obtain a title to enforce payment.

Once title is obtained, the protected attachment is converted in a definitive one which implies judicial sale or effective transfer of money, etc ...

Definitive measures

Once the decision is obtained and is enforceable, direct measures can be taken such as seizure of property or bank accounts.

Insolvency

Bankruptcy can be sought in case of non-payment after an enforceable decision.

January 2024

For more information:

@BCF AVOCATS

74, RUE DE BONNEL

69428 LYON CEDEX 03

PHONE: +33 / 478 95 24 38

FAX: +33 / 478 71 09 05

EMAIL: CHRISTIAN.COLOMBIER@BCF-AVOCATS.COM

URL : WWW.BCF-AVOCATS.COM

@PICHARD & Associés

122 AVENUE CHARLES DE GAULLE

92522 NEUILLY SUR SEINE CEDEX

PHONE: +33/ 1 46 37 11 11

FAX: +33/ 1 46 37 50 83

EMAIL: BRUNO.PICHARD@PICHARD.COM

URL : WWW.PICHARD.COM

