On 9 December 2016, the French Parliament adopted a law (the **Law**) which amended the rules on State immunity from the execution of judgments and arbitral awards contained in Article L 111-1 of the French Code on Civil Enforcement Procedures (**Article L 111-1**). The Law now makes it more difficult for a creditor to enforce, in France, a judgment or an arbitral award on goods belonging to a foreign State.

As you are certainly aware, State immunity exists at two levels: (i) **Jurisdictional State immunity** (according to which a foreign sovereign State cannot be compelled to submit to the jurisdiction of a court of another State or to the jurisdiction of an arbitral tribunal unless it has agreed or has waived its immunity); and (ii) **State immunity from execution** (according to which the goods belonging to a foreign State are protected from execution of a foreign judgment or an arbitral award taken against that State).

The Law only concerned the second category of State immunity.
(i.e. immunity from execution).

Following the adoption of the Law, Article L 111-1 now provides that a party who has won legal or arbitral proceedings against a foreign State and has obtained the necessary *exequatur* for that judgment or award, will still need to obtain the authorisation from a judge before conducting a seizure of a foreign State’s property.

This amendment marks a significant change in direction compared to the former legal situation. Indeed, before the adoption of the Law, a creditor (whose judgment or award had been granted *exequatur*), could simply request a bailiff to perform a seizure on the goods (located in France) belonging to the defaulting State. Such creditor did not need to request an additional authorisation from a second judge.

In addition to requesting that a creditor seek a judge’s authorisation before conducting seizures on a foreign State’s property, Article L 111-1 now also lists the conditions under which a judge may be authorised to grant enforcement authorisation. In so doing, Article L 111-1 tacitly renders void the leading case law of the French Supreme Court in *Eurodif v. Iran*, which found that seizures against a foreign State’s property could only be conducted on assets that were allocated to economic or commercial activities governed by private law.

In addition, Article L 111-1 also clarifies that seizures of goods that enjoy diplomatic immunity cannot be conducted.

Interestingly, the Law follows a similar move by Belgium in 2015. On 23 August 2015, the Belgian Parliament voted in favour of a law that added a new Article 1412quinquies to the Belgian Judicial Code and provided for a general principle that assets belonging to foreign State could not be subject to seizure. Article 1412quinquies of the Belgian Judicial Code, however, provided exceptions to that rule and also conditioned
the attachment of goods belonging to a foreign State to the prior authorisation of a judge.

Both the Law and the amendments brought to the Belgian legislation pursued a two-fold goal: First, they sought to codify customary international law on State immunity from execution as reflected in the United Nations Convention on Jurisdictional Immunities of State and their Property. Second, they were seen as diplomatic responses to Russia’s threats of sanctions against States that ignored Russia’s immunity in the context of the Yukos case.