



## **Guidelines and Tips: How to recover a debt in France?**

Do you have a French customer who doesn't pay your bills?

First, remember that it is always better to act as soon as possible.

As a creditor you will have to:

- check whether your debtor is in a bankruptcy proceeding or not (if he is you will have to file your statement of credits to the Court),
- check your debtor's financial status (you can get financial information on French registered commercial companies here : [www.infogreffe.fr](http://www.infogreffe.fr)),
- send him / have sent to him a formal notice to pay by certified mail.

If he does not pay spontaneously (and is not bankrupted), you will then be able to initiate legal proceedings to obtain the payment.

Three different kind of legal proceeding might be applicable to your claim, depending on the amount requested and the debatable / non-debatable nature of your claim.

### **"Injonction de payer" (Order for payment of a small debt)**

This is the fastest procedure among the three, and the debtor's knowledge of the hearing happening is not even needed.

Neither is the claimant's assistance by a attorney.

However, because this is a non-adversarial procedure, proof of the debt and of its amount must be clearly established.

The creditor submits his plea to the Tribunal and produces all documents he has to prove the existence and amount of the debt he is requesting the payment of.

The judge will either agree with your plea or reject it.

When you then obtain a favorable decision, you have to notify it to you debtor by bailiff within 6 months.

*Cet article ne constitue pas une consultation juridique, et ne saurait aucunement contribuer à engager la responsabilité du cabinet ou de son rédacteur.*

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Your debtor then has 1 month to object to this order for payment (*“ordonnance portant injonction de payer”*).

If he does object to this order, an ordinary proceeding (*“Procédure au fond”*) will begin.

If your debtor does not object to the order for payment within a month, you may then request an enforcement order and have your debtor comply with it by seizing its assets.

### **“Référé” (Against the bad faith debtors)**

This is an adversarial procedure to obtain a provisional judgment.

The main advantage of this procedure is its speed (judgments are usually obtained within three to five months).

If debtors will present a defense in such a proceeding (as it is an adversarial procedure), they will usually nonetheless comply with it when a sentence is rendered.

Indeed, debtors have no interest in starting an additional procedure which they know they will lose.

As in theory it is a provisional judgement (used as a definitive one to allow for speed), you will have to show that your claim cannot suffer any serious challenge.

Please note that the limit of this procedure is that it does not allow for damages (except for your attorney’s fees).

You must be assisted by an attorney if the amount you request exceeds 10,000 euros, but you can initiate this proceeding alone if not (might be a bit tricky though 😊).

The procedure begins with the notification of a subpoena by the creditor’s bailiff to the debtor. This subpoena must set out the points on which the creditor’s claims are based.

The judge will hear the plaintiff and the debtor during a public hearing.

An appeal may be filed if the claim exceeds 4,000 euros.

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**"Procédure au fond" (Ordinary procedure)**

This is the appropriate procedure if your claims can be challenged.

Here again, having an attorney is mandatory if you claim over 10,000 euros.

As with the "Référé", this procedure begins with the notification of a subpoena by the creditor's bailiff to the debtor.

The judge will set a timetable for the exchange of written documents between the parties and organize an oral hearing.

The judgment will usually be obtained within eighteen months.

Since the 2020 reform, all judgments obtained before Judicial or Commercial Courts are immediately enforceable, and thus even if an appeal is filed (one exception).

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