

UNOFFICIAL MACHINE TRANSLATION

French Court of Cassation Decision

Date	17 June 2026
Court	Court of Cassation
Appeal No.	23-10.435
Chamber	First Civil Chamber - Section Formation
Publication	Published in the Bulletin
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Headings and Summary

STATE

A claim against a foreign State may give rise to enforcement measures in France against property belonging to a separate entity with its own legal personality, where that entity does not, by statute, enjoy sufficient functional independence to benefit from legal and factual autonomy from the State, and where its assets are merged with those of that State, such that it must be regarded as one of the State's emanations. However, recourse to that characterisation must be excluded if it would compromise the achievement of the objectives pursued by measures established by the European Union.

Text of the Decision

CIV. 1

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COURT OF CASSATION

Judgment of 17 June 2026

Partial quashing without remittal

Header

Ms Champalaune, President

Judgment No. 393 FS-B

Appeal No. T 23-10.435

FRENCH REPUBLIC

IN THE NAME OF THE FRENCH PEOPLE

Judgment of the Court of Cassation, First Civil Chamber, of 17 June 2026

Hellenic Corporation of Assets & Participations, a public limited company whose registered office is at [Address 1] (Greece), lodged appeal No. T 23-10.435 against the judgment delivered on 15 September 2022 by the Paris Court of Appeal, Division 1, Chamber 10, in the dispute between it and Hellenic Shipyards, a public limited company whose registered office is at [Address 2] (Greece), respondent to the appeal.

The appellant relies on a single ground of cassation in support of its appeal.

The case file was communicated to the Prosecutor General.

On the report of Ms Corneloup, judge, the observations of SCP Melka-Prigent-Drusch, counsel for Hellenic Corporation of Assets & Participations, and the opinion of Ms Bonhomme, Advocate General référendaire, after debates at the public hearing of 5 May 2026, at which were present Ms Champalaune, President, Ms Corneloup, reporting judge, Ms Guihal, senior judge, Mr Ancel, Ms Peyregne-Wable, Ms Tréard, judges, Ms Robin-Raschel and Ms Bonnet, judges référendaires, Ms Bonhomme, Advocate General référendaire, and Ms Babut, chamber clerk,

the First Civil Chamber of the Court of Cassation, composed, pursuant to Article R. 431-5 of the Code of Judicial Organisation, of the President and the above-mentioned judges, after deliberating in accordance with the law, delivered this judgment.

Facts and Procedure

1. According to the judgment under appeal (Paris, 15 September 2022) and the documents produced, the Greek State was ordered, by an arbitral award declared enforceable in France, to pay a certain sum to the Greek company Hellenic Shipyards SA (“HSY”).
2. Arguing that the Greek company Hellenic Corporation of Assets and Participations (“HCAP”), which was created by Greek Law No. 4389/2016 in order to enable the Greek State to qualify for a financial assistance programme from the European Stability Mechanism (“ESM”), constituted an emanation of the Greek State, HSY sought authorisation to carry out an attachment of debts over funds deposited in an account which it believed was held by HCAP in the books of HSBC Bank in [Locality 1].
3. The attachment of debts, authorised by a judgment of 27 June 2019 of the Paris Court of Appeal pursuant to Article L. 111-1-2, 3°, of the Code of Civil Enforcement Procedures over half of the funds deposited in that account, was unsuccessful, as the third-party garnishee stated that HCAP did not hold in its books any claim for a sum of money.
4. On 3 September 2020, HCAP applied to the Paris Court of Appeal for the withdrawal of its judgment of 27 June 2019.

Examination of the Ground of Appeal

On the ground of appeal, first branch

Statement of the Ground

5. HCAP criticises the judgment for dismissing its application for withdrawal of the judgment delivered by the Paris Court of Appeal on 27 June 2019, whereas:

“the characterisation as an emanation of the State, which enables a creditor of a State to attach assets belonging to another entity alleged to be an emanation of that State, presupposes that the legal personality of that entity is artificial; an entity whose creation did not result from an initiative of that State, but was specifically required by the European institutions as a condition for the granting of financial assistance, in order to transfer the funds of that State to an independent entity so as to enable the clearance of its debt, cannot therefore be characterised as an emanation of the State; in order to characterise HCAP as an emanation of the Greek State, the Court of Appeal merely examined whether it currently enjoyed “organisational independence”, notwithstanding the circumstances and principles surrounding its creation, and whether it had patrimonial autonomy; by failing to examine, as it was invited to do, whether the fact that HCAP had been established in order to satisfy a requirement of the European institutions, so as to enable the Greek State to benefit from the ESM stability programme, by creating an independent entity required to manage the assets of that State with a view to generating profits intended to reduce its liabilities and repay the European assistance granted, prevented it from being considered an emanation of the Greek State, the Court of Appeal deprived its decision of a legal basis under Article 2284 of the Civil Code.”

Response of the Court

Having regard to Article 2284 of the Civil Code, interpreted in the light of European Union law:

6. According to that provision, anyone who has personally undertaken an obligation is bound to fulfil that undertaking out of all his movable and immovable property, present and future.

7. Article 136(3) of the Treaty on the Functioning of the European Union, resulting from European Council Decision No. 2011/199/EU of 25 March 2011, provides:

“The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality.”

8. Article 12(1) of the Treaty of 2 February 2012 Establishing the European Stability Mechanism (“ESM”) provides:

“If indispensable to safeguard the financial stability of the euro area as a whole and of its Member States, the ESM may provide stability support to an ESM Member subject to strict conditionality, appropriate to the financial assistance instrument chosen. Such conditionality may range from a macro-economic adjustment programme to continuous respect of pre-established eligibility conditions.”

9. A claim against a foreign State may give rise to enforcement measures in France against property belonging to a separate entity with its own legal personality, where that entity does not, by statute, enjoy sufficient functional independence to benefit from legal and factual autonomy from the State, and where its assets are merged with those of that State, such that it must be regarded as one of the State’s emanations. However, recourse to that characterisation must be excluded if it would compromise the achievement of the objectives pursued by measures established by the European Union.

10. In dismissing the application for withdrawal of the judgment delivered by the Paris Court of Appeal on 27 June 2019, the judgment first notes that it appears from the Euro Summit statement of 12 July 2015 that the Greek authorities undertook to transfer valuable Greek assets to an independent fund which would monetise them through privatisations and other means, and that this fund, established in Greece, would be managed by the Greek authorities under the supervision of the relevant European institutions.

11. It then states that HCAP, a private commercial company registered in the Greek commercial companies register, acting in the public interest but operating according to the rules of private industry, was created by Law No. 4389/2016 in order to enable the Greek State to qualify for a financial assistance programme from the ESM, with the statutory purpose of managing and exploiting the private property of the Greek State transferred to it in the public interest, in order to provide resources for implementing the country’s investment policy and investments contributing to the development of the Greek economy, and to contribute to the reduction of the financial liabilities of the Hellenic Republic.

12. It further notes that the European Commission’s November 2017 report on the ESM assistance programme states, in relation to HCAP, that a new independent privatisation and investment fund had been created to manage and maximise the value of Greek assets.

13. However, the judgment holds that all the circumstances and principles that presided over the creation of HCAP in response to the will of the ESM are not sufficient to establish the reality of its current organisational autonomy; that the Greek State exercises permanent powers of control and direction over HCAP; and that HCAP does not have its own assets, separate from those of the Greek State, such that it constitutes an emanation of the Greek State.

14. By ruling in this way, whereas, first, HCAP’s independence from the Greek Government and its supervision by the European institutions formed part of the conditions to which the granting of financial assistance to Greece under the ESM had been made subject, and, second, the very purpose of that company — consisting in monetising, through privatisations or other means, assets transferred by the State in order to contribute to the State’s repayment of the European assistance — was incompatible with the exercise by creditors of that State of enforcement measures directly against HCAP’s assets, such that recourse to the

characterisation as an emanation of the State had to be excluded, the Court of Appeal infringed the above-mentioned provision.

Scope and Consequences of the Cassation

15. After notice was given to the parties, in accordance with Article 1015 of the Code of Civil Procedure, Articles L. 411-3, paragraph 2, of the Code of Judicial Organisation and 627 of the Code of Civil Procedure are applied.
16. The interest of the proper administration of justice justifies the Court of Cassation ruling on the merits.
17. It follows from the foregoing that HCAP's assets cannot be subject to any enforcement measure in France by creditors of the Greek State.
18. The application of 6 February 2018, submitted to the enforcement judge of the Paris Tribunal de grande instance by HSY, seeking authorisation to carry out an attachment of debts over a bank account held by HCAP in the books of HSBC Bank in Paris, must therefore be dismissed.

Operative Part

For these reasons, and without there being any need to rule on the other complaints, the Court:

- QUASHES AND SETS ASIDE, except insofar as it declares admissible the application for withdrawal of judgment No. RG 18/05246 delivered by the Paris Court of Appeal on 27 June 2019 brought by the Greek company Hellenic Corporation of Assets & Participations SA, the judgment delivered on 15 September 2022 between the parties by the Paris Court of Appeal;
- HOLDS that there is no need for remittal;
- ORDERS the withdrawal of judgment No. RG 18/05246 delivered by the Paris Court of Appeal on 27 June 2019;
- UPHOLDS the order delivered on 13 February 2018 by the enforcement judge of the Paris Tribunal de grande instance;
- Orders Hellenic Shipyards SA to pay the costs, including those incurred in the withdrawal proceedings before the Court of Appeal;
- Pursuant to Article 700 of the Code of Civil Procedure, orders Hellenic Shipyards SA to pay Hellenic Corporation of Assets & Participations SA the total sum of EUR 6,000 in respect of the proceedings before both the Court of Cassation and the Paris Court of Appeal;
- Orders that, at the request of the Prosecutor General before the Court of Cassation, this judgment shall be transmitted in order to be recorded in the margin of, or following, the judgment partially quashed;
- Thus done and judged by the Court of Cassation, First Civil Chamber, and publicly pronounced on 17 June 2026 by making the judgment available at the registry of the Court, the parties having been previously notified in accordance with the conditions laid down in the second paragraph of Article 450 of the Code of Civil Procedure.

Preparatory Materials

Supplementary report of the reporting judge

Download: [2310435_RAPPORTCOMP.PDF](#) - 410 KB

Supplementary opinion of the Advocate General

Download: [2310435_AVISCOMP.PDF](#) - 292 KB

Decision Under Appeal

Paris Court of Appeal, B1

15 September 2022, No. 20/00419

Provisions Applied

Article 2284 of the Civil Code, interpreted in the light of European Union law.

Key Dates

Court of Cassation, First Civil Chamber: 17 June 2026

Paris Court of Appeal, B1: 15 September 2022