International Reach of French Attachments

Can attachments reach foreign bank accounts? For the French, the answer had always been clearly negative, until the French supreme court for private matters (*Cour de cassation*) held in a judgment of 14 February 2008 that a French attachment could reach a bank account in Monte Carlo.

In this case, a creditor had carried out an attachment on the bank account of its debtor, Société Exsymol. The account had been opened at the Monte Carlo branch of French bank BNP Paribas, but the creditor chose to carry out the attachment in Paris. The issue arose as to whether the attachment had reached the Monte Carlo account. The *Cour de cassation* held that it had.

French *saisies attribution*

The attachment was a *saisie attribution*. It is only available to creditors who have enforcement titles such as judgments or arbitral awards declared enforceable. Such attachments purport to transfer the property of the monies from the debtor to the creditor. They thus clearly belong to the enforcement of decisions. They are no freezing orders.

It should also be underlined that they are available to judgment creditors without any judicial intervention or even leave. Any French judgment creditor may directly hire an enforcement officer (*huissier de justice*) who will carry out the attachment on his behalf.

Scope of the rule

The Court insisted that the French *saisie* had reached the foreign account because it was held by a branch of the bank. It is ruled that the rationale of the solution is that *saisies* reach all assets owned by the corporate entity, irrespective of their location. It seems clear thus, that they would not reach assets held by a foreign subsidiary of the bank. But it also seems to follow that whether the bank

had its headquarters in France is irrelevant.

Was European law relevant?

The judgment does not mention the Brussels I Regulation. Was it indeed irrelevant? I think so. I would argue that the regulation governs the jurisdiction of courts, not the power (jurisdiction?) of other state bodies such as enforcement officers to act internationally.

Additionally, Monte Carlo does not belong to the European Union. In enforcement matters, wouldn't the regulation apply only to the enforcement on the territories of member states? Would the enforcement here be the action of the French *huissier* in Paris or the transfer of ownership of the assets, thus taking place outside of the EU?

Is enforcement strictly territorial?

BNP Paribas is The bank for a Changing World. Changing it is indeed! In French legal circles, enforcement had always been regarded as strictly territorial. It was argued that it would be an infringment of the sovereignty of the foreign state to carry out enforcement on assets situated on its territory. It seems that the *Cour de cassation* is not convinced anymore.

All comments welcome! I would also love to hear from similar experiences in other jurisdictions.