

GIBSON DUNN



Transnational Litigation | Consumer Protection  
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## France Elevates the Blocking Statute Within Its Economic Security Framework

*French authorities are seeking to transform the Blocking Statute from a frequently contested procedural instrument into a more central pillar of France's economic security framework, with significant implications for commercial disputes as well as for criminal and competition investigations.*

On September 24, 2026, the French Ministry of Economy published a comprehensive Economic Security Doctrine (the Doctrine)<sup>[1]</sup> identifying the French Blocking Statute (French Law No. 68-678 of July 26, 1968, as amended in particular by Law No. 80-538 of July 16, 1980) as one of the principal instruments supporting France's economic security policy and the protection of strategic national interests against foreign economic threats. While the Doctrine does not amend the Blocking Statute itself, it reflects a broader shift in how French authorities view cross-border transfers of sensitive information: no longer merely as a matter of procedural law, but increasingly as an issue of economic security and national sovereignty. For multinational companies facing U.S. discovery requests, regulatory investigations, antitrust inquiries, sanctions reviews or other cross-border proceedings, the transfer of information located in France will likely be subject to additional scrutiny.

## I. The French Legal Framework in Brief

At its core, the Blocking Statute operates through three complementary provisions:

Article 1 prohibits specified persons connected with France from communicating economic, commercial, industrial, financial or technical documents or information to foreign public authorities where disclosure would be liable to prejudice France's sovereignty, security, essential economic interests or public order.

Article 1 bis is broader in personal scope and prohibits any person, subject to applicable treaties, international agreements, laws and regulations, from requesting, seeking or communicating such documents or information for the purpose of obtaining evidence in, or in connection with, foreign judicial or administrative proceedings.

Article 2 complements those substantive restrictions by requiring persons covered by Articles 1 and 1 bis to inform the competent French authority, the Strategic Information and Economic Security Service (**SISSE**), without delay when they receive a request concerning such communications.

Importantly, Articles 1 and 1 bis are expressly subject to treaty-based channels. The statute therefore does not simply operate as a barrier to legitimate cross-border evidence gathering; it also supports recourse to established international cooperation mechanisms, including mutual legal assistance treaties (each, an **MLAT**). In criminal matters, an MLAT request allows the foreign authority to seek evidence through the competent French authorities, so that collection and transmission take place within the French legal framework and subject to the safeguards applicable to sovereignty and protected information. Viewed in that light, the Blocking Statute reinforces the use of MLATs as the structured route for reconciling legitimate foreign investigative needs with France's sovereign control over evidence located within its jurisdiction. This logic is mirrored at EU level, where Article 48 GDPR and, for non-personal data, Article 32 of the EU Data Act similarly favor international agreements and must be considered alongside the Blocking Statute whenever information leaves the EU.

Historically, the Blocking Statute has often been regarded as a standalone procedural mechanism whose practical impact was subject to debate, particularly in international litigation and investigations. This is notably because the penalties appear modest (up to six months' imprisonment and a €18,000 fine for individuals, and up to €90,000 for legal entities) and because published case law applying the statute is scarce.

## II. Recent Evolution in the Government's Positioning

In its Doctrine, the French Government expressly places the Blocking Statute alongside other core economic security tools, including foreign investment screening mechanisms and measures protecting strategic technologies and scientific capabilities. In doing so, the Doctrine presents the statute not merely as a restriction on evidence gathering, but as part of a broader framework designed to safeguard French strategic assets, sensitive information, innovation capabilities and critical technologies against foreign threats.

This official recharacterization may prove significant in future discussions involving foreign regulators, litigants and courts: it reinforces the public-policy interests underlying the French regime, clearly signals that French authorities intend to make active use of the existing legal framework, and confirms the central role of SISSE.

By publishing the Doctrine, the French Government reinforces a shift in tone and approach already observed by practitioners.

Above all, the Doctrine echoes a bill (proposition de loi) filed with the French National Assembly on March 3, 2026 (**Bill No. 2558**)<sup>[2]</sup>, which itself follows a parliamentary information report<sup>[3]</sup> on economic warfare dated July 16, 2025 that had already recommended strengthening the effectiveness of the Blocking Statute.

The Bill's principal contribution is a substantial increase in the penalties set out in Article 3 of the Blocking Statute. Breaches of Articles 1 and 1 bis would become punishable by up to five years' imprisonment and a fine of up to €1 million for individuals, and up to €5 million or 10% of turnover for legal entities. The Bill would also introduce a specific penalty of six months' imprisonment and a €18,000 fine for failure to comply with the Article 2 duty to inform SISSE. These changes would address one of the main reasons why the statute has historically been perceived as lacking deterrent effect.

The future of Bill No. 2558 remains uncertain. The current parliamentary and electoral calendar may limit the likelihood of substantial reform being debated and enacted before the next presidential and legislative cycle. Yet its genuinely cross-party sponsorship suggests that economic security, strategic sovereignty and protection against foreign extraterritorial measures may remain among the relatively rare subjects capable of attracting broad support within the French political landscape. Consequently, even if the current proposal does not progress before the end of the present legislature, similar reforms could realistically re-emerge under the next legislature with support extending beyond traditional political divisions.

#### **Why does this matter for international companies operating in France?**

The Blocking Statute is relevant to any custodian of information located in France involved in U.S. Department of Justice investigations, SEC investigations, antitrust and competition proceedings, sanctions and export-control matters, civil discovery requests and even internal investigations with a cross-border dimension.

French authorities are seeking to transform the Blocking Statute from a frequently contested procedural instrument into a more central pillar of France's economic security framework, with significant implications for commercial disputes as well as for criminal and competition investigations.

All companies whose cross-border activities may require them to transfer information out of France should therefore exercise heightened vigilance, depending on the context and on their relationships with administrative and judicial authorities outside France.

When faced with cross-border information requests, companies should, in parallel with the analysis required under the GDPR and the Data Act, carefully assess the nature of the information sought, consider whether SISSE should be consulted before any disclosure, and favor reliance on MLATs and other international cooperation channels where available. This exercise is all the more delicate where the same request also engages blocking statutes in other jurisdictions, which may apply different criteria. In such cases, a single, group-wide disclosure strategy is preferable to country-by-country responses.

[1] <https://www.entreprises.gouv.fr/files/files/Publications/2026/autres-publications/202609-doctrine-securite-economique.pdf>.

[2] [https://www.assemblee-nationale.fr/dyn/17/textes/l17b2558\\_proposition-loi](https://www.assemblee-nationale.fr/dyn/17/textes/l17b2558_proposition-loi).

[3] [https://www.assemblee-nationale.fr/dyn/17/rapports/cion\\_fin/l17b1757\\_rapport-information](https://www.assemblee-nationale.fr/dyn/17/rapports/cion_fin/l17b1757_rapport-information).

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