

MAJOR REFORM OF FRENCH CIVIL AND COMMERCIAL PROCEDURE

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Litigation and Dispute Resolution Alert

By: Dara Akchoti

By several decrees dated 6 and 9 May 2017 (mainly decrees No. 2017-891, 2017-892, 2017-862 and 2017-888), the French government has enacted a substantial reform of several aspects of French civil procedure (which is also applicable to commercial cases).

The main goal is the reduction of delays and maximization of efficiency of French civil procedure.

The key points of this vast reform are explained below.

- The regime applicable to **challenging courts' jurisdiction** is overhauled. In particular, the specific procedure of appeal against a judgment dealing exclusively with jurisdiction (*contredit*) is removed. Such type of recourses shall follow the same procedural path as the general appeal.
- The **appeal is redefined** and its scope is refined. It is not possible anymore to lodge a general appeal, without any specifications, against a judgment. The appealing party will have to specify which specific grounds of the judgment are challenged. It shall also present its legal arguments against the judgment at the outset, in the declaration of appeal already. Otherwise the appeal shall be declared inadmissible.
- Several **procedural delays** are modified and harmonized. Before courts of appeal, the general delay between each appellate brief becomes three months. The decision to resort to mediation stops delays, until the mediator's mission is finished. When the appeal is lodged against a summary judgment or other expedited decisions, short delays are implemented.
- The **content of written submissions** is specified. In the context of oral proceedings (such as before commercial courts), written submissions shall include several mandatory sections. Before courts of appeal, appellate briefs must indicate all arguments and claims as early as possible in the proceedings.
- The **procedures for challenging a judge** in particular due to the existence of circumstances which could raise a doubt regarding his independence or impartiality (*récusation, renvoi pour cause de suspicion légitime*), are changed, with an inspiration from the procedure currently applicable under criminal proceedings.
- The judge, when he records that the parties have performed no procedural act for two years, will be able to raise by himself (while previously he had to be seized by a party) the issue of the **expiration of the proceedings** and open an adversarial debate between the parties in this regard.
- The procedural rules applicable to **class actions** are specified (competent court, publication of class action judgments, means of joining a class action, *inter alia*).

Almost all of these new provisions will enter into force as soon as 1st September 2017. Therefore, practitioners and companies need to rapidly digest and master these changes, in order to maintain an astute and efficient management of legal proceedings and thus strategically maximize their outcome.

KEY CONTACTS



LOUIS DEGOS
PARTNER

PARIS
+33.(0)1.58.44.15.30
LOUIS.DEGOS@KLGATES.COM

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