Kluwer Arbitration Blog

Reform of French Arbitration Law: Proposals, Controversies and a (Swift) Way Forward

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In line with the global movement of reform in Europe (see previous posts on recent reforms in the UK, Germany, Luxembourg, Italy, Greece and Switzerland) and worldwide (e.g. China or Nepal), France also initiated in late 2024 the process of reforming its 14 years old arbitration law (discussed here). This post provides a concise overview of this reform process.

Background of the Reform Process

Tasked with assessing potential improvements of French arbitration law and formulating reform proposals, a 17-member working group appointed in November 2024 by the Ministry of Justice (the "Working Group") rendered on 20 March 2025 a report (the "Report"), publicly available since 26 March 2025. The Report included 40 ambitious proposals (the "Proposals"), along with a turnkey codified project including 146 provisions (as opposed to the current 86).

While the previous reform process required eleven years (2000-2011) and involved extensive consultation, the Proposals were issued in just four months. The lack of consultation, together with the ambitious nature of the Proposals, sparked strong criticism within the French arbitral community (see e.g. here, here and here). As it was put in the press, the Report "*caused an outcry*" and "*is facing a wave of criticism rarely seen in this discreet community*".

Two weeks later, the Proposals were presented during a high-profile colloquium during Paris Arbitration Week (PAW). During this event, the French Minister of Justice announced the subsequent steps of the reform process and some of the Proposals already retained.

The Proposals

Four Major Structural Proposals: Increased Autonomy for French Arbitration Law

The Report introduces four major structural changes impacting the architecture of French arbitration law.

First, the Report proposes reorganizing and clarifying the many sources of French arbitration law

–currently scattered across Articles 1442 to 1527 of the Code of Civil Procedure ("CCP") and more than 100 other provisions across 23 different statutes– by creating an autonomous and self-standing arbitration code (**Proposal 1**). This proposal aims to improve clarity, readability, and attractivity. Although opponents to codification argue that it limits the flexibility of domestic courts, the complexity and lack of readability of the current system are undeniable. An autonomous code would greatly simplify the structure of French arbitration law, improving its accessibility for foreign practitioners and strengthening France's position on the global stage.

Second, the Report suggests merging the rules governing domestic and international arbitration (**Proposals 3 and 4**), which would not eliminate French dualism but instead incorporate the domestic regime into the international regime. This would expand common rules, with a few exceptions for domestic arbitration. Several other Proposals stem from this suggestion, including (i) eliminating the suspensive effect of annulment actions in domestic arbitration as provided by Article 1496 CCP (**Proposal 33**), (ii) removing annulment grounds relating to formalities in Article 1492(6) CCP (**Proposal 37**), removing the possibility to waive recourses in international arbitration allowed by Article 1522 CCP (**Proposal 20**), and excluding the possibility to appeal domestic awards as currently enshrined in Article 1489 CCP (**Proposal 31**). This simplification would align domestic arbitration with the flexibility of international arbitration, while recognizing the specificities of domestic arbitration.

Third, further increasing the autonomy of French arbitration law, the Report calls for the enactment of formal guiding principles to assist in the interpretation of the law (**Proposal 5**). The list proposed by the Working Group includes no less than 19 principles, some of which are already exist in the CCP (e.g. right to a fair trial already enshrined in Article 16 CCP, the principles of celerity and loyalty provided by Article 1464(3) CCP, independence and impartiality at Article 1456 CCP, or the prevention of risks of denial of justice at Article 1505(4) CCP). Interestingly, this list contains a guiding principle that constitutes the core of the French delocalized approach, with the codification of the rule endorsed in *Hilmarton* and *Putrabali* that annulment at the seat does not prevent recognition and enforcement in France. The Report also proposes to set (i) confidentiality as the principle both in domestic and international arbitration (as opposed to the current Article 1464(4) CCP which does not apply to international arbitration), and (ii) a principle of proportionality to control time and costs. Additionally, the Report aims to amend the waiver principle in Article 1466 CCP, reversing the controversial *Schooner* ruling, which allowed parties to raise new arguments and evidence on jurisdiction at the annulment stage, and sparked the fear of a *de novo* review of awards by French courts (previously discussed here).

Fourth, the Working Group proposes expanding the definition of arbitrability to include family law, labor law, and consumer law disputes (**Proposals 2 and 21**), a pro-arbitration move seemingly in response to previous calls for changes (see, e.g., here in relation to family law, and here in relation to consumer law).

Non-Structural Proposals: New Features and Improvements

In addition to these structural changes, the Report includes numerous new features and improvements that aim, in the words of the Working Group, "for more efficiency, simplicity, fairness, modernity and precision".

On the one hand, the Proposals include several welcome new features, including, e.g., the possibility of consolidating disputes before the very same arbitral tribunal provided that (i) the

arbitration agreements are compatible and (ii) the claims are linked enough so that good administration of justice warrants consolidation (**Proposal 25**); the annulment or the refusal of *exequatur* of an award "*by way of consequence*" for the awards that are linked to this annulled or unenforceable award (**Proposal 36**); the possibility for domestic courts to stay the proceedings and invite the arbitral tribunal to regularize its award to allow recognition and/or enforcement, and avoid annulment (**Proposal 38**); the introduction of a specific mechanism for impecunious parties allowing the supporting judge to "order any measure allowing the conduct of the arbitration" (**Proposal 19**) which seems to draw the consequences of the recent line of French case law (see e.g. *Tagli'apau* or *CSF*); and the clarification of the nature of links between the arbitrator and the parties (arbitrator contract), the parties and the arbitration institution (contract for the organization of the arbitration), and the arbitral institution and the arbitrator (contract of arbitral collaboration) (**Proposal 18**).

On the other hand, a number of Proposals aim at improving already existing provisions. This is the case for, e.g., the inclusion and/or clarification of definitions of the concepts of "*arbitration*" (**Proposal 2**), "*international arbitration*" by reference to "*economic interests*" in contrast with the wording "*trade interests*" currently used in Article 1504 CCP (**Proposal 4 and 10**), and of an "*arbitral award*" which does not include provisional measures, but awards rendered electronically (**Proposals 12 and 14**). This holds true as well for the Proposals: to allow the "communication" of the award in the form agreed by the parties to trigger time limits for recourses, in contrast with the formal "notification" (**Proposal 15**) which is the current only available mean under Articles 1494 and 1519 CCP; to establish not only in domestic arbitration the principle that France-seated tribunals must be composed by an uneven number of arbitrators (**Proposal 16**); to remove all formalism requirements of Article 1443 CCP for arbitration agreements (**Proposal 11**).

Subsequent Steps and Announcements by the Ministry of Justice

Justifying the fast pace of the reform process, the Minister said in his speech at the PAW colloquium that "*excellency requires movement*", before announcing that the subsequent steps of the reform process would be threefold, i.e.:

- No later than fall 2025, the adoption via decree of a series of "consensual" measures, including the amended definitions of "international arbitration" (**Proposals 4 and 10**) and "arbitral award" (**Proposal 12**), the recognition of electronic arbitration (**Proposal 14**), the simplification of the formal requirements of arbitration agreements (**Proposal 11**), the empowerment of tribunals to liquidate penalties previously ordered (**Proposal 26**), the possibility of consolidating disputes before the very same arbitral tribunal (**Proposal 25**), the obligation for Paris-seated tribunals to be composed by an uneven number of arbitrators (**Proposal 16**), as well as other "*technical adjustments*". While the full list of adopted Proposals is still unknown, it may be regretted that said Proposals were retained without full consultation;
- In parallel, the initiation of consultation cycles to discuss more controversial proposals and "*reach a point of balance*", during which will be discussed, among other Proposals, the expanded scope of arbitrability (**Proposals 2 and 21**), the evolving role of the supporting judge (**Proposals 7 and 29**), and the convergence of the domestic and international arbitration regimes (**Proposal 3**);
- Finally, in fall 2026, the codification and the "*international valorization*" of an "*unified and readable*" French arbitration law, culminating in the creation of an autonomous and self-standing

code of arbitration (**Proposal 1**).

Conclusion

Issued within a remarkably short timeframe, the Working Group's Proposals are both ambitious and innovative. They hold great potential to drive meaningful reform by fall 2026, further enhancing Paris' position as a leading arbitration hub.

As with any ambitious reform, the process has attracted criticism. However, the ongoing debate appears to center more on the method and the process than the substance of the Proposals themselves. It is indeed surprising that the Minister was able to identify a "consensual block" around several key Proposals, including the pivotal creation of a new code, even before the consultation phase had begun. Likewise, references to the collective nature of the Report may be deemed somewhat preemptive and premature, considering that, as both the Minister and the co-chairs of the Working Group acknowledged during the PAW colloquium, the concertation process is only just starting.

It is hoped that these initial concerns will be quickly overcome, paving the way for a productive and collaborative reform process to be completed by the end of next year.

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This entry was posted on Sunday, April 13th, 2025 at 10:15 am and is filed under France, French Law, Reform
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