La Kanzlei

Towards a New French Arbitration Law?

Schiedsverfahren



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While Paris remains one of the most popular arbitral seats worldwide, known for its liberal and international approach to arbitration, France is currently pursuing a significant overhaul of its arbitration law. This reform aims to keep French law attractive to the international arbitration community and to respond to recent reforms adopted in other jurisdictions. The goal is to improve accessibility, simplify application, and enhance the competitiveness of French arbitration law globally.

To this end, the Minister of Justice tasked an expert commission with drafting a report containing reform proposals, which have been intensively debated, culminating in a major conference at the Sorbonne during Paris Arbitration Week, where representatives of academia and the arbitration community discussed the proposals and the Minister unveiled the reform's implementation timeline.

I. Key Reform Proposals

1) Enactment of a Dedicated Arbitration Code
2) Introduction of Guiding Principles of Arbitration
3) Harmonizing Domestic and International Arbitration Rules
4) Consolidation of Jurisdiction in the Judicial Courts
5) Promoting Greater Flexibility in Arbitration
6) Enhanced Protection for Parties
7) Expanding the Rights of Third Parties
8) Enhancing Efficiency

II. Implementation of the Reform

1) An Ambitious but Controversial Project
2) Timeline for Enactment

I. Key Reform Proposals

1) Enactment of a Dedicated Arbitation Code

The first and most structural proposal is the creation of a standalone Arbitration Code, which would consolidate 146 articles currently dispersed across more than 20 separate statutes – including the Civil Code, the Commercial Code, and the Code of Civil Procedure. This codification aims to enhance coherence, predictability, and user-friendliness, particularly for foreign parties, reinforcing France's position as a preferred arbitral seat.

This approach contrasts with reforms in Germany, where the law governing arbitration – mainly Book 10 of the Code of Civil Procedure – is being amended rather than consolidated into a separate code.

2) Introduction of Guiding Principles for Arbitration

The draft seeks to introduce 19 distinct principles applicable to arbitration, reflecting the unique characteristics of arbitration compared to judicial litigation. These include principles already well established in French arbitration law, such as the autonomy of the arbitration agreement, the competence-competence doctrine (allowing tribunals to rule on their own jurisdiction), confidentiality, the right to be heard, equality of arms, and proportionality. The codification of these principles is intended to guide interpretation and may become relevant grounds for setting aside arbitral awards if violated. However, there remains ongoing debate regarding their precise scope and the consequences of their breach.

3) Harmonizing Domestic and International Arbitration Rules

The working group addressed the traditional French distinction between domestic and international arbitration, recommending that domestic arbitration rules be largely aligned with those governing international cases, with only specific carve-outs for unique domestic issues. Unlike in German arbitration law – which largely employs a monist (unified) approach – France will retain the distinction, yet apply the more liberal international standards as the default, enhancing legal certainty and predictability for parties.

4) Consolidation of Jurisdiction in the Judicial Courts

The reform proposes consolidating jurisdiction over international arbitration matters within the ordinary judicial courts, especially the Paris courts.

- Currently, jurisdiction over the review of international arbitral awards is split between civil and administrative courts, which is confusing, especially for foreign parties. The reform would make the civil judicial courts exclusively competent to recognize, enforce, or set aside foreign arbitral awards.

- The role of the juge d'appui (supporting judge) would shift from the president of the commercial court to the president of the judicial court, in order to consolidate the expertise.

- For the enforcement (exequatur) of international awards, exclusive jurisdiction would be vested in the Paris judicial court. Previously, jurisdiction was determined by the seat of arbitration within France.

For domestic arbitration, rather than centralizing jurisdiction in Paris, the working group favors encouraging specialization of judges in provincial courts for arbitration matters as well.

Similar reforms are under consideration in Germany, where the legislature has created "Commercial Courts" to deal with international disputes, much like the International Chamber at the Paris Judicial Court.

5) Promoting Greater Flexibility in Arbitration

The draft aims to modernize and increase flexibility within French arbitration law by abolishing certain formal requirements, such as writing requirements for arbitration agreements and strict rules on the content and signature of arbitral awards. Electronic issuance of awards would expressly be permitted – a change welcomed by both practitioners and scholars.

Germany is moving in a similar direction by proposing a new section (§ 1054 ZPO) permitting electronic arbitral awards.

Definitions are also clarified and brought in line with economic realities: for example in the definition of international arbitration, by replacing the reference to "commercial disputes" with a broader reference to "economic disputes".

6) Enhancing Protection for Parties

Party protection – particularly for "weaker" parties – is a focal point, addressed both through the new guiding principles and specific reform provisions. Among the measures considered are a mandatory odd number of arbitrators in French-seated arbitrations and the explicit requirement

that arbitrators be natural persons (not legal entities or AI alone). Thus, arbitral tribunals in France could not be constituted by legal persons or handled exclusively by computer algorithms. The draft also codifies the contractual relationship among arbitrators, parties, and arbitral institutions to provide greater predictability regarding arbitrator liability and institutional rules.

Provisions are also contemplated for cases of party indigence, eliminating waivers of the right to seek annulment, and clarifying the (limited) application of arbitration law in family, employment, and consumer law contexts.

7) Expanding the Rights of Third Parties

The draft reforms third-party rights in arbitration, including provisions for voluntary intervention ("intervention volontaire“) in set-aside proceedings before the appellate court. The prior regime for third-party opposition ("tierce opposition") is reformed to require such objections to be raised in subsequent state court proceedings, rather than before the tribunal itself. This reform expands access to justice for third parties, an area where French case law had become more restrictive in recent years.

8) Enhancing Efficiency

Several measures are proposed to streamline arbitral procedure and award enforcement:

- The principle of negative competence-competence (limiting judicial review of jurisdictional objections while the tribunal is seized of the matter) will be clarified and reinforced.
- Arbitral tribunals will have enhanced authority to join related disputes and to determine monetary sanctions (astreintes).
- Strict preclusion rules will apply, requiring all objections to be timely raised before the tribunal.
- The juge d’appui (supporting judge) will see their responsibilities broadened: empowered to prevent denial of justice, ensure party equality, resolve issues regarding inability to pay, order production of documents, enforce interim measures, and, where needed, appoint new arbitrators in case of deadlock.
- Appeals will be streamlined: references to general French appellate procedure will be eliminated, so that arbitration-specific remedies apply. The possibility of appeals on the merits in domestic arbitrations (by party agreement) will largely be eliminated.

Regarding recognition and enforcement of arbitral awards, simplified procedures will ensure that awards can be recognized and enforced more efficiently. Deadlines for contesting recognition or enforcement will be standardized (“running from the date of the decision” rather than service). If a

foreign award is annulled or denied enforcement, related awards may face the same consequence. The automatic suspension of enforcement during annulment proceedings in domestic arbitrations will be abolished. The draft also introduces the possibility for state courts to pause (stay) annulment proceedings so that the arbitral tribunal can correct or modify the award to avoid annulment.

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II. Implementation of the reform

1) An ambitious but Controversial Project

The reform, prepared in a remarkably short timeframe by a 17-member working group of prominent lawyers, scholars, judges, and institutional representatives, is generally welcomed as a major step forward that enhances legal certainty and the global profile of French arbitration. The creation of a dedicated Arbitration Code and the removal of ambiguities in existing laws will substantially facilitate recourse to arbitration.

However, the proposal has encountered some criticism – particularly from certain courts concerned about changes to their traditional roles, as well as from institutional stakeholders who were not consulted during the drafting process. Some critics challenge the fundamental need for reform or see codification as restricting the further evolution of case-law. Others are skeptical of some innovations such as the adoption of proportionality as a guiding principle or the expanding specialization of the supporting judge (juge d'appui).

Some debated proposals were set aside for now due to lack of consensus or insufficient time for in-depth review, in particular, expanding the scope of arbitrability to non-economic family disputes, introducing "human or ecological" concerns, group (collective) arbitrations, or eliminating annulment proceedings where enforcement is not sought by the claimant. These remain open issues, potentially for a later reform phase.

Other proposals, such as the concentration of challenges to international arbitral awards in the judicial courts, or the abolition of appeals in domestic arbitrations, were adopted, though not without reservations among working group members.

A major conference hosted during Paris Arbitration Week reflected these controversies and facilitated further discussion among key stakeholders.

2) Timeline for Enactment

The Minister of Justice has announced that the reform will be implemented swiftly. Generally

agreed provisions, such as the definition of international arbitration, recognition of electronic awards, reforms to third-party intervention, and the uneven-number requirement for arbitrators, are scheduled for adoption by executive ordinance in Fall 2025.

Contentious aspects, such as the harmonization of domestic and international rules, additional powers for the juge d'appui, and special rules for family, labor, and consumer law, will be subject to further stakeholder consultations, with a goal of adoption between Spring and Autumn 2026.

Codification into a dedicated Arbitration Code is scheduled for completion by Fall 2026.

Conclusion

Significant changes are forthcoming in French arbitration law over the next eighteen months. Close attention to the legislative process will be required by practitioners and parties accustomed to French-seated arbitration.

Contact us

For more information: Arbitration

This article was written by Edith Aupetit et Tobias Brünker in collaboration with our trainee lawyer Clara Daehnert.

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