

1. Pension reform bills:

On 24 January, 2020, the French government introduced the universal pension scheme bills. The aim of this comprehensive reform is to create a universal points-based retirement system which would apply to everybody, public sector employees as well as private sector ones and the self-employed. As a consequence, the legal profession's autonomous retirement scheme, entirely financed by the legal practice, will disappear.

This autonomous scheme is not in deficit and it is particularly inclusive since it guarantees all lawyers the same basic amount regardless of the income received during their careers. It also contributes, in solidarity with the nation at large, to the financing of other pension schemes (most of which are in deficit) at a rate of nearly 100 million euros per year.

Implementation of the universal pension system will nearly double tax rates for lawyers, lower the pension payments for many of them and put an end to the autonomous management of the pension fund, which raises the issue of the fate of the accumulated technical reserves.

This reform implies a major risk for the business model in the legal profession, putting in danger thousands of small enterprises as well as lawyers taking part in legal aid. In turn, it will affect all litigants by undermining access to law and justice throughout the whole country. The French National Bar Council (hereafter CNB) and French lawyers are strongly mobilised by this issue.

2. 2018-2022 Programming bill for Justice of 23 March, 2019:

With the aim of improving access to and quality of justice for litigants and the effectiveness of proceedings, the 2018-2022 programming and reform bill for Justice of 23 March, 2019 has introduced profound modifications to civil and criminal law and territorial aspects of the French legal system.

Regarding territorial aspects, the reform became effective on 1 January, 2020, and provides the merging of district and regional courts (tribunaux d'instance and tribunaux de grande instance) into a new court of justice (concurrent jurisdictions for all courts of justice), the specialisation of courts of justice, the creation of neighbouring chambers (chambres de proximité) and of judges of protection disputes (juge des contentieux de la protection). The legal profession is concerned about the geographical distance between courts and the impoverishment of the territorial network.

Regarding civil law, the French National Bar Council (CNB) has been engaged throughout the year in consultations with the Department of Justice about implementing provisions of the bill concerning family law (contentious divorce proceedings) and civil proceedings (proceedings in front of the new court of justice which simplifies the referral process, broadening of mandatory representation by a lawyer, mandatory preliminary attempts at alternative dispute resolution and at amicable resolution before going to the courts). The law has also been specified by the key 2019-1333 decree of 11 December, 2019 reforming the civil procedure. Besides extending mandatory representation and pre-trial by a lawyer, this decree in principle makes first instance decisions provisionally enforceable, which could discourage litigants from seeking an appeal. The CNB contests this provision and has filed an appeal. The CNB has released model legal templates to help lawyers grasp this comprehensive reform of civil proceedings. Decree N° 2019-1380 of 17 December, 2019 deals in turn with legal proceedings applicable to contentious divorces following the modifications introduced by the law.

Regarding criminal proceedings, the law has established regional criminal Courts, consisting of five magistrates, without a jury, and in charge of trying crimes punishable by 15 to 20 years in prison. In view of the resistance this generated, a three-year trial period involving 7 regions was agreed and started in September 2019. The legal profession will be closely following the results of this experiment and wishes to be involved in the monitoring and assessment of this experiment.

3. PACTE Law:

The French law n° 2019-486 on business growth and transformation, known as the “PACTE” law and published on 23 May, 2019, addresses three main areas: (1) to liberate companies by simplifying business creation and development in France, promoting businessmen recovery and the transfer of companies; (2) to promote business innovation by facilitating funding and encouraging innovation, in particular by simplifying patent filing procedures for SMEs; (3) to make companies fairer by rewarding employees’ work and laying the foundations of a new capitalism (Certified B corporations, defining their social commitments and true purpose).

The PACTE law was created adopting a co-construction approach. The French National Bar Council (CNB) has contributed with 45 proposals and recommendations regarding all companies, liberal professions and law firms.

However, the CNB opposes the provisions allowing auditors to provide services other than certify accounts and to issue certificates within or outside the context of a legal audit, pointing out that these provisions constitute an infringement of the legal field.

4. General state of the future of the law profession:

The French National Bar Council (CNB) organised a grand meeting of lawyers, the “general state of the future of the profession of lawyers”, on 27 June, 2019¹.

On the basis of suggestions from all French lawyers and law students, who had been invited, on an online site, to state their priorities and proposals for the profession, four study groups were assigned the following subjects: a lawyer’s identity, quality of service, law firms’ competitiveness and the unity of the legal profession. As a result, 40 concrete proposals were put forward and discussed on 27 June, 2019. The CNB committed itself to bring these proposals before the public authorities. The CNB adopted thereby a resolution on 14 December, 2019 recommending to include in university studies modules on legal skills and work experience with law professionals.

5. Foreign legal consultant:

Ruling No. 2018-310 of 27 April, 2018 allows lawyers enrolled at the bar of a non-member state of the European Union, whose home state is linked to the EU by international treaties, to practise with their national title as a legal consultant and draw up private deeds in international law and foreign law, excluding providing legal representation or assistance in court. This ruling was sealed by a decree on 20 August, 2019 establishing several provisions related to the law profession and a ministerial order of 25 October, 2019 establishing the conditions for issuing permission to practise legal consulting and private deeds for third parties.

In order to practise as a Foreign Legal Consultant, a lawyer must prove good moral standing and be properly insured. The title of Foreign Legal Consultant can be obtained on a temporary (one year) or permanent basis.

Regarding their permanent practice and settlement in France, these lawyers, once authorised by the French National Bar Council, are enrolled on a special list of members of the bar of their choice. They thus become a member of the bar in the same conditions as a French lawyer or an immigrant European lawyer practising with their national title and must take oath and pay subscriptions.

6. Open data on court rulings:

The French National Bar Council is rallying around the issue of open data on judicial rulings and their regularisation.

On the one hand, regarding rules about allowing access to judicial rulings, the CNB signed a statement on 25 March, 2019 with the Court of Cassation highlighting the need to guarantee equal access for all to judicial rulings. This statement also calls for the creation of a public body charged with its management, with both institutions as members. A similar statement is expected to be finalised soon with the supreme administrative court, the Council of State.

¹ Launched in November 2018, see the French news report presented at the 47th Conference of Presidents in 2019.

Furthermore, the Programming bill for Justice (see above) provides, in its article 33, that the names of any physical person who is a party or third party be hidden, as well as those of magistrates and members of the courts' administration service in case of a risk to their security and with regard to their private life, bearing in mind that the identity details of magistrates and court administrative staff cannot be considered for reuse with the object or effect of evaluating, analysing, comparing or guessing their real or supposed professional behaviour. The CNB passed a resolution on 14 June, 2019 calling for identical treatment (sanctions for reuse with the object or effect of...) in the case of the identity details of lawyers when legal rulings are made public in open data. In December 2019, having learnt of the plan for a decree regarding publication of rulings by judicial and administrative jurisdictions, the CNB passed a new resolution warning that this project gives the judge too much scope when assessing information which might jeopardise the security or private life of persons named in the ruling if it were to be made public, without allowing the latter, be they parties or third parties, the opportunity to contest the decision to hide or not hide it before publication of the ruling. The CNB also warns that lawyers, as justice auxiliaries, in the same way as magistrates on the bench or prosecuting, must be granted access to entire rulings without anonymisation or hiding elements that are indirectly identifying, in the name of equality of conditions consecrated in article 6 of the European Convention of Human Rights.

On the other hand, regarding the use of open data of legal rulings, the CNB proposed, in a resolution made on 15 December, 2019, the creation of a public body charged with regulating and managing algorithms used to work with the database of legal rulings as well as the reuse of information it holds and which must notably include members of the Court of Cassation, the Council of State and the CNB.

The CNB is also working on a project for an ethical charter and has chosen, via a call for tender, a service provider to carry out a comparative study on how French legaltechs operate in the predictive justice sector.

7. Money laundering: International Financial Action Task Force assessment

France is the latest country to complete the FATF fourth round of mutual evaluations. As part of this evaluation exercise, the legal profession will have to show the effectiveness of its anti-money laundering (AML) system in order to preserve self-regulation. The French National Bar Council has been called upon for the legal profession's contribution to two preparatory reports drafted by the French authorities: the report regarding "technical compliance" of French regulations with the FATF's recommendations and the effectiveness report. The assessment team's on-site visit is scheduled for June and July, 2020. The FATF's final report should be published at the beginning of 2021.

In addition, the legal profession is setting up awareness initiatives: specialised IT tools, training programmes, participation in international events, guidelines, reinforcement of the role of the *Caisses Autonomes de Règlement Pécuniaires des Avocats* (Fund for Lawyers' pecuniary settlements).

8. Transposition of EU directive 2018/822, named "DAC 6", of 25 May, 2018

The 2018/822 directive was transposed to French law by ordinance No. 2019-1068 of 21 October, 2019 regarding the mandatory automatic exchange of fiscal information in relation to reportable cross-border arrangements.

This transposition measure obliges lawyers to declare to the tax authorities potentially aggressive cross-border tax schemes. This declaration procedure by the lawyer depends on the client's agreement. So, if the client agrees, the lawyer declares the potentially aggressive scheme before the tax administration. In the absence of client agreement, the lawyer, bound by an obligation to provide information, must notify another intermediary if several intermediaries are involved in the same scheme, or his client if the lawyer is the sole participant.

The law profession is rallying against this measure which it considers to be a serious infringement on professional confidentiality and the right to a fair trial. Litigation is being considered.

9. Minors

• The bill of 22 March, 2019, and the appointment of a lawyer during voluntary interviews

Under the 2018-2022 Programming bill for Justice of 23 March, 2019 (see above), it is mandatory to appoint a lawyer whenever a minor undergoes a voluntary police interview. This major advance allows to better protect the interests of minors at the beginning of a criminal investigation.

- Convention of professionals working with young people: 49 proposals from the CNB to reform the 1945 Order on juvenile delinquency

In France, juvenile criminal law is governed by the Order of 1945, which enacts criminal proceedings that are different from general law and favour an educational approach. The government has embarked on a major reform of juvenile criminal law. The parliament is in the process of ratifying the Order of 11 September, 2019 which deals with juvenile criminal justice.

In the context of this reform, the French National Bar Council organised a Convention of professionals working with young people, bringing together magistrates, lawyers, educators and psychologists. As a result of this meeting, these professionals made concrete proposals favouring the educational and protective approach to juvenile delinquency, diverting from expedited procedures, advocating adapting educational measures as an alternative to detention, adapting penalty enforcement legislation and sanctioning the right to oblivion.

10. Equality

• Action plan against harassment and discrimination in the legal profession

Last May, the French National Bar Council adopted an action plan against discrimination and harassment in the legal profession, based on 4 premises: (1) to enshrine the principle of equality and non-discrimination in article 3.1 of the legal profession's National Internal Regulations; (2) to promote communication between lawyers and law students to raise awareness of moral and sexual harassment and of discrimination; (3) to provide training to help them better understand these situations and; (4) to make sure each Bar association has a point of contact to handle discrimination reports.

• The Grenelle Conference on violence against women mobilises the CNB

The CNB has also reacted to the conference on domestic violence launched by the government on 3 September, 2019 and has made suggestions to improve the care of female victims and especially the presence of duty lawyers in forensic medical units and legal aid services in health care facilities where the victims are referred.

In terms of legislation regarding the proposed developments, the CNB has passed a resolution, on 11 October, 2019, reminding the government on the one hand of the need to facilitate the issuing of protection orders, particularly by improving the time frame, and on the other hand of the fact that electronic bracelets to prevent offenders from approaching their victims, a measure which infringes freedom, should be issued by a criminal judge and not a civil judge and only if requested by the victim, not just upon the latter's agreement.

• National Conference on Disability

On 28 June, 2019, the CNB launched the first National Conference on disability called "Grenelle Droit et Handicap" (Grenelle Rights and Disabilities), under the distinguished patronage of the State Department in charge of people with disabilities, which brought together all legal professionals and disability experts from institutions and associations to work on the effective implementation of the rights of people with disabilities.

These efforts resulted in a joint action plan with the aim of improving awareness of visible or invisible disabilities and of the rights of disabled people, and better access to justice facilities and law firms. The proposed legislation contemplates specific provisions, such as the obligation to train professionals involved as well as appropriate treatment of violence against disabled people or adults under legal protection due to mental disability or age-related dependency.