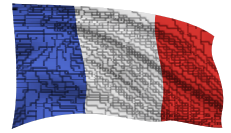


France: A commercial court with expanded powers



French commercial courts are special courts in charge of business litigation and insolvency proceedings applicable to merchants and craftsmen. Today, financial difficulties also affect other categories of entrepreneurs: farmers, self-employed professionals and consumers.

Innovation

A Law of 20 November 2023,¹ coming into force on 1 January 2025, brings together a various type of entrepreneurs in distress under a single jurisdiction. It creates a commercial court with expanded powers, known as the '*tribunal des activités économiques*'.

This court will handle both preventive and insolvency proceedings for most debtors: merchants, commercial companies, craftsmen as well as farmers, non-trading companies, in particular real-estate companies, associations and self-employed professionals (architects, doctors, teachers, chartered accountants etc.).

Consumers remain excluded (they are still under the supervision of an administrative commission headed by the Bank of France), as well as lawyers,

public officials, and court-appointed administrators (who remain under the authority of the judicial court).

It will also hear disputes relating to commercial leases arising from insolvency proceedings.

Experimentation

Given the wide variety of professions, their regulations and the treatment of their indebtedness, the legislator chose the original approach of an experimental reform, set up for a period of 4 years. An evaluation committee has been established, bringing together practitioners, judges, lawmakers and the Ministry of Justice.

The experiment involves 12 commercial courts, including large courts (such as Paris, Versailles, Nanterre, Marseille and Lyon) and medium-sized courts. At the end of this trial period, an assessment will be conducted.

The plan is to add representatives of the agricultural sector (i.e., farmers) to this jurisdiction, currently composed exclusively of managers and directors of commercial companies and representatives of craftsmen. A dedicated training program will be set up for them.

Concluding remarks

A number of advantages and disadvantages can be highlighted. The reform harmonizes the treatment of difficulties faced by small and medium-sized businesses, regardless of their field of activity, and lightens the workload of the judicial courts. However, it does not provide for the representation of the professionals concerned, with the only exception of farmers.

The reform also transfers new tasks to the designated commercial courts, with the risk of extending processing times. Given the wide variety of the self-employed professionals concerned, it would be appropriate to involve the professional bodies to which debtors belong to oversee proceedings, similar to the current insolvency proceedings applicable to lawyers who are represented by their bar associations. This enlargement of powers would bring French commercial courts closer to the Belgian Courts.

Finally, the Parliament (at the request of the commercial judges) rejected the inclusion of professional judges within the new jurisdiction. This proposal, put forward by the Ministry of Justice, would have provided the additional guarantee of an equal and effective application of the law, as is currently the case today in Belgium, in Eastern France and in French overseas departments.

The assessment at the end of the trial period, nonetheless, is expected to reveal how the new court allows for an effective contribution to addressing issues of business indebtedness. ■

Footnotes:

- ¹ Law No. 2023-1059 of 20 November 2023, implemented by Decree No. 2024-674 of 3 July 2024.



JEAN-LUC VALLENS
Former Judge, Court of
appeal of Colmar

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