

NEW CODE OF CIVIL PROCEDURE

• TITLE III. JURISDICTION	1
• CHAPTER I. SPECIFIC JURISDICTION	1
• CHAPTER II. TERRITORIAL JURISDICTION	2
• CHAPTER III. COMMON PROVISIONS	4
• TITLE XV. THE EXECUTION OF JUDGMENT	5
• CHAPTER I GENERAL CONDITIONS FOR ENFORCEMENT	5
• CHAPTER II THE PERIOD OF GRACE	6
• CHAPTER III PROVISIONAL ENFORCEMENT	7

15 sept 2003

TITLE III JURISDICTION, TITLE XV THE EXECUTION OF JUDGMENT

TITLE III. JURISDICTION ➡

CHAPTER I. SPECIFIC JURISDICTION ➡

Article 33

The jurisdiction of a court that it shall entertain in relation to a subject-matter shall be determined by the rules relating to judicial organisation and by way of specific provisions.

Article 34

Jurisdiction to be entertained in relation to an amount of a claim or in relation to a jurisdictional value-limit under which no appeal shall lie shall be determined by rules specific to each court and by the provisions as hereinafter.

Article 35

Where several claims relying on different facts and which are not connected with one another are made by a claimant against the same opponent and joined in the same proceedings, the relevant jurisdiction and the jurisdictional value-limit shall be determined by the nature and the value of each claim considered separately.

Where the claims which are consolidated draw on the same facts or are connected therewith, the relevant jurisdiction and jurisdictional value-limit shall be determined by the aggregate value of the claims.

Article 36

Where claims are brought in one single proceedings pursuant to a common action on behalf of several claimants or against several defendants, the jurisdiction and the jurisdictional value-limit shall be determined in relation to all the claims by virtue of that one claim which shall carry the highest claim-value.

Article 37

Where the jurisdiction of a court shall depend on the amount of a claim, the court shall entertain all interventions and counterclaims and set-offs which are lower to its jurisdictional value-limit even where, joined to the claims of the claimant, they shall exceed the said value-limit.

Article 38

Where the incidental claim shall exceed the jurisdictional value-limit a court, a judge of the same, where a party shall allege a lack of jurisdiction, may either rule upon the original claim or may remit the parties to litigate in relation to the totality of the matter before the competent court which may have cognisance of the incidental claim. Notwithstanding the above, where a counterclaim for damages and interest is based exclusively on the original claim, the judge shall be competent to entertain the matter irrespective of the value of the claim.

Article 39

Subject to the provisions of Article 35, no appeal shall lie against the judgment where none of the incidental claims shall exceed the jurisdictional value-limit of the last resort.

Where one of them shall exceed such limit, the judge shall rule as a tribunal of first resort in relation to all the claims. He shall rule upon as of last resort where the claim which shall exceed the jurisdictional value-limit is further to a counterclaim for damages and interests based exclusively on the original claim.

Article 40

An appeal shall lie against the judgment which has ruled upon an unspecified claim save where there are contrary provisions to the same.

Article 41

Once a dispute has arisen, the parties may nevertheless agree to submit their dispute before a court which otherwise would have lacked jurisdiction with reference to amount the of the claim.

Further, they may, under the same condition and for matters which vest upon them an unfettered right, agree by virtue of an express agreement that their dispute shall be justiciable without a right of appeal even where the amount of the claim shall exceed the jurisdictional value-limit of the last resort.

CHAPTER II. TERRITORIAL JURISDICTION ➡

Article 42

(Decree No.81-500 of 12 May 1981, sec.7, Official Journal of 14 May 1981, amendment JORF of 21 May 1981)

The court territorially competent shall be, save where contrary provisions shall apply, the one for the situs where the defendant has established his dwelling.

Where there are several defendants, the claimant shall seise, at his choice, the court of the situs where one of them has established his dwelling.

Where the defendant has no known domicile or known residence, the claimant may seise the court of the situs where he has established his dwelling or anyone of his choice where he has established his dwelling in a foreign country.

Article 43

Where the defendant has established his dwelling shall mean:

- in relation to a natural person, the situs where he has his domicile or, in default thereof, his residence,
- in relation to a corporate entity, the situs where it is established.

Article 44

In real actions relating to immovables, the court in whose province it is situated shall be the only competent court.

Article 45

Matters involving succession shall be brought before the court in whose province the succession originated and was effectuated to the time of the apportionment where they relate to:

- claims among heirs;
- claims brought by creditors of the decedent;
- claims regarding the implementation of disposition taking effect causa mortis.

Article 46

(Decree No.81-500 of 12 May 1981, sec.7, Official Journal of 14 May 1981, amendment JORF of 21 May 1981)

The claimant may seise at his choice, in addition to the court in whose province the defendant has established his dwelling;

- in contractual matters, the court in whose province actual delivery of the personalty or in whose province the performance of the agreed service has been contemplated;
- in delictual matters, the court in whose province the wrongful act was occasioned or the one in whose province the damage was suffered;
- in mixed matters, the court in whose province the immovable is situated;
-

in matters of spousal maintenance or contribution to the expenses of marriage, the court in whose province the creditor has established his dwelling.

Article 47

Where a judge or an auxiliary of justice is a party to a litigation within the jurisdiction of the court in the province of which the latter sits in office, the claimant may seise a court sitting in an adjacent province.

The defendant and all parties to an appeal may likewise ask to remit the matter before a court referred to under the same conditions; matter shall be proceeded with as provided under Article 97.

Article 48

Any clause which, directly or indirectly, shall depart from the rules of territorial jurisdiction shall be deemed non existent save where it has been agreed between parties to a contract entered into in the capacity of tradesmen and that the same has been provided for in an explicit manner in the undertakings of the party against whom it shall be enforced.

CHAPTER III. COMMON PROVISIONS ➡

Article 49

A court seised of a claim in relation to which it shall entertain jurisdiction, shall have cognisance of all the grounds adduced in defence, even where they shall require an interpretation of a contract, save where they shall raise issues which shall come under the exclusive jurisdiction of an another court.

Article 50

Preliminary issues of proceedings shall be ruled upon by the court before which the proceedings to which they relate shall be carried out.

Article 51

The tribunal de grande instance shall entertain jurisdiction in relation to all incidental claims which shall not come under the exclusive jurisdiction of an another court.

Other courts shall entertain jurisdiction in relation to preliminary issues only where they are jurisdictive over the same.

Article 52

(Decree No. 78-62 of 20 January 1978, sec.15 Official Journal of 24 January 1978)

(Decree No.81-500 of 12 May 1981, sec.9, Official Journal of 14 May 1981)

Claims in relation to costs, emoluments and disbursements which are incidental to a proceeding, and which have been outlayed before a court by the auxiliaries of justice, public officers or officiers ministériels shall be brought before such court.

Claims regarding costs, emoluments and disbursements which have not been outlaid before a court shall be brought before the Tribunal d'instance or the Tribunal de grande instance, according to the amount of the same, in the province where the public officer or the officier ministériel or the auxiliary of justice carries out his business.

TITLE XV. THE EXECUTION OF JUDGMENT ➡

Article 500

Shall become res judicata the judgment which is not subject to any review staying its execution.

The judgment which is subject to such a review shall have the same authority on the expiration of the time-limit for such a review where the same has not been made within the time-limit.

Article 501

The judgment shall be enforced, under the following conditions, as from the moment it becomes res judicata, save where the debtor enjoys the benefit of a period of grace or the creditor enjoys the benefit of a provisional enforcement.

CHAPTER I GENERAL CONDITIONS FOR ENFORCEMENT ➡

Article 502

A judgment or an instrument may be enforced only on the production of a certified copy imprinted with a certificate of enforcement, save where the law provides otherwise.

Article 503

Judgments may not be executed against the parties standing liable thereto unless they have been notified, save where the enforcement is voluntary.

In the event of an execution on the mere production of the original, the said production shall amount to a notification.

Article 504

(Decree No. 81-500 of 12 May 1981, sec.19, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

The proof of its enforceable nature shall appear on the judgment itself where the same is not subject to a review capable of staying its execution or where it enjoys the benefit of provisional enforcement.

Otherwise, such proof shall result:

either from the acquiescence by the unsuccessful party;

or, from the notification of the decision and of a certificate establishing, in conjunction with the notice, the absence, within a time-limit, of an application to set aside, of an appeal or of a petition in cassation where the petition shall carry a stay of execution.

Article 505

Each party may cause to be issued by the clerk of the court before which the review may be brought a certificate attesting the absence of an application to set aside, an appeal or of a petition in cassation or indicating the date of the review where one has been lodged.

Article 506

The removal, variation of undertakings, marginal notes, transcriptions or publications, which shall have to be performed in pursuance of a judgment shall be validly carried out upon the production by any interested party of a duplicate or certified copy of the judgment or of an abstract thereof and, where it is not provisionally enforceable, of proof of its enforceable nature. The proof may result from a certificate drafted by an avocat or an avoué.

Article 507

The delivery of the judgment or the instrument to a huissier de justice shall amount to an authority to execute, where executions of judgment does not require specific authority.

Article 508

No execution may be carried out before 6 a.m. or after 9 p.m. nor on public holidays and non working days except by permission of the judge in case of necessity.

Article 509

Judgments delivered by foreign courts and instruments received by foreign officers shall be enforced in the territory of the Republic in the manner and under the circumstances specified by law.

CHAPTER II THE PERIOD OF GRACE ➡

Article 510

(Decree No. 96-1130 of 18 December 1996, sec.1, Official Journal of 26 December 1996)

Subject to the sub-articles as hereinafter, the period of grace may only be granted by the decisions whose execution it is intended to delay.

In urgent cases, the same power shall belong to the summary interlocutory procedure judge.

Following the signification of an order or of an instrument authorising distraint, as the case may be, the execution judge shall entertain jurisdiction to grant a period of grace. Such power shall be exercised by the tribunal d'instance in matters of attachment of earnings.

The grant of the period shall be reasoned.

Article 511

The period shall run as from the day of the judgment where it is litigated; in other cases, it shall run only from the notification of the judgment.

Article 512

A period of grace may not be granted to a debtor whose property is seized by other creditors nor to the one who is under administrative receivership or liquidation of properties or who has, by his act, reduced the securities which he has provided in his agreements his creditors.

In such cases, the debtor shall lose the benefit of the period of grace previously obtained.

Article 513

The period of grace shall not prevent the enforcement of protective measures.

CHAPTER III PROVISIONAL ENFORCEMENT ➡

Article 514

(Decree No. 81-500 of 12 May 1981, sec.20, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

Provisional enforcement may not be implemented without having been ordered except for decision in relation to which it may be exercised as of right.

Shall in particular be enforceable provisionally as of right, summary interlocutory procedure orders, decisions containing provisional orders governing the course of a proceeding, orders providing for protective measures as well directions of the pre-trial judge granting an interim payment to a creditor.

Article 515

In addition to cases where it is as of right, provisional enforcement may be ordered at the request of the parties or ex proprio motu each time the judge shall deem it proper and compatible with the nature of the matter, provided that it is not prohibited by law.

It may be ordered for all or part of the judgment. In no case may it be ordered in relation to taxable charges.

Article 516

Provisional enforcement may be ordered only in relation to decisions to be made enforceable subject to provisions of Article 525 and 526.

Article 517

Provisional enforcement may be made subject to the providing of undertakings relating real or personal property sufficient to cover restitutions and damages.

Article 518

The nature, extent and conditions of the undertakings shall be specified in the decision which prescribes that they be provided.

Article 519

(Decree No. 76-714 of 29 July 1976, sec. 2, Official Journal of 30 July 1976)

Where the undertakings shall consist in a sum of money, the same shall be deposited at the Deposits and Consignation Office; it may be deposited also at the request of one of the parties in the hands of a third party appointed for that purpose.

In the latter case, the judge, where he accedes to the request, shall state in his decision the conditions of such deposit.

Where the third party refuses to accept such a deposit, the sum shall be deposited, without any fresh decision to that effect, at the Deposits and Consignation Office.

Article 520

Where the value of the security may not be immediately determined, the judge shall invite the parties to appear before him with their evidence at a date which he shall specify.

It shall be determined without any right of review.

A note of the decision shall be made on the original and on the certified copies of the judgment.

Article 521

(Decree No. 81-500 of 12 May 1981, sec.21, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

(Decree No. 84-618 of 13 July 1984, sec.3 and 31, Official Journal of 18 July 1984 amendment JORF of 18 August 1984)

The party ordered to pay a sum other than in view of maintenance, compensatory annuities or interim payment may avoid provisional execution by depositing, on leave granted to that effect by the judge, cash or title of sufficient value to provide a security for the amount of the award with respect to the principal claim, interest and costs.

In the event of a judgment ordering the payment of a lump sum as indemnity in cases of personal injury, the judge may also order that it be remitted to a sequester under the condition that he shall pay to the victim such instalments as the judge shall specify.

Article 522

The judge may, at any time, authorise the substitution of the original security for one of an equal value.

Article 523

(Decree No. 76-1236 of 28 December 1976, sec.8, Official Journal of 30 December 1976)

Requests relating to the application of Articles 517 to 522 may only be brought in cases of appeal before the first president who shall rule upon it by way of summary interlocutory procedure or, in the circumstances provided under Articles 525 to 526, before an appeal judge entrusted with the management of the case as soon as he is seised.

Article 524

(Decree No. 76-1236 of 28 December 1976, sec.9-i and 9-ii, Official Journal of 30 December 1976)

(Decree No. 81-500 of 12 May 1981, sec.22, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

Where provisional execution has been ordered, it may be stopped, in cases of appeal, only by the first president who shall rule upon it by way of summary interlocutory procedure and in the following cases:

1. Where it is forbidden by law;
2. Where it is likely to lead to consequences which are clearly excessive; in the latter case, the first president may also provide for the measures referred to under Articles 517 to 522.

The same powers may be exercised, on an application to set aside, by the judge who has delivered the *ad quo* decision.

Where provisional execution is as of right, the first president may provide for all measures specified in the second sub-article of Article 521 and Article 522.

Article 525

(Decree No. 81-500 of 12 May 1981, sec.23, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

Where provisional execution has been refused, it may be requested, in cases of appeal, only before the first president who shall rule upon it as by way of summary interlocutory procedure or, ever since he is seised, the judge entrusted with the management of the case and provided it is urgent.

Article 526

(Decree No. 81-500 of 12 May 1981, sec.24, Official Journal of 14 May 1981 amendment JORF of 21 May 1981)

Where provisional execution has not been requested, or, where a judge has failed to rule upon it, the same may be requested, in cases of appeal, only before the first president ruling upon it as by way of summary interlocutory procedure or, ever since he is seised, the judge entrusted with the management of the case.