

SCHOUPS

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A last portion of Potpourri

In the meantime, the “Potpourri law” concept is well-established. Since 2015, no fewer than five Potpourri laws have been adopted containing a whole series of reforms relating to civil and criminal procedure law, as well as to the organisational aspects of the justice system. Those reforms primarily strive for “quick wins”, while awaiting more radical reforms later.

On 6 July 2017, the Parliament adopted the fifth (and provisionally last) Potpourri Law. This one too simplifies, clarifies or harmonises a large number of procedures, with the goal of improving the functioning of the justice system and reducing the workload of the courts of first instance and the courts of appeal. It also initiated the further modernisation and computerisation of the justice system.

This law was published in the Belgian Official Gazette on 24 July 2017 and most of its provisions entered into effect on 3 August 2017.

Here are the most important changes in a nutshell:

the laws on notaryship are simplified and modernised. For example: in the future, the declaration of refusal/acceptance of an inheritance under the benefit of inventory can simply be made in the notary public’s office - no more need to go to the court clerk for this. These declarations will be kept in a central succession law register. The possibility is also provided for having deeds executed by video conference, which will save the parties a great deal of time.

a number of changes are also being made with regard to civil procedure, including in the area of the exclusion of trial briefs.

A number of changes seek to clarify changes that were introduced in the first Potpourri Law and which then provoked controversy. For example, the legislator clarified that the judge who orders an investigative measure only has to rule on the admissibility of the claim if there is dispute about this.

One very radical change concerns the limitation of the possibility to object to a judgement by default. Henceforth, objection will only still be possible against judgements by default that have been pronounced at last instance. By contrast, no objection can be filed any longer against a judgement by default against which an appeal is still possible. This change has already generated a great deal of criticism, because this could impair the rights of defence.

the new law also contains a number of changes concerning the judicial organisation. For example, it will be possible to connect one single clerk’s office with several justice of the peace and police courts, which should help reduce operating costs.

finally, the fifth Potpourri Law also contains a number of changes for the criminal law and the criminal procedure law. Directive 2013/40/EU on cybercrime is e.g. further transposed into Belgian law, and the punishment for violating the duty of professional confidentiality is significantly increased.

With the adoption of the fifth Potpourri law, the Potpourri saga has now come to end - at least for the time being.

As mentioned, however, the reform of the justice system is still far from being completed. Quite the contrary: Minister Geens’ “jump” is rapidly approaching. We’ll keep you informed.

For more information on this topic, you can always contact Joost Bats and Geert De Buyzer (the authors).

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