This chapter discusses contemporary tendencies in French civil procedure. These tendencies are situated within the context of the modern history of civil procedure, blending the liberal tradition and the social function of procedure, and they are viewed from the perspective of a plural system of justice destined to respond to the democratic needs of a complex society. It is this new procedural culture that exhibits the triple tendencies of dejudicialisation of cases, rationalization of procedure and reorganization of proceedings. At the same time, computerization increases the necessity of cooperation between the courts and the parties, whilst judicial and procedural case management are also increasingly becoming subject to agreement, something which one may refer to as contractualization, which is an important tool for cooperation.

Keywords: Computerization, Cooperation, Dejudicialisation, Rationalization, Reorganization

At the beginning of the nineteenth century, the accusatorial conception of civil procedure, established in the Napoleonic Code of Civil Procedure of 1806, was in accordance with the liberal and individualistic philosophy of the 1804 Civil Code. At the end of the nineteenth century, the most famous French book on civil law, known as the *Traité de droit civil* by Aubry and Rau,¹ distinguished between ‘theoretical civil law’ (*droit civil théorique*) and ‘practical civil law’ (*droit civil pratique*), the latter dealing with actions, proof, *res iudicata* and prescription, i.e. civil procedure. Today, it is not possible to define civil procedure as a ‘practical’ subject anymore, since it

---

deals with fundamental rights and due process. But it remains clear that there is no effective civil law without efficient procedural law. The right to an effective judgment is part of the right to a fair trial. With these conditions, it is not surprising that the concept of civil procedure has changed as well as the philosophy of the Civil Code since the Napoleonic codification.

Five years ago at the end of 2006, France commemorated the 200th anniversary of the Code of Civil Procedure of 1806, called the ‘Old Code of Civil Procedure’ (ancien Code de procédure civile), and the 30th anniversary of the Code of Civil Procedure of 1975, known as the ‘New Code of Civil Procedure’ (nouveau Code de procédure civile). Provisions of the 1806 Code stayed in force notably for what concerned aspects of judicial responsibility and the seizure of real estate. This is no longer the case. On 20 December 2007, the 1806 Code was repealed so that the 1975 Code became the only civil procedural code. The Code of Civil Procedure (CPC)—which authorizes the taking into account of past evolutions, evolutions in progress and evolutions to come—has thus reached the age of maturity because, in contrast to the Napoleonic codification of the nineteenth century, the law is subject to regular changes. In fact, since its promulgation in 1975, the Code of Civil Procedure has been the subject of forty modifying decrees (décrets), of more or less importance, with the most recent period having been marked by five particularly notable decrees promulgated in 1998.

---

4 Loi (L.) n° 2007-1787 of 20 December 2007 relative à la simplification du droit, Journal officiel de la République française, 21 December 2007, 20639. In all the statutory provisions in force, the words ‘new code of civil procedure’ are replaced by the words ‘code of civil procedure’: Art. 22, Décret (D.) n° 2008-484 of 22 May 2008.