
CREATION OF THE INTERNATIONAL CHAMBER OF THE PARIS COURT OF APPEALS: A SOURCE OF NEW CHALLENGES FOR PARIS

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On February 7, 2018, the Paris Bar signed two agreements on the procedural rules of the international chambers of the Paris Commercial Court and the Paris Court of Appeals.

Through these agreements, Paris wishes to reinforce its position on the international stage.

On February 7, 2018, two agreements on the procedural rules of the international chambers of the Paris Commercial Court and the Paris Court of Appeals were signed in the presence of the Minister of Justice, Nicole Belloubet, of the head of the Paris Bar, Marie-Aimée Peyron, and of the presiding judges of the Courts.

These agreements specify the conditions under which the International Chamber of the Paris Commercial Court, established in 1995, and the newly created International Chamber of the Paris Court of Appeals ("CICAP"), will examine and rule on the cases brought before them.

The agreements apply to all proceedings initiated as of March 1, 2018.

The objective: to reinforce the appeal of Paris as a venue on the international stage

The creation of the CICAP and the innovations introduced by the agreements are designed to make the French Courts more attractive in the context of Brexit.

Indeed, while the London Courts currently deal with 10,000 cases of international economic disputes each year, failing a new agreement with the European Union after Brexit, London will lose a major asset: the recognition of its decisions within the European Union.

After Brexit, the enforcement of such decisions in the territory of the European Union will be subject to a foreign judgment enforcement order. This will inevitably delay the outcome of legal proceedings and represent a substantial drawback for the parties.

Paris thus views this circumstance as an opportunity to "*meet the needs of economic operators wishing to have access to an advantageous legal system*".¹

Paris is already positioned as an international center for dispute resolution, as evidenced by the presence of major arbitration organizations and the existence of Courts that promote alternative dispute resolution methods.

The creation of the CICAP reinforces Paris's place on the international stage and will hopefully attract a significant portion of international business operators.

Jurisdiction to rule on international economic and commercial disputes

The role of the International Chamber of the Paris Commercial Court and of the CICAP is to hear international economic and commercial disputes.

This includes disputes relating to commercial contracts and termination of commercial relations, transport, unfair competition, compensation claims for anticompetitive practices, as well as transactions on financial instruments and products.

The CICAP may also have jurisdiction through a contractual provision granting jurisdiction to the Courts coming under the Paris Court of Appeals.

Lastly, and generally speaking, the agreement relating to the procedural rules before the CICAP specifies that this Chamber shall be called upon to hear "*appeals filed against decisions rendered in international economic and commercial disputes* [decisions rendered in the first instance by the International Chamber of the Paris Commercial Court] *and appeals against decisions ordered in international arbitration matters.*"

The use of the English language

The main innovation introduced by the agreements is the authorization to use the English language in Court.

To do so, it was necessary to ensure compliance with the requirements of the Ordinance of Villers-Cotterêts (1539) as well as with article 2 of the Constitution of

¹ Agreement relating to the procedural rules of the International Chamber of the Paris Court of Appeals - February 7, 2018

October 4, 1958, which provides that French is the language of the Republic.

Thus, although French will remain the language for procedural documents, it will be possible to submit exhibits in English without a translation. This eliminates a substantial burden for the parties as they have so far been required to provide certified translations of all evidence.

Moreover, although in principle the proceedings will be held in French, the parties, counsels, witnesses, technicians and experts will be able to make their statements in English and, if need be, the Court shall arrange for simultaneous translation at the parties' expense.

The decisions shall be drawn up in French, with a certified English translation, under the responsibility of the Office of the Court Clerk.

Lastly, the agreements invite the parties to request the application of article 435 of the French Civil Procedure Code, which authorizes holding the oral pleadings in a sealed courtroom.

In such a case where the hearing is not held before a public audience, the presence of an interpreter is not required for the understanding of all, so that the related translation costs may be saved.

French judges now face a new challenge with the creation of the CICAP and the use of the English language.

Indeed, the CICAP judges will have to master English in order to hold hearings in this language and, in case of disputes subject to Common Law rules, they will be required to have a grasp of the legal subtleties of this law.

In fact, this is why the *Chancellerie* is seeking three judges having a strong command of legal English as reinforcements for the judges who currently form the civil economic chamber of the Paris Court of Appeals.

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For its part, the International Chamber of the Paris Commercial Court is already formed of English-speaking judges knowledgeable in matters of international law and Common Law.

More flexible procedural rules including the use of cross-examination

The procedural rules before these international chambers have been made more flexible by allowing the parties to become involved in the organization and management of the proceedings.

Indeed, the parties and judges will have to meet several times and set the procedural calendar together, in a departure from articles 909 and 910 of the French Civil Procedure Code.

This could lead to shorter proceedings through the setting of imperative calendars.

Moreover, testimonial evidence will play an important part, as the parties can tell the judge which witnesses or experts they wish to hear and question.

Lastly, the proceedings will somewhat resemble the Anglo-Saxon and arbitral system of cross-examination as the judges will be able to direct questions to the parties, witnesses, technicians and experts, and invite them to reply to questions from the parties.

Conclusions

It is to be hoped that the creation of the CICAP and the innovations introduced by the agreements of February 7, 2018, will enable France to draw a large number of economic litigation cases of international scope.

The success of these chambers will then rest on two factors: on the one hand, the judges' ability to hold the hearings and, on the other, the lawyers' ability to include jurisdiction clauses in favor of the Paris Courts in both existing and future contracts...