

Paris, International Commercial Court

In the context of globalization, all parties implicated in international trade have turned toward jurisdictions that offer knowledge of the business world and the guarantee of a trustworthy, efficient and competent judge. Paris is one of these places, which is why the Paris commercial court has had an international trade chamber since 1995.

London, on the other hand, had benefitted from both the prominence of English as the lingua franca of international commerce and the conjunction of its leading position as a financial marketplace with its adherence to the EU, to broaden its jurisdiction. It is also important to recognize how early on the British became aware of the economic importance and the influence that come hand in hand with having a chamber specialized in dispute resolution.

Brexit challenges the legal context surrounding London's position and underlines why a place like Paris is so appealing. The system of judicial cooperation currently applicable within countries of the EU will soon cease between the UK and all other countries in the Union as soon as Brexit goes official on the theoretical date of the 29th of March 2019.

While the UK's place within the EU guaranteed judicial security and predictability, as being in the EU means access to a competent litigation system and the recognition and enforcement of all legal decisions throughout the entire European territory, the UK will now be left out of these agreements. For all parties involved in legal conflict, this means that ensuring jurisdictional competence and enforcing legal decisions in their country will be more difficult and complicated.

This economic situation arises at a time when French politicians, after the professionals and educational

institutions, have realized the existence of a global market for legal services. France must retain its influence within this market. Since its creation, Paris Place de Droit approves of this affirmation.

In this context, the Haut Comité Juridique de la Place financière de Paris (the High Legal Committee of the Paris financial market or hereinafter the HCJP), entrusted by the minister of justice, compiled two very telling reports.

In the report dated the 30th of January 2017, the HCJP asks itself the question of what must be done to increase the attractiveness of the legal climate of Paris. In the report from the 3rd of May 2017, written under the guidance of Guy Canivet, former president of the French Supreme Court and of the French Constitutional Court, the HCJP encourages an in-depth analysis of the ways to equip French courts with the skills and means necessary to respond to the needs of economic actors in the midst of international trade litigation. The HCJP called for law reform that would allow the use of English during the proceedings as well as the integration of mechanisms more closely resembling common law in matters of evidence (such as witness hearings), and lastly that would implement courts specializing in international litigation.

The think tank assembling the key players in Paris's legal community, Paris Place de Droit, wished to spur both debate and reflection on this report during a conference on the 13th of December 2017, held at the first chamber of the Parisian Court of Appeal.

During this event, economists (Jean-Hervé Lorenzi and Bruno Deffains) emphasized the economic impact of the legal market (including influence) and of dispute resolution. Legal directors and international groups (Jean-Francois Guillemain

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for Bouygues, Aurélien Hamelle for Total, Nicolas Brooke for Société Générale), gave their point of view as consumers of the trial in front of judges (Jean Messinesi, president of the Paris commercial court), magistrates (Chantal Arens, first President of the Paris Court of Appeal), and lawyers (Marie-Aimée Peyron, Chairman of the Paris Bar). Nicole Belloubet, “Garde des Sceaux”, minister of justice, attended the conference and announced the creation of an international chamber within the Paris Court of Appeal in 2018 (Juridiction Commerciale Internationale de Paris, JCI or International Business Court). A few weeks later, on the 7th of February 2018, she followed up by presiding over the signature of agreements between the Paris Bar, the Court of Appeal and the commercial court of Paris. This allows the International Business Court to function properly.

Paris thus offers a two-stage court procedure.

With the creation of the JCI, Paris identifies the challenges that it faced as a dispute resolution forum:

LANGUAGE

Using a different language is no longer an obstacle. The proceedings now accept the use of English both during written and oral phases of the proceedings. Evidence in English can be admitted into the hearings without translation. Both parties involved in the written and oral phases of the proceedings, their respective counsel, the witnesses and the occasional experts are all permitted to speak in English. The court’s decisions will be written in French and will systematically come with a sworn translation in English.

EVIDENCE

The absence of witness, expert, plaintiff and defendant interviews before the French commercial courts was rightly esteemed a handicap to French trade proceedings in comparison to Anglo-Saxon procedures and to arbitration.

Each procedural tool existed in our code. We only needed to remember these tools and to encourage their use. From now on, it will be possible for one party to be heard and

questioned by a judge and for the opposing counsel to examine the party. Furthermore, the party will be able to call witnesses based on a simpler formalism than the one in article 202, since now the written declaration of the witness will no longer need to be hand-written. The judge and the opposing party can cross-examine the witness on that basis. The same system is applicable to expert witnesses.

SPECIALIZED JUDGES

The JCI will benefit from the existing experience of the International chamber of Paris Commercial Court. The installation of a chamber in the Court of Appeal will allow the JCI to offer a two-stage judicial system benefitting from:

- In the first instance, the knowledge of business life of the judges, which is specific to French economic actors to have their case treated in English by a judge who understands the ins and outs of the business world.
- At the appellate level, the specialized chamber composed of experienced anglophone magistrates highly competent in private international law and able to apply foreign law.

For a long time, Paris has had the best assets to become one of the very first hubs for dispute resolution in the world; a community of lawyers emerging from multiple centuries of educational excellence and of extensive legal practice in business litigation at the heart of one of the main economic metropolises in the world. Paris adheres to the EU, which allows Paris to benefit from the treaties put in place within the European community while its position as the birth place of civil law offers a legal culture which most closely resembles the culture of a large part of the planet.

Paris lacked both the ability to adapt to the generalization of the English language as the language of business as well as the use of adapted rules of evidence.

Given the challenges and benefits of international commerce, the International Commercial Court of Paris should establish itself as one of the leading places in the litigation world.

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