

ARTICLE

THE INTERNATIONAL CHAMBER OF THE PARIS COURT OF APPEAL WILL BECOME OPERATIONAL ON MARCH 1ST, 2018

Litigation - Arbitration - White Collar Crime | 01/03/18 | Marie Danis Marie Valentini



On February 7th, 2018, the protocols establishing the International Chamber of the Court of Appeal of Paris ("CICAP" in French) were signed in the presence of the Minister of Justice Nicole Belloubet, the President of the Paris Bar Marie-Aimée Peyron, and Chantal Arens and Jean Messinesi, presidents of the Court of Appeal and the Commercial Court of Paris.

The competence to judge international disputes

CICAP has jurisdiction to hear appeals from decisions in international commercial and financial disputes. In particular, it can decide appeals from judgments pronounced in first degree by the international chamber of the Commercial Court of Paris. This first degree of jurisdiction, in place for almost ten years and aligned with CICAP, is working well.

A hybrid procedure, inspired by certain common law mechanisms

The procedure before CICAP is designed to introduce the use of the English language while following the requirements of the 1539 Edict of Villers-Cotterêts which mandates the use of the French language in courtrooms. Though pleadings and judgments will be drafted in French, English-language exhibits may be produced in court without translation and the Registry will be responsible for translating judgments.

In addition, though hearings will as a general rule be held in French, simultaneous interpretation by an interpreter appointed by the court may be organized. Parties appearing before the judge, witnesses and technical specialists, including experts, who are foreigners, may speak in English if they wish. Simultaneous translation into French will also be provided to respect the public nature of hearings.

Moreover, the protocols welcome the use of §435 of the Code of Civil Procedure by the parties, which authorizes the holding of hearings in chambers. In such cases, translation solely motivated by the public nature of hearings can be avoided along with the related costs if the parties do not express the need for a translation; the judges are, in such cases, specially selected for their ability to understand and speak in English.

Beyond language, the proceedings before CICAP address some of the criticisms pointed out by common law lawyers. Unlike a common practice, the court will have to allow sufficient time for the parties to present the evidence and arguments they consider relevant in support of their case. In addition, the parties will have the opportunity to question the opposing party and witnesses and experts using the model of cross-examination.

Emphasis is also placed on the evidence and the speed of the proceedings. For example, by departure from §202 of the Code of Civil Procedure, third-party affidavits or statements may be typed (instead of being handwritten) if the parties waive claims to any defect of form in this respect. The pre-trial judge may also impose a mandatory procedural timetable including, in particular, the dates on which the parties must exchange their submissions other than those referred to in §909 and 910 of the Code of Civil Procedure; the dates on which any possible testimony of witnesses and experts will take place; the dates on which counsel will be heard in argument; and the date on which the judgment of the court on the merits will be pronounced.

These rules will apply to proceedings before the Court of Appeal from March 1st, 2018.

A desire to strengthen Paris as a destination for international dispute resolution

The creation of this new chamber aims to make French judicial forums more attractive to foreign parties. It has been spurred by Brexit, following which the UK courts will withdraw from the common European judicial area of mutual recognition of judgments.^[1]

The preference for London should at least partly be eroded in favor of another European forum which has yet to emerge.

Competition is under way and some countries like Germany, the Netherlands and Belgium have also recently created, or announced the creation of, international chambers.

Paris, on the other hand, already constitutes an international center for dispute resolution, as evidenced in particular by the presence of major arbitration institutions and the existence of a body of law and fora favorable to alternative methods of dispute resolution. The international litigation expertise of members of the Paris bar is also well-known.

The establishment of CICAP is another step forward towards strengthening Paris's central position and will undoubtedly attract more broadly those engaged in international trade who need their disputes resolved in an attractive, flexible and high-quality forum.

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