The domino effect of international commercial courts in Europe – Who's next?

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On February 7, 2018 the French Minister of Justice inaugurated the International Commercial Chamber within the Paris Court of Appeals following up on a 2017 report of the Legal High Committee for Financial Markets of Paris (*Haut Comité Juridique de la Place Financière de Paris* HCJP, see here). As the name suggests, this newly established division will handle disputes arising from international commercial contracts (see here). Looking backwards, the creation of the International Commercial Chamber does not come as a surprise. It offers litigants the option to lodge an appeal against decisions of the International Chamber of the Paris Commercial Court (see previous post) before a specialized division and thus complements this court on a second instance.

According to the press release, litigants will have the possibility to conduct proceedings not only in English, but also in other foreign languages. The parties can submit documents in a foreign language without official translation and hearings can be held in a foreign language as well. However, a simultaneous translation of the oral hearing will take place. In addition, the parties may submit their briefs in a foreign language accompanied by a French translation. Finally, the court will render its decisions in French accompanied by a translation in the relevant foreign language. Contrary to the respective German and Dutch legislative proposals, which allow for the conduct of proceedings, including the decisions of the court, entirely in English, the French initiative appears more modest setting multiple translation requirements.

However, France is one more domino piece affected by the civil justice system competition in the European Union. In light of Brexit, the list of European Union Member States opting for the creation of international commercial courts is growing. The legislative proposal for the establishment of Chambers for

International Commercial Disputes in Germany (*Kammern für Internationale Handelssachen*) was the first -though unsuccessful- attempt. Nevertheless, the recent 'Frankfurt Justice Initiative' came to revive the seemingly dormant German debate (see previous post). Not far away from Germany, the Netherlands is launching the Netherlands Commercial Court (NCC), which is expected to open its doors in the second half of 2018. Finally, in October 2017, the Belgian Minister of Justice announced the government's initiative to establish a specialized court in commercial matters, called the Brussels International Business Court (BIBC) (see previous post).

Competing Member States try to attract cross-border litigation, and thus increase the work of the local legal community and related services. As accepted in the press release of this latest French initiative, a good competitive court is a positive signal to foreign investors. It should be reminded that this is not the first time that competitive activities erupt. A few years ago, competing Member States were focused on publishing brochures to highlight the best qualities of their jurisdictions. This time, competitive activities seem to be more vigorous and seem to better address the needs of international litigants. Only time will show how dynamic competition will unfold, and who the winners will be.