

French Supreme Court upholds asymmetric jurisdiction clauses in *Lastre* follow-up



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On 17 September 2025, the French *Cour de cassation* handed down its decision on the *Lastre* case. This followed a landmark preliminary ruling of February 2025 from the CJEU, which laid out the conditions for a valid asymmetric jurisdiction clause under article 25 of the Brussels I recast regulation.

Asymmetric jurisdiction clauses allow one party to initiate proceedings in multiple courts or any competent court, while the other party has fewer options or is restricted to a specific jurisdiction. Such clauses are common in financial agreements (read more in our previous blog post [here](#)).

In the latest development of the *Lastre* case in France, the French Supreme Court opted for a pro-contractual autonomy stance, favouring the validity of asymmetric jurisdiction clauses.

Background to the decision

A French company had entered into a contract for the supply of cladding panels for a construction project with an Italian supplier. The supplier's general terms and conditions provided for the jurisdiction of the Italian court of Brescia but reserved its right to proceed against the buyer before "another competent court in Italy or abroad".

Following defects in the works in late 2019, proceedings were initiated before French courts against all contractors, including the Italian supplier. The latter challenged the jurisdiction of the French courts, relying on the above-mentioned

jurisdiction clause.

Consistent with previous precedents, the French First Instance Court and Court of Appeals dismissed the objection. These courts found that the clause granted the Italian supplier discretionary authority to select jurisdiction, rendering it invalid due to its failure to satisfy the foreseeability criterion outlined in article 25 of the Brussels I recast regulation.

The case was further appealed before the French Supreme Court, which referred preliminary questions to the CJEU. In its preliminary ruling, the CJEU clarified that the validity of asymmetric clauses was to be assessed using autonomous criteria derived from article 25 of the Regulation and set out the conditions for such clauses to be valid.

A pragmatic application of the CJEU's three-fold approach to "any other competent court" clauses

In last week's ruling, the French Supreme Court sought to follow the CJEU's three-fold approach in examining the validity of asymmetric clauses and recalled that such clause must (i) designate courts competent under the Brussels I recast regulation and/or the Lugano Convention; (ii) identify sufficiently precise objective criteria to allow the court seized to determine its competence; and (iii) not conflict with special or exclusive jurisdiction rules set out in the Brussels I recast regulation or the Lugano Convention.

The French Supreme Court then held that the CJEU leaves it to national courts to interpret asymmetric clauses which allow one party to initiate proceedings before "any other competent court", in accordance with the principles of party autonomy and practical effectiveness (*effet utile*).

On this basis, the French Supreme Court concluded that, in a case where the contractual relationship has no objective connecting factor with non-EU and non-Lugano States (*i.e.*, third-party states), the jurisdiction clause designating "any other competent court" must be interpreted as referring to competent courts under the general rules of jurisdiction laid out in the Brussels I recast Regulation and the Lugano Convention. The clause thus complied with the first condition set by the CJEU, even if it did not expressly refer to these two instruments.

Accordingly, the French Supreme Court overturned the Court of Appeals' decision

and upheld the validity of the asymmetric jurisdiction clause.

Practical implications for asymmetric jurisdiction clauses

What does this ruling imply for parties wishing to rely or already relying on asymmetric jurisdiction clauses, particularly in cross-border contracts within the EU?

A more favourable treatment of asymmetric clauses

The French Supreme Court's *Lastre* decision illustrates the Court's pro-contractual autonomy approach to jurisdiction clauses. This will reassure parties seeking flexibility in drafting these clauses, particularly in light of certain earlier decisions which adopted a more cautious approach towards one-sided jurisdiction clauses.

The French Supreme Court's contractual autonomy stance also appears in three decisions issued on the same day.

In one case, the Court followed its *Lastre* reasoning and upheld a bank's clause granting exclusive jurisdiction to Luxembourg courts, while allowing the bank to bring proceedings at the client's domicile or "other competent courts".

In two other cases, the Court found that the clauses which designated a specific EU court and provided an objective criterion for determining the alternative jurisdiction available to one of the parties were sufficiently precise. These criteria were the location of the guarantor's assets (case no. 23-18.785) and one of the parties' registered office or that of its branch (case no. 23-16.150). This is in line with previous decisions validating asymmetric clauses, such as, for instance, the *eBizcuss decision*, which rely on objective criteria and generally supports the enforceability of asymmetric clauses.

Limitations for clauses with links to third-party states

While the French Supreme Court's decision is a positive development for legal certainty and party autonomy, limitations and uncertainties remain.

First, the clause reviewed in the *Lastre* case conferred jurisdiction to the courts of a *Member State* (Brescia, in Italy), while reserving the possibility for one party to start proceedings before "any other competent courts". As a result, the French

Supreme Court did not address the validity of clauses that would also include the possibility for one party or both of them to start proceedings before one or several third-party state court(s), such as London or New York, a common feature in finance and banking contracts. The position on this remains uncertain.

Second, the ruling reinforces the material risk, stemming from the CJEU's *Lastre* decision, that a clause designating "any competent court" could be deemed invalid where the contract has significant objective connecting factors with third-party states.

Third, the French Supreme Court's interpretation is not binding on the courts of third-party states. However, in the scenario considered by the court (where there are no objective connecting factors to a third-party state), it is unlikely that a court in, for example, London or New York would accept jurisdiction. It would probably decline to hear the case under its own private international law rules.

Finally, this judgement does not guarantee a harmonised EU approach. It remains to be seen whether other Member State courts will adopt the same interpretation.