The European Arbitration Review

2021

France

The European Arbitration Review

2021

The European Arbitration Review, across 15 chapters, and 97 pages, is part invaluable retrospective and part primer on the characteristics of different seats, with a little crystal-ball gazing thrown in for good measure. All contributors are vetted for their standing and knowledge before being invited to take part.

Together, they capture and interpret the most substantial recent international arbitration events of the year just gone, with footnotes and statistics. This edition covers Austria, Finland, France, Italy, the Netherlands, Norway, Portugal, Russia, Spain, Sweden and Ukraine, and has overviews on econometrics; the direction of travel for construction disputes in Europe; and on the use (and non-use) of multiples for valuating things in investment treaty disputes, among other topics.

France

Jean-Georges Betto, **Alexandre Reynaud** and **Laura Canet**

Summary

IN SUMMARY

This chapter describes France's arbitration legal framework and shows the extent to which arbitration is developed and promoted in the country. France's attractive and pro-arbitration framework can be seen in all aspects and stages of arbitration, from the regime of the arbitration clause to the enforcement of the award. This chapter also aims at highlighting the recent development of arbitration principles and rules by French courts, such as the extension of the arbitration clause, the strict application of the principle of waiver, the arbitrator's duty of disclosure, and the possibility to recognise and enforce awards annulled at the seat.

DISCUSSION POINTS

- The broad application of the arbitration clause
- France's strict approach to the arbitrator's duty of disclosure
- The rigorous application of the principle of waiver
- The judges' application of the five grounds for setting aside an award
- Recognition and enforcement of foreign awards in France
- France as an attractive place for third-party arbitration funding

REFERENCED IN THIS ARTICLE

- Paris Court of Appeal, 16 January 2018, No. 15/21703
- French Court of Cassation, civ 1, 19 December 2018,
- *Technimont*, No. 16-18.349
- French Court of Cassation, 13 February 2019, No. 17-25.851
- Paris Court of Appeal, 28 May 2019, No. 16/11182
- French Court of Cassation, civ 1, 3 October 2019, No. 18/15.756
- Paris Court of Appeal, 7 January 2020, No. 19/07260
- Paris Court of Appeal, 25 February 2020, ***Dommo***, No. 19/15819
- Paris Court of Appeal, 3 March 2020, No. 18/05766.
- French Court of Cassation, civ 1, 30 September 2020, No. 18-19.241

INTRODUCTION

Paris has long been a key forum and remains a leading arbitration venue. In 2018, it was the second most preferred seat of arbitra- tion, mostly because of its general reputation and recognition as well as its legal infrastructure.[1] In 2019, it was the second most chosen seat after London for ICC arbitration, with 106 cases.[2] By choosing Paris as their arbitration seat, parties benefit from French arbitration law[3] and access to French courts, which for more than 50 years have adopted a pro-arbitration stance.

The 2011 reform of French arbitration law incorporates the case law resulting from hundreds of decisions handed down by the Paris Court of Appeal and the French Court of Cassation on international arbitration.

Paris also hosts highly regarded arbitral institutions, leading teams of arbitration lawyers and renowned legal academics. These professionals have a great knowledge of many different legal sys- tems, which permits Paris to host all kinds of arbitrations based on common law, civil law or any other legal tradition. French arbitrators have, however, developed their own tendencies when conducting arbitration proceedings. For example, they often conduct the discovery procedure in a very reasoned way, guided by the actor incumbit probatio principle.

Paris is one of the best-equipped cities in terms of infrastructures and has been the seat of the ICC Court of International Arbitration since 1923. It has many first-rate conference venues where hearings can be held, including a centre dedicated to arbitral hearings operated by the ICC.

France has a pro-arbitration legal framework. French courts apply the principle of 'competence-competence', which allows arbitral tribunals to rule on their own jurisdiction. The only exception to this principle, recently recognised by the French Court of Cassation on 30 September 2020, is in cases of an international contract in the presence of a consumer. The Court of Cassation stated that the Court of Appeal had 'fulfilled its role as a state judge whose duty is to ensure the full effectiveness of European consumer protection law' by setting aside the arbitration clause due to its unfair nature.[4] The French domestic courts therefore rarely intervene in disputes where an arbitration clause may apply, except for this recent case. French courts also recognise the 'negative effect' of 'competence-competence', which places domestic courts under an obligation to decline their jurisdiction if the dispute brought to their attention is likely to fall within the scope of an arbitration clause. The one exception is when the arbitration clause is manifestly void and inapplicable,[5] that is when it either (i) does not exist; or (ii) is invoked against a third party to which it manifestly cannot be extended.[6] The courts' control is very limited. Another example is the recognition by French courts of the validity of option clauses and unilateral option clauses for the resolution of disputes.[7] Therefore, French domestic courts rarely intervene in disputes where an arbitration clause may apply. This pro-arbitration legal framework can be seen in all aspects of arbitration in France, from the regime of the arbitration clause, the arbitral tribunal, the arbitral procedure, the arbitral award formalities, to the annulment, recognition or enforcement of the award. France has also become more and more attractive for third-party funding.

THE ARBITRATION CLAUSE

The Principle Of Privity

In accordance with its contractual nature, the arbitration agree- ment is binding on the parties pursuant to the substantive French principle of ***force obligatoire***.[8] The arbitration clause is strictly enforceable between the parties who consented to it. While, in principle, this means that the arbitration agreement is not enforceable against third parties who have not consented to arbitration.[9] However, French judges have found many ways to extend arbitration clauses to non-signatories or to related contracts, as discussed below. In the case of a breach of contract, a third party may bring a tort action based on the breach that has caused him or her damage, as ruled by the French Court of Cassation in the*Myr'ho* case dated 6 October 2006,[10] without, however, being bound by the terms of the contract.

Scholars, applying such reasoning to arbitration, criticised this decision. In the case of a contract containing an arbitration clause, the claimant could bring a tort action based on a breach of the contract, without being bound by its arbitration clause.[11] This case law has, however, been recently confirmed in another decision dated 13 January 2020.[12]

THE EXTENSION OF THE ARBITRATION CLAUSE

Since the end of the 1980s, the Paris Court of Appeal has repeatedly held that an arbitration clause inserted in an international contract has a specific nature, which requires its application to be extended to the parties directly involved in the performance of the contract and in the disputes that may arise therefrom,[13] although they were not signatories thereto. Whenever a third party is involved in the performance of a contract, it must be considered as bound by the arbitration agreement contained therein, the French Court of Cassation specifying that the involvement must be 'direct'.[14]

The extension of the arbitration clause is particularly common in the presence of groups of companies as in the ***Dow Chemical*** decision. By analysing the involvement of the non-signatory company to the arbitration agreement in the negotiation, conclusion, performance or termination of the contract, the Court can decide whether or not to extend the arbitration clause to this company.[15]

The extension of the arbitration clause is also possible in situations of groups of contracts, when a contract containing an arbitration clause is related closely enough to another contract exempt from any dispute resolution clause. French law allows the 'extension of an arbitration agreement to a dispute arising from a group of contracts if there are sufficient economic links between the various agreements and also if the aspects of the dispute are "inseparable"'.[16]

THE ARBITRAL TRIBUNAL

The Arbitrator's Mission

It is well established that the arbitrator has wide discretionary power.[17] However, the arbitrator must act within the limits set for him or her in the arbitration clause.[18] The arbitral tribunal cannot rule ultra petita without putting the validity of the award in jeopardy. Conversely, the fact that the arbitrator ruled infra petita is not a ground for annulment, as long as it has the power to cure its omission.[19]

Recently, the brand new International Chamber of the Paris Court of Appeal rendered its very first decision on the mission of the arbitral tribunal, in a case where the parties agreed in the arbitration clause for the law of the Democratic Republic of Congo to be applicable to the dispute and ruled that 'if the arbitral tribunal has the duty to apply the law of the Democratic Republic of Congo, it is not departing from its mission in interpreting it'.[20]

The Arbitrator's Duty Of Independence And Impartiality

The arbitrator's greatest qualities are its independence and impartiality.[21] French courts have a strict approach regarding the obligation of arbitrators to comply with their duty to 'disclose any circumstance likely to affect his or her independence'.[22]

The Court of Appeal recently confirmed in the ***Dommo*** decision dated 25 February 2020 that the arbitrator's duty of disclosure must be assessed 'in the light of the well-known character of the situation, its connection with the dispute and its impact on the arbitrator's judgment.'[23]

Before the constitution of the arbitral tribunal, the arbitra- tor's duty of disclosure depends on whether the circumstances are well known or not. Information is well known when '(i) it precedes the start of the arbitration, (ii) it is made public, (iii) it is easily accessible and (iv) it should have been consulted by the party.'[24]

In contrast, during the arbitral proceedings, even well-known information must be communicated.[25]

Recent decisions have highlighted the risk of conflicts of interest for arbitrators practising in law firms.[26] On 3 October 2019, the First Civil Chamber of the French Court of Cassation ruled that the parties and their counsel's duty to investigate poten- tial conflicts of interest ends at the confirmation of the arbitrator. Starting from his or her confirmation, it is the arbitrator's duty to investigate his or her law firm's business relationships in the course of the proceeding.[27]

However, the arbitrator's failure to disclose information is not sufficient to constitute a lack of independence or impartiality. On 29 November 2016, the Paris Court of Appeal ruled that such information must be of such a nature as to 'give rise to reasonable doubt in the minds of the parties as to the arbitrator's impartiality and independence'. [28]

The arbitrator's responsibility for lack of independence and impartiality may be confronted in two ways: challenging the arbi- trator or challenging the award. In the first case, there can only be a genuine challenge once the arbitrator's mission has been accepted.[29] In the second case, it is then a ground for setting aside the award.

However, it is commonly accepted that 'once a party, fully informed, […] has not requested [the arbitrator's] challenge dur- ing the arbitral procedure, it loses the right to invoke the plea in support of an action for annulment.'[30] This principle of waiver, enshrined in article 1466 of the French Code of Civil Procedure, is highly observed by French courts.

ARBITRAL PROCEDURE

In France, the conduct of the arbitration procedure is a common process that imposes few formal rules.

The Strict Application Of The Principle Of Waiver

In the course of the arbitral procedure, particular attention should be paid to the claims or objections raised in the submissions. Indeed, parties should assert all of their objections, for failure to do so constitutes a waiver. The principle of waiver provides that 'a party which, knowingly and without a legitimate reason, fails to object to an irregularity before the arbitral tribunal in a timely manner shall be deemed to have waived its right to avail itself of such irregularity'.[31] This principle was strictly applied in the ***Gold Reserve*** decision, in which it was ruled that Venezuela, 'having waived the de jure and de facto consequences of this allusion to a BIT provision, cannot rely before the judge on the annulment of a plea taken on the grounds that the Arbitral Tribunal has allegedly failed to exercise its jurisdiction.'[32] The Paris Court of Appeal recently reaffirmed its strict adherence to this principle.[33]

The Modernisation Of Arbitration Proceedings

Despite a long tradition of in-person proceedings, French institutions reacted very quickly to the unprecedented covid-19 health crisis and modernised the French arbitration practice. The ICC encouraged full electronic exchanges and virtual hearings,[34] and undertook, with respect to its Virtual Hearing Solution platform, to 'provide training to the users, conduct tests

in advance and provide the services of a neutral moderator for the duration of the Hearing if required.'[35]

THE AWARD

Arbitral awards are not defined by statute. According to well-established case law, arbitral awards are the 'acts of arbitrators, which decide definitively, in whole or in part, the dispute submitted to them, whether on the merits, on jurisdiction or on a procedural means which leads them to terminate the proceedings'.[36]

Arbitral awards in France are not subject to strict formal requirements.[37] However, since an award constitutes a jurisdictional act, it must be motivated. Article 1482 of the Code of Civil Procedure (CPC) provides that 'the arbitral award shall succinctly set forth the respective claims and arguments of the parties. The award shall state the reasons upon which it is based.'

Arbitral awards have effects similar to those of a judgment and have the authority of res judicata, as provided for in article 1484 of the CPC.[38] Res judicata carries with it a negative effect that renders inadmissible any later claim in the same dispute, whether it is brought before a domestic court or before another arbitral tribunal.[39]

Pursuant to article 1526 of the CPC, in international arbitra- tion, the challenge of the award does not suspend its enforce- ment. However, the President of the Paris Court of Appeal retains jurisdiction to stay or to set conditions for enforcement of an award in cases where enforcement could severely prejudice the rights of one of the parties. In addition, if the losing party is reluctant to comply with the award, the prevailing party may request protective measures, such as a preventive seizure or the registration of security interests.[40]

ANNULMENT OF THE AWARD

Article 1520 of the CPC provides a list of five grounds for annulment of an arbitral award.

The Arbitral Tribunal's Lack Of Jurisdiction

The award may be set aside if the arbitral tribunal lacks juris- diction. Article 1520(1) of the CPC provides that an action for annulment is open if 'the arbitral tribunal wrongly upheld or declined jurisdiction'. Case law has specified that lack of jurisdiction should not be confused with inadmissibility.[41] As jurisdiction shall be assessed in light of the arbitration clause, it includes all the causes related to the absence or nullity of the arbitration clause.[42] However, the admissibility of the claims brought to the attention of the arbitral tribunal includes clauses related, for example, to 'the powers of a party to initiate the arbitration, the res judicata attached to a previous award, or the standing of a person to act'.[43] Admissibility does not, in principle, fall within the five grounds of action for annulment, as it pertains to the merits of an award, that cannot be controlled by the domestic court at this stage.[44] Indeed, the action for annulment cannot be used to revise the merits of the award.[45]

It has thus been judged that the questions of res judicata should not be controlled by the court in an action for annulment.[46] Similarly, in principle, the court does not have jurisdiction to control questions of collateral estoppel ('concentration des moyens').[47]

However, in a recent judgment dated 3 March 2020, *Francis Alexander Investments*, the Court of Appeal ruled on a collateral estoppel and stated: 'while it is incumbent on the Claimant to submit, on first instance, all the claims which he considers likely to justify its application, he is not compelled to submit in the same instance all its claims based on the same facts.'

By doing so, the Court of Appeal ruled on a challenge against the Tribunal's decision on admissibility.[48] This decision was contested by some authors and it was argued that 'the Court should simply have found that these issues fall within the scope of the admissibility of the application, and should therefore not be open to appeal.'[49]

The Irregular Constitution Of The Arbitral Tribunal

In accordance with article 1520(2) of the CPC, the parties can challenge an award by contesting the constitution of the arbitral tribunal. Two main principles emerge from this rule: the princi- ple of equality of the parties in the appointment of the arbitra- tors, enshrined by the French Court of Cassation in the ***Dutco*** ruling;[50] and the principle of independence and impartiality of arbitrators,[51] clarified in the ***Dommo*** decision mentioned above.

According to scholars, 'however, any defect is purged if the arbitrators have fulfilled their duty of disclosure and if neither party has objected to their appointment.'[52] In a ruling dated 19 December 2018, the French Court of Cassation confirmed that the parties also have an obligation to react quickly under penalty of subsequent inadmissibility of the challenge.[53]

The Arbitral Tribunal's Non-compliance With Its Mission

An action for annulment may also be based on the fact that the arbitral tribunal ruled without complying with the mandate conferred upon it, in accordance with article 1520(3) of the CPC.[54] This ground covers essentially three situations: (i) when the arbitral tribunal 'exceeds the powers conferred to it by the parties, (ii) when it misunderstands the scope of the claims submitted to it, and (iii) when it ruled after the expiry of the arbitration period.'[55]

The Breach Of The Principle Of Contradiction

In accordance with article 1520(4) of the CPC, the arbitral tribunal must enforce the adversarial principle.[56] Any irregularity must be invoked before the arbitral tribunal itself, and case law does not require that any damage be proven.[57]

The Recognition Or Enforcement Of The Award Contradicting International Public Policy

Finally, in accordance with article 1520(5) of the CPC, when ruling on the recognition or enforcement of the award, the judge must consider whether the award is contrary to international public policy. It should be pointed out, in accordance with the ***MK Group*** decision,[58] that this corresponds specifically to the French conception of international public policy, namely, the 'values and principles that the French legal system cannot disregard, even in international matters.' The ***Garoubé*** decision confirmed the ***MK Group*** jurisprudence by holding, inter alia, that only 'the mandatory provisions of a foreign overriding mandatory rule (***loi de police***) falling within the scope of the French conception of international public policy'[59] may be looked at.

Traditionally, the Paris Court of Appeal operated a superfi- cial control of the compliance of the award with international public policy, because of the prohibition to review the merits of the award. Its control was limited to 'the sole appearances of conformity, or to the sole evidence of inconsistency of the award with international public policy.'[60] The Court would thus set aside an award only when the violation of international public policy was 'flagrant, effective and concrete.'[61]

However, since the 2010s, the reference to flagrancy disappeared, thereby increasing the Court's control of the violation of international public policy. In the ***Planor Afrique*** decision

dated 17 January 2012[62] and in a decision dated 26 February 2013,[63] the Court only examined the existence of an effective and concrete violation of international public policy.[64]

Recently, the Paris Court of Appeal has also shown a tendency to review the arbitrators' decisions on questions of corruption and money laundering. In the ***Alstom*** decision, the Court refused to enforce an award recognised abroad, on the simple ground that the 'enforcement or the recognition of the award which condemns Alstom to pay sums intended to finance or remunerate corrupt activities is contrary to international public policy'.[65]

Similarly, in the ***Belokon*** decision, the Court annulled the award on the ground that there existed 'serious, clear and consistent' indicators of money laundering, in direct contradiction to the tribunal's findings.[66]

RECOGNITION AND ENFORCEMENT OF AWARDS

Exequatur Of French Awards

With regard to awards handed in France, article 1516 of the CPC provides that the President of the judicial tribunal of the seat of the award can grant enforcement of the award.

Article 1524(1) of the CPC provides that 'no recourse may be had against an order granting enforcement of an award'. An exception to this principle may be found in article 1522, paragraph 2 of the CPC when the parties have expressly waived the right to bring an action to set aside the award.[67] The article provides that 'the parties nonetheless retain their right to appeal an enforcement order on one of the grounds set forth in article 1520.' Conversely, although refusal of exequatur is not common, parties may appeal the decision in accordance with article 1523 of the CPC.

Recognition And Enforcement Of Foreign Awards

The exequatur procedure for international awards rendered in a foreign jurisdiction is similar. Although a foreign award cannot be annulled in France, article 1525 of the CPC provides remedies against the order granting or refusing enforcement of the award.[68] The appeal against the decision must be filed within one month following service of the order;[69] the parties may agree on other means of notification;[70] and 'the Court of Appeal may only deny recognition or enforcement of an arbitral award on the grounds listed in article 1520.'[71]

The pro-arbitration French legal framework is again visible at the stage of the foreign award's recognition. A feature that is specific to the French legal system is the possibility for French courts to recognise and enforce awards annulled in a foreign jurisdiction. In its decision dated 29 June 2007,[72] the French Court of Cassation held that the setting aside of an arbitral award in a foreign jurisdiction (England) does not preclude the award from being enforced in France.[73] The same decision was rendered in the ***Hilmarton*** case, concerning an award annulled in Switzerland.[74]

FRANCE: AN ATTRACTIVE PLACE FOR THIRD-PARTY ARBITRATION FUNDING

Over the past 10 years, France has been increasingly using third-party financing of arbitration, as inspired by Anglo-Saxon models. A number of management companies have taken up this activity.

In France, the first local player was created in 2009. According to ***Les Echos***, 'La Française AM Group, an asset management company, launched two private equity funds, both regulated and closed-ended.'[75] Profile Investment (PI), which was established in 2018 to manage

these funds, launched 'three new ones in September 2019, including one specialised in construction litiga- tion and another focused on South-East Asia.'[76] Guy Lepage, co- founder of La Française International Claims Collection, explains how this system can be fruitful when the client who is financed wins, since 'he gives back a percentage of the financial compensation. This percentage is negotiated according to the budget com- mitted by the fund, the amount of the damages in question, and the duration of the case'.[77]

Recently, IVO Capital, a management company, also obtained the approval of the*Autorité des marchés financiers* for two private funds on this activity.[78]

France has been and will remain a leading place for arbitration, due to the quality and liberalism of its legal and economical frameworks.

Endnotes

1 Queen Mary International Arbitration Survey: the Evolution of International Arbitration, 2018. ^ Back to section

2 ICC Dispute Resolution 2019 Statistics, p. 14. ^ Back to section

3 The French arbitration act is enshrined in the French Code of Civil Procedure (CCP), Chapter IV, Titles I and II, Articles 1442 to 1527. ^ Back to section

4 French Court de Cassation, civ 1, 30 September 2020, No. 18-19.241. ^ Back to section

5 French law, in comparison to Article II of the New York Convention, decided to add the adverb 'manifestly' in Article 1448 of the CCP in order to deter bad faith litigants from raising objections to invalidity or unenforceability, that would not appear prima facie; E. Gaillard, 'Les manœuvres dilatoires des parties et des arbitres dans l'arbitrage commercial international', ***Revue de l'arbitrage,*** Kluwer Arbitration, 1990, p. 773. ^ Back to section

6 O Cachard, 'Le contrôle de la nullité ou de l'inapplicabilité manifeste de la clause compromissoire', ***Revue de l'arbitrage***, Kluwer Arbitration, 2006, p. 898; M Boucaron-Nardetto, 'Retour sur les critères de contrôle de la nullité et de l'inapplicabilité de la clause compromissoire', ***Revue de l'arbitrage***, Kluwer Arbitration 2016, citing French Court of Cassation, civ 1, 22 Octobre 2014, No. 14-17.056, p. 866. ^ Back to section

7 French Court of Cassation, civ 1, 15 May 1974, No. 72-14.706; French Court of Cassation, civ 1, 12 June 2013, No. 12-22.656; X Delpech, Clause de résolution optionnelle des litiges: application à l'arbitrage, ***Dalloz Actualité***, 25 June 2013; See also L Jandard, 'Arbitrage: la règle de la renonciation aux irrégularités doit parfois s'appliquer avec mesure',***Dalloz Actualité,*** 3 July 2020, pp. 3–4. ^ Back to section

8 J-B Racine, Droit de l'arbitrage, Paris: Presses Universitaires de France, 2016, p. 241. ^ Back to section

9 J-L Goutal, 'L'arbitrage et les tiers: - I. - Le droit des contrats', ***Revue de l'Arbitrage***, Comité Français de l'Arbitrage 1988, p. 442. Back to section

10 French Court of Cassation, ass plén, 6 October 2006, No. 05-13.255. Back to section

11 J Jourdan-Marques, Chronique d'arbitrage: 'l'assemblée plénière fait de l'arbitrage sans le savoir', ***Dalloz actualité***, 27 February 2020, p. 3. Back to section

12 French Court of Cassation, ass plén, 13 January 2020, No. 17-19.963. Back to section

13 French Court of Cassation, civ 1, 27 March 2007, No. 04-20.842. Back to section

14 J-B Racine, Droit de l'arbitrage, Paris: Presses Universitaires de France, 2016, p. 248. Back to section

15 ICC Case No. 4131, ***Dow Chemical France, Dow Chemical Company, Dow Chemical A.G, Dow Chemical Europe v ISOVER Saint Gobin***, 23 September 1982. Back to section

16 J-M Waincymer, Part II: 'The process of an Arbitration', Chapter 7: ***Complex Arbitration, Procedure and Evidence in International Arbitration, Kluwer Arbitration***, 2012, para. 7.8.6.1, p. 552. Back to section

17 Paris Court of Appeal, 25 February 2020, No. 17/18001. Back to section

18 French Court of Cassation, civ 1, 1 February 2017, No. 15-21.880: 'the mission of the arbitral tribunal, as defined by the arbitration clause, is delimited primarily by the subject matter of the dispute, as determined by the respective claims of the parties.' Back to section

19 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International,*** LGDJ, 2nd Ed, 2019, para. 549, p. 504. Back to section

20 Paris Court of Appeal, 7 January 2020, No. 19/07260. Back to section

21 Article 1456, CPC; French Court of Cassation, civ 2, 13 April 1972, No. 70-12.774: 'independence of mind is indispensable to the exercise of judicial power, whatever the source, it is one of the essential qualities of an arbitrator.' Back to section

22 Article 1456(2), CPC. Back to section

23 Paris Court of Appeal, 25 February 2020, Dommo, No. 19/15819; See also C Debourg, 'Limites de l'obligation de révélation de l'arbitre: premières précisions de la CCIP-CA', ***Dalloz Actualité***, 27 April 2020, p. 2. Back to section

24 C Kaplan and P Pinsolle, 'The arbitrator's duty to investigate his or her law firm's business ties before and during the arbitral proceedings', ***The Paris Journal of International Arbitration***, 2019, p. 692. Back to section

25 C Kaplan and P Pinsolle, 'The arbitrator's duty to investigate his or her law firm's business ties before and during the arbitral proceedings', ***The Paris Journal of International Arbitration***, 2019, p. 691. Back to section

26 Paris Court of Appeal, 13 November 2012, No. 11/11.153; French Court of Cassation, 18 December 2014, No. 14/11.085. Back to section

27 French Court of Cassation, civ 1, 3 October 2019, No. 18/15.756; C Debourg, 'Contours de l'obligation de révélation de l'arbitre: l'exception de notoriété', ***Dalloz actualité,*** 12 December 2019, p. 2. Back to section

28 Paris Court of Appeal, 29 November 2016, No. 14/17964. Back to section

29 J-B Racine, Droit de l'arbitrage, Paris: Presses Universitaires de France, 2016, p. 347. Back to section

30 J-B Racine, ***Droit de l'arbitrage,*** Paris: Presses Universitaires de France, 2016, p. 350. Back to section

31 Article 1466, CPC. Back to section

32 Paris Court of Appeal, 7 February 2017, No. 14/21103. Back to section

33 Paris Court of Appeal, 25 February 2020, International Business Corporation, No. 16/22740 and Paris Court of Appeal, 25 February 2020, Uzuc, No. 17/18001, cited in J Jourdan-Marques, 'Chronique d'arbitrage: déflagration dans le recours en annulation', ***Dalloz actualité***, 4 May 2020, pp. 4–7. Back to section

34 ICC Guidance Note on Possible Measures Aimed at Mitigating the Effects of the Covid-19 Pandemic, 9 April 2020, p. 3. Back to section

35 https://www.iccwbo.org/dispute-resolution-services/hearing-centre/icc- virtual-hearings/. Back to section

36 French Court of Cassation, civ 1, 12 October 2011, No. 09-72.349. Back to section

37 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 526. Back to section

38 Article 1484, CPC: 'The arbitral award shall, as soon as it is rendered, have the force of res judicata with respect to the dispute which it determines.' Back to section

39 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 539. Back to section

40 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 541. Back to section

41 French Court of Cassation, civ 1, 18 March 2015, No. 14-13.336. Back to section

42 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International***, LGDJ, 2nd Ed, 2019, para. 540, p. 498. Back to section

43 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International***, LGDJ, 2nd Ed, 2019, para. 540, p. 498. Back to section

44 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International***, LGDJ, 2nd Ed, 2019, para. 540, p. 498. Back to section

45 Paris Court of Appeal, 1 July 2014, No. 13/07263. Back to section

46 J Jourdan-Marques, 'Chronique d'arbitrage: déflagration dans le recours en annulation', ***Dalloz actualité***, 4 May 2020, p. 8; Paris Court of Appeal, 9 September 2010, No. 09/13550, Marriott; A Mourre, P Pédone, note CA Paris, 9 September 2010, Cahiers de l'arbitrage No. 4, 1 October 2010, p. 1171. Back to section

47 J Jourdan-Marques, Chronique d'arbitrage: déflagration dans le recours en annulation, ***Dalloz actualité***, 4 May 2020, p. 8; Paris Court of Appeal, 17 November 2011, No. 10/14948. Back to section

48 Paris Court of Appeal, 3 March 2020, No. 18/05766. Back to section

49 J Jourdan-Marques, 'Chronique d'arbitrage: déflagration dans le recours en annulation', ***Dalloz actualité***, 4 May 2020, p. 8. Back to section

50 French Court of Cassation, civ 1, 7 January 1992, No. 89-18.708 89-18.726. Back to section

51 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 587. Back to section

52 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 587. Back to section

53 C Debourg, 'Obligation de révélation de l'arbitre et obligation de s'informer à la charge des parties: un équilibre encore perfectible', ***Dalloz actualité***, 1 February 2019, p. 3, commenting French Court of Cassation, civ 1, 19 December 2018, Technimont, No. 16-18.349. Back to section

54 French Court of Cassation, 6 July 2016, No. 15-15.850; French Court of Cassation, 13 February 2019, No. 17-25.851. Back to section

55 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International***, LGDJ, 2nd Ed, 2019, para. 547, p. 503. Back to section

56 French Court of Cassation, 13 February 2019, No. 17-25.851. Back to section

57 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 592. Back to section

58 Paris Court of Appeal, 16 January 2018, No. 15/21703. Back to section

59 Paris Court of Appeal, 20 December 2018, No. 16/2548 ; J Jourdan- Marques, 'Chronique d'arbitrage: la fin de la saga Tecnimont', ***Dalloz Actualité***, 29 January 2019, p. 8. Back to section

60 C Seraglini, J Ortscheidt, ***Droit de l'Arbitrage Interne et International***, LGDJ, 2nd Ed, 2019, para. 553, p. 507. Back to section

61 Paris Court of Appeal, 18 November 2004, Thalès, No. 2002/19606; Paris Court of Appeal, 23 March 2006, Cytec. Back to section

62 Paris Court of Appeal, 17 January 2012, Planor Afrique, No. 10/21349. Back to section

63 Paris Court of Appeal, 26 February 2013, No. 11/17961. Back to section

64 P Duprey, C Fouchard, 'Recours en annulation contre une sentence rendue en matière internationale: des précisions de nature procédurale et une (petite) révolution en matière de contrôle de la contrariété à l'ordre public?', note sous Paris, Pôle 1 – Ch. 1, 26 février 2013, ***Revue de l'arbitrage***, 2014, p. 101. Back to section

65 Paris Court of Appeal, 28 May 2019, No. 16/11182. Back to section

66 Paris Court of Appeal, 21 February 2017, No. 15/01650. Back to section

67 E Loquin, 'Le recours en annulation dirigé contre la sentence', ***La Base Lextenso***, 16 July 2017, p.1. Back to section

68 J-B Racine, ***Droit de l'arbitrage***, Paris: Presses Universitaires de France, 2016, p. 623. Back to section

69 Article 1525(2), CPC. Back to section

70 Article 1525(3), CPC. Back to section

71 Article 1525(4), CPC. Back to section

72 French Court of Cassation, civ 1, 29 June 2007, No. 05-18.053. Back to section

73 X Delpech, 'Admission de l'exequatur en France d'une sentence arbitrale étrangère annulée', ***Dalloz Actualité,*** 4 July 2007, p. 1. Back to section

74 French Court of Cassation, civ 1, 23 March 1994, Hilmarton, No. 92-15.137. Back to section

75 L Boisseau et I Couet, 'Le financement de contentieux aiguise l'appétit des fonds', ***Les Echos,*** 27 August 2019. Back to section

76 L Boisseau et I Couet, 'Le financement de contentieux aiguise l'appétit des fonds', ***Les Echos***, 27 August 2019. Back to section

77 I Couet, 'La Française engagée dans le financement de contentieux', ***Les Echos,*** 15 April 2016. Back to section

78 I Couet, 'IVO Capital se lance dans le financement de contentieux', ***Les Echos***, 9 January 2018. Back to section