

The justice of the merchants

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A fair cannot function without swift and reliable justice. Merchants passing through cannot wait months for a court to settle their dispute; they have to move on to other fairs. They need judges who understand the usages of trade, who rule quickly and whose decisions are enforced. Medieval Europe developed several answers to this need: consular courts in Italy, fair judges in Champagne, merchants' courts in the Hanseatic towns. In Lyon, the ordinance of 1463 was to entrust the seneschal with the guardianship and conservation of the fairs, with jurisdiction over disputes of a commercial nature, and the burghers would subsequently obtain the right to appoint a judge of their own choosing, the origin of the tribunal de la Conservation.¹

In Geneva, the justice of the fairs operated within the complex institutional framework described in the previous chapter, in which the bishop, the Savoyard vidomne and the syndics shared the powers between them.² The franchises of 1387 guaranteed certain procedural protections. Notaries played an essential role by giving contracts a recognised evidential force. Commercial usages, often of Italian origin, prevailed in practice.

Historians long spoke of a medieval *lex mercatoria*, a transnational law of merchants, founded on usage and applied by specialised courts. More recent work has qualified this picture, stressing the diversity of local practices and the role of the public authorities in regulating trade.³ It remains the case that medieval merchants shared a body of usages — on the bill of exchange, the commercial partnership, accounting, payment terms — which facilitated dealings between nationals of different countries.

The reference to the justice of the merchants sheds light on an enduring characteristic of the Geneva financial centre: the importance attached to dispute resolution. Geneva today hosts many international commercial arbitrations, and its legal ecosystem — lawyers, arbitrators, experts, institutions — is one of the centre's assets for commodity trading and

finance. Part F will return to this theme. It can already be noted that legal certainty, sought by the merchants of the fifteenth century, remains one of the central arguments with which the centre presents itself to its clients.

1 Notes

1. Archives municipales de Lyon, “Quatre foires annuelles pour Lyon”, archives-lyon.fr; article “Foires de Lyon”, Wikipédia (fr) (accessed September 2026). ↩
2. Encyclopédie de Genève, “La loi et la justice” (Jacques Droin, Pierre Duparc, Raymond Foëx, Bernard Lescaze, Pierre Pittard, Dominique Poncet, Barbara Roth-Lochner, Jean de Senarclens; encycloge.org): in the Middle Ages, authority was shared between the bishop, prince of Geneva, who administered justice directly or through a delegate, the vidomne, a judicial officer hearing civil cases and minor offences under an oral and summary procedure conducted in French, and the syndics of the community of citizens, competent for minor misdeeds; “from 1290, the exercise of civil justice was enfeoffed to the Count of Savoy”; the franchises recorded in 1387 by Bishop Adhémar Fabri cover judicial procedure, economic regulation and the distribution of political power, maintain an oral and summary procedure far removed from Roman formalism, associate the citizens with the judgement alongside the magistrates and authorise lending at interest; the edicts of 1568, essentially the work of Germain Colladon, include civil edicts in thirty-two titles devoted to procedure. ↩

3. Emily Kadens, “The Medieval Law Merchant: The Tyranny of a Construct”, *Journal of Legal Analysis*, vol. 7, no. 2, Winter 2015 (academic.oup.com): the author argues that the medieval law merchant, presented by part of modern scholarship as a uniform and universal body of rules created by merchants without state involvement, is a modern construct comparable to that of feudalism; merchant courts, where they existed, were local and controlled by the territorial authorities, the merchants themselves often preferring local courts, the guild regulations of the thirteenth-century Flemish towns requiring their members to bring their disputes before elected governors, and contracts regularly referring to “the law of the place of conclusion”; Kadens cites Harold Berman and Bruce Benson among the proponents of the opposite thesis, and Charles Donahue and Rolf Sprandel among the critics. ↩

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