WHITE & CASE

Which jurisdiction? Choosing where to litigate

A jurisdictional overview of the world's court systems

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A competitive world: Modernisation and innovation in the courts

With ongoing advances in technology and communications, the number of contracting parties looking beyond their local jurisdiction when choosing a dispute resolution forum continues to grow

It is easier than ever for contracting parties to look beyond their home jurisdiction when choosing a dispute resolution forum. The growth in the international disputes market has forced countries' courts into competition with one another, and contracting parties who have had a negative experience in one jurisdiction can simply select an alternative.

Against this backdrop, we examine the differences in approach of eleven jurisdictions, providing an at-a-glance overview of the key features of each jurisdiction, as well as a more detailed examination of key elements of the court system, including judicial process, costs and disclosure obligations.

Our comparative table includes jurisdictions with established popularity such as England and Wales, and the US, those whose popularity has increased rapidly over the last decade or so, such as Singapore and Hong Kong, and those currently making concerted efforts to increase their share of the international disputes market, such as the Dubai International Financial Centre.

I. Overview

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Judiciary	Impartial, independent and well trained, often former practitioners.	The DIFC courts are constantly looking to appoint international judges to add diversity and experience to the court. Examples include the appointment of a Singaporean judge of appeal, Justice Judith Prakash.	Impartial, independent and well trained, often former practitioners. There is a current shortage of suitable applicants for judicial roles, which the government is trying to address.	The judiciary is independent and effective. Human resources and financial means available to French courts are deemed insufficient, although decree measures are expected to address this soon.	Impartial, independent and well trained.
Speedy resolution	Summary strike-out and default judgment are available.	Immediate judgment, strike-out and default judgment are available.	Speedy disposal or strike-out of frivolous/ unmeritorious claims.	Default judgment; fast-track procedure available if demonstrable urgency.	Fast and efficient dispute resolution.
Case management	Judges exercise case management powers to ensure efficient progress of cases. Interim measures available (e.g., to secure assets or preliminary injunctions).	Judges exercise case management powers to ensure efficient progress of cases. Interim measures available (power to grant interim orders prior to the commencement of proceedings and without notice (ex parte).	Judges exercise case management powers to ensure efficient progress of cases. Interim measures available (e.g., to secure assets or interim injunctions).	Judges exercise case management powers to ensure efficient progress of cases. Interim measures available (e.g., to secure assets or preliminary injunctions).	Judges play an active role, deciding hearing dates, witnesses and experts to be heard, and giving preliminary opinions. Interim measures available (e.g., to secure assets or preliminary injunctions).
Disclosure	No discovery or pre-trial disclosure, although it is possible to get some limited disclosure.	No obligation to provide adverse documents, only documents on which a party relies. Court can order the production of documents, in which case all documents falling within the scope of the order must be produced.	Disclosure of evidence is required, even where adverse to the party's own case. The Business and Property Courts have commenced a pilot scheme aimed at streamlining the disclosure process.	No discovery or pre-trial disclosure, although it is possible to get some disclosure.	No obligation to provide adverse documents, but the court can order certain documents to be submitted.
Costs	Low court fees. Less expensive than other countries. Limited recovery of costs. Class actions and settlements subject to strict rules to avoid excesses.	Court fees are based on a percentage of the value of the claim. General rule is that the unsuccessful party will be ordered to pay the costs of the successful party, but the Court can make a different order. The Court will have regard to all circumstances in deciding an order as to costs, including the conduct of the parties. It is possible to apply for security for costs.	Court and lawyers' fees can be high. The successful party can usually claim its costs from the unsuccessful party.	Access to the courts is almost free of fees. Legal costs are generally lower than in common law countries. The successful party can recover a portion of its costs from the unsuccessful party.	Low cost. The unsuccessful party generally bears all costs of the proceedings. The successful party, however, can recover attorney's fees only in the amount of statutory fees, which are generally below attorneys' hourly rates. Third-party funding allowed.
Enforceability	Easy to enforce in many jurisdictions.	DIFC court judgments are enforceable 'onshore' in the UAE. Enforcement should be relatively straightforward in jurisdictions with which a treaty exists. The DIFC has also entered into a number of non-binding memoranda of guidance for the reciprocal enforcement of judgments.	Easy to enforce in many jurisdictions. BREXIT may affect the process by which English court judgments are enforced in EU Member States.	Easy to enforce in many jurisdictions (EU Member States, EFTA countries, Contracting States of the Hague Convention on Choice of Court Agreements).	Easy to enforce throughout EU Member States and EEA Member States due to the Recast Brussels Regulation and Lugano Convention.

Hong Kong	Russia	Singapore (SICC)[1]	Sweden	Switzerland	US
Impartial, independent and well trained. There is some difficulty in appointing judges, and judicial independence and political neutrality of the judiciary is under scrutiny.	Russia ranks 60th globally in the Rule of Law Index for civil justice (2017 – 2018).	Diverse panel of Singaporean and international judges. Three judges may be appointed to a case.	Impartial, independent and well trained. The government is currently focussing on retention and recruitment of judiciary to ensure quality is maintained in the face of increasing workloads.	Independent, impartial and well trained.	Impartial, independent and showing intellectual honesty.
Speedy disposal or strike-out of frivolous/ unmeritorious claims.	Relatively short court proceedings, options to expedite.	Options to expedite; as well as strike-out, summary and default judgments.	Speedy disposal or strike-out of frivolous/ unmeritorious claims.	Simplified proceedings in small claims and summary proceedings.	Early dismissal of unmeritorious claims.
Judges have a wide range of case-management powers which they exercise to ensure efficient progress of cases. Interim measures available (e.g., to secure assets).	Judges exercise a wide range of case management powers to ensure cases are dealt with expeditiously. Interim measures available (e.g., to secure assets).	Judges take an active approach to case management. There is a more flexible procedure than in many jurisdictions. Interim measures available.	Judges exercise case management powers to ensure efficient progress of cases. Interim measures available.	Case management varies depending on the judge in charge of the case, with a less active approach to case management than in some countries. Interim measures available.	This varies depending on the court but, in general, federal judges actively manage cases to ensure efficient progress. Interim measures available (e.g., to secure assets).
Full disclosure of evidence is required, even where adverse to the party's own case.	No disclosure, but courts may assist to obtain evidence from third parties or state authorities.	The court has powers to order disclosure of documents adverse to a party's case.	Very rarely, parties may be asked to list all relevant documents in their possession.	Production orders are very limited and rare in practice.	Full disclosure of evidence is required, even where it is adverse to the party's own case.
Lawyers' fees can be high. The successful party can usually recover a high proportion of its costs from the unsuccessful party.	Inexpensive. The successful party may be able to recover a reasonable proportion of its costs from the unsuccessful party.	The successful party can recover its reasonable costs from the unsuccessful party.	The successful party can recover a high proportion of its costs from the unsuccessful party.	Unsuccessful party bears the costs of the proceedings and a proportion of the successful party's costs.	Lawyers' fees are high. No costs recovery.
Judgments can be enforced in many international jurisdictions.	Judgments can be enforced in many international jurisdictions. Enforcement in Russia can be protracted, with low voluntary compliance.	International enforcement options.	Judgments can be enforced in many international jurisdictions.	Judgments can be enforced in many international jurisdictions.	Judgments can be enforced in many international jurisdictions.

[1] This note only discusses litigation in the SICC and appeals of SICC cases to the Singapore Court of Appeal

I. Overview (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Specialist Courts	Yes (e.g., economic, civil, labour, administrative).	Yes. Technology and Construction Division and Small Claims Tribunal.	Yes (e.g., commercial, technology and construction, patent, Competition Appeal Tribunal).	Yes.	Yes (e.g., commercial, banking, or IP divisions within civil courts).
ADR	Can switch to ADR even if court proceedings started.	A judge can invite parties to consider whether their dispute could be resolved through alternative dispute resolution, and is empowered to make an alternative dispute resolution order. Where a dispute falls within jurisdiction of Small Claims Tribunal, parties are invited to attend a consultation at the court to attempt settlement.	Must consider ADR before proceedings commenced. Encouraged to consider ADR during proceedings.	Can switch to ADR even if court proceedings started. Must attempt ADR before going to courts.	Parallel mediation is possible. If the parties opt for mediation, the court will suspend the court proceedings.
Witnesses	Witnesses can be examined by the court, but happens rarely.	Witness evidence in the form of written statement. A party that wishes to rely on a witness statement must call the witness to give oral evidence unless the court orders otherwise or evidence is made as hearsay. Witnesses can be cross-examined. Court can order evidence to be provided as affidavit. Witnesses can be summoned by the court and court can order deposition of a witness.	Written evidence. Witnesses can be cross-examined.	Witnesses can be examined and cross-examined, but this is not common practice.	Witnesses are generally examined by the court, but the parties (or their attorneys) can ask the witnesses questions as well.
Other	Published court decisions are anonymous and not all decisions are published. No contempt of court rule. An International Court is being created in Brussels to rule on cases in English for international disputes.	Most cases heard in public unless court orders a closed hearing or where claim relates to arbitration. Based on common law, binding precedent and procedures. There may be competing jurisdictional claims between local UAE courts and DIFC courts.	Most cases heard in public. Schemes have been introduced for faster resolution of less complex commercial claims.	Most cases heard in public. Class actions available in consumer, health, discrimination, environment and data protection matters.	'Lean' proceedings, with no jury decisions, no class actions and no discovery proceedings. Proceedings conducted completely in English before specialised judicial bodies (chambers for international commercial matters) are possible in Frankfurt.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Yes (e.g., admiralty, commercial).	Yes (e.g., commercial courts and courts of general jurisdiction).	Yes. The SICC is a specialist court designed to deal with international commercial disputes.	Yes.	Yes.	Yes, at both state and federal level.
Can switch to ADR even if court proceedings started, in particular, court may make adverse costs order where a party unreasonably fails to engage in mediation.	Can switch to ADR even if court proceedings started.	The court will make appropriate directions for mediation or other ADR that the parties agree to pursue. The parties must consider whether to pursue ADR before the first case management conference.	Mediation is possible.	In civil proceedings, parties must in general attempt ADR (i.e., conciliation) before going to courts. Can waive conciliation in certain circumstances (e.g., small claims) No mandatory conciliation applies to family and debt enforcement matters. Parties can switch to mediation even if court proceedings have already started.	Mediation can be consensual or court ordered. Arbitration must be agreed to by both parties.
Written evidence. Witnesses can be cross-examined.	Witnesses are rarely cross-examined in the commercial courts.	Written evidence. Witnesses can be cross-examined.	Written evidence. Witnesses can be cross-examined.	Witnesses are generally questioned by the judge. Counsel may ask that specific questions be asked to a witness. Witnesses can be cross-examined upon being granted leave from the judge. This never amounts to a common law-style cross-examination.	Usually oral testimony. Witnesses can be examined and cross-examined, and usually are.
Most cases heard in public.	Most cases heard in public. Court judgments and procedural rulings in commercial cases are generally available online. Electronic case management enables online filing and gives electronic access to judicial acts. Separate cassation courts have been introduced in the system of the courts of general jurisdiction, with further harmonisation of procedural law.	The SICC acts as a middle ground between arbitration and domestic litigation with some benefits of both. A jurisdiction agreement in favour of Singapore's High Court is now able to be construed as a submission to the SICC, which enables more parties to choose to commence proceedings in the SICC.	Most cases heard in public.	Current procedure is not designed to handle complex, international financial or commercial cases requiring the testimony of multiple witnesses and experts. Each canton is taking different steps to address these challenges. For example, some cantons have created specialised court sections dedicated to handling large commercial matters.	Most cases heard in public.

II. Judiciary and court structure

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Are jury trials used for any matters?	For civil cases, jury trials are restricted to political or press-related offenses, but are irrelevant for other civil matters.	No.	Juries are used to hearing serious criminal cases in the Crown Court. Civil cases are decided without the use of a jury.	Jury trials are only used in criminal hearings before the Court of Assises, and not in civil proceedings.	No.
What is the quality/ reputation of the judiciary?	The judiciary is appointed via an independent Council of the Judiciary. In order to become a judge, significant experience is required, which leads to a high degree of former private practitioners becoming judges. Given the central location of Belgium in the EU and the presence of many important institutions, the courts are experienced in dealing with high-profile and cross-border cases. Belgium ranks 18th globally in the Rule of Law Index for civil justice (2017 – 2018).	Reputation for speedy and efficient resolution of commercial disputes. Considered a business-friendly forum that will enforce contractual obligations UAE ranks 24th globally in the Rule of Law Index for civil justice (2017 – 2018).	The judiciary is regarded as one of the most independent and effective in the world. The English courts are generally seen as creditor-friendly. The United Kingdom ranks 14th globally in the Rule of Law Index for civil justice (2017 – 2018).	The judiciary is considered to be independent and effective. France ranks 22nd globally in the Rule of Law Index for civil justice (2017 – 2018).	The judiciary is highly regarded. Germany ranks 3rd globally in the Rule of Law Index for civil justice (2017 – 2018).
Are there specialist courts/judges for certain types of disputes?	The court system is divided into different specialised courts dealing with, among others, economic (Brussels Court), civil (Court of First Instance, subdivided into seizures, tax and family chambers), labour (Labour Court), and administrative (Council of State) matters. For smaller cases, a special court has been created (Justice of the Peace). In addition, each court is divided into special chambers depending on the subject matter of the dispute (insolvency, transport, class actions, IP, arbitration, tax, insurance, international public law, etc.).	A Small Claims Tribunal has been established to hear cases where: the claim does not exceed ~US$136,000; or the claim relates to the employment or former employment of a party and all parties elect that it be heard in the Small Claims Tribunal; or the claim does not exceed ~US$272,000 and all parties elect that the claim is heard by the Small Claims Tribunal. There is also a Technology and Construction Division which exclusively hears technically complex cases.	Specialist courts within the Business and Property Courts include: The Chancery division; Commercial Court; Financial List; Technology and Construction Court; Admiralty Court; Companies Court; Mercantile Court and specialist tribunals (e.g., Competition Appeal Tribunal). There is also a separate Administrative Court.	Specialist courts include: The Commercial Court (tribunal de commerce); Labour Court (conseil de prud'hommes); Agricultural Land Tribunal (tribunal paritaire des baux ruraux); and Social Security Court (tribunal des affaires de sécurité sociale). The courts have specialised chambers depending on the subject matter at issue. The International Commercial Courts of Paris were set up in 2018 to deal with disputes relating to international commercial contracts in the following areas: wrongful termination of established business relationships; transport law; unfair competition; market framework agreements; and financial products.	The German judiciary is highly specialised. There are special courts (and appeal courts) for administrative law, social law, labour law and tax law. Within the ordinary court system, there are family law, criminal law, and general civil law branches. Some civil law courts specialise in IP disputes or antitrust law, and most civil law courts offer specialised chambers for various areas of the law (e.g., commercial law).
Does each case have a specific judge assigned/ docketed to it?	Each case will be assigned to a specific chamber within the court depending on the nature of the matter, but not to a specific judge. That being said, in practice, the judges each belong to a specific chamber and they become the de facto specific judge of the matters referred to that specific chamber.	Generally a single judge will be assigned at the Case Management Conference, however, where the judge is not available, another judge may be assigned.	Cases are not automatically docketed from the outset but may be docketed to a single judge at the case management conference stage in some divisions.	Each case will be assigned to a specific chamber within the court depending on the nature of the matter (and of the size of the Court), but not to a specific judge.	Yes. Each court has a distribution-of-business plan. Each matter is assigned to a certain judge.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
A party may elect to have the issues of fact tried by a jury in some civil cases. Most serious criminal offences are also tried by jury.	Juries are used to hear only certain types of the most serious criminal cases.	No.	Jury trials are only used in cases regarding freedom of the press.	No.	Every litigant has a right to trial by jury in a civil case. But the vast majority of cases are terminated before trial or settled out of court.
Reputation as independent and impartial. Judicial independence is embedded in the Basic Law, Hong Kong's local constitution. Hong Kong ranks 12th globally in the Rule of Law Index for civil justice (2017 – 2018).	The judiciary may lack experience in adjudicating complex commercial cases. Russia ranks 60th globally in the Rule of Law Index for civil justice (2017 – 2018).	Very good. Singapore ranks 5th globally, and 1st regionally, in the Rule of Law Index for civil justice (2017 – 2018).	The judiciary is regarded as having a fairly high standard with a system that is impartial, free from corruption and from improper government influence. Sweden ranks 6th globally in the Rule of Law Index for civil justice (2017 – 2018).	Generally, judges have a good reputation and are regarded as very knowledgeable. Switzerland is not ranked by the Rule of Law Index for civil justice but received a rating of 8.4/10 in the Rule of Law category of the Human Freedom Index (2017).	The quality and reputation of the federal judiciary is high. Corruption is virtually unheard of. The United States ranks 26th globally in the Rule of Law Index for civil justice (2017 – 2018).
Certain specialist lists are provided for specific types of disputes, including: □ The Commercial List for banking and general financial disputes and □ The Construction and Arbitration List for construction disputes or arbitration issues requiring the supervisory jurisdiction of the Court of First Instance (CFI)	There are two types of courts under the Supreme Court: □ Commercial courts which resolve economic disputes. Specialist divisions deal with civil law disputes involving legal entities and entrepreneurs, insolvency and administrative disputes, and IP rights disputes and □ Courts of general jurisdiction which resolve civil law disputes involving individuals and criminal cases	The SICC hears cases of an international and commercial nature only.	The courts are divided into two parallel and separate systems: □ General courts for criminal and civil law cases and □ General administrative courts for cases relating to disputes between private persons and public authorities Additionally, Sweden has a number of specialist courts including a Land and Environment Court, a Migration Court, a Labour Court, a Patent and Market Court and a Swedish Foreign Court.	Specialist courts include those specialising in civil, criminal, administrative matters, labour law matters or rental law matters. Some judges specialise in large commercial disputes. Similarly, some prosecutors specialise in economic criminal matters. Specialised Federal Tribunals include: the Federal Administrative Tribunal; the Federal Criminal Tribunal; and the Federal Patent Tribunal.	Specialist courts include: □ Federal: There are a few specialised federal courts (e.g., for patent appeals, tax claims or claims against the US government). All other federal judges are generalists, hearing both civil and criminal cases of all kinds and □ State: The states have many more specialised courts (e.g., for probate of estates, a family court, a court for claims against the state government and courts for smaller claims).
In general, cases are not specifically assigned to a judge, but certain proceedings are specifically assigned to particular judges as explained above.	Each case is usually assigned to a specific judge either by a court officer or by software.	No, but the SICC's rules state that, where possible, interlocutory applications will be assigned to the trial judge.	Courts have the freedom to decide autonomously on how they will handle a case. Some courts assign a specific judge at the outset of the proceedings, while others wait until a later stage to do this. Big and complex civil cases are often assigned to a specific judge at an early stage.	Generally yes, although this may vary from canton to canton.	In the federal courts, each case is randomly assigned to a judge when the case is filed. In state courts, the assignment is often made later, but still early in the case.

III. Appeals

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
How many levels of appeal are there (and what are they)?	Usually there are two levels of appeal. The first level is made to an appeal court and the second to the Supreme Court (the highest court in Belgium). Generally, the appeal is made before the Court of Appeal of the same region and is possible on the condition that the monetary value exceeds a certain amount (in most cases EUR 2,500).	One level of appeal: the Court of Appeal.	Subject to any requirements to obtain permission to appeal, an appeal lies with the next level in the court hierarchy. Generally, appeals from the High Court are made to the Court of Appeal (although decisions of Masters are appealed to High Court judges). In exceptional circumstances, appeals from the High Court may be made directly to the Supreme Court (so-called leapfrog appeals). Appeals from the Court of Appeal are made to the Supreme Court, the final appeal court in the UK.	There are two levels of appeal, the first level being made to the Courts of appeal and the second, to the Cour de cassation, the highest court in France. A distinction can be made between ordinary and extraordinary rights of appeal.	There are two levels of appeal against final judgments issued by a trial court. First appeals (Berufung) deal with both the facts and the law of the case. They are heard before the regional court or the higher regional court, depending on whether the appeal is filed against a trial judgment issued by a local or a regional court. Second appeals against first appeal judgments (Revision) concern only points of law. They are heard by the Federal Court of Justice. Second appeals require permission to be granted. Permission has to be granted if the matter is of fundamental significance.
How many judges ordinarily sit for hearings at each level?	At the first level, usually one professional judge and, in some courts (such as the Business Court and the Labour Court), two additional lay judges. At the first appeal level, one or three judges (if the parties can justify the complexity of the case). At Supreme Court level, usually five judges, exceptionally three judges.	Court of First Instance: one judge. Court of Appeal: three judges	The High Court: one judge. The Court of Appeal: panel of three judges (exceptionally, five judges). The Supreme Court: panel of five justices. In certain cases, a case may be heard by a panel of more than five justices (seven, nine or, exceptionally, by all 11/12 justices).	First-level civil or commercial courts: one judge or panel of three judges, of which one is the presiding judge. Court of Appeal: panel of three judges, of which one is the presiding judge; exceptionally, panel of five judges. Cour de cassation: panel of three judges when grounds of appeal appear weak, and panel of at least five judges otherwise. Exceptionally, plenary session, if a sensitive issue is at stake, or if the case may call for a departure from previous case law.	First-level appeals: regional courts have civil chambers with three professional judges (except for commercial chambers, which have one presiding professional judge and two lay judges), whereas higher regional courts have civil panels with three professional judges hearing civil cases. The first-level appeal court can submit the decision or the preparation of the decision to one of its chamber or panel's members. Second appeals: Federal Court of Justice currently has 12 civil panels, each consisting of five professional judges.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
The CFI hears appeals from Magistrates' Courts, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal. The Court of Appeal hears appeals on all civil and criminal matters from the CFI and the District Court. It also hears appeals from the Lands Tribunal and some statutory bodies. The Court of Final Appeal hears appeals on civil and criminal matters from the High Court	In general, there are four levels of appeal. The third and fourth levels of appeal are discretionary: □ Appeal courts □ Cassation courts □ The Panel of the Supreme Court (second cassation appeal) and □ The Presidium of the Supreme Court (supervisory appeal) for judgments that have been considered by the Panel of the Supreme Court)	One level of appeal (to the Court of Appeal) is possible for most SICC decisions, subject to any agreement of the parties to vary, limit or exclude the right of appeal. Some matters are non-appealable, including judgments or orders made by consent or other decisions designated as non-appealable. Some matters are appealable only with leave of the SICC or Court of Appeal. These include cases where the only issue in the appeal would relate to costs or fees for hearing dates, and certain procedural matters (e.g., orders for document production or security for costs).	The Swedish Court structure for affairs of general jurisdiction consists of three different levels: □ District courts □ Courts of Appeal and □ The Supreme Court The Swedish Court Structure for administrative affairs also consists of three different levels, namely: □ Administrative Courts □ Administrative Courts of Appeal and □ The Supreme Administrative Court Judgments from specialist courts can be appealed, often to the Supreme Court.	Appeals lie with the next level in the court hierarchy: □ Appeals from the first instance courts are made to the court of appeal located in the same canton and □ Appeals from courts of appeal are made to the competent Federal Tribunal	In the federal court system, a party has a right to appeal to the Court of Appeals. The Supreme Court of the US hears appeals from the Courts of Appeals, but no party has a right to appeal to the Supreme Court. The Supreme Court's jurisdiction is discretionary; the Court itself decides which cases it will hear (and it hears very few, only 75 to 80 each year). Each state has its own court system. Most states follow the federal model, with an intermediate appellate court and a state Supreme Court.
First-instance hearings and appeals at the CFI will be fixed before a single judge of the CFI. Appeals at the Court of Appeal are normally heard by three (or occasionally two) Justices of Appeal. Appeals at the Court of Final Appeal are heard and determined by the Court constituting the Chief Justice, three permanent judges and one non-permanent Hong Kong judge or one judge from another common law jurisdiction.	First level appeals: panel of three judges. First cassation appeals: panel of three judges. The Panel of the Supreme Court (second cassation appeal): panel of three judges. Supervisory appeals: panel of 13 judges. The Presidium of the Supreme Court is authorised to adopt resolutions if the majority of judges are present at the session. The resolution shall be approved by the majority of judges who are present.	SICC: one judge by default; three judges where the parties agree (provided the Chief Justice does not direct otherwise); or where the Chief Justice so orders. Court of Appeal: usually a panel of three or any greater uneven number of Judges of Appeal. An appeal will be heard by five Judges of Appeal if the parties agree, provided the Chief Justice does not direct otherwise.	District courts: in civil disputes, one or three judges. Court of Appeal: three or four judges. Supreme court: panel of five justices. In certain cases, a case may be heard by a panel of more than five justices (seven, or exceptionally, by all 14 justices). Specialist courts: the number of judges varies.	First instance courts: one judge or a panel of three judges. Appeal courts: one judge or a panel of three judges. Federal Tribunal: one judge (if the appeal is manifestly inadmissible) or a panel of three or five judges.	Federal: the Courts of Appeals sit in three-judge panels. The Supreme Court consists of nine justices and does not sit in panels; all nine hear every appeal. State: the intermediate appellate courts usually sit in three-judge panels. There are, however, variations. For example, in New York, that court sits in five-judge panels. Most state Supreme Courts consist of seven judges, who do not sit in panels. Some smaller states, like Delaware, have a five-justice Supreme Court.

III. Appeals (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
What are the grounds on which a judgment can be appealed (at each level)?	As a general principle, the first appeal court will be able to re-examine the entire case de novo, while the appeal before the Supreme Court is limited to questions of law.	The Court of Appeal has exclusive jurisdiction over: □ Appeals filed against judgments and awards made by the Court of First Instance and □ Interpretation of any article of the DIFC's laws based upon the request of any of the DIFC's bodies or request of any of the DIFC's establishments, provided that the establishment obtains leave of the Chief Justice in this regard There is no appeal from a decision of the Court of Appeal. Permission to appeal may be given only where (1) the Court considers that the appeal would have a real prospect of success or (2) there is some other compelling reason why the appeal should be heard.	**First appeal**: Must consider the appeal would have a real prospect of success or there is some other compelling reason for the appeal to be heard. **Second appeal to Court of Appeal** (e.g., from a decision of the High Court which was itself made on appeal): Must consider the appeal would have a real prospect of success and raise an important point of principle or practice, or that there is some other compelling reason for the Court to hear it. **Appeal to Supreme Court**: Permission will only be granted if the appeal raises an arguable point of law of general public importance. The appeal court will allow an appeal where the decision of the lower court was either wrong or unjust because of a serious procedural or other irregularity in the proceedings in the lower court.	**First level of appeal**: Judgments rendered by first-level courts may be appealed to courts of appeal, in civil and commercial cases, unless otherwise specified, on the condition that the monetary value of the dispute is greater than €4,000. Before a court of appeal, a judgment of a court of first instance can be challenged both with respect to findings of fact and law. **Second level of appeal**: In civil cases, appeals are only possible against judgments which have been rendered at last instance. A judgment of a court of appeal can be challenged before the Cour de cassation with respect to legal issues only. In order for a judgment to be quashed, the appellant must thus establish that the impugned judgment does not comply with rules of law.	As a general principle, the appeal court is bound by the factual findings of the trial court, unless these findings are erroneous. In that case, the first appeal court can consider both the facts and the law of the case again pursuant to section 529 of the German Code of Civil Procedure. The second-level appeal court will only consider the law of the case.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Appeals can be lodged against court judgments on matters of law or fact, or relating to the court's exercise of discretion. The appellate courts are generally reluctant to reverse court judgments that are based on findings of fact, particularly where those findings depended on the judge's view of the credibility of the witnesses who gave oral evidence. Appeals of decisions of a District Court Judge to the Court of Appeal require the appellant to show that the appeal has a reasonable prospect of success and there is some other reason in the interests of justice why the appeal should be heard.	**First appeal**: matters of fact or law. The appeal is typically decided on the original evidence; new evidence can be adduced in exceptional circumstances. **First cassation appeal**: only matters of law. There is no re-examination of evidence; the first cassation court must rely on the factual findings of the lower courts. **The Panel of the Supreme Court (second cassation appeal)**: a substantial breach of substantive and/or procedural rules which affect the outcome of the case and threaten the restoration and protection of violated rights, freedoms and legitimate interests as well as the protection of public interests. **The Presidium of the Supreme Court (supervisory appeal)**: violation of (i) human rights and freedoms; (ii) the rights and legitimate interests of the public at large or public interests; or (iii) the uniformity of law enforcement practice.	Parties may agree to vary, limit or exclude the right of appeal. Subject to that, appeals to the Court of Appeal are by way of rehearing. The Court of Appeal has the same powers as the SICC, and full discretionary power to receive further evidence. It may reverse or vary the order of the SICC or order a re-trial.	All cases could, after appeal, be subject to a complete reassessment on the merits. District Court judgments can be appealed to the Court of Appeal. In civil cases, this requires leave to appeal, which is granted if: □ There are doubts regarding the correctness of the judgment □ It is not possible to assess whether or not the judgment is correct without granting leave to appeal □ It is of importance for the correct application of the law that a superior court considers the appeal and □ Further extraordinary circumstances support the appeal Almost all complex civil cases are granted leave to appeal to the Court of Appeal. Court of Appeal judgments can be appealed under the requirement that the Supreme Court grants leave to appeal. This happens rarely (in approximately 2% of cases). This low rate is explained by the fact that the Supreme Court only grants leave to appeal if the appeal raises an arguable point of law of general public importance.	Parties have a right to appeal and do not need to seek leave. First appeal: questions of fact and/or points of law. Second appeal: points of law only.	A party can appeal only on issues of law. The appellate court will not decide the facts of the case, or review the fact findings of the lower court (except in very narrow circumstances). As noted above, a party has a right to appeal to the intermediate appellate court, but further review is generally discretionary with the highest court.

IV. Procedural tools available

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Is interim relief available in support of litigation and in what form (e.g., freezing injunctions, search orders)?	Yes. Interim relief can be sought from the President of the Court (or his/her delegates) via a contradictory trial or ex parte (without hearing the defendant). Interim relief can also be sought by the trial court upon filing the case. The form of interim relief should be limited to a temporary solution and may not affect the outcome of the proceedings on the merit. A party can also seek attachment orders from the attachment judge.	Yes, ex parte and interim relief can be obtained in the DIFC courts. Interim relief available includes interim injunction, an interim declaration, freezing orders and search orders. Obtaining interim orders and relief from the DIFC will generally require a hearing, which is set on three days' notice.	Yes. The court has discretion to make orders for interim relief (before or during the proceedings) where 'just and convenient'. Interim relief available includes interim injunctions, interim declarations, freezing injunctions, search orders and orders for interim payment.	Yes. Juges des référés (whose powers are exercised by the presiding judge or by his delegates) can issue interim relief either in a contradictory trial or ex parte (without hearing the defendant). The decision may be appealed before the Court of Appeal. Interim relief available includes investigative measures, freezing injunctions, orders for interim payment, interim attachment orders to preserve assets pending judgment and preliminary security rights over assets.	Preliminary injunctions, freezing orders, attachments, and arrests are available.
Are expedited procedures for the resolution of a dispute before courts available (including summary judgment/ strike-out)?	Courts cannot render summary judgments but can order preliminary measures in waiting for the final decision. Strike-out and default judgment (if a party does not appear in court) are available. If the parties conclude a settlement, they can request that the court formalises their agreement in a court decision that will have the same binding effect as any other court decision ("akkoordvonnis"/ "jugement d'accord"). Conciliation in court is only possible before a Justice of the Peace.	Yes, immediate (summary) judgment, strike-out and default judgment are all available.	Yes. Summary judgment, strike-out and default judgment are all available.	There is no mechanism comparable to summary judgment. Procedural arguments may be raised before a first-level court in major civil matters to have the case dismissed. Early dismissal of a claim is possible in cases where procedural exceptions can be raised at an early stage. Default judgment may be obtained without trial where the defendant fails to file an acknowledgment of service or a defence by the relevant deadline.	Expedited procedures are available in certain situations. Summary judgments are available, e.g., when limiting evidence to documents only (Urkundenprozess), and can be reversed in a subsequent regular trial (Nachverfahren). Strike-out decisions are not available.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
The CFI can grant interim relief including interim injunctions (mandatory or prohibitory/freezing), and searching orders. Urgent relief may be sought on an ex parte basis.	Yes. The court has power to make orders for interim relief before, or at any stage during the proceedings including attachment orders over the assets of the respondent and injunctions requiring a party to refrain from taking certain steps in relation to the subject matter of the dispute. The court can grant several interim measures simultaneously.	Yes. Injunctive relief is available before and after trial. Examples of injunctive relief include search orders and freezing orders. Urgent relief may be sought on an ex parte basis.	Yes. The court has discretion to make orders for interim relief before or during the proceedings. Interim relief available includes provisional attachment of property, prohibition, default fine, appointment of a receiver, or issuance of a direction suitable in other ways to safeguard the applicant's right.	Yes. The court has the power to make orders for any interim measure that is suitable, including injunctions, orders to remedy an unlawful situation, orders to an authority or a third party, performance in-kind of a sum of money in cases provided by law. Attachments can be obtained in debt enforcement proceedings. Anti-suit injunctions are not available.	A plaintiff can seek interim relief, such as an interim injunction or a freezing order, if it can show that it would suffer irreparable injury absent pre-judgment relief and a likelihood of success on the merits of the claim. The plaintiff must proceed in each US state in which the defendant has assets.
Yes. Summary judgment, strike-out and default judgment are all available.	Yes. Two types of expedited procedures are available in Russia: writ proceedings and summary proceedings.	Yes. Strike-out, summary and default judgments are available. Originating summons procedure and expedited proceedings are also available.	The courts cannot render summary judgments. But the Swedish Enforcement Authority can issue summary decisions that are enforceable if a claim is undisputed. Strike-out and default judgment are available.	Yes. Two types of expedited procedures are available: simplified proceedings for small claims; and summary proceedings in so-called clear cases.	In general, a defendant has two opportunities to defeat the claim before trial. First, at the outset, the defendant can move to dismiss, on the ground that the plaintiff's allegations fail, as a matter of law, to state a claim upon which relief can be granted. Second, the defendant can later move for summary judgment (as can the plaintiff).

IV. Procedural tools available (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
What powers does the court have in support of the arbitral process?	A wide range of powers are granted to Belgian courts (mainly the President of the Court of First Instance) to assist the arbitral proceeding, including the ability to make orders relating to appointment and challenges of arbitrators, the exequatur of interim relief taken by a (foreign) arbitral tribunal, interim relief, assisting in gathering evidence or imposing a timeframe for the arbitrator(s) to issue his/her/their decision.	The DIFC courts are the curial courts for purposes of confirming the validity of an arbitral award and ordering its enforcement against a respondent's assets. Other than the recognition and enforcement of arbitral awards, where the seat of the arbitration is the DIFC, the courts also have a wide range of functions, including: the ability to enforce interim measures granted by the Arbitral Tribunal; assisting in gathering evidence; appointing arbitrators if there is no agreement between the parties (based on agreement of the parties); terminating the mandate of an arbitrator in the event that an arbitrator is unable to perform his functions; and relieving an arbitrator of his duties if there is an agreement between the parties as to the consequences of an arbitrator's resignation.	A wide range of powers, including the ability to make orders in relation to evidence, property and assets, grant injunctive relief or appoint a receiver and to make orders in relation to the arbitration award.	Powers include the ability to end disputes arising with regard to the constitution and composition of the arbitration tribunal.	A wide range of means, including reviewing the validity of the arbitration agreement, appointing and replacing arbitrators and experts, summoning witnesses that are unwilling to appear before an arbitral tribunal and enforcing the production of certain specified documents. Courts can issue preliminary injunctions pertaining to the matter in dispute.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
A wide range of powers, including the ability to make orders in relation to evidence, property and assets, grant injunctive relief or appoint a receiver, make orders in relation to the arbitration award, stay court proceedings in favour of arbitration where the matter is subject to an arbitration agreement, and rule on challenges to the appointment of an arbitrator.	Power to grant interim measures in support of arbitral process, irrespective of the seat of arbitration. However, if the seat of arbitration is in Russia, the courts may also assist with the constitution of the tribunal in institutional arbitration, and orders in relation to evidence (except witness evidence and onsite inspections).	A broad range of powers to order measures in support of international arbitration (whether or not the place of the arbitration is Singapore).	A wide range of powers, including appointment of an arbitrator, attachment of property, interim measures, administering oaths or forcing attendance of witnesses or production of documents (since these measures cannot be taken by arbitral tribunals, the latter can — upon the request of a party to a court — consent to seek the help of a court).	A broad range of powers. Swiss judges have discretion to grant any measures not prohibited by law and may also assist with the constitution of the Tribunal and challenge of the arbitrators if not provided for in the rules agreed upon by the parties.	Power to enforce an arbitration agreement by ordering the parties to arbitrate rather than litigate. A court will also confirm an award thereby 'converting' it into a judicial judgment.

V. Timing and case management

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
How actively do the judges manage cases?	Courts exercise a wide range of case management powers which include: encouraging the parties to use alternative dispute resolution; fixing timetables for the filing of submissions; giving direction and controlling the progress of the case; ordering the production of exhibits; ordering additional investigation measures; ordering the parties to file additional submissions regarding certain facts or points of law; conducting the witness examinations; etc.	During the initial Case Management Conference, the judge will discuss issues, review steps taken, decide next steps, ensure agreements are reached if possible, fix a pre-trial timetable and trial date, determine the need for experts and fix a progress monitoring date.	The courts exercise a wide range of case management powers which include: encouraging the parties to use alternative dispute resolution; fixing timetables, giving directions and controlling the progress of the case; and reviewing the proposed legal costs and making orders which limit how much of those costs can be recovered from the other side.	The courts exercise a wide range of powers which have recently been consolidated by law reforms. They include: ordering the production of certain documents; inviting parties to specify points of law or fact; ordering the involvement of a third party; ordering joinder or stay of proceedings; and encouraging parties to reach an amicable settlement of the dispute.	The judges have an active role in managing their cases. They make decisions on procedural matters such as hearing dates, and witnesses or experts to be heard, and instruct the parties as regards their preliminary opinion on the case. During the hearing, the judges take a leading role. They are the first to hear and ask the witnesses and/or experts questions in the courtroom.
How long on average would a simple (contested) debt claim take to reach judgment?	The duration of a case may vary greatly depending on the complexity of the matter and the number of cases pending before the court. On average, a contested debt claim may take between six and 12 months before reaching a judgment in first instance. The duration can be longer depending on whether the case is postponed, whether there are more than two parties and whether the parties request several rounds of submissions. The duration of the appeal procedure depends on the workload of the Court of Appeal.	The duration of a case may vary greatly depending on the complexity of the matter and the number of cases pending before the court. 90% of cases are resolved within four weeks at the Small Claims Tribunal. On average, it can take between eight to 12 months to receive a judgment from the Court of First Instance. The timescale varies significantly depending on a number of factors, including: whether a party raises a jurisdictional challenge; the number of witness statements and expert reports exchanged by the parties; the number of submissions each party is required to file; and whether the parties are ordered to produce documents.	The duration of a case will be dictated by the complexity of the matter and the number of witnesses and/or experts whose evidence will need to be examined. According to the Civil Justice Statistics for September to December 2017, there was an average time of 58.3 weeks from issue of the claim until trial for civil cases on the fast or multi-track procedure.	The duration of a case may vary greatly depending on the complexity of the matter and the number of cases pending before the court. According to the main statistics of the Ministry of Justice for 2018, average time taken from the filing of a claim until trial is 13.3 months before the Court of Appeal, 7.6 months before first-level civil courts and 5.5 months before commercial courts.	According to the German Federal Statistical Office, in 2017 an average dispute before the regional court took about 15.6 months and about 7.8 months before the local courts until a judgment was issued. However, the actual duration of a dispute depends on many aspects and may vary considerably.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
The courts exercise a wide range of case management powers which include: fixing timetables for discovery; inspection; exchange of witness statements; exchange of expert reports; and the place and mode of trial; as well as fixing case management conferences and pre-trial reviews.	Judges exercise a wide range of case management powers and strive to ensure that cases are dealt with expeditiously. If a judge does not comply with the principle of timely consideration of a case and delays the proceedings, a party may file a request to the president of the court to accelerate the proceedings.	The SICC's rules favour an active, judge-led approach towards case management. Given the volume of SICC cases to date, it is too early to identify any general case management trends.	The courts exercise a range of case management powers which include: encouraging the parties to use alternative dispute resolution mechanisms; fixing timetables; giving directions; and otherwise controlling the progress of the case.	Case management varies depending on the judges in charge of the case. Proceedings are often excessively lengthy as a result of a lack of active judicial management.	This varies widely from court to court and, indeed, from judge to judge within a court. In general, federal judges actively manage their cases, holding conferences, monitoring progress, etc. They often refer larger cases to a Magistrate Judge, who can and will more closely supervise pre-trial activity. It is difficult to generalise about state court judges.
The duration of a case will be dictated by the complexity of the matter and the number of witnesses and/or experts whose evidence will need to be examined. In a simple contested debt claim, the claimant may seek summary judgment on the basis that there is no arguable defence to the claim. This process may result in a summary judgment within six to 12 months.	It would take on average of three to nine months to consider a simple (contested) debt claim in the court of first instance. However, it may take longer if the court engages an expert or makes a request for legal assistance, and stays the proceedings pending completion of these steps.	The SICC is still relatively new (it was set up in 2015), so it is difficult to identify a reliable average based on the number of cases heard by the court to date. By way of example, a simple debt claim against a defendant outside the jurisdiction to reach judgment might take about six to nine months after service of the claim. Timings will vary significantly depending on complexity of the case.	The average simple debt claim lasts approximately one year from the submission of the claim until the reaching of a judgment. In the event of a more complex case, the district court renders a judgment within two years or more. After granting the right to appeal, appeal courts need approximately one additional year to decide the case.	The duration of a case is dictated by the complexity of the matter and the number of witnesses and/or experts whose evidence will need to be examined. Generally, it can take about a year for a first-instance decision in a simple matter (i.e., a matter which does not require witness or expert evidence), although it can occasionally take just a few months. In case of appeals, it can take up to two to three years to reach a final decision by the last instance.	Two or more years is a reasonable prediction.

V. Timing and case management (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
What documents are the parties required to provide in support of their case or the other side's case, and against their own case (disclosure)?	It is up to the parties to decide which documents they want to disclose since there is no general discovery or pre-trial disclosure procedure. As a rule, parties must provide all documents which serve as evidence for the facts it relies upon in support of its case. No proof must be provided regarding undisputed facts. A court may only order a party to disclose a well-specified document in a (third) party's possession (either favourable or unfavourable for their case) if such a document exists and would serve as evidence for the case.	There is no obligation to provide adverse documents, only documents on which a party relies. The court can order the production of documents, in which case all documents falling within the scope of the order must be produced, including documents adverse to a party's case.	The disclosure ordered can vary but, typically, a party must disclose all documents (anything on which information is recorded) in its control: □ On which it relies □ Which adversely affect its case or another party's case, or support another party's case or □ That it is otherwise required to disclose by the Civil Procedure Rules The Business and Property Courts have commenced a pilot scheme aimed at streamlining the disclosure process. Under this scheme, the court can order a range of disclosure options. Disclosure of known adverse documents is still required.	A party must disclose all documents in its control upon which it relies to support its case. However, there is no discovery or pre-trial disclosure procedure under French law. Hence, it is not compulsory for a party to produce documents that could be damaging to its case, unless a production order is obtained from the judge.	If they bear the burden of proof, parties are required to substantiate their claims and provide evidence in case their submissions are disputed by the opposing party. In doing so, the parties can provide any type of documents they consider suitable to prove their submissions. While the parties are not obligated to provide documents in support of their opponents' submissions, the court can order them to submit certain documents.
Are parties able to withhold documents from disclosure on the grounds of privilege or other bases? If so, what is the test for when a document can be withheld?	Yes, based on legal privilege, all communications (oral and written) (i) between a client and its counsel and (ii) between counsels of opposing parties, are privileged and confidential and cannot, in principle, be disclosed in judicial proceedings nor to the lawyers' respective clients (unless an exception applies). Other professional relationships may also be protected (such as doctors, auditors, etc.) if these professions are held to rules of professional secrecy.	Yes, a document may be excluded from production for privilege under the legal or ethical rules determined by the court to be applicable. However, there is no DIFC legislation which specifically deals with privilege. Given the common law background of the judges in the DIFC courts, the courts may apply the English legal principles of privilege.	Yes. There are three main types of privilege protection under English law: legal advice privilege; litigation privilege; and without prejudice privilege.	Yes. Communications (oral and written) between a client and its counsel are privileged and confidential. Communications between counsels of opposing parties are also confidential and cannot be disclosed to the lawyers' respective clients. Professional relationships may also be protected (e.g., banking secrecy).	The parties are not obligated to provide any documents requested by the opposing party or the court. The court may draw adverse inferences from this failure to provide the document, but it does not necessarily have to.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Each party has a continuing duty throughout the proceedings to disclose to the other parties all documents (whether favourable or unfavourable) in its possession that are relevant to the issues in dispute in the proceedings.	The common law concept of disclosure is not known to Russian law. The parties must prove their respective cases relying on the evidence they have. A party, however, may ask the court to order the other party to the proceedings or a third party to disclose specific documents. A party to the proceedings, as opposed to a third party, is under no obligation to disclose any documents. However, the court may draw adverse inference from the party's refusal to comply.	Broadly speaking, the disclosure regime is similar to the English standard disclosure regime: A party must disclose documents on which it relies as well as documents adverse to its case or which support another party's case. However, the court has relatively broad powers to amend and tailor disclosure directions in each case.	Parties must submit the documentary evidence they invoke supporting their case to the court and counterparty. Parties could be asked to list all documents relevant as evidence and which the party has in its possession. However, this rarely happens. Swedish law does not encompass broad, English-style disclosure requirements or US-style document discovery requests. 'Fishing expeditions' are not allowed.	As a rule, the parties must provide the evidence they intend to rely on and document production orders are very limited and rare in practice. As a result, the parties rarely have to produce documents that could be damaging to their respective cases.	The parties must produce all documents requested by the opposing party. Document requests, however, are written as broadly as possible. Thus, in practice, a party will be required to produce substantially all documents relevant to the claims and defences, whether the documents help or hurt the party's case.
Yes. Parties are able to withhold documents from disclosure on the grounds of legal advice privilege and litigation privilege.	Russian law recognises a form of privilege known as 'attorney's secrecy'. Attorney's secrecy protects any information obtained in connection with the provision of legal services to the clients. Attorneys cannot testify on the matters which became known to them while representing their clients. This form of privilege applies predominantly in criminal proceedings.	Yes. Privileged communications are inadmissible. There are two main types of privilege protection: legal professional privilege; and without prejudice privilege.	Yes. Parties are able to withhold documents on the grounds of privilege or trade secrets, irrespective of the type of case. In addition to documents, other information, which has been confided to a member of the Bar Association in a professional capacity, is protected. Communications with in-house counsel are not privileged and not protected.	Yes, parties can withhold documents from disclosure on the grounds of statutory professional secrecy, attorney-client privilege, or medical secrecy. Communications with in-house counsel are not privileged. The party seeking disclosure bears the burden to persuade the judge that the documents should be disclosed by the other party.	A party can withhold documents based on the attorney-client privilege. Counsel to a party can withhold its 'attorney work product,' which, in general, includes materials prepared in anticipation of litigation and materials that would reveal the attorney's thought processes and notes.

V. Timing and case management (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Are parties entitled to insist on an oral hearing in all cases?	All cases will in principle be dealt with via oral hearings, unless the parties were to jointly request written proceedings (which are rare in practice). In that case, the parties would still need to appear at the (oral) introductory hearing to organise the timetable of the procedure and the court could, in the course of the written proceedings, request an oral clarification.	The applicant must file an application notice — either a request for a hearing or a request that the application be dealt with without a hearing. Any application for an interim injunction or similar remedy will require an oral hearing.	The courts will act in compliance with the right to a public hearing but also have a duty to further the overriding objective by actively managing cases, which includes dealing with certain applications without the parties needing to attend court.	Procedure before the Commercial Court is oral, even if written pleadings are commonly used as well. Before the civil court and the Court of Appeal, even though written filings are mandatory, there are usually oral pleadings, except if both parties and the court agree that such pleadings are not necessary.	Yes. The parties are entitled to oral hearings for all matters decided by a judgment. However, if the parties agreed to proceed with the dispute without oral hearing, they may only revoke their consent to this procedure if the status of the proceedings has considerably changed. For all decisions the court may take without issuing a judgment (e.g., procedural order), an oral hearing is not generally necessary and cannot be enforced by the parties.
Are witnesses and experts cross-examined?	Examination of a witness is conducted by the court itself. There is no formal cross-examination by the parties. The parties (via their lawyers) can request that the court raise specific questions to the witness.	Witnesses can be cross-examined. The court's permission is required to rely on expert evidence. The expert has the duty to help the court on the matters within his expertise. Expert evidence is governed by the Rules of the DIFC Courts which follow the English Civil Procedure Rules. The Rules also refer parties to the English "Protocol for the Instruction of Experts to give evidence in civil claims". Experts can be cross-examined. In general, written questions should be put to experts before requests are made for them to attend court for cross-examination.	Yes. Factual and expert witnesses will normally be cross-examined on their witness statement/expert report by the counsel for the opposing party. The court also has the power to order that experts give oral evidence at trial concurrently (known as 'hot tubbing').	In practice, there is neither examination, nor cross-examination of witnesses or experts.	The judge takes the lead in asking questions of witnesses and experts, but parties can also ask questions.
What final remedies can the court order, other than damages?	Specific performance, mandatory or prohibitive injunctions, restitution, penalty, subrogation or termination of contracts.	The main remedy available in commercial disputes is compensatory damages. The courts can also make an order for declarations, injunctions or specific performance.	Specific performance, mandatory or prohibitory injunctions, a declaration, restitution, an account of profits, rescission and subrogation.	Specific performance, mandatory or prohibitive injunctions, restitution, penalty, subrogation or termination of contracts.	Determinations of legal relationships (e.g., termination of a contract), specific performance, order to return movable/ immovable property or rights, cease and desist order, indemnification and disclosure of information.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Generally, yes. However, in interlocutory applications, in circumstances where directions could fairly be given on paper without any oral hearing, the court will do so.	Yes. Parties are entitled to insist on an oral hearing except for writ proceedings, summary proceedings, and instances when a decision can be made by the judge without requiring the presence of the parties (e.g., interim measures).	The Court may dispense with an oral hearing: □ In an ex parte application □ In an application where all parties have consented to the order sought or □ Where the parties consent to dispense with an oral hearing	Court proceedings consist of two different oral hearings: the pre-trial hearing and the main hearing. The main hearing is the second oral hearing, where the parties can present their cases, examine witnesses, etc. The parties normally have a right to have their cases heard at a public hearing. Only in some circumstances may the court render a judgment without a main hearing.	As a general rule, parties must attend at least one in-person hearing called by the judge (in most cases) after the exchange of written submissions. This rule also applies in summary proceedings although the judge may decide not to hold a hearing.	A trial will comprise an oral hearing. As to pre-trial proceedings, the courts have discretion to hear the parties orally or to decide the issues based on written submissions.
Yes. In general, the parties will be directed to exchange written statements and expert reports before the trial. Witnesses and experts will then be called to give oral evidence and be cross-examined at trial.	Witnesses and experts may be cross-examined if they are summoned to appear for the oral hearing by the court. However, this is not common for proceedings in commercial courts.	Yes. Witnesses will normally be cross-examined unless the SICC orders otherwise, or the parties agree that the witness does not need to attend trial.	Yes. There is a right to cross-examine witnesses of fact and experts. Witness statements are normally not admitted. Experts are required to submit an expert report. The court also has the power to order that experts provide oral evidence during the main hearing concurrently ('hot tubbing').	Witnesses and experts must answer questions, which are normally put to them by the judge counsel. Counsel may, upon being granted leave by the judge, question the witness; this however does not amount to a common law-style cross-examination.	Yes, at both pre-trial oral depositions, which proceed in a question-and-answer format, and at trial.
Specific performance, injunctions, declarations, orders for an account of profits, orders for tracing, and orders for recovery and restitution of property.	Remedies include: debt recovery; specific performance; invalidation of a transaction; recognition of a right; restoration of rights, penalties and interest; compensation for moral harm; and termination or modification of an obligation.	A wide range of final remedies is available. In addition to damages, these include declaratory relief (including where no other relief is sought), orders for specific performance and injunctions.	Specific performance, mandatory or prohibitory injunctions or a declaration.	Specific performance, modification of a legal relationship or declaratory relief. A court will only issue a declaratory judgment if it cannot order another relief.	Specific performance, mandatory or prohibitory injunctions, a declaration as to the parties' rights, restitution, an accounting of profits, rescission and subrogation.

VI. Costs

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Is it possible to obtain security for costs of litigation?	In general, a defendant to any claim would not be entitled to apply for security for its costs of the proceedings from the claimant. There is, however, an exception in case the claim was filed by non-EU claimants and no treaty exemption applies.	A defendant to any claim may apply for security for his costs of the proceedings. In making an application for security for costs, the defendant must show that certain requirements are met. The defendant may also apply for security for costs against someone other than the claimant. An application for security for costs must be supported by written evidence.	Yes. A defendant to any claim may apply for security for its costs of the proceedings from the claimant, provided that certain requirements are met. The defendant may apply for security for costs ordering against someone other than the claimant. The court may also order security for costs of an appeal.	In commercial matters, a defendant cannot apply for an order requiring the claimant to provide security for its costs, except in the context of an interim injunction.	A plaintiff domiciled in Germany, the EU or EEA is not obliged to provide security for costs. A plaintiff domiciled elsewhere may be required to provide security for costs if the defendant demands it.
Is third-party funding permitted?	Third-party funding is not regulated by any laws or guidelines in Belgium. In principle, a third-party funding contract would be permissible in Belgium, although some (legal and ethical) constraints would apply. It is uncommon in Belgian litigation or in the context of international arbitration (if the seat of arbitration is in Belgium).	Yes, although third-party funding has not been widely used in the UAE.	Yes. Note that if the funded party is unsuccessful, the funder may be ordered by the court to contribute to the winning party's costs (capped at the amount of funding it has provided to the unsuccessful party). The court also has the power to order security for costs against a third-party funder.	Yes. Third-party funding is permitted and is gradually gaining popularity in France.	Yes (e.g., by legal expenses insurances or litigation-funding companies). Tax consultants, auditors and attorneys, however, are explicitly prohibited from financing proceedings in which they represent a third party.
Are solicitors permitted to work on the basis that, if successful, (i) their fees will be uplifted (conditional fees) or (ii) they will be paid a certain percentage of the sums awarded/ recovered (contingency fees)?	Full contingency fees are prohibited under Belgian law, but partial success fees are allowed as long as they do not account for the entirety of the fee. They must be combined with another method of remuneration (such as a flat fee or an hourly rate).	The DIFC prohibits a lawyer from receiving a contingency fee in respect of any litigious or contentious action. Conditional fee arrangements are allowed.	Solicitors are permitted to work for conditional fees or contingency fees under defined and limited circumstances.	Full contingency fees are prohibited, but success fees are allowed as long as they do not account for the entirety of the fee. They must be combined with another method of remuneration (such as a flat fee or a lower hourly rate).	In general, attorneys are not permitted to work for either conditional fees or contingency fees. However, under certain circumstances, success fees can be permissible in order to allow impecunious clients to pursue their rights.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Yes. Where the claimant is resident outside the jurisdiction, or is a limited company incorporated in Hong Kong, or a company incorporated outside Hong Kong and there is reason to believe that the claimant will be unable to pay the defendant's costs were the defendant to succeed at trial.	It is not possible to obtain security for costs of litigation.	Yes. A defendant to a claim or counterclaim may apply for security for costs in defending the claim. A defendant may also seek security for costs against a non-party. The SICC has broad discretion as to the timing and terms of security.	Yes, but only from claimants that are not domiciled in an EU or EFTA Member State.	Yes.	No. Each side normally bears its own costs. There are, however, specific situations that provide analogous relief.
Third-party funding of commercial disputes is generally not permitted except that such arrangements are sometimes permissible in insolvency proceedings to enable liquidators to pursue claims. Third-party funding is allowed in arbitration.	While third-party funding is not prohibited by Russian law or court practice, it is not widespread.	Singapore has recently abolished liability for maintenance and champerty. However, third-party funding is still generally prohibited under Singapore law, except for international arbitration matters.	Although third-party funding is principally permitted in Sweden, the concept is not very common in court proceedings. The only restriction on third-party funding concerns the members of the Bar Association, who are not permitted to fund their mandates.	Yes, as long as there are no conflicts of interest.	In general, yes.
Conditional or contingent fee arrangements are generally not permitted in Hong Kong in respect of contentious business. These agreements are illegal at common law and punishable as a criminal offence.	The parties are free to structure the terms of counsel remuneration as they wish. However, contingency fees cannot be recovered from the losing party.	No, this is prohibited for Singapore solicitors, certain categories of registered foreign lawyers and law practices in Singapore.	Contingency fees and conditional fees are prohibited in Sweden by the Code of Conduct of the Swedish Bar Association.	A full contingency fee arrangement is not permitted in Switzerland. Only so-called pactum de palmario are admissible provided that: (i) the lawyer is paid a sufficient amount of fee regardless of the outcome of the matter; (ii) the amount of the contingent fee does not amount to an excessive advantage that may impact on the lawyer (i.e., the bonus does not exceed the standard hourly rate); and (iii) the fee arrangement is agreed at the beginning or the end (but not during) the proceedings.	Yes, both types of fee agreements are in wide use. Historically, purely contingent fee agreements were limited to personal injury cases, but are now seen in commercial cases, especially in class actions.

VI. Costs (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
Who is responsible for paying the costs of litigation?	Each party assumes its own costs while proceedings are pending. When a final decision is rendered, court costs are borne, in principle by the unsuccessful party. Nevertheless, each party is responsible for any expenditure which the court deems unnecessary and, depending on the outcome of the case, the court may decide to divide the costs between the parties. The court costs include, inter alia: □ The costs of the judicial proceeding (including costs for service of the writ of summons or the court decision and registration costs) □ The costs related to investigation measures (including expert or witness costs) and □ A fixed lump sum indemnity for the legal fees of the successful party. For complex cases or cases with an amount in dispute above EUR 1 million, this lump sum indemnity is set at a maximum of EUR 36,000 (adapted from time to time for indexation).	The court has discretion as to whether costs are payable by one party to another, the amount of such costs and when they are paid. The general rule is that the unsuccessful party will be ordered to pay the costs of the successful party, but the court may make a different order having regard to the circumstances in the case.	Generally, the unsuccessful party pays the reasonable costs of the successful party. However, the court has wide discretion as to whether costs are payable by one party to another and the amount of such costs, and when they are paid.	Each party assumes its own costs while proceedings are pending. When a final decision is rendered, court costs are borne by the unsuccessful party, except where the court orders that they be paid, in part or fully, by another party. The court may also require that the party ordered to bear the court costs pay to the other party a lump sum intended to compensate for sums incurred that are not included in court costs, i.e., the irrecoverable costs (frais irrépétibles), such as legal fees. Third-party funding or security for costs, even if not legally barred, are still unfamiliar practices in France.	Generally, the unsuccessful party bears the costs of the successful party. However, attorneys' fees are capped at the amount of fees determined by the German Act for the Remuneration of Lawyers.
How does the court control costs (costs budgeting)?	Generally, the court does not control the costs as the parties assume their own costs, except to the extent that the court can allocate unnecessary expenditure to the party responsible. The court can also control the costs of the court-appointed expert or the witness (as provided by the Code of Civil Procedure).	No specific cost controlling measures are in place. The court may order a cost assessment.	The courts control costs under case management powers by reference to cost estimates and cost budgeting/cost management orders.	There is no such thing as a cost-management order or cost-capping order that French courts can make.	The court does not control costs.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Parties usually fund their own legal costs. Awards of costs are at the discretion of the Court of First Instance of the High Court, although the general rule is that the successful party will recover a proportion of its legal costs from the unsuccessful party.	Each party bears its own costs of litigation. The successful party may be able to recover a reasonable proportion of its costs from the losing party. The court will decide what amount is reasonable on a case-by-case basis.	The costs of any application or proceedings are at the discretion of the court. The court has the full power to determine by whom and to what extent costs are to be paid. Generally, the unsuccessful party will pay the successful party's reasonable costs. Costs may also be ordered against a non-party.	Generally, an unsuccessful party pays the litigation costs of the successful party. In case of a partial success, the costs of litigation can be distributed between the parties. The court has wide discretion as to whether costs are payable by one party to another and the amount of such costs.	Generally, the unsuccessful party bears the costs of the proceedings and a proportion of the legal expenses of the successful party. However, the court has discretion as to whether the successful party should recover its costs and the amount of such costs.	Generally, each side bears its own costs, win or lose. That rule, however, can be (and often is) varied by contract. Also, a few special statutes authorise cost shifting.
There is no cost-budgeting regime in Hong Kong. However, costs awards are at the court's absolute discretion.	Russian courts do not control costs.	The court may require parties to provide cost schedules, cost estimates or budgets during proceedings. Any sanctions for non-compliance would be dealt with by the court on a case-by-case basis.	There are no rules on cost budgeting, except for cases where the amount in dispute is very low (lower than approximately EUR 2,000).	Swiss courts do not control costs.	The courts have broad powers of case management. Many aspects of case management are intended to control costs, or at least have that effect.

VII. Enforcement of judgments and awards

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
How easy is it to enforce judgments given by the courts of this jurisdiction elsewhere in the world?	A judgment by a Belgian judge will be easily enforced in the EU due to the free circulation of judgments (based on the EU regulations). Outside of the EU, this will depend on the local laws and will vary from country to country (unless a multilateral or bilateral treaty applies on the recognition and enforcement of judgments).	DIFC court judgments are enforceable "onshore" in the UAE in accordance with Dubai Law No. 12 of 2004 (as amended). Enforcement should be relatively straightforward in jurisdictions with which a treaty exists. The UAE (which extends to the DIFC) is party to a number of treaties with other countries that govern the reciprocal enforcement of judgments, including Saudi Arabia, Kuwait, Qatar, Bahrain, Oman, Jordan, Tunisia, Algeria, Djibouti, Sudan, Syria, Somalia, Iraq, Palestine, Lebanon, Libya, Morocco, Mauritania, Yemen, France, India, Egypt, China and Kazakhstan. The DIFC has also entered into a number of non-legally binding memoranda of guidance with other jurisdictions for the reciprocal enforcement of judgments. In countries with which the UAE has no relevant treaty or memoranda, enforcement will be a matter for the courts of that country.	English judgments are recognised and enforced in a large number of countries. The method of, and preconditions for, enforcement will depend on the law of the country in which enforcement is sought and on the applicable legislation. At the time of writing, it is not clear what impact BREXIT will have (if any) on the enforcement of English judgments in the EU.	French judgments are easily enforced in the EU. Outside the EU, the conditions for enforcement of French judgments will depend on the law of the country in which enforcement is sought and on international regulations and multilateral and bilateral conventions that cover reciprocal recognition and enforcement.	German judgments are easily enforced in the EU and EEA. Outside the EU, enforcement of German judgments is relatively easy to secure where international regulations or multilateral or bilateral conventions cover reciprocal recognition and enforcement. (which, however, is not often the case). In absence of such regulations, enforcement can be difficult, depending on the judgment country of destination.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Certain Hong Kong judgments can be enforced in Mainland China and in foreign courts pursuant to the reciprocal arrangements between Hong Kong and the relevant jurisdictions.	Russian court judgments can be enforced on the basis of international bilateral and/or multilateral treaties between Russia and foreign countries. Russia has such treaties with, inter alia, the CIS countries, multiple European countries, a number of Middle Eastern countries, China, India, Argentina and Cuba.	SICC judgments have the same status as of the Singapore High Court, and can be enforced in a number of countries. Reciprocal enforcement arrangements are in place with various Commonwealth jurisdictions (including England), and elsewhere (including Hong Kong). Enforcement is also available, where applicable, through the 2005 Hague Convention on Choice of Court Agreements, to which all EU Member States (except Denmark) are party.	Swedish judgments are easily enforced in the EU. Outside the EU, Swedish judgments are recognised and enforced in a large number of countries. The method of and preconditions for enforcement will depend on the law of the country in which enforcement is sought, as well as the international treaties between the country of enforcement and Sweden.	Swiss judgments can be enforced abroad on the basis of a bilateral or multilateral treaty on the recognition and enforcement of judgments between Switzerland and the country in which enforcement is sought. In the absence of a treaty, enforcement is subject to the conditions of the law of the country in which it is sought.	The judgments of US courts are readily recognised by the courts of other countries, especially Western countries and countries that (like the US) inherited the British common law system (e.g., Australia and some African countries).

VII. Enforcement of judgments and awards (continued)

	Belgium	Dubai (DIFC)	England and Wales	France	Germany
How easy is it to enforce foreign judgments through the courts in this jurisdiction?	Enforcement of judgment issued by a court in another EU Member State would not require an exequatur and is therefore very easy. For the enforcement of a judgment from outside the EU, an exequatur would need to be obtained from a Belgian court through ex parte proceedings (unless a multilateral or bilateral treaty exemption applies). There are limited grounds for refusal of enforcement that apply.	Where there is a relevant treaty in place between the UAE and the country whose judgment is being enforced, enforcement will be relatively straightforward. The DIFC courts have also signed memoranda of guidance with some other jurisdictions, which set out a non-binding 'mutual understanding' of the applicable laws and judicial processes governing the reciprocal enforcement of final money judgments under the common law. At present, there are no cases in which the DIFC has addressed whether its powers to enforce foreign judgments are wider than the powers of the Dubai Courts (in which in practice, if there is no treaty in place, it can be difficult to enforce a foreign judgment). However, the existence of the memoranda provides comfort that the DIFC courts are prepared to enforce foreign judgments where there is a treaty or reciprocal enforcement of judgments.	Foreign judgments can be enforced in England subject to certain requirements being met. The method and requirements are dependent on the jurisdiction in which the judgment was made. It is currently very easy to enforce EU judgments in England. However, at the time of writing, it is not clear what impact BREXIT will have (if any) on the enforcement of EU judgments within the UK.	Foreign judgments can be enforced in France, subject to requirements which vary depending on the jurisdiction which rendered the judgment. EU judgments will be recognised and enforced without prior registration. Recognition and enforcement of non-EU judgments are subject to articles 509 and subsets of the French Civil procedural code.	Foreign judgments can be enforced in Germany, subject to requirements which vary depending on the jurisdiction which rendered the judgment. EU and EEA judgments will be easily recognised and enforced. Recognition and enforcement of non-EU/non-EEA judgments are subject to international regulations or multilateral or bilateral conventions covering reciprocal recognition and enforcement. In the absence of such regulation, the enforcement of foreign judgments in Germany is subject to the requirements set forth in section 328 of the German Civil Procedure Code (e.g., no violation of German public policy, reciprocity of recognition and enforcement of judgments with the state issuing the judgment).
What powers does the court have in support of the enforcement of arbitral awards?	A domestic or international award is subject to the same ex parte proceeding as non EU judgments in order to obtain an exequatur. A court has the power to refuse the recognition and enforcement of an award on the basis of the refusal grounds listed in the Code of Civil Procedure or the relevant treaty. Belgium is a signatory of the New York Convention and of five bilateral investment treaties.	The UAE (and DIFC) are parties to the New York Convention and follow its rules on the Recognition and Enforcement of Arbitral Awards. There are only limited grounds on which a court can refuse the recognition and enforcement of an award.	The Arbitration Act 1996 governs the recognition and enforcement of arbitral awards (other than ICSID awards), and the UK is a signatory to the New York Convention. The English courts generally take a pro-enforcement stance. There are limited defences to enforcement/grounds for challenge.	The award is enforceable in the same way as a court ruling, subject to the laws of the state of enforcement. A New York Convention award may be enforced in the same manner as a judgment or order of the court. A simplified procedure is also applied with regard to ICSID awards.	Domestic arbitral awards are enforceable in the same manner as domestic court judgments. Foreign arbitral awards coming from a signatory state to the New York Convention award may be enforced in the same manner as domestic judgments. The enforcement of both domestic and foreign arbitral awards under the New York Convention may be refused only under a few narrow circumstances. A simplified procedure also applies with regard to ICSID awards.

Hong Kong	Russia	Singapore (SICC)	Sweden	Switzerland	US
Foreign judgments (other than judgments from mainland China) may be enforced in the Hong Kong courts. Certain Mainland judgments may also be enforced.	Foreign judgments can be enforced in Russia on the basis of an international treaty between Russia and the country of the judgment. In the absence of a treaty or reciprocity, Russian courts may deny enforcement.	Recognition and enforcement of a foreign judgment is relatively straightforward where an application is made under reciprocal arrangements with other jurisdictions. Where no reciprocal arrangements exist, a party may commence a fresh action to sue on the foreign judgment as a debt.	Foreign judgments can be enforced in Sweden under certain requirements, which are dependent on the jurisdiction in which the judgment was made. International treaties constitute the main instrument for a facilitated enforcement of foreign judgments in Sweden.	Foreign judgments can be enforced in Switzerland on the basis of a corresponding treaty on the recognition and enforcement of judgments between Switzerland and the country of the judgment. In the absence of such a treaty, enforcement is still possible based on the national private international law rules (but it may take a long time).	In general, it is easy to enforce foreign-country judgments in US courts. The majority of states have enacted statutes that provide a streamlined procedure for recognition. The US court will not re-examine the merits of the case, and will examine only limited issues.
A New York Convention award or a domestic award is enforceable in the same manner as a Court of First Instance judgment, but only with the leave of the court. The court will refuse to enforce arbitration awards in limited circumstances.	Foreign arbitral awards may be enforced in Russia pursuant to the terms of the New York Convention, to which Russia is a party. There are limited grounds on which enforcement of an arbitral award may be denied under Russian domestic law. Russian courts may grant interim measures in support of the enforcement of arbitral awards or impose a judicial penalty for the non-execution of judicial decisions on enforcement of non-monetary arbitral awards.	Singapore has a pro-arbitration outlook and is a party to the New York Convention. In most cases, recognition and enforcement of a New York Convention award is relatively straightforward. The SICC has jurisdiction over enforcement applications.	Swedish law principally has an enforcement-friendly approach towards arbitral awards. Sweden is a signatory to the New York Convention.	Enforcement of arbitral awards in Switzerland is very efficient. Switzerland is a party to the New York Convention and Swiss courts have a very pro-arbitration attitude. There are only a limited number of grounds on which enforcement can be refused by a Swiss court.	In general, a US court has the power to recognise an arbitral award and thereby 'convert' it to a judicial judgment, which can then be enforced by all methods available to judgment creditors. The US court's review of an arbitral award is limited. The US court will not re-examine the merits, and will examine only limited issues. The US is a signatory to the New York Convention.

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