

# CROSS-BORDER LITIGATION: INTERNATIONAL PERSPECTIVES, ISSUE 2

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Guides

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Herbert Smith Freehills has published the second issue of Cross-Border Litigation, a periodic publication spotlighting legal and practical issues specific to litigation with an international aspect.

The publication will tap into the vast expertise of the firm's leading commercial litigators across the globe, to give readers the benefit of their hands-on experience conducting cross-border litigation and to flag key developments in this area that should be on commercial parties' radars.

Why the focus on cross-border litigation? The increasing globalisation of business has inevitably resulted in a dramatic increase in the number of litigated disputes where the parties are based in different jurisdictions or there is some other international aspect (such as the location of evidence or assets).

Such disputes of course raise particular legal issues, many of which fall within what is traditionally known as 'private international law' - such as jurisdiction, choice of law and enforcement of foreign judgments. Those areas of law are continuing to evolve apace, both within national legal systems and through multi-jurisdictional arrangements. For commercial parties dealing internationally, an awareness of developments in those areas of law is important as a key part of dispute risk management - not only when a dispute arises but also at the deal-making and contract drafting stages.

Further, beyond matters of substantive law, cross-border litigation typically gives rise to practical challenges that do not arise to the same extent in domestic disputes. Relatively straightforward procedures can become complicated where they span borders, and it is important to be aware of these additional hurdles and how best to navigate them.

**In this issue:**

- We highlight a selection of key developments from across the globe since our last publication, which are likely to be of interest to commercial parties dealing internationally.
- Over two years after the much-heralded launch of the Singapore International Commercial Court, our Singapore office looks at the features of the court designed to attract international litigants and assesses how successful it has been in achieving that aim.
- We put the spotlight on Helmut Görling, partner in our German Corporate Crime and Investigations team, who has established a unique team combining legal experts, forensic accountants and investigators working together to help clients who have fallen victim to white collar crime. He reveals how his pre-law life as a criminal fraud detective brings an invaluable perspective to the challenges of global asset tracing.
- Our London disputes team summarises the English courts' approach to two separate issues pertinent to cross-border cases:
  - To what extent will a court take into account political factors, alleged corruption and other potential obstacles to justice in a foreign jurisdiction when deciding where a dispute should be heard?
  - What "use" can a party make of disclosed documentary material in considering its possible relevance to other actions without first needing the court's permission? Two recent English decisions (which may influence other common law jurisdictions) have suggested a narrower approach to what constitutes "using" documents than was previously generally understood.
- Following our earlier assessment (in our March 2017 issue) of the likely impact of Brexit on cross-border litigation, we provide an update taking into account the relevant negotiating positions put forward to date by the UK Government and the remaining EU Member States.
- We highlight the latest edition of our popular guide for in-house counsel on negotiating dispute resolution and governing law clauses in India-related contracts.

**Download a copy of this publication above.**

## **PREVIOUS VERSIONS**

Issue 1 - click [here](#) to view and download



## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**ANNA PERTOLDI**  
PARTNER, LONDON

+44 20 7466 2399  
Anna.Pertoldi@hsf.com



**JAN O'NEILL**  
PROFESSIONAL  
SUPPORT LAWYER,  
LONDON

+44 20 7466 2202  
Jan.ONeill@hsf.com

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