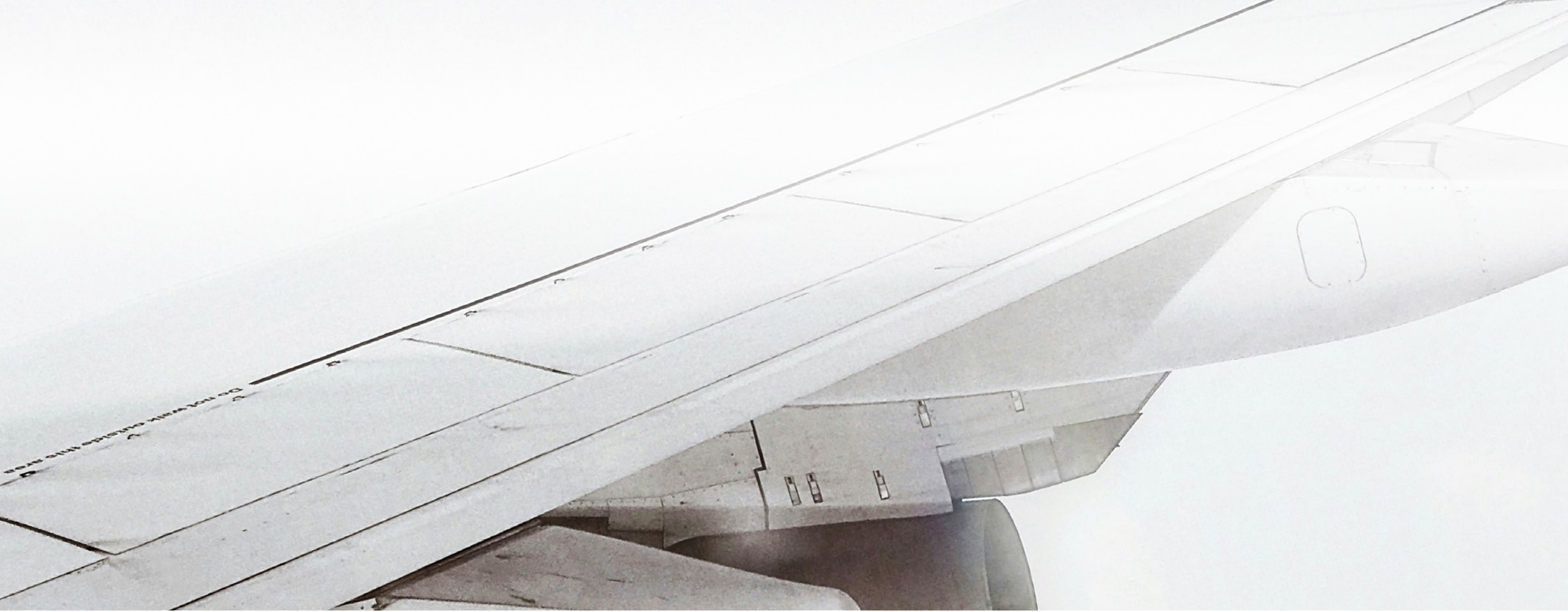
CHAMBERS GLOBAL PRACTICE GUIDES

Aviation Disputes 2026

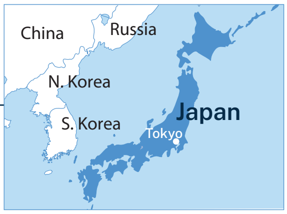
Definitive global law guides offering comparative analysis from top-ranked lawyers

Japan: Law and Practice

Makoto Terazaki, Shigeo Sato,
Tomoki Yamada and Moe Sasaki
Anderson Mori & Tomotsune



JAPAN



Law and Practice

Contributed by:
Makoto Terazaki, Shigeo Sato, Tomoki Yamada and Moe Sasaki
Anderson Mori & Tomotsune

Contents

Anderson Mori & Tomotsune is one of the largest and most diversified law firms in Japan, offering full corporate services through approximately 640 Japanese lawyers and more than 70 foreign lawyers. Its aviation practice comprises approximately 30 lawyers with diverse backgrounds. Rather than being dedicated solely to aviation, the team includes lawyers who also specialise in areas such as M&A and corporate matters, while bringing substantial aviation-related expertise and client experience to the practice. Anderson Mori & Tomotsune's primary office is in Japan, with Tokyo serving as the key hub, and the firm handles matters nationwide. It provides integrated, cross-practice advice on a broad range of matters for airlines, airport operators, manufacturers, trading companies, and other businesses. The team takes a flexible, matter-specific approach, assembling the right team for each case and delivering one-stop, comprehensive legal support across multiple areas of law.

Authors

Makoto Terazaki advises on general corporate legal matters in various fields. He has represented national government, local governments, private companies, and banks in many PPP/PFI projects including domestic and overseas infrastructure development and management (concession) projects. Mr Terazaki specialises in financial transactions, particularly project finance. In addition, taking advantage of his experience seconded to the Ministry of Land, Infrastructure, Transport and Tourism, Mr Terazaki has extensive experience in construction projects (including building and water supply) and transportation projects (including airports and aviation).

Shigeo Sato is an associate at Anderson Mori & Tomotsune, possessing substantial expertise in both domestic and international litigation and dispute resolution. His practice encompasses a broad spectrum of subject matters, including securities litigation, labour and employment disputes, and commercial disputes. He represents a diverse array of domestic and international clients in litigation and dispute resolution. Additionally, he has extensive experience in data privacy law. He graduated from the University of Tokyo in 2014 and earned his LLM in International Business Regulation, Litigation, and Arbitration from New York University in 2023. He was admitted to the Bar in Japan in 2015 and in New York in 2024.

Tomoki Yamada advises on corporate law, with particular emphasis on corporate governance, M&A, business reorganisations, and cross-border transactions. Leveraging his qualification as a Solicitor of England and Wales and his academic research experience at Leiden University in air and space law, he brings distinctive expertise to the air and space sector and other advanced technology fields, together with practical international legal insight. He has advised numerous clients active in these sectors.

Moe Sasaki advises on general corporate legal matters across a broad range of industries. She focuses on M&A, corporate restructuring, cross-border transactions, and Mainland China-related legal issues. She regularly advises domestic and international clients, including multinational corporations and financial institutions, on complex transactions and ongoing corporate matters. Her practice also includes corporate governance, regulatory compliance, and transaction structuring, with experience in cross-border coordination and multi-jurisdictional advisory work.

Anderson Mori & Tomotsune

Otemachi Park Building,
1-1-1 Otemachi Chiyoda-ku,
Tokyo 100-8136,
Japan

Tel: +81 367 751 000
Email: makoto.terazaki@amt-law.com
Web: www.amt-law.com

1. General

1.1 Legal System

Basic Legal System

Japan's modern legal system is primarily based on civil law. However, particularly since World War II, legal institutions and doctrines influenced by common law, especially US law, have been introduced in certain areas.

The Code of Civil Procedure

Japanese civil procedure, primarily governed by the Code of Civil Procedure (Act No 109 of 1996), is predominantly based on the adversarial system, while also incorporating certain inquisitorial elements in certain respects. Under the Code of Civil Procedure, oral arguments are mandatory except for certain procedural decisions (Article 87 (1) of the Code of Civil Procedure). The parties may also submit briefs and documentary evidence. In practice, however, arguments are generally presented in writing, and oral argument is typically conducted by reference to those written submissions.

Under the Code of Civil Procedure, witness examination is not mandatory but permissible (Article 190 of the Code of Civil Procedure, et seq). However, the court may refuse to examine witnesses or other evidence if deemed unnecessary (Article 181 (1) of the Code of Civil Procedure). Under the Code of Civil Procedure, a prospective party may file a motion for the preservation of evidence, including witness examination prior to the filing of a lawsuit, even before commencing the lawsuit (Articles 234 and 235 (2) of the Code of Civil Procedure). However, in practice such pre-suit witness examination is not common.

1.2 Court System

Court System

All courts in Japan are national courts. There is a unified hierarchy in the Japanese civil court system, which consists of four tiers – the Supreme Court (the highest court), the High Courts, the District Courts, and the Summary Courts (however, family cases are heard in the first instance by the Family Courts). Litigants are given the opportunity to have their cases heard up to three levels. Under Japan's Court Act, the District Courts are, in principle, the courts of first instance, while minor cases are heard in the first instance by the Summary Courts. Courts at the first and intermediate appeal instances examine both factual and legal issues, whereas review at the final appeal instance is limited to issues of law.

Duration of Civil Disputes

Excluding cases resolved by default judgments, the average duration of civil litigation in Japan from the filing of the lawsuit to the rendering of the first-instance judgment was 13.4 months in 2024. Complex cases, like aviation disputes, may take longer than average. In the first instance, the parties usually exchange several rounds of written submissions over a period of several months to two or three years. After those submissions clarify whether witness examination is necessary, and, if so, the issues to be addressed through such examination, witnesses are examined as needed and the proceedings are then closed. A first-instance judgment is usually rendered within a few months thereafter.

Aviation Disputes

There are no specialised courts nor specialised ADR mechanisms in Japan with jurisdiction over aviation disputes. Normal courts have jurisdiction over aviation disputes. In disputes concerning complex, technical, or specialised matters, such as aviation disputes, the court may actively seek information, relevant materials, and clarification from the parties in possession of them, such as airlines. It is noted that Japanese courts have had few cases involving aviation disputes.

1.3 Arbitration Framework

The Arbitration Act (Act No 138 of 2003, as amended) enacted based on the UNCITRAL Model Law (1985), primarily governs both international and domestic arbitrations. The latest amendment to the Act became effective as of 1 April 2024, which reflects the 2006 amendments of the UNCITRAL Model Law. This latest amendment allows the enforcement of interim measures in Japan (Articles 47 to 49 of the Arbitration Act). However, the Arbitration Act is more restrictive than the UNCITRAL Model Law with respect to both the scope of interim measures enforceable in Japan and the methods available for their enforcement.

One of the significant differences between the Arbitration Act and the UNCITRAL Model Law is that the Arbitration Act strictly limits the enforceability of consumer arbitration and labour arbitration.

1.4 Prevalence of Arbitration

In Japan, historically, litigation has been more common than arbitration to resolve disputes including those related to the aviation industry. However, in recent years, contracts related to international aviation increasingly include clauses designating arbitration as the means of dispute resolution, and there has been an increasing trend toward choosing arbitration in commercial disputes, particularly in international ones. The parties' preference for arbitration in international disputes may be influenced by such factors as confidentiality, ease of enforcement in foreign jurisdictions, and procedural efficiency.

In Japan, there is currently no initiative to promote ADR in aviation disputes.

2. Litigation

2.1 Defendant Jurisdictional Nexus

Under the Code of the Civil Procedure, whether Japanese courts have jurisdiction over a given dispute is determined by reference to general jurisdiction (Article 3-2 of the Code of the Civil Procedure) or specific jurisdiction (Article 3-3 of the Code of the Civil Procedure, et seq). General jurisdiction is recognised principally where the defendant is domiciled in Japan or, in the case of a corporation, has its principal office in Japan. Specific jurisdiction is recognised in the various circumstances provided for in the Code of the Civil Procedure, including, for example, where the place for performance of a contractual obligation is in Japan, where the place of the tort is in Japan, or, in an action for monetary payment, where the defendant has assets in Japan that are subject to attachment.

2.2 Statutes of Limitation

Under the Civil Code (Act No 89 of 1896), in principle, the statute of limitations period is (i) five years from the time a potential plaintiff became aware that a certain right was exercisable, or (ii) ten years from the time when the right became exercisable, whichever comes earlier. However, the statute of limitations period applicable to tort claims is three years (five years in the case of a claim for bodily injury or death of a person) from the time a potential plaintiff became aware that such claim was exercisable, or twenty years from the time the tortious act took place, whichever comes earlier (Articles 724 and 724-2 of the Civil Code).

Under Japanese law, the completion of the statute of limitation period is suspended upon the occurrence of certain events, such as the commencement of litigation, and remains suspended until the relevant event ceases. By contrast, upon the occurrence of certain other events, such as the obtaining of a favourable judgment, the period is renewed and starts afresh.

2.3 Pre-Action Conduct

There are no specific requirements regarding pre-action conduct, including mandatory steps before filing suit.

A potential plaintiff may voluntarily send a written notice to request a written response to a potential defendant regarding matters clearly necessary for preparing arguments or evidence in an intended lawsuit within four months. While the potential defendant is obligated to respond to such a request, with statutory exceptions (Article 132-2 of the Code of Civil Procedure), no statutory sanction will be imposed for the failure of the potential defendant to provide a response.

2.4 Initial Complaint

Generally, the plaintiff must file a complaint, which must include statutory items, such as the parties, the relief sought and the statement of the claims, with the court to initiate a litigation. No special submission is required for aviation litigations.

If the court finds deficiencies in the complaint prior to the service of process to the defendant, upon the court's order, the plaintiff must correct such deficiencies, failure to which may cause the dismissal of the complaint without prejudice.

Once the complaint has been served on the defendant, the plaintiff may amend its relief sought or statement of the claims in writing only if all of the following conditions are met (Article 143 (1) of the Code of Civil Procedure):

- the amendment is made until the close of oral hearings in the first and intermediate appeal instances, but not in the final appeal, which is limited to issues of law;
- the amendment will not result in the change of the basis of the claim; and
- the amendment does not substantially delay the proceedings.

2.5 Service of Process and Failure to Respond

The general rules for service of process apply even to aviation litigations as follows:

In Japanese civil litigation, once the plaintiff files the complaint with the court, the court, and not the plaintiff, shall be responsible for the service of process (Articles 98 and 138 of the Code of Civil Procedure).

If the defendant is located within Japan, the court will generally serve the complaint and the summons to it by mail. If the defendant is located outside Japan, the service must be carried out through the competent authority of the jurisdiction where the defendant is located or a Japanese consular official stationed in that country in accordance with the Japanese law and applicable conventions and treaties, including the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters and the Convention on Civil Procedure, to which Japan is a Contracting State (Article 108 of the Code of Civil Procedure). If service of process cannot be effected by other means, the court may, upon the plaintiff's motion, effect constructive service by publication (Article 110 of the Code of Civil Procedure).

If a defendant who has been served by a method other than constructive service by publication fails to appear before the court and also fails to submit an answer, the defendant is deemed to have admitted the facts alleged by the plaintiff. If the plaintiff's claim is legally well founded on the assumption that all facts alleged by the plaintiff are true, this may result in a final judgment in the plaintiff's favour (Article 159 (3) of the Code of Civil Procedure).

2.6 Legal Representation in Court and Legal Privilege

Except in proceedings before Summary Courts, only attorneys qualified in Japan may represent litigants before Japanese courts. By way of exception, certain persons are specifically authorised by law to appear in court on behalf of a party, such as a registered manager of a corporation.

In Summary Courts, however, a person without Japanese attorney qualification may represent a litigant upon the court's permission. In addition, judicial scriveners (*shihoushoshi*) who have been certified by the Minister of Justice may also represent a litigant before Summary Courts.

Although Japanese law contains no express statutory provision recognising attorney-client privilege or work-product privilege, Japan does not have broad discovery of the kind found in the United States. As a practical matter, in civil litigation, it is highly unusual for attorneys or their clients to be required to disclose documents regarding attorney's advice. Additionally, attorneys may refuse to testify or submit documents to keep confidentiality (Article 197 and 220 of the Code of Civil Procedure). There is no distinction between external and in-house counsel in light of the application of these rules.

2.7 Costs

In Japan, filing fees and other statutory fees payable to the court shall be generally borne by the losing party (Article 61 of the Code of Civil Procedure). However, Japanese courts do not generally require the unsuccessful party to cover the successful party's legal fees, except in cases where such fees are awarded as part of the damages in tort claims. Even in these instances, the recoverable amount is typically far lower than the actual legal fees incurred, up to approximately 10% of the total damages awarded in most cases. As a result, the successful party is usually unable to fully recover its attorney costs from the opposing party.

If a plaintiff is not domiciled in Japan or has no office in Japan, upon the defendant's motion, the court shall order the plaintiff to provide security for court costs (Article 75 of the Code of Civil Procedure).

2.8 Interim, Early Judgment and Dispositive Applications

Application for Civil Preservation Proceedings

A party may seek provisional relief, in the form of a provisional attachment or provisional remedies, before or after the commencement of proceedings on the merits (Civil Provisional Remedies Act (Act No 91 of 1989), Articles 20 and 23). To obtain such relief, the applicant must make a preliminary showing of the right to be preserved and of the necessity for provisional relief. Broadly speaking, this requires a preliminary showing that the underlying right or claim is likely to be upheld in proceedings on the merits and that interim relief is necessary to prevent material prejudice or frustration of future enforcement.

Interlocutory Judgment

The court may render an interlocutory judgment regarding specific points at issue in the middle of the proceedings on the merits prior to the final judgment as appropriate (Article 245 of the Code of Civil Procedure). Whether an interlocutory judgment should be rendered, when it should be rendered, and the scope of the matters to be covered are all left to the court's discretion. A party's application for an interlocutory judgment does not bind the court, though the court may take it into account as a non-binding recommendation.

2.9 Injunctive Relief

Permanent Injunction

In Japan, courts may award permanent injunctive relief where it is recognised under the applicable law and, if any, the contract, so long as the claimant has requested such relief. Japanese law does not impose any special limitation on injunctive relief comparable to the doctrine in some jurisdictions that confines such relief to situations where an award of damages would be inadequate.

Provisional Injunctive Remedies

A party may seek provisional relief, in the form of a provisional attachment or provisional remedies, before or after the commencement of proceedings on the merits (Civil Provisional Remedies Act) by preliminarily showing the right to be preserved and the necessity for interim relief. For further details, please refer to **2.8 Interim, Early Judgment and Dispositive Applications.**

There is no statutory deadline for issuing a provisional remedy after an application is filed. As a practical matter, the time required usually ranges from several days to several weeks, depending on the type of interim relief sought and the nature of the case. While preliminary attachment and certain types of preliminary injunction may be granted ex parte, other types of preliminary injunction proceed inter partes and therefore tend to take longer. There is no out-of-hours judge system available for civil provisional remedies in Japan.

Scope of the Provisional Remedies

If a Japanese court has jurisdiction over the merits of the case, the court may order permanent and/or provisional injunctive remedies regardless of whether the subject is located within or outside Japan. However, whether provisional remedies regarding a subject outside Japan are enforceable depends on the law of the jurisdiction where the subject is located.

Where a third party has an interest in a permanent and/or provisional injunctive remedy, the effect of that remedy on the third party, if any, may vary depending on the type of remedy and the nature and content of the third party's interest.

Sanctions Against the Failure to Comply

The methods of enforcing permanent and/or provisional injunctive relief, and the sanctions for breach, depend on the nature of the relief in question. They may include an order directing the debtor to pay the creditor a fixed amount for each day of non-compliance with the applicable injunctive relief.

2.10 Discovery

Japan does not have broad discovery of the kind found in the United States. In principle, each party should submit only such evidence as is available to it and as it chooses to rely upon. A party is not generally obliged to disclose to the court or to the opposing party evidence that it does not intend to produce.

Under the Code of Civil Procedure, a litigant may move for a document production order to compel the opposing party or a third party to produce documents in their possession, with statutory exceptions (Article 220 (iv) of the Code of Civil Procedure). Although the statutory scope of document production orders is broad, Japanese courts are, in practice, generally reluctant to issue them. Where a party, without justifiable grounds, refuses to produce a document in breach of such an order, the court may, in its discretion, accept as true the facts alleged by the applicant. Where a third party refuses compliance without justifiable grounds, the third party may be subject to a non-criminal fine of up to JPY200,000.

2.11 Hearings and Trials

Overview of Litigation Proceedings

In Japanese civil litigation practice, proceedings typically begin with multiple rounds of written submissions and the exchange of documentary evidence. This process serves to clarify the parties' respective legal and factual positions, identify the evidence held by each side, and determine whether any issues remain to be resolved through witness examination and, if so, the scope of those issues. Witness examination, including those against expert witnesses, is then conducted where necessary and appropriate. The parties may thereafter file final briefs, as appropriate, and the oral hearings are then concluded. The court usually delivers its final judgment within a few months after the close of oral hearings. Japanese civil proceedings do not adopt the jury system.

Expert Opinions

Under the Code of Civil Procedure, parties may submit expert opinions as evidence, and this is fairly common in practice, particularly where the case requires technical or specialised analysis. Such opinions are typically presented in the form of written expert reports, although, where appropriate, the expert may also be examined as a witness.

In addition, upon a party's motion, the court may appoint a court expert. A court-appointed expert may submit an opinion in a written report or may be examined in court.

Furthermore, after hearing the parties' views, the court may, on its own initiative, appoint an expert adviser to assist the court, either orally or in writing, in order to facilitate its understanding of technical matters and the efficient progress of the proceedings. The court may, either on its own initiative or upon a party's motion, revoke the appointment of the expert adviser where appropriate. However, if both parties jointly request such revocation, the court must revoke the appointment (Articles 92-2 and 92-4 of the Code of Civil Procedure). An expert adviser serves only in an advisory capacity, not as a witness, and the adviser's opinion does not constitute evidence and may not serve as the basis for the court's fact-finding or judgment.

Admissibility Of Evidence

Under the Code of Civil Procedure, there are generally no specific rules restricting the admissibility of evidence; in principle, any evidence may be admitted. Although there is no express statutory provision, it is generally understood in theory that evidence obtained by egregiously unlawful means may be held inadmissible in Japanese civil litigation. In practice, however, it is exceedingly rare for evidence to be excluded in civil proceedings on that basis.

Public Accessibility of the Court Hearings

Article 82 of the Constitution of Japan establishes the principle that judicial proceedings are to be conducted publicly. In line with this principle, oral hearings are held in open court and are, in principle, open to the public. In practice, however, substantial portions of civil proceedings – including the filing of briefs, the presentation of documentary evidence, and settlement discussions – are commonly dealt with in non-public preparatory proceedings, which may be attended only by persons permitted by the court. Witness examination, by contrast, is required to be conducted at an oral hearing open to the public.

Public Accessibility of the Court Records

In principle, the records of civil litigations may be inspected by any person at the court. The right to obtain copies of such records is generally limited to the parties and other persons with a legally cognisable interest in the case (Article 91 of the Code of Civil Procedure). Upon a party's application, the court may prohibit non-parties from inspecting or copying those portions of the record that contain the applying party's significant personal privacy information or trade secrets (Article 92 of the Code of Civil Procedure). Such a restriction may be sought only by a party to the litigation; a non-party may not apply for it on the ground that the record contains the non-party's own personal privacy information, trade secrets or other confidential information.

2.12 Settlements

In Japan, there are two types of settlements, in-court settlements and out-of-court settlements, as detailed below. Because both types of settlements fundamentally constitute contracts, their validity may be challenged under general contract law principles, such as mistake, fraud or duress.

In-Court Settlements

If the parties so wish and the court permits, the terms of a settlement may be entered into the court record ("in-court settlement") (Article 267 of the Code of Civil Procedure). Because the court retains the discretion to determine whether to record the settlement, an in-court settlement involves a certain degree of judicial oversight, even though it does not formally require court approval.

The parties may agree to confidentiality obligations within the settlement itself. However, as discussed in **2.11 Hearings and Trials**, court records, including those of in-court settlements, are generally accessible to the public. Under the new amendment to the CCP effective as of 24 May 2026, non-parties without a legally cognisable interest will no longer be entitled to view the in-court settlements in the court record unless the in-court settlements are concluded in an oral hearing.

A court record documenting an in-court settlement has the same effect and enforceability as a final and binding judgment. Consequently, a party may seek compulsory execution directly based on the in-court settlement, without the need to obtain a separate judgment recognising the underlying claim (Article 22 (vii) of the Civil Execution Act (Act No 4 of 1979)).

Out-of-Court Settlements

As a matter of contract law, parties to a dispute may mutually settle their dispute at any time and in any form, regardless of whether it occurs before or after filing an action with the court, and whether it is made orally or in writing (Article 695 of the Civil Code) ("out-of-court settlement"). Because an out-of-court settlement is merely a private contract between the parties, it requires no court approval, nor is it subject to public disclosure. The parties may agree to confidentiality obligations within the out-of-court settlement (Article 91 of the Code of Civil Procedure).

An ordinary contract, including an out-of-court settlement, is not directly enforceable. To compel enforcement, a creditor must first obtain a court judgment recognising the claim established under the out-of-court settlement and subsequently seek compulsory execution based on that judgment.

2.13 Damages and Judgments

Remedies

When ruling in favour of a plaintiff, Japanese courts award the specific remedies sought in the complaint. These remedies may encompass monetary compensation, specific performance, or declaratory judgments – such as a declaration affirming the non-existence of a liability or confirming the plaintiff's contractual status.

Monetary Damages
Under Japanese law, monetary damages are limited to actual damages, and neither punitive nor nominal damages are recognised. There are no special caps on recoverable amounts in aviation-related litigations. The court may adjust the amount of damages, such as by reducing the award, in cases where the plaintiff's own improper conduct contributed to the harm or where the plaintiff concurrently derived a benefit alongside the loss.

Interest
The prevailing party is generally entitled to receive interest regardless of before or after the judgment in accordance with the applicable substantive law and, if any, contracts. Where Japanese law governs, a statutory interest rate of 3% per annum applies in the absence of a contractual agreement on interest (eg, in tort cases) from the due date (Article 404 (2) of the Civil Code). The statutory interest rate is subject to review once every three years (Article 404 (3) of the Civil Code).

2.14 Appeals
The Appeal System
A party dissatisfied with the outcome of a lower instance judgment may file an appeal. As a general rule, however, if the judgment grants the exact relief sought by a party, that successful party may not appeal, even if they are dissatisfied with the court's reasoning. If only one party appeals, the appellate court may not alter the judgment to the detriment of the appellant.

As described in **1.2 Court System**, the Japanese court system operates on a three-tiered system, allowing appeals from the first instance to the second instance (intermediate appeal) and from the second instance to the final instance (final appeal). As exceptions, final appeal may be filed directly against a first-instance judgment without going through the intermediate appeal (Article 311 (2), Article 281 (1) of the Code of Civil Procedure).

Intermediate Appeal
A party dissatisfied with the outcome of a first-instance judgment may file an intermediate appeal alleging errors of law or fact. The intermediate appeal instances are deemed as a continuation of the first instances. In an intermediate appeal, parties may submit factual and legal allegations and evidence, including the examination of witnesses, in the same manner as in a first instance court. However, the court may deny them upon motion by the opposing party or on its own motion if it determines that the submission of such allegations and/or evidence is untimely due to the party's intent or gross negligence, thereby unreasonably delaying the proceedings (including cases where the court finds they should have been submitted in the first instance).

The intermediate appeal courts may conduct de novo review into both factual and legal issues. However, in practice, the intermediate appeal court tends to respect the first instance courts' fact-findings to a certain degree.

Upon reversing the original judgment, an intermediate appellate court will, depending on the circumstances of the case, either remand the matter to the first instance court or render a new judgment itself.

Final Appeal
There are two categories of final appeals: (1) final appeals as of right, and (2) discretionary final appeals. A final appeal as of right is permitted only in cases involving a constitutional violation or a fundamental procedural defect in the judgment (eg, the erroneous participation of an unqualified judge). A discretionary final appeal may be accepted at the final appeal court's discretion when the judgment contravenes Supreme Court precedents or otherwise involves significant issues of interpretation of the law. In practice, however, even when an appellant files a final appeal asserting the existence of either ground, the final appeal court dismisses or declines to hear the vast majority of cases, determining that no such grounds exist.

Review at the final appeal instance is limited to issues of law. Therefore, if the final appeal court determines that it cannot render a judgment based solely on the facts established in the original judgment, it cannot make its own factual findings; instead, it must remand the case to the lower court for additional or revised factual findings.

Retrial

Even after a judgment becomes final and binding, a party may challenge it by filing an action for retrial if there is an extraordinary defect in the judgment (unless the party asserted such grounds in an ordinary appeal, or knew of the grounds but failed to assert them). This includes situations where a judge involved in the judgment committed a crime in the course of their official duties regarding the case, or where a document used as evidence for the judgment was forged.

The Appeal Procedures

An appellant must submit a written appeal to the lower court judgment within two weeks from its receipt of the delivery of the written judgment. Failure to do so within this statutory period results in the forfeiture of the right to appeal, rendering the judgment final and binding. Although a written appeal need not state the grounds for the appeal, the appellant must file a statement of reasons for the appeal with the court within 50 days. While failure to meet this deadline does not result in the immediate dismissal of an intermediate appeal, it automatically leads to the dismissal of a final appeal.

3. Arbitration

3.1 Arbitration Agreement

Under the Arbitration Act, an arbitration agreement is generally enforceable if it is in writing, including electronic record such as email. An oral agreement may also satisfy this requirement if it refers to a written document containing an arbitration clause.

As a rule, civil and/or commercial disputes that can be settled by party agreement are arbitrable. By contrast, matters not disposable by agreement and/or family disputes are excluded. In addition, a consumer may terminate an agreement covering future civil disputes, and a pre-dispute arbitration agreement between an individual employee and an employer is unenforceable.

Japanese courts adopt a bifurcated approach to the law governing arbitration agreements. The validity of the arbitration agreement as a contractual matter is determined by the law designated by the parties, whereas its enforceability in Japan is determined under Japanese law. Japan recognises separability: invalidity or rescission of the main contract does not automatically invalidate the arbitration clause.

It is noted that there are few arbitration cases related to aviation in Japan.

3.2 Jurisdiction

The principle of competence-competence applies in Japan. Under Article 23 (1) of the Arbitration Act, an arbitral tribunal may rule on the existence or validity of the arbitration agreement and on its own jurisdiction. A jurisdictional objection must be raised early, generally no later than the submission of the first written statement on the merits (Article 23 (2)). If the tribunal affirms jurisdiction, a party may seek court review within 30 days after receiving notice of that decision (Article 23 (5)). In parallel, if court proceedings are brought despite an arbitration agreement, the court may dismiss the action at the defendant's request, unless the defendant has already argued the merits, thereby waiving reliance on the arbitration agreement (Article 14).

Some Japanese court precedents have ruled that, depending on the specific circumstances of a case, the binding effect of an arbitration agreement may extend to a non-signatory. In such instances, dispute resolution through arbitration – rather than court litigation – is either permitted or mandated for the non-signatory. This extension of the arbitration agreement may apply regardless of whether the non-signatory is a foreign entity or a domestic entity. However, determining whether a non-signatory is bound by an arbitration agreement involves a highly fact-sensitive inquiry, requiring careful assessment of various underlying circumstances.

3.3 Confidentiality

The Arbitration Act itself contains no express provision prohibiting the disclosure of pleadings, evidence, awards, or other information relating to arbitral proceedings. Nevertheless, it is commonly understood that arbitration is an inherently confidential means of dispute resolution. The Commercial Arbitration Rules (2021) of the Japan Commercial Arbitration Association (JCAA Rules), one of the most popular arbitration organisations in Japan, expressly provides that arbitral proceedings and records are closed to the public, and prohibits arbitrators, JCAA personnel, the parties, their representatives and other participants from disclosing case-related facts, except where disclosure is required by law, court proceedings, or other justifiable grounds.

3.4 Preliminary and Interim Relief

In Japan, arbitral tribunals may grant interim measures of protection in aviation disputes. Under Article 24 of the Arbitration Act, a tribunal may order, at a party's request, measures such as prohibitory relief (eg, preventing disposal of assets), measures to maintain or restore the status quo or prevent substantial loss or imminent harm, and measures to preserve evidence. The JCAA Rules also provide similar interim measures. Tribunal-ordered interim measures are not merely advisory: the Arbitration Act contains provisions on their enforceability (Articles 47 and 48).

In addition, Japanese courts may also grant interim relief under the Civil Provisional Remedies Act before or during arbitration, including preliminary attachment and preliminary injunction, in parallel with arbitral relief. These provisional remedies by Japanese courts are available regardless of whether the seat of arbitration is within or outside Japan. However, Japanese courts must have jurisdiction over the relevant provisional remedy.

3.5 Security for Costs

Under Japanese law, courts may order security for costs in litigation in limited circumstances.

Under Article 75 of the Code of Civil Procedure, a defendant may seek an order requiring the plaintiff to provide security for court costs where the plaintiff is not resident in Japan or in a state party to the Hague Convention on Civil Procedure. The security covers court-related costs, such as filing fees, fees for court-appointed experts, and certain very limited defence-side costs, but not attorneys' fees. Separately, where interim relief is granted, the court will normally require the applicant to provide security for potential damage caused by that relief under Article 14 of the Civil Provisional Remedies Act.

In arbitration, neither the Arbitration Act nor the JCAA Rules expressly provides for security for costs. However, it is generally understood that an arbitral tribunal is not prohibited from ordering a claimant to provide security for costs at the respondent's request. In addition, when granting interim measures, the tribunal may order appropriate security if it considers this necessary (Arbitration Act, Article 24 (3)).

3.6 Arbitration Proceedings

In Japan, arbitration procedures are primarily governed by the Arbitration Act. The Act applies to both domestic and international arbitrations, although, except for recognition and enforcement of foreign awards, it generally applies only to arbitrations seated in Japan.

The Arbitration Act is generally based on the UNCITRAL Model Law and is flexible regarding the conduct of arbitration. There are no remarkable unique procedural requirements.

Regarding arbitrators, Articles 18 (1), 18 (3), and 18 (4) of the Arbitration Act impose disclosure duties regarding any circumstances that may give rise to doubts as to impartiality or independence.

Tribunals have broad powers to decide all procedural and evidential matters, subject to the mandatory law and any agreement by the parties. Tribunals also have power to issue interim measures upon a party's motion.

3.7 Legal Representation in Arbitration Proceedings

In Japan, representation in domestic court litigation is generally restricted. In courts other than Summary Courts, a legal representative must ordinarily be a Japan-qualified attorney or another person expressly authorised by law or regulation, such as a registered manager of a corporation. In Summary Courts, a certified judicial scrivener (*shihoushoshi*) or a person permitted by the court may also appear.

The position is different in international arbitration. Article 72 of the Attorneys Act generally prohibits persons who are not Japan-qualified attorneys from providing legal representation for remuneration as a profession. However, the Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers creates an exception for international arbitration. A foreign-qualified lawyer registered in Japan (*gaikokuhou jimu bengoshi*) may represent parties in such proceedings, and certain foreign lawyers practising abroad may also do so.

Accordingly, the requirements are stricter in domestic litigation than in international arbitration, and foreign-qualified lawyers may represent parties in international arbitration seated in Japan, subject to the statutory framework described above.

3.8 Costs

The Arbitration Act contains no express provision regarding the recovery of interest. However, where a party is entitled to claim interest under the applicable substantive law and, if any, the applicable contract, the arbitral tribunal would generally be able to award such interest.

The Arbitration Act allows the parties to agree how arbitration costs are allocated. Absent such agreement, each party bears its own costs. The parties may also agree that the tribunal will allocate costs in the award or by separate ruling (the Arbitration Act, Article 52). Under the JCAA Rules, reasonable arbitration costs, including reasonable legal fees and expenses, are to be apportioned between the parties in the arbitral award.

3.9 Discovery and Evidence

Under the Arbitration Act, each party must be treated equally and given the full opportunity to present its case (Article 25), and the tribunal may conduct the proceedings as it considers appropriate, subject to the arbitration agreement and the mandatory law (Article 26). The tribunals may order interim measures for the preservation of evidence, and such measures are enforceable in Japanese courts.

Under the JCAA Rules, parties submit written statements of fact and law, and the tribunal may order a party to produce necessary documents in its possession, subject to that party's opportunity to comment and any reasonable grounds for refusal (Article 54 (4)). In practice, tribunals often refer to the IBA Rules on the Taking of Evidence in International Arbitration for guidance.

3.10 Arbitral Awards

Under Article 39 of the Arbitration Act, an award must be in writing and state the signatures of the arbitrators, the reasons, and the date and seat of arbitration. However, reasons may be omitted if the parties so agree.

There is no statutory time limit under the Arbitration Act for rendering an award. However, under the JCAA Rules, the tribunal is to use reasonable efforts to render the award within nine months from its constitution.

There are no specific restrictions on the types of award or relief an arbitral tribunal may grant, subject to the applicable substantive law and the parties' agreement. Under Japanese law, however, punitive damages are not recognised. In addition, Japanese case law holds that foreign judgments awarding punitive damages are not enforceable in Japan. There is no reported Japanese court decision addressing whether a foreign arbitral award granting punitive damages may be enforced in Japan. As for injunctive relief, Japanese law does not impose any special restriction such as limiting such relief to cases where monetary damages would be inadequate.

3.11 Appeals

In Japan, an arbitral award is not subject to an appeal on the merits. However, although the Arbitration Act contains no express provision on this point, the parties should be able to agree contractually to an arbitral appeal, provided that the overall procedure, including the appeal, remains final and binding.

Where the seat of arbitration is in Japan, the available recourse is a petition to set aside the award under Article 44 of the Arbitration Act. The grounds are generally the same as those under the UNCITRAL Model Law, and they include, among others, invalidity of the arbitration agreement and lack of required notice. The grounds for setting aside an arbitral award cannot be expanded by party agreement. Judicial review is limited to these statutory grounds, rather than a de novo re-examination of the merits. As for the procedures, a petition must be filed within three months from receipt of notice of the award, and no challenge is permitted once an enforcement decision has become final and conclusive. A court decision on a set-aside petition may generally be appealed only once, and the appeal must be filed within two weeks of receipt of the first-instance decision.

4. Enforcement of Judgments and Arbitral Awards

4.1 Identifying Assets

Publicly Accessible Information

In Japan, the publicly available information that can be used to enforce claims against a debtor is limited. For example, although ownership of real property is recorded in government-maintained registries, the government does not provide a service that allows anyone to search for all real property owned by a person based on that person's name. Some private vendors do offer such search services, but the information they provide may not always be current or complete. In addition, in certain cases – such as where the debtor is a listed company – disclosure documents filed and published pursuant to applicable laws or stock exchange rules may contain information on assets that could assist in enforcement.

Attachment/Freezing Order

In Japan, assets may be provisionally or definitively attached for purposes of enforcement, but the assets to be attached must be specifically identified. Japanese law does not recognise a freezing order that generally restrains the disposition of a person's assets without identifying the particular assets subject to the restraint.

Asset Disclosure System

Under the Civil Execution Act, two civil court procedures are available to ascertain a debtor's financial status: (a) the Asset Disclosure Procedure and (b) the Third-party Information Acquisition Procedure. As a prerequisite to applying for these procedures, a creditor – except for a creditor holding certain statutorily preferred claims, such as wage claims – must first obtain a statutorily prescribed document establishing the claim (Title of Debt), such as a final and binding judgment, or an arbitral award or foreign judgment recognised in Japan (Article 197 (1) and (2) of the Civil Execution Act).

In the Asset Disclosure Procedure, the court orders the debtor to appear at an Asset Disclosure Hearing. At the hearing, the debtor, after taking an oath, must answer questions from the court and the creditor regarding its assets. If the debtor, without justifiable grounds, refuses to appear, take the oath, or answer questions, or makes a false statement, the debtor may be subject to criminal sanctions of up to six months' imprisonment or a criminal fine of up to JPY500,000.

Under the Third-party Information Acquisition Procedure, a creditor may, through the court, request certain entities, such as government agencies, banks and securities companies, to provide information regarding the debtor's assets. The information obtainable through this procedure is limited to the following: real property for which the debtor is registered as the owner, the debtor's salary, the debtor's bank deposits, and listed securities held by the debtor. However, information regarding the debtor's salary is available only to certain creditors, such as those holding claims for damages arising from injury to a person's life or body. In addition, obtaining information regarding real property and the debtor's salary is subject to the prior use of the Asset Disclosure Procedure.

The obtaining of information regarding bank deposits or listed securities through the Third-party Information Acquisition Procedure is conducted ex parte without the debtor's knowledge. Although the debtor is notified after a certain period has elapsed following the provision of the information to the creditor, the creditor can prevent concealment of assets by attaching the bank deposits or listed securities after obtaining the information but before the debtor receives such notice.

Bar Association Inquiry

Attorneys admitted in Japan may, through their Bar associations, make inquiries to government agencies and/or private entities for information in connection with matters in which they represent clients ("Bar Association Inquiry"). Unlike the Third-party Information Acquisition Procedure, a Bar Association Inquiry may be used even before a final and binding judgment or similar instrument has been obtained and it is not limited as to the subject matter of the information requested. In practice, however, the recipient of such an inquiry may refuse to respond on grounds such as confidentiality obligations or personal information protection.

4.2 Enforcing Domestic Judgments

In Japan, as a general rule, a domestic court judgment must become final and binding before it can be enforced. This finality is achieved when the parties have exhausted all avenues of appeal, withdrawn their appeal, failed to file an appeal within the statutory period, or waived their right to appeal. However, a trial court may attach a "declaration of provisional execution" to its judgment, which permits the judgment creditor to execute on the claim even while an appeal is pending. In such cases, the judgment debtor may prevent provisional execution by obtaining a court order to stay the execution during the appellate process.

As a procedural prerequisite to enforcement, the judgment creditor must file an application with the court to obtain an "execution clause". This clause serves as official certification from the court authorising the creditor to proceed with compulsory execution based on the judgment.

For monetary judgments, once the execution clause is obtained, the creditor files a petition for compulsory execution with the court, specifically identifying the target assets of the debtor. This process generally proceeds in three stages: (1) attachment (seizure) of the target assets; (2) liquidation of the assets, typically through a public auction; and (3) satisfaction of the claim from the proceeds. However, the specific procedures vary depending on the nature of the target assets – such as real property, personal property, or receivables. For instance, with respect to real property, a creditor may seek satisfaction not only through a public auction but also by way of compulsory administration, recovering the debt from the property's rental income. When the target asset is a receivable, the judgment creditor typically collects the funds directly from the debtor's debtor (the third-party debtor, or garnishee).

For non-monetary judgments, enforcement methods vary widely based on the specific nature of the underlying claim. For example, when enforcing a judgment granting injunctive relief enjoining a defendant from conducting a certain unlawful act, courts utilise "indirect compulsory execution". Under Article 172, Paragraph 1 of the Civil Execution Act, this mechanism involves a court order directing the debtor to pay the creditor a fixed amount for each day of non-compliance with the applicable injunctive relief.

The costs, timeframe, and available efficiency options for enforcement depend heavily on various factors, including the nature of the judgment claim, the debtor's financial circumstances, and whether and how any objections or appeals are raised during the process.

4.3 Challenging Domestic Judgment Enforcement

Under Japanese law, there are several procedural mechanisms available to challenge or object to compulsory execution. These include an appeal against an execution disposition, an objection to an execution disposition, and an action objecting to the underlying claim. The determination of which mechanism is available – and which should be utilised – depends on various factors, including the nature and current stage of the enforcement proceedings, as well as the specific legal grounds for the challenge.

Because the doctrine of res judicata applies under Japanese law, a party generally may only assert grounds that do not contradict or collaterally attack the underlying final judgment to object to the enforcement. Permissible arguments typically include alleged procedural irregularities in the execution process itself and the allegation that the claim was extinguished after the judgment was rendered (for instance, through post-judgment payment or satisfaction of the debt).

Nevertheless, as discussed in **2.14 Appeals**, in highly exceptional cases, a party may petition for a retrial of a final and binding judgment. In such instances, upon a motion by the petitioning party, the court may issue an order staying the execution while the retrial proceedings are pending.

4.4 Enforcing Foreign Judgments

To enforce a foreign judgment in Japan, a party must obtain an "execution judgment" from a Japanese court that formally recognises the foreign judgment and authorises its enforcement (Article 24 of the Civil Execution Act). The substantive requirements for such recognition and enforcement are set forth in Article 118 of the Code of Civil Procedure. Specifically, the following conditions must be satisfied:

- the foreign judgment must be final and binding;
- the foreign court that rendered the judgment must have possessed valid international jurisdiction;
- the defeated defendant must have received the service of process necessary for the commencement of the action (excluding constructive service), or, if not served, must have voluntarily appeared in the proceedings;
- both the content of the judgment and the underlying litigation proceedings must not be contrary to the public policy of Japan; and
- there must exist a guarantee of reciprocity between Japan and the rendering jurisdiction.

Once a Japanese court grants an execution judgment recognising the foreign judgment, the judgment may be enforced through the same procedures applicable to domestic judgments (see **4.2 Enforcing Domestic Judgments**).

The costs, timeframe, and available efficiency options for enforcement depend heavily on various factors, including the nature of the foreign judgment and the judgment claim, the debtor's financial circumstances, and whether and how any objections or appeals are raised during the process.

4.5 Challenging Foreign Judgment Enforcement

As discussed in **4.4 Enforcing Foreign Judgments**, the enforcement of a foreign judgment in Japan requires an execution judgment from a Japanese court. The judgment debtor may contest the issuance of such an execution judgment by arguing that the foreign judgment fails to satisfy the requirements set forth in Article 118 of the Code of Civil Procedure. For instance, the debtor may assert that the foreign court lacked international jurisdiction, that there was a failure of valid service of process, or that the foreign judgment contravenes Japanese public policy.

If the Japanese court either grants the execution judgment or dismisses the claim seeking such judgment, the aggrieved party may file an appeal to challenge the decision as detailed in **2.14 Appeals**.

Furthermore, as noted in **4.4 Enforcing Foreign Judgments**, once a Japanese court grants an execution judgment recognising the foreign judgment, the judgment may be enforced through the same procedures applicable to domestic judgments (see **4.2 Enforcing Domestic Judgments**). Should a party have grievances regarding these subsequent execution proceedings, they may raise objections or challenges using the same procedural mechanisms available for opposing the enforcement of a domestic judgment (see **4.3 Challenging Domestic Judgment Enforcement**).

4.6 Enforcing Arbitral Awards

Japan is a Contracting State to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the 1958 New York Convention). However, Japan has made a reciprocity reservation, declaring that it will apply the Convention only to the recognition and enforcement of awards made in the territory of another Contracting State.

To enforce an arbitral award in Japan, the award creditor must obtain an "enforcement order" from a Japanese court. The court will grant the enforcement order unless there exist specific statutory grounds for refusal. These statutory grounds are strictly limited, as Japan's Arbitration Act is fundamentally modelled after the UNCITRAL Model Law on International Commercial Arbitration.

Once a Japanese court grants an execution order recognising the arbitral award, the award may be enforced through the same procedures applicable to domestic judgments (see **4.2 Enforcing Domestic Judgments**).

4.7 Challenging Arbitral Award Enforcement

Challenge Against Enforcement of an Arbitral Award

As discussed in **4.6 Enforcing Arbitral Awards**, the enforcement of an arbitral award in Japan requires an execution order from a Japanese court. The grounds upon which an award debtor may successfully prevent the issuance of such an order are enumerated in Article 45, Paragraph 2 of the Arbitration Act. These grounds are strictly limited and generally mirror those set forth in the UNCITRAL Model Law. Examples of such grounds include instances where (i) the arbitral award has not yet become binding, or has been set aside or suspended by a competent authority of the jurisdiction under whose law governs the arbitration procedure (typically the jurisdiction of the seat of arbitration); or (ii) the content of the arbitral award contravenes the public policy of Japan. If the Japanese court either grants or dismisses the petition for an execution order, the aggrieved party may challenge the decision by filing an immediate appeal.

If an application for the setting aside or suspension of the arbitral award has been made to a competent court in the jurisdiction whose law governs the arbitration procedure (typically the jurisdiction of the seat of arbitration), the Japanese court handling the enforcement may, if it deems it necessary, stay the execution order proceedings. In such an event, upon a motion by the petitioner (the award creditor), the court may order the respondent (the award debtor) to provide appropriate security.

Furthermore, as noted in **4.6 Enforcing Arbitral Awards**, once a Japanese court grants an execution order recognising the arbitral award, the award may be enforced through the exact same procedures applicable to domestic judgments (see **4.2 Enforcing Domestic Judgments**). Should a party have grievances regarding these subsequent execution proceedings, they may raise objections or challenges using the same procedural mechanisms available for opposing the enforcement of a domestic judgment (see **4.3 Challenging Domestic Judgment Enforcement**).

Sovereign Immunity

In Japan, the sovereign immunity of foreign states is governed by the Act on the Civil Jurisdiction of Japan with respect to a Foreign State, etc (the Foreign State Jurisdiction Act). Civil execution against property owned by a foreign state is permissible only in the following two circumstances:

- The foreign state has expressly consented to the civil execution – whether through an international treaty, an arbitration agreement, a written contract, or a formal declaration made during the execution proceedings (Article 17).
- The target property of the civil execution is used, or is intended for use, by the foreign state (excluding foreign central banks) exclusively for commercial purposes (Article 18 of the Act).

5. Developments

5.1 Legislative or Judicial Developments

There have been no significant legislative or judicial developments specific to aviation-related commercial contract disputes in 2025. Although this concerns civil litigation procedures more broadly, the amended Code of Civil Procedure is scheduled to come into full effect on 21 May 2026. This amendment will significantly advance the digitalisation of court proceedings in Japan; for example, the electronic filing (e-filing) of complaints will become mandatory as a general rule.

In conjunction with this transition, the amendment also introduces certain non-IT-specific procedural changes. For instance, third parties will generally be restricted from inspecting portions of the court records that pertain to settlement agreements.

CHAMBERS GLOBAL PRACTICE GUIDES