

# Commercial Courts Report 2018

Portland

*Portland's annual Commercial Courts Report analyses judgments from the London Commercial Courts to find trends over time – both who uses the Courts, and how London measures up in an increasingly competitive international environment.*

**This year's report reviewed the 158 cases heard in the commercial courts between March 2017 and April 2018. Portland's analysis reveals that:**

1. The London courts are increasingly international.
2. Russian litigants continue to loom large in commercial court proceedings.
3. The market for international commercial courts is increasingly competitive.

**69**



COUNTRIES

10% INCREASE  
OVER THREE YEARS

**158**



CASES HEARD

7% INCREASE FROM  
THE PREVIOUS YEAR

**656**



LITIGANTS

22% INCREASE FROM  
THE PREVIOUS YEAR

**40.7%**



UK LITIGANTS

**59.3%**



NON-UK LITIGANTS

**1**

## THE LONDON COURTS ARE INCREASINGLY INTERNATIONAL

London continues to be a destination of choice for litigants from around the world, with 69 countries represented over the past year.

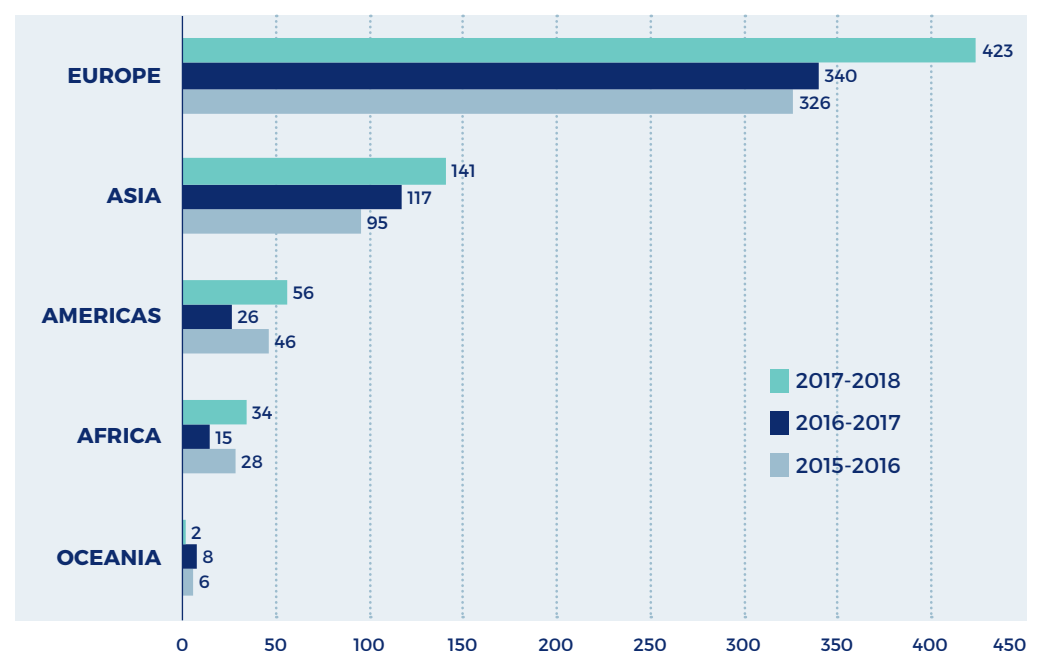
This tally maintains a steady upward trend. In 2015/16 and 2016/17, there were 62 and 66 countries represented respectively. In all three years, much of the overall growth came from an increase in litigants from Asia and Europe (see chart A). The number of litigants from both the Americas and Africa, meanwhile, recovered from a dip in 2016/17. Africa continues to be, arguably, under-represented, and dominated by litigants from Libya, Egypt and Nigeria.

The number of litigants from Oceania remained negligible.

The number of litigants from the Crown Dependencies and Overseas Territories increased notably in 2017/18. Only ten were listed in 2016/17, compared to 32 in the most recent year. Banking and Financial Services was the most common sector represented.

Finally, this year saw a 22% increase in the total number of litigants using the commercial courts compared to the last. These figures argue overall for the continued strength of the courts' international reputation.

### A. LITIGANTS BY REGION



B. TOP 10 LITIGANTS APPEARING IN COURT BY NATIONALITY



2

RUSSIAN LITIGANTS CONTINUE TO LOOM LARGE IN COMMERCIAL COURT PROCEEDINGS

Relations between Russia and the United Kingdom have been increasingly tense over the past 18 months. Despite this, in 2017/18, Russian litigants continued to be one of the most prominent parties in the London Commercial Courts.

Russians have been among the top three users of the London Commercial Courts for the past three years, with at least 20 Russian litigants appearing each year. Russia has also been consistently ranked in the top three nationalities taking on litigants from their home country. They are closely followed by Kazakhstan, with Kazakh litigants appearing in the top three most litigious nationalities for the third year in a row.

Cyprus entered the top ten litigants by nationality in 2017/18 (see chart B). This may be due to the Russian-Cypriot Double Tax Agreement, which grants favourable tax provisions for Russian businesses. An example of this is the Russian-owned joint venture company Stremvol Holding – registered in Cyprus – who appeared as a litigant before the commercial courts three times in the past year.

City law firms will undoubtedly continue to watch Russia’s relationship with the Commercial Courts. Tensions between London and Moscow show little sign of easing. Despite this, current high-profile proceedings with Russian litigants look likely to maintain the country’s prominence in the courts for the coming year.

C. TOP 5 PARTY PAIRINGS BY NATIONALITY



### 3 THE MARKET FOR INTERNATIONAL COMMERCIAL COURTS IS INCREASINGLY COMPETITIVE

Businesses are increasingly operating across multiple countries, carving out new trade routes and regional markets. As they do so, the demand for international commercial courts to serve them has increased.

The London Commercial Courts are well placed to help meet this demand. The potential supply of court services from other jurisdictions is, however, increasing. The UK-based Standing International Forum of Commercial Courts (SIFOCC), created in 2017 to help promote best practice among its members, currently includes 31 courts from 23 countries.

The courts mentioned most frequently as potential competitors to London include the Dubai International Financial Centre Courts (DIFC), the Qatar International Court (QIC), the Abu Dhabi Global Market Courts (ADGMC) and the Singapore International Commercial Court (SICC).

Singapore in particular has been used as a model court for other jurisdictions seeking to establish themselves as international legal hubs. China, for example, has announced the opening of commercial courts similar to the SICC to manage disputes arising from the Silk Road trade route, as part of its ‘one belt, one road’ initiative.

Dubai meanwhile is well established as a regional trade hub and is attracting an increasing number of international litigants, with a notable focus on Africa.

The London Commercial Courts also face a potential challenge closer to home, following the Brexit referendum. If following a so-called ‘hard-Brexit’ the Recast Brussels I Regulation is not kept, rulings made in the London Commercial Courts will no longer be enforceable in the European Union. This could in turn make London a less attractive litigation destination. Potential litigants may look to other European Union courts for relief.

It is notable that five European cities – Paris, Dublin, Amsterdam, Brussels and Frankfurt – have announced the potential launch of, or increased funding for, English-speaking courts with common law features. The potential reward for these countries is high: the London Commercial Courts saw a record number of litigants from EU 27 countries in 2017/8 – 105 in total.

TheCityUK, an industry-led body representing UK-based financial and related professional services, recently noted that the UK is “the world’s leading specialist centre for financial, business and property litigation and dispute settlement”. They were quick to add, however, that “we cannot be complacent. Many other jurisdictions are actively vying to take Britain’s crown”.

#### D. GLOBAL COMMERCIAL COURTS



- |                  |                     |                |                 |
|------------------|---------------------|----------------|-----------------|
| 1 AUSTRALIA      | 7 CHINA             | 13 MALAYSIA    | 19 SIERRA LEONE |
| 2 BAHRAIN        | 8 EASTERN CARIBBEAN | 14 NETHERLANDS | 20 SINGAPORE    |
| 3 BELGIUM        | 9 FRANCE            | 15 NEW ZEALAND | 21 UGANDA       |
| 4 BERMUDA        | 10 GERMANY          | 16 NIGERIA     | 22 UAE          |
| 5 CANADA         | 11 IRELAND          | 17 QATAR       | 23 UK           |
| 6 CAYMAN ISLANDS | 12 KAZAKHSTAN       | 18 RWANDA      | 24 USA          |

## METHODOLOGY AND SOURCES

Portland's Commercial Courts Report 2018 analysed data provided by The Lawyer's Litigation Tracker database for the period from March 2015 to April 2018. This data includes double counts for multiple judgements and hearings. Our analysis was supplemented by additional research from primary and secondary sources.

Please note that the methodology for this year's Report differs from that of previous years. Portland would like to thank Nikhil Kalyanpur of Georgetown University for his support.

**Please contact Portland's Disputes practice for additional data and analysis, or to use the findings in this report.**

1 - Some countries are home to more than one SIFOCC member court. Please see: <https://www.sifocc.org/>

2 - Courts that are common law 'international commercial courts' with specialist civil and commercial seats. International Commercial Courts: The Singapore Experience, Melbourne Journal of International Law, Vol. 18, No. 2, 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3095059&download=yes](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3095059&download=yes)

## ABOUT PORTLAND DISPUTES

Portland's Disputes team provides strategic communications advice to help reinforce your legal strategy. We ensure that every aspect of your client's concerns are managed, and every potential advantage explored.

Our distinct team has specialist training, skills and experience. Our work extends beyond the courtroom to encompass complex public and political considerations.

For fifteen years, and across multiple jurisdictions, countries and languages, Portland has applied its problem-solving abilities to provide bespoke communications solutions to legal issues.

We understand the realities of the modern media and digital landscape, the rigours of the law and the need to deliver results.

## CHAMBERS AND PARTNERS 2018

**Portland's Disputes practice was recognised in Band 1 for PR & Communications in Chambers and Partners Litigation Support 2018. Client comments included:**

*"...mindblowingly good"*

*"...very straightforward, very clever and extremely professional."*

*"They bring better ideas than you could have imagined and then execute them even better than you expected. They actualise them on time and on budget. Our objective was to get as much publicity as possible: they got us into 315 publications internationally in 24 hours. I was completely blown away."*

## HOW WE CAN HELP



**MEDIA:** Journalist briefings | Media strategy | Media training | Crisis preparation and response



**LEGAL EXPERIENCE:** Litigation | Arbitration | Judicial review | Multi-jurisdiction | Regulatory charges | Group litigation book-building



**DIGITAL:** Data-driven campaigns | Online reputation management | Deep and dark web analysis | Digital and social media strategy | Open and closed networks



**INTERNATIONAL AFFAIRS:** Political insight | Stakeholder management | Capacity building



**RESEARCH:** Insight testing | Audience identification and segmentation | Primary qualitative and quantitative research



**LANGUAGES:** English | Russian | Arabic | French | Spanish | Dutch



**OFFICES:** London | New York | Washington DC | Singapore | Doha | Nairobi

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