Civil Procedure Rule Committee Consultation: Appeals to the Court of Appeal: proposed amendments to Civil Procedure Rules and Practice Direction, May 2016

Appendix 5: Survey of appellate justice in other jurisdictions compiled by Allen and Overy

Draft December 2015

COLLATED RESPONSES

A&O Jurisdictional Survey

Introduction

Respondents were asked about how the appeals process worked in their jurisdictions in standard commercial disputes. In particular, respondents were asked to comment on any procedures that added efficiency to the process.

Survey

No	Questions		Response
1	Do parties have an automatic right to appeal, or is permission needed?	**SINGAPORE**	Generally, a party has an automatic right of appeal. Permission is required in some instances, such as the following: (a) where the amount or value of the subject matter at the trial is $250,000 or less; (b) where the only issue in the appeal relates to costs or fees for hearing dates; (c) where a Judge in chambers makes a decision in a summary way on an interpleader summons where the facts are not in dispute; (d) an order refusing to strike out an action or a pleading or a part of a pleading; or

No	Questions		Response
			(e) where the High Court makes an order in the exercise of its appellate jurisdiction with respect to any proceedings under the Adoption of Children Act (Cap. 4) or specific parts of the Women's Charter (Cap. 353). There is no right of appeal in the following limited situations: (i) where a Judge makes an order giving unconditional leave to defend an action or an order setting aside unconditionally a default judgment; (ii) except if the appellant is the defendant, where a Judge makes an order giving leave to defend on condition that the defendant pays into court or gives security for the sum claimed or an order setting aside a default judgment on condition as aforesaid; (iii) (subject to any other provision in the section which prescribes these rules), where a Judge makes an interlocutory order in chambers unless the Judge has certified, on application within seven days after the making of the order by any party for further argument in court, that he requires no further argument; (iv) where the judgment or order is made by consent of the parties; or (v) here, by any written law for the time being in force, the judgment or order of the High Court is expressly declared to be final.
		HONG KONG	The general rule is that an appeal lies as of right to the Court of Appeal from every judgment or order of the Court of First Instance (High Court) in any civil cause or matter, subject to exceptions such as: – an appeal against an order made by a Court relating only to costs; or

No	Questions		Response
			– an interlocutory judgment or order of the Court of First Instance.
		SOUTH AFRICA	The right to appeal is not an automatic right under South African law. The party wishing to appeal a judgment (in full or in part) must first obtain leave to appeal from the court that handed down the judgment. If leave to appeal is refused by the court that handed down the judgment, the party can apply directly to the appropriate higher court for permission to appeal.
		NEW ZEALAND	The general principle underlying New Zealand's appellate system is that a party to proceedings may pursue two level of appeal, as follows: 1. The first by right on questions of law and fact; and 2. The second by leave, also on questions of law and fact. First appeals from civil proceedings are made to the next highest court in the court structure, eg from the District Court to the High Court, or from the High Court to the Court of Appeal. Parties have an automatic right to appeal decisions of the High Court to the Court of Appeal. Matters appealed to the High Court from a District Court and certain tribunals can be taken to the Court of Appeal with leave if a second appeal is warranted. The Court of Appeal may also grant leave to appeal questions of law from the Employment Court. Parties must apply for leave to appeal against decisions of the Court of Appeal to the Supreme Court.

No	Questions		Response
		UNITED STATES	Generally, parties have an automatic right to appeal "as of right" on any final or interlocutory judgment in a case without seeking permission of the court. *See* N.Y. CPLR § 5701. Examples of appealable orders are those deciding issues related to (1) provisional remedies; (2) settlement of a transcript or statement on appeal; (3) granting a new trial; (4) the merits of the case; (5) a substantial right; (6) preventing an appeal from being taken; (7) the constitutionality of a statutory provision; or (8) a motion for leave to reargue. Some orders are not appealable as of right. For example, orders requiring or declining to require a more definite statement in a pleading or declining to order a prejudicial matter stricken from a pleading are among those not appealable as of right. See CPLR 5701(b). These instances are generally quite rare. Where the appeal is not as of right, any appellant can seek permission from either the judge who made the order or the justices of the Appellate Term to appeal. Uniform Court Acts 1702; see CPLR 5513(b)-(c). The time limit for the application for permission to appeal is 30 days from the service of a copy of the order or judgment with notice of entry. In a case where the lower court judge denies permission to appeal, the time to make a further application for leave to appeal to the Appellate Term is also 30 days, and it begins to run from the date of service of the order of the lower court denying permission.
		GERMANY	An appeal from a first instance decision (*Berufung*) can always be made if the value of the matter is more than 600 Euros, section 511(2) No 1 Civil Procedure Code (*Zivilprozessordnung*, **ZPO**). Only for matters with a lesser value the first instance court needs to give permission to appeal, section 511(2) No 2 ZPO. (An – imperfect – English translation of the ZPO provided by the German Federal Ministry of Justice and consumer protection can be found here.) Please note that there is no single appeal court in Germany, but many of them. First instance courts are the local

No	Questions		Response
			courts (*Amtsgerichte*), normally for matters with a value of up to 5,000 Euros, and the regional courts (*Landgerichte*) for matters with a higher value and some special subjects. Appeals from local court first instance decisions in civil matters go to the relevant regional court. Appeals from regional court first instance decisions go to the relevant higher regional court (*Oberlandesgericht*). There are currently 116 regional courts and 24 higher regional courts.
		SPAIN	The right to appeal a first instance judgment is automatic.
		IRELAND	There is an automatic right of appeal from the High Court to the Court of Appeal, save in certain specific circumstances prescribed by law (eg where a decision on appeal to the High Court from a lower court is final or where, under certain statutory regimes, the leave of the High Court is required prior to any appeal against a decision of the High Court). We do not propose to cover appeals to the High Court from the District and Circuit Courts in our responses due to the limited jurisdiction of those courts. However, in any event, standard commercial disputes are usually commenced in the Irish High Court. Ireland has two superior appellate courts, the Court of Appeal and the Supreme Court. The Court of Appeal, which occupies an appellate jurisdictional tier between the High Court and the Supreme Court, was established on 28 October 2014. At the time the Court of Appeal was established, extensive changes were made to the procedural rules for appeals to the Supreme Court. The progression of appeals in both the Court of Appeal and the Supreme Court is now subject to increased scrutiny from the bench to reduce the scope for unjustified delays and to ensure appeals are brought on for hearing in a prompt and organised fashion.

No	Questions		Response
			It is possible in exceptional circumstances to bypass the Court of Appeal and appeal a ruling of the High Court directly to the Supreme Court (a "Leapfrog Appeal"). Permission to bring a Leapfrog Appeal must first be obtained from the Supreme Court and will only be granted if the Supreme Court is satisfied that there are exceptional circumstances warranting an appeal directly to the Supreme Court and (i) the High Court decision involves a matter of general public importance; and/or (ii) the interests of justice require that the appeal be heard by the Supreme Court. Accordingly, the Supreme Court will determine the type of appeals it will hear, which will likely be cases which raise constitutional and/or legal issues of significant importance only.
		ITALY	The parties have an automatic right to appeal. However such right is subject to certain objective requirements. If even one of those requirements is not met the Judge will declare the inadmissibility of the appeal. The appeal is also declared inadmissible from the Judge when it does not have a "reasonable chance" of being uphold (so-called "filter"). The "filter" is a relatively new addition (2012) to the Italian civil procedure and its impact is yet to be assessed.
		FRANCE	As a general rule, parties have an automatic right to appeal in all matters, including non-contentious ones, against judgments of first instance, save where otherwise is provided. In other words, there is no "filter" whatsoever (a party does not have to apply for leave to appeal). The right of appeal belongs to any party that has an interest if he/she has not abandoned it. The right to appeal is generally not opened when the value of the dispute is low (less than 4,000 Euros), or in specific matters. The first president of the court of appeal may dismiss an appeal if (i) the first instance ruling was provisionally enforceable; and (ii) the appellant did not enforce it.

No	Questions		Response
		NETHERLANDS	No permission is needed. Unless expressly stated otherwise in the law or unless parties have agreed to skip the appeal, all (final) judgments delivered by a District Court can be appealed to the Court of Appeal in whose area the District Court is located. Examples of exceptions to this rule are: judgments regarding a claim of less than 1,750 Euros, judgments involving the dissolution of employment contracts, orders permitting a preliminary witness hearing and orders granting leave for attachment.
		AUSTRALIA	<u>Appeal to the Supreme Court</u> A party has an automatic right to appeal a decision of the Local Court to the Supreme Court, but only on a question of law.[1] If the grounds of appeal involve a question of mixed law and fact, leave is required to appeal to the Supreme Court.[2] <u>Appeal to the Court of Appeal</u> A party has an automatic right to appeal a decision of the District or Supreme Court to the NSW Court of Appeal, but only on a question of law. Leave is required in certain circumstances (ie when appealing an interlocutory judgment/order).[3] <u>Appeal to the High Court of Australia</u> There is no automatic right to have an appeal heard by the High Court – special leave to appeal must be sought.[4] Parties who wish to appeal to the High Court must persuade the Court in a preliminary hearing that that there are

1 Section 39(1) *Local Court Act 2007* (NSW).
2 Section 40(1) *Local Court Act 2007* (NSW).
3 Section 127 *District Court Act 1973* (NSW).
4 r 41.01 *High Court Rules 2004* (Cth).

No	Questions		Response
			significant reasons that the appeal should be held.
2	Is the process of applying for an appeal done in person or on paper? What are the relevant stages?	**SINGAPORE**	An appeal must be initiated "on paper" given that the rules require that a Notice of Appeal be filed and served, after which an Appellant's Case must be filed and served. A Case would set out the grounds for the appeal and include the relevant documents relied on. The Respondent would then file and serve the Respondent's Case. Written submissions are exchanged and filed in court about a month to three weeks before the hearing.
		HONG KONG	After permission is granted, or when there is a right of appeal without the need to seek prior permission, the appellant should: – file a Notice of Appeal with the trial court and at the same time serve a copy of the Notice on the other party (the appellant should try to deliver this Notice to the other party by hand); – file certain documents with the Court Registry to "set down" the appeal (ie lodge a sealed copy of the judgment or order appealed against, a copy of the written reasons for judgment and two copies of the notice of appeal, one of which shall be endorsed with the amount of the fee paid, and the other endorsed with a date of service of the notice); – give all parties upon whom the Notice of Appeal was served a notice of setting down within four days after an appeal has been set down; and – make an application to fix a date for the hearing of an appeal to the Registrar of Civil Appeals.

No	Questions		Response
			After application has been made to fix a date for the hearing of an appeal, the Registrar of Civil Appeals will instruct the Clerk of Court to fix a date for the hearing. The parties will be notified in writing.
		SOUTH AFRICA	An application for leave to appeal must be in writing and must be filed with the registrar in charge of civil appeals at the court that handed down the judgment. The applicant (or the respondent if the applicant fails to do so within a certain prescribed time period) must apply by letter to the registrar for the allocation of a date for the hearing of the application for leave to appeal. The applicant (or the respondent if the applicant fails to do so within a certain prescribed time period) must ensure that a copy of the judgment against which leave is sought is included in the court file. The parties may agree and set out three alternative dates for the hearing of the application for leave to appeal. Once the registrar is in possession of (i) the application for leave to appeal; (ii) the judgment; and (iii) the letter requesting a date for the hearing of the application, it will submit the relevant court file to the secretary of the judge who delivered the judgment. The secretary of the judge will endorse the date and time on which the application for leave to appeal will be heard. The judge's secretary will return the file to the registrar who in turn will enrol the application accordingly and notify the parties of the date and time for the hearing of the application. The convenience of counsel is not conclusive in the determination of a date for the hearing of an application for leave to appeal.

No	Questions		Response
		NEW ZEALAND	Appeals to the Court of Appeal are governed by the Court of Appeal (Civil) Rules 2005 and the Judicature Act 1908. Appeals to the Supreme Court are governed by the Supreme Court Rules 2004 and the Supreme Court Act 2003. If there is right of appeal, the appeal must be brought within 20 working days after the decision appealed against is given. The appeal is brought by filing a notice of appeal in court. The case on appeal must be filed within three months after the appeal is brought. There are strict requirements including cross referencing for preparing the case on appeal. An application for leave to appeal is made by way of interlocutory application with a supporting affidavit. Oral submissions on an application for leave to appeal to the Court of Appeal and Supreme Court may not exceed 15 minutes each in the case of the applicant and respondent and five minutes in reply for the applicant. An application for leave to appeal must be made within 20 working days after the decision is given. The appeal must be brought within 20 working days after the grant of leave.
		UNITED STATES	The process for applying for an appeal is done on paper. The first step in taking a civil appeal to the Appellate Term is serving a copy of the notice of appeal on the adverse party and filing it, along with a fee, with the office where the order or judgment being appealed was entered. See CPLR 5515(1). The time limit in which to file a notice of appeal in civil cases is 30 days from service by a party of a copy of the order or judgment and written notice of entry (plus five days if served by mail). In commercial cases arising from New York Civil Court, or in the District, City or Justice Courts outside of New

No	Questions		Response
			York City, the 30-day period to take the appeal begins to run upon service of the order upon the appellant. Once the appellant files the notice of appeal, he should order a transcript, if the trial or hearing from which he is appealing was held on the record, which is provided to the lower court clerk who in turn gives both parties an opportunity to review it and submit objections. See generally Uniform Court Acts 1704. The parties must then submit either a reproduced record or the original record to the Appellate Term. The appeal must then be perfected, which means that the matter appears on the general calendar and the appellant's brief has been filed. In civil cases an appeal must be perfected within six months of the date of the notice of appeal or order granting leave to appeal. See 22 NYCRR 670.8[e][1]. The respondent has 21 days after service to file his brief and then seven days for the appellant to reply. In each case, the filing consists of one original and five copies, along with proof of service of one copy.
		GERMANY	If the appeal needs permission (value of the matter up to 600 Euros) the first instance court grants the permission in its judgment *ex officio*. There is no application process. The relevant party suggests to the court to permit the appeal, either in its submissions or in the oral hearing. The appeal court is bound by the decision.
		SPAIN	An appear must be made on paper. 20 business days after the judgment to be appealed has been served, the appeal writ must be filed before the first instance court so that it may send it to the appeal court.
		IRELAND	Appeals are brought by way of Notice of Appeal, filed in the relevant appellate court office. As set out above, appeals are brought to the Court of Appeal except in exceptional circumstances. There are two types of appeal to the Court of Appeal – an "Expedited Appeal" and an "Ordinary Appeal".

No	Questions		Response
			Expedited Appeals arise in ten specific categories of appeals, including appeals relating to habeas corpus applications, appeals against a decision granting or refusing an interlocutory order, and appeals against the making or refusal of any order granting summary judgment. The Expedited Appeal process is mandatory for these specific categories of appeal. Any appeal that is not an Expedited Appeal is an Ordinary Appeal. In an Expedited Appeal, the appellant is required to lodge a Notice of Expedited Appeal in the Court of Appeal Office within ten days from the date of perfection of the Order against which the appeal is being brought. The Notice of Expedited Appeal is required to set out: 1. The particulars of the decision to be appealed 2. The category of expedited appeal 3. The grounds of the appeal 4. The orders sought 5. A list of the documents to be relied upon by the appellant 6. Particulars of the appellant and respondent The Court of Appeal Office will assign a date for a directions hearing (usually within three to four weeks of the date of lodging the Notice of Expedited Appeal). The Notice of Expedited Appeal is then to be served by the appellant on the respondent within four days of issue. On receipt of a Notice of Expedited Appeal, a respondent has seven days to lodge a Respondent's Notice which will set out (i) whether the respondent opposes the appeal in whole or in part and if so sets out concisely the grounds on which the appeal is opposed; and (ii) the orders

No	Questions		Response
			sought by the respondent and shall include a list of any additional documents not identified in the Notice of Appeal on which the respondent intends to rely at the hearing of the appeal. If the respondent intends to seek a variation of the Order then they shall include a separate section — "Notice of Cross-Appeal" – which sets outs a concise statement of the grounds for the variation. **The Ordinary Appeals** process follows the same format as the Expedited Appeals process but has more generous timelines. A Notice of Appeal containing the same information as required in an Expedited Appeal (save for specifying the category of expedited appeal which obviously does not apply in these circumstances) is required to be lodged within 28 days of the date of perfection of the order being appealed. The Court of Appeal Office will assign a date for a directions hearing (usually five to six weeks later). The Notice of Appeal is to be served within seven days of issue. The respondent shall within 21 days after service of the Notice of Appeal lodge and serve the Respondent's Notice which sets out the same matters as a Respondent's Notice in an Expedited Appeal. **Directions hearings** for both Expedited and Ordinary Appeals are normally heard by one judge. At the directions hearing, the court may make orders such as fixing any issues to be determined in the appeal, consolidating the appeal with another appeal, defining the issues between the parties, fixing the times at which written submissions must be delivered and filed or allowing any party to alter or amend his notice. Where grounds of appeal appear very numerous or repetitious, the Court may require an effort to be made to narrow the grounds truly in dispute so as to minimise the amount of time required for the appeal hearing. In an Ordinary Appeal, the Court may fix a date and time for the hearing of the appeal. However, in an Expedited Appeal, the Court will fix a date and time for the hearing of the appeal unless it considers that there are special reasons whereby it is not possible to do so. In the event a notice of appeal is not issued within the relevant prescribed time limits, an application to the

No	Questions		Response
			relevant court for an extension of time to appeal or to serve a notice of appeal out of time is required.
		ITALY	The process of serving an appeal is done on paper. There is a mandatory deadline for the appeal. If the appeal is not served within such deadline the judgment becomes final. The period of time in which the party must serve the appeal is 30 days, running from the moment when the first instance judgment is served by the counterparty or six months from the issuance of the first instance judgment, if not served. Such notification has to meet specific formal requirements. The bailiff, after serving the deed of appeal has to immediately give written notice to the Judge who issued the appealed judgment so that he makes a note of the appeal on the original copy of the judgment.
		FRANCE	The appeal is to be lodged by a unilateral declaration or by a joint petition. The declaration of appeal is a dated and signed form (by the appointed attorney) filed with the office of the clerk of the court, which must contain: – the name of the appellant's attorney; – the decision from which the appeal is sought; – The court in which the appeal is brought. See also our answer to question 6.

No	Questions		Response
		AMSTERDAM	In general an appeal must be lodged within three months of the date of the judgment at first instance (however for a judgment in preliminary relief proceedings the appeal must be lodged within four weeks of the date of the judgment). The appeal is considered lodged on the day the writ is validly served on the respondent. If not already contained in the writ, the complaints against the first instance judgment (called "grievances") must be filed in a statement of grievances. Thereafter the respondent can submit a statement of defence. The respondent may also lodge a cross-appeal together with his statement of defence. There are generally no further written statements (unless there is a cross-appeal, in which case a statement of defence on cross-appeal will be submitted by the original claimant, or under unusual circumstances). Parties will generally present oral closing arguments during a hearing after submission of the last written statement. After submission of the written statements, and possibly closing arguments, the Court of Appeal has the option to enter either an interim judgment or a final judgment. If the final judgment reverses the judgment of the District Court, the Court of Appeal must in principle settle the dispute itself.
		AUSTRALIA	<u>Appeal to the Supreme Court</u> Appeals in civil cases are made via a Summons Commencing an Appeal, filed within 28 days after the material date.[5] The Summons Commencing an Appeal may be filed online, or in person by attending the Supreme Court Registry.[6] The appeal will then be listed for hearing. <u>Appeal to the Court of Appeal</u>

[5] Rule 50.3 Uniform Civil Procedure Rules 2005.
[6] http://www.ucprforms.justice.nsw.gov.au/.

No	Questions		Response
			An appeal to the Court of Appeal is initiated via a Notice of Intention to Appeal, filed and served on the necessary party within 28 days after the material date.[7] Notice of Intention to Appeal may be filed online, or in person by attending the Supreme Court Registry.[8] If leave is required, a summons seeking leave to appeal must then be filed (either online or in person) and served on each necessary party also.[9] The applicant must then file and serve the relevant originating process on each necessary party within three months of the material date, unless otherwise ordered by the Court.[10] <u>Appeal to the High Court of Australia</u> Application for Leave or Special Leave to appeal must be made to the High Court,[11] and must be accompanied by a copy of the sealed judgment or order, a copy of the reasons for the judgment/order, as well as a copy of the primary sealed order, judgment or decision (if the judgment determined an appeal).[12] This application must be filed within 28 days after the judgment/order is made.[13] This Application for Leave or Special Leave to Appeal must be filed in person, and must set out briefly the grounds on which the relevant judgment is said to be wrong, as well as the orders sought.[14]

7 Rule 51.8 Uniform Civil Procedure Rules 2005.
8 https://onlineregistry.lawlink.nsw.gov.au/content/help/forms-list.
9 Rule 51.10 Uniform Civil Procedure Rules 2005.
10 Rule 51.9 Uniform Civil Procedure Rules 2005.
11 r 41.01.1 High Court Rules 2004 (Cth).
12 r 41.01.2 High Court Rules 2004 (Cth).
13 r 41.01.3 High Court Rules 2004 (Cth).
14 Form 23, Schedule 1, High Court of Australia Rules 2004 (Cth).

No	Questions		Response
			Within 14 days of service of the application, the respondent must make an appearance in the office of the Registry in which the application is filed, and serve a copy on the applicant.[15]
3	On what grounds may an appeal be granted? How strong must an applicant's case be to be heard?	**SINGAPORE**	The Court of Appeal has broad powers. Appeals may be granted on errors of fact or law (the errors need not be "manifest"), or on new facts and/or evidence submitted to the Court, although new facts and/or evidence can only be admitted on special grounds. It is not a high threshold for appeals to be heard – an appellant's case can generally be heard so long as it is not frivolous, vexatious or an abuse of process.
		HONG KONG	In order to obtain permission to appeal for an interlocutory judgment or order of the Court of First Instance, an applicant's case will be heard if the appeal has a reasonable prospect of success or there is some other reason in the interests of justice why the appeal should be heard. After permission is granted, or when there is a right of appeal without the need to seek prior permission, an appeal will be successful if: – In respect of issues of fact: (a) a finding made by the Court is inconsistent with the evidence; or (b) there is not enough evidence to support the conclusion arrived at by the Court. – In respect of issues of law: (a) the Court applied the wrong legal principles; (b) the Court failed to take account of a recent decision or amendment to a relevant statute; or (c) the Court awarded the wrong form of relief.

[15] Form 23, Schedule 1, High Court of Australia Rules 2004 (Cth).

No	Questions		Response
		SOUTH AFRICA	As a general rule, leave to appeal will be granted where there is a reasonable prospect of another court coming to a different conclusion on the facts or in law. The importance of a matter is not on its own a justification for granting leave to appeal. If the judgment sought to be appealed against does not dispose of all the issues between the parties the balance of convenience must, in addition to the prospects of success, favour a piecemeal consideration of the case. The test is then whether the appeal, if leave were given, would lead to a just and reasonably prompt resolution of the real issue between the parties. The application must be clear, succinct and to the point. It must clearly indicate in which respects it is alleged that the relevant court had erred and the judgment must be subjected to a critical analysis, either as to the findings of fact or as to the exposition and application of the law. A generalised attack on the findings of the court is insufficient as is reliance on the notice of appeal or a recitation of grounds of appeal. Non-compliance with these specific requirements may lead to a rejection of the relevant application or to an adverse costs order against any person acting in a representative capacity on behalf of the applicant.
		NEW ZEALAND	Under s66 of the Judicature Act 1908 the Court of Appeal has jurisdiction to hear and determine appeals from any judgment of the High Court. The Supreme Court held in *Siemer v Heron* [2011] NZSC 133 that s66 of the Judicature Act 1908 confers a right of appeal against an interlocutory decision made by the High Court in the course of an appeal against a decision by an inferior court. Certain specific statutes may grant rights of appeal to the Court of Appeal on a question of law. In some cases leave may need to be obtained from the Supreme Court such as appeals from the decision of the High Court on appeal from the Environment Court under the Resource Management Act 1991.

No	Questions		Response
			The decision of the Court of Appeal to grant leave (for a second appeal) is entirely discretionary. The Court does not need to provide reasons for giving leave. If the Court refuses to grant leave, it must state the reasons for doing so, but those reasons may be stated briefly and in general terms only. The test is that the appeal must raise some question of law or fact capable of bona fide and serious argument in a case involving some interest, public or private, of sufficient importance to outweigh the cost and delay of the further appeal. Not every alleged error of law is of such importance, either generally or to the parties, as to justify further pursuit of litigation already twice considered and ruled upon by a Court, so the test is a restricted one. The scarce time and resources of the Court of Appeal are not to be wasted, nor additional expenses for the parties to be incurred without hope of realistic benefit. See *Waller v Hider* [1998] 1 NZLR 412 (CA). The Supreme Court held in *Siemer v Heron* [2011] NZSC 133 that s66 of the Judicature Act 1908 confers a right of appeal against an interlocutory decision made by the High Court in the course of an appeal against a decision by an inferior court. When granting leave to appeal, the Supreme Court must be satisfied that it is necessary in the interests of justice for the Court to hear and determine the proposed appeal. It is necessary in the interests of justice for the Supreme Court to hear and determine a proposed appeal if (see section 13 of Supreme Court Act 2003): – The appeal involves a matter of general importance; or – A substantial miscarriage of justice may have occurred, or may occur unless the appeal is heard; or – The appeal involves a matter of general commercial significance.

No	Questions		Response
		UNITED STATES	As discussed above, the parties generally have an automatic right to appeal and the case will normally be heard unless the order concerns a more definite statement or declining to strike a matter from a pleading.
		GERMANY	Permission is needed only for matters with a value of up to 600 Euros. The first instance court shall permit an appeal if the matter is of fundamental significance, or if the further development of the law or the interest in ensuring uniform judicature requires an appeal court decision; see section 511(4) ZPO.
		SPAIN	The appeal writ must contain the reasons why the relevant party understands that first instance judgment is not correct (from a legal or factual point of view). The case will be heard in any event.
		IRELAND	An appeal will only succeed if the Court of Appeal or the Supreme Court considers that the decision of the lower court was (i) incorrect in law or on the facts; or (ii) unjust procedurally or due to another irregularity. There is no pre-hearing filter applied which prevents appeals from proceeding on the basis that the appellant's case is not sufficiently strong and/or robust.
		ITALY	The right to appeal is not subject to previous Court approval. However, an appeal can only be successful in light of an error in the first instance judgment as to either the facts or the law. Moreover, the appeal is only heard if a number of objective requirements are met. Such requirements are: 1) the existence of a judgment or another measure; 2) interest to appeal, determined by the part who wants to appeal losing in the first instance judgment; such interest has to show in the motives of

No	Questions		Response
			appeal; 3) subjective right to appeal, which is determined by the fact of having been a party to the first instance judgment (except in the case of third-party proceedings); 4) objective right to appeal, meaning that the Code of Civil Procedure has to explicitly grant such right. Where none of these elements is present the Judge will declare the appeal inadmissible. Moreover the so-called "filter" allows the Judge to declare the case inadmissible in case the appeal does not have a reasonable chance of being upheld. This is however, in practice, quite a broad filter.
		FRANCE	The introduction of an appeal is a right of the parties. However the conditions set out in our answer to question 1 must be fulfilled in order to file a declaration of appeal or a joint petition, otherwise the appeal would be inadmissible. There is no "filter" that limits the right to appeal.
		NETHERLANDS	The Court of Appeal will conduct a full review of the merits of the case. This means that both issues of fact and law will be fully reviewed for the second time. However, the Court of Appeal can only make a decision on issues which are the subject of the appellant's complaint. In deciding on the appellant's complaint, the Court of Appeal must take into account all arguments raised by the respondent at first instance and appeal, also the arguments which were rejected at first instance.
		AUSTRALIA	<u>Appeal to the Supreme Court</u> A party to proceedings before the Local Court in its General Division may appeal to the Supreme Court, but only on a question of law. A party may, however, seek leave to appeal on other grounds. There is no strict test that determines the strength of an applicant's case to be heard; however, costs may be

No	Questions		Response
			awarded in cases that are commenced or continued where there is no real chance of success.[16] Appeal to the Court of Appeal Parties have a right to appeal a District or Supreme Court decision to the Court of Appeal, but only on grounds of a question of law. However, special leave is required in some instances (ie when appealing an interlocutory judgment/order or when appealing a judgment/order as to costs only).[17] Once again, however, costs may be awarded in cases that are commenced or continued where there is no real chance of success. Appeal to the High Court of Australia In considering whether to grant an application for special leave to appeal to the High Court, the High Court may have regard to any matters that it considers relevant, but must have regard to whether the appeal involves a question of law that is either of public importance or where the interests of the administration of justice require consideration by the High Court of the relevant judgment. As the applicant must state which grounds they rely upon in their Application for Leave or Special Leave to Appeal, consideration will be given to the strength of the applicant's case. The applicant will also be required to demonstrate that there is a question of law to be addressed in a preliminary hearing before the matter is listed before the High Court.
4	May an appeal be made from a decision that was	**SINGAPORE**	It is not uncommon for this to happen. All decisions of a registrar are appealable and a High Court Judge would hear the appeal. Save for the limited grounds where no appeals are allowed (see our answer to question 1 above),

[16] *Baulderstone Hornibrook Engineering Pty Ltd v Gordian Runoff Ltd (No 2)* [2009] NSWCA 12 at [4].
[17] Section 127 *District Court Act 1973* (NSW).

No	Questions		Response
	itself made on appeal?		appeals may be made, although permission/leave is sometimes required.
		HONG KONG	Yes. A party who is not satisfied with the decision of the Court of Appeal may lodge an application for leave to appeal to the Court of Final Appeal.
		SOUTH AFRICA	Where leave to appeal is granted from a lower court, it is usually to a single judge of the High Court having jurisdiction over the matter. A further leave to appeal may lie from the High Court to either a full bench (usually three judges) of the High Court concerned or the Supreme Court of Appeal. Where the appeal was heard by a full bench of the High Court concerned, a further appeal lies to the Supreme Court of Appeal. The Constitutional Court of South Africa is the highest court of the land for all matters (prior to August 2013, its jurisdiction was confined to matters of constitutional law) and a final further appeal lies from the Supreme Court of Appeal to the Constitutional Court.
		NEW ZEALAND	Yes, but leave must generally be sought for the second appeal.
		UNITED STATES	Yes. The New York State court system has three levels: a trial court (the Supreme Court), an intermediate appellate court (the Appellate Term) and the highest level appellate court (the New York Court of Appeals). Once a decision is made in the Appellate Term, there is no automatic right of appeal to the New York Court of Appeals and a motion for permission to appeal is required, which should be made within 30 days from the date the moving party received service of a copy of the order to be appealed.

No	Questions		Response
			Additionally, the parties may file a motion for reargument within 30 days after the appeal has been decided. Such a motion will be submitted without oral argument. There is no procedure for the Court to sit en banc (ie for all of the justices of the court to hear the case rather than just a selection of them). See eg App. Div. 1st Dep't. Local R. § 600.14.
		GERMANY	From some appeal court decisions an appeal on points of law (*Revision*) is possible. This goes to the Federal Court of Justice (*Bundesgerichtshof*, **BGH**). The appeal on points of law can be made if either the appeal court gives permission in its judgment, or the BGH gives permission after a complaint by the relevant party, see section 543(1) ZPO. This complaint against denial of permission to appeal (*Nichtzulassungbeschwerde*) is possible only if the value of the party's gravamen is more than 20,000 Euros, see section 26 No 8 of the Introductory Act to the ZPO. The complaint, the particulars of the complaint and the BGH decision on permission are all done in writing. Permission to appeal on points of law, either by the appeal court or by the BGH, is given if the matter is of fundamental significance, or if the further development of the law or the interest in ensuring uniform judicature requires a BGH decision, see section 543(2) ZPO. These grounds are intertwined. A matter has fundamental significance if it raises a question in need of clarifying which arises in an indefinite number of cases and therefore affects the public interest in uniform development and handling of the law. A question needs clarifying if courts and scholars hold differing views on it and the BGH or another federal court has not decided it. The further development of the law requires a BGH decision if the case gives occasion to lay down guiding principles to interpret the law or to fill gaps. The ground of ensuring uniform judicature is, *inter alia*, concerned if the appeal judgment contains errors which, in the interest of trust in judicature, cannot persist. The particulars of complaint must set out in detail why one of these grounds for permission exists in the case. An appeal on points of law is successful if the law has been violated, ie a rule of law has not been applied or has

No	Questions		Response
			been incorrectly applied. There are certain absolute grounds where the law is always deemed to have been violated, see section 547 ZPO. These concern the composition of the court, challenges to judges, representation of parties, admission of the public to a hearing and giving reasons for decisions.
		SPAIN	Only if certain requirements are met.
		IRELAND	A further appeal from the Court of Appeal to the Supreme Court is possible. However, the permission of the Supreme Court must be obtained before a decision of the Court of Appeal can be appealed and will only be given where the Supreme Court is satisfied that (i) the decision involves a matter of general public importance; or (ii) it is in the interests of justice that there be an appeal to the Supreme Court. Leave applications to the Supreme Court are generally determined on the papers, but the court may direct an oral hearing.
		ITALY	The judgments issued by the Court of Appeal can be challenged before the Italian Supreme Court only for the following reasons: 1) for reasons concerning jurisdiction; 2) for breach of the applicable law provisions on venue where the motion for the assessment of venue is not provided by the applicable law provisions; 3) for breach or false application of law provision and of the contracts or the collective labour agreements; 4) for nullity of the judgment or of the proceedings; 5) for lack of, or nonsufficient or contradictory reasoning on an issue of fact, which was disputed and decisive for the proceedings.

No	Questions		Response
		FRANCE	The French Supreme Court (*Cour de cassation*) hears appeals against rulings issued by the court of appeal. However, this court does not proceed to a complete review of the case. It only rules on questions of law.
		NETHERLANDS	Judgments of a Court of Appeal and judgments of a court of first instance which cannot be appealed to the Court of Appeal, can be appealed to the Supreme Court. However, the grounds for appeal to the Supreme Court are limited to insufficient or unclear reasoning of the lower court and violation of the law. The Supreme Court can moreover dismiss an appeal at an early stage of the appeal proceedings in cases where it is clear that the appeal will not be successful. The period for lodging an appeal to the Supreme Court is three months (except in case of a judgment delivered in preliminary relief proceedings where the period is eight weeks). Before reaching its decision the Attorney-general will deliver a non-binding opinion to the Supreme Court. If the appeal is granted, the Supreme Court will either give a new decision itself, or refer the case back to the Court of Appeal.
		AUSTRALIA	Yes. – A decision made in the Local Court may be appealed to the Supreme Court. – A decision made in the District Court or Supreme Court may be appealed to the Court of Appeal. – A decision made in the Court of Appeal may be appealed to the High Court of Australia. However, decisions of the High Court are final and cannot be appealed, and are binding on all other courts throughout Australia.

No	Questions		Response
5	Are appeals heard by way of rehearing? Do previous findings of fact or law have to be accepted in an appeal hearing?	**SINGAPORE**	The rules prescribe that an appeal is heard by way of rehearing (see Order 57, rule 3(1)). The Court of Appeal is not bound by the High Court's findings of fact, and can re-visit the factual merits of the matter, and appeals are in fact ordinarily allowed based on erroneous findings of fact. In addition, new facts or evidence may be admitted on special grounds.
		HONG KONG	Appeals to the Court of Appeal are heard by way of a more limited type of rehearing. The Court of Appeal only looks at the evidence that was before the lower Court, eg witnesses are not permitted to give oral evidence and permission ("leave" of the Court) is required if parties wish to adduce evidence on appeal that was not before the lower Court. However, the Court of Appeal will reconsider issues raised as at the date of the rehearing, including changes in law which have occurred since the judgment of the Court below.
		SOUTH AFRICA	Since an appeal involves the re-evaluation of a court's decision, it will be based solely on the record of the proceedings (ie a rehearing on the merits limited to the evidence or information on which the decision was given).
		NEW ZEALAND	Appeals are heard by three Judges (occasionally five depending on the nature and wider significance of the particular case) and findings of fact are generally accepted because the trial judge will have had the benefit of hearing from the witnesses. There is the possibility in the Court of Appeal of introducing new evidence. Appeals in the Supreme Court are heard by five Judges. Previous findings of law do not have to be accepted and can be overturned. Appeals from the Employment Tribunal to the High Court can be heard by way of rehearing.

No	Questions		Response
		UNITED STATES	An appeal is not a rehearing of the original arguments made in the trial court, but another level of review by a separate court. If the appeal reverses the lower court's decision, then the lower court must be granted the relief as directed by the upper court, which could include a retrial or rehearing. The Appellate Term reviews both questions of law and questions of fact and any exercise of discretion by the relevant court. *See* CPLR § 5501(d). In general, the lower court's determination of questions of law are reviewed *de novo* (ie reviewing the case as if it were being heard for the very first time) and questions of fact are reviewed for abuse of discretion.
		GERMANY	Please note that most of the appeal process, like German civil procedure generally, is done in writing. Parties exchange detailed written submissions containing all their arguments. The rules on appeal were reformed in 2002 to streamline the appeals process. The particulars of the appeal are crucial, as their content decides whether the appeal court will hold an oral hearing. There are very detailed requirements, relating to the grounds when an appeal will be successful. This is the case if either the first instance decision is based on a violation of law (ie a rule of law has not been applied or has been incorrectly applied), or facts that are to be taken as a basis justify a different decision, see section 513(1) ZPO. The appeal court must take the following facts as a basis, see section 529(1) ZPO: – The facts established by the first instance court, unless specific indications give rise to doubts as to the court having correctly or completely established the facts relevant for its decision, and therefore mandate a new fact-finding process; – New facts and circumstances, insofar as they are admissible.

No	Questions		Response
			Hence, the appeal court is in principle bound by previous findings of fact. It reconsiders these in case of doubts, ie if it seems likely that the findings would turn out to be incorrect after a repeated taking of evidence. Indications for doubts can eg be omissions or contradictions in the protocol of first instance witness testimony, or the possibility of weighing testimony differently in comparison to another witness's statements. In these cases the appeal court must normally question the witness again. In particular, it may not assess a witness' credibility differently from the first instance court without getting a personal impression of the witness. In addition, there are three limited situations when parties may bring new means of challenge or defence (ie new facts and evidence) on appeal, see section 531(2) ZPO. They are to be admitted only if they: – Concern an aspect that the first instance court has noticeably failed to see or has held to be insignificant, – Were not asserted in the first instance proceedings due to a defect in the proceedings, or – Were not asserted in the first instance proceedings, without this being due to the negligence of the party. These restrictions on new facts and evidence are one of the most disputed areas of appeals law. In the 2002 reform, they aimed at limiting the need for fact-finding on appeal to correcting errors only. Later it turned out that the rules are not quite so strict. Appeal courts are quite generous in allowing new facts and evidence and often do new fact-finding exercises. For example, a defect in the first instance proceedings exists if the court omitted to give a relevant direction. The court must discuss with the parties the factual aspects of the matter and its legal ramifications, see section 139(1) ZPO. The court may only base its decision on an aspect that a party has noticeably overlooked or has deemed to be insignificant, if the court has given notice of this fact and has given the party an opportunity to address the matter, see section 139(2). Hence on appeal a party may argue that it would have submitted the new fact or new

No	Questions		Response
			evidence in the first instance if the court had mentioned that it found these relevant. In addition, new facts must always be permitted if the other party doesn't dispute these. The particulars of appeal must set out in detail how and why the first instance judgment should be reversed under these rules. Under section 520(3) ZPO the particulars must not only declare the extent to which the judgment is being contested and set out the specific petition as to how the judgment is to be modified; the particulars of appeal must also designate. – The circumstances indicating a violation of the law and the significance these have for the contested decision, – The specific indications giving rise to doubts as to the first instance court having correctly or completely established the facts in the contested decision, and therefore mandating a new fact-finding process, and – The new means of challenge or defence (new facts and evidence) and the facts and circumstances based on which these new means are to be admitted. This information must be given within the deadline for the particulars of appeal. Means of challenge or defence submitted at a later date can only be considered if this does not delay the proceedings or if the party was not negligent. The detailed particulars of appeal allow the appeal court to consider at the outset whether the appeal is admissible and has any merits: If the particulars do not contain the required information the appeal is inadmissible and will be dismissed, see section 522(1) sentence 2 ZPO. The appeal court may do this by order without an oral hearing. For example, an appeal will be inadmissible if the first instance court had based its decision on several independent legal grounds,

No	Questions		Response
			both of which support the claim (or its dismissal), and the particulars of appeal only address one of these grounds. An appeal will also be inadmissible if it is based solely on new facts and the particulars do not set out why these are to be admitted under the relevant rules. If the appeal court is convinced that the appeal is obviously without any prospects of success, and the matter is not fundamentally significant and doesn't mandate an oral hearing, it shall dismiss the appeal by an order, see section 522(2) ZPO. This rule was introduced in the 2002 reform and has proven to be one of the most contentious parts of it. Some people felt that courts made too much use of these orders just to reduce their case load. Following this criticism, the rule has been changed in 2011: Courts now only "shall" (rather than have to) dismiss an unmeritorious appeal, and only if it is "obviously" without any prospects of success. Also, an appeal on points of law may now be possible from this decision, provided that a complaint against denial of permission to appeal can be made, see above 4. In both cases the court must first indicate to the parties its intention to dismiss the appeal (as inadmissible or meritless, respectively) and must give the parties an opportunity to submit their position. Only if the particulars of appeal contain all the required information and the appeal is not meritless, the appeal court will hold an oral hearing. The court is bound by the petitions on appeal, see section 528 ZPO. The appeal court is not bound by the arguments raised in the particulars, but may consider all possible errors of law and doubts to facts, see section 529(2) sentence 2 ZPO. The only exception to this are procedural errors that need complaining to be considered, see section 529(2) sentence 1 ZPO.
		SPAIN	Under Spanish Civil Proceedings Act, after obtaining a first instance judgment, it is possible to file new evidence with the appeal writ (provided that the party filing that new evidence duly proves that it had no notice of it before) and to request an appeal hearing, which is not always agreed by the Court of Appeal. In this regard, this

No	Questions		Response
			is not the general way to proceed since, normally, no appeal hearing takes place within Spanish civil proceedings.
		IRELAND	Neither of the superior appellate courts engages in a complete rehearing of a case on appeal. They generally proceed on the facts as found by the trial judge and his inferences based on these facts although they possess a discretion to receive further evidence on questions of fact. The findings of fact made at trial where these are based upon the trial judge's view of the credibility or reliability of a witness founded upon the witness's oral evidence will not normally be interfered with by an appellate court unless the findings of the High Court are not properly supported by the evidence. The appellate courts are not bound by any findings of law made by the lower court although they are of persuasive value.
		ITALY	Appeals are heard by way of rehearing. However, in the appeal proceedings, new claims shall not be filed and, if filed, shall be declared inadmissible by the judge autonomously. It is however possible to claim the interests and incidental expenses accrued after the issuance of the challenged judgment. New objections that cannot be raised by the Judge autonomously shall also not be raised. New evidence and new documents shall also not be presented, unless where the party can demonstrate that it could not present such evidence or documents in the first instance judgment for reasons not attributable to him or her. Except for these limitations the Court of Appeal can decide in an entirely new way with regard to both the facts of the case and in point of law, therefore disregarding the first instance judgment.

No	Questions		Response
		FRANCE	As a matter of principle, the court of appeal will proceed to a complete review of the case in fact and in law. The principle of immutability of the dispute implies that the parties are not entitled to submit new claims (compared to the ones heard by the first instance court) to the court of appeal. Such new claims would be dismissed. However, claims that are the consequence, the accessory or the complement of a first claim are admissible. Counterclaims are also admissible if they are sufficiently related to the dispute.
		NETHERLANDS	The Court of Appeal will conduct a full review of the merits of the case, therefore previous findings of fact or law by the District Court do not have to be accepted in an appeal. The grounds for appeal to the Supreme Court are limited to insufficient or unclear reasoning of the lower court and violation of the law. The assessment of issues of fact by the lower courts is not tested by the Supreme Court unless a lower court has failed in its duty to properly justify its conclusion.
		AUSTRALIA	Generally, appeals are heard by way of rehearing the case as presented to the lower court. The court will accept findings of fact as they were found at the first instance court, unless a factual finding is clearly incorrect. As an appeal is a review of the [first instance court's application of law, however, findings of law do not have to be accepted. Occasionally, a case will be reheard, such as when the decision or other matter under appeal has been given after a hearing.[18]

[18] Section 75A *Supreme Court Act 1970* (NSW).

No	Questions		Response
6	How is the administrative process of appeal managed? Is there a system for electronic filings?	**SINGAPORE**	Appeals are managed and administered by the Court of Appeal Registry, which is led by the Registrar of the Court of Appeal and a team of assistant registrars (masters). The appeals are docketed based on the subject matter of the appeals; for example, (a) complex commercial appeals, (b) construction appeals, (c) arbitration related appeals, (d) company, equity and trusts, (d) admiralty, (e) intellectual property, and (f) criminal appeals. The registrars would have charge of managing an appeal throughout its lifetime, as per the docketing system – case management conferences are used robustly to ensure that parties adhere to directed timelines.
		HONG KONG	No system for electronic filings is available for appeals. The Registrar of Civil Appeals may hold a directions hearing if he considers it necessary. In cases where the appellant seeks to place before the Court bundles of documents comprising more than 500 pages, the appellant's solicitors must prepare and lodge with the Court the requisite number of copies of a core bundle containing the documents central to the appeal.
		SOUTH AFRICA	The administrative process of all court actions (including appeals) in South Africa is currently paper-based with the manual filing of the required documents in connection with the action at the relevant court. There is currently no system for electronic filing.
		NEW ZEALAND	Notices of Appeal and Cross-Appeal are filed in hard copy at the Court of Appeal. Submission and memoranda are commonly filed by email. The case on appeal is also filed in hard copy but the appellate courts are moving towards electronic bundles for the hearing under a new protocol for electronic casebooks, submissions and bundles of authorities issued in 2013.

No	Questions		Response
		UNITED STATES	There is an electronic filing system called NYSCEF, where all filings can be uploaded.
		GERMANY	This is all done on paper. Lawyers file the submissions by post. If the deadline is close, they send an advance copy by fax. Electronic filing is being introduced in German courts in stages. Currently this is not possible for civil proceedings. The introduction of a "special electronic lawyer's mailbox" for every lawyer has just been postponed. The mailbox will be used to file submissions to certain courts. Currently, only about half of the courts are participating in the system, as the federal states are responsible for the courts. Electronic filing will be fully mandatory everywhere only from 2022 onwards.
		SPAIN	The court agent will file the writ with the first instance court on the same day***check for sense***] or before the 20 working days have elapsed. Not yet, although it is planned that a system for electronic filings will be implemented soon.
		IRELAND	All documents to be filed with the Court of Appeal Office are required to be filed in hard copy. In addition, soft copy versions of the parties' respective legal submissions are required to be emailed to the Court of Appeal Office in advance of the hearing of an appeal. Similarly, all documents to be filed with the Supreme Court Office are required to be filed in hard copy with soft copy versions of the parties' respective legal submissions to be emailed to the Supreme Court Office in advance

No	Questions		Response
			of the hearing of an appeal.
		ITALY	The appeal before the Appeal Judge shall be made pursuant to the forms for appearing before the Court of first instance. The claimant shall also insert a copy of the appellate judgment into his case file. The court clerk will request the court clerk of the first instance judgment to transmit the first instance judge's case file. The appellant should appear by filing – within ten days from the service of the complaint – his case file, which should contain a copy of the complaint served to the opposing party, the power of attorney, a copy of the challenged judgment, the documents, the first instance case file, and the note for the entry of the case in the General Register of proceedings. In turn, the other party should appear at least 20 days before the hearing for the parties' appearance, indicated in the appellant's complaint and he should file his case file containing a copy of the served complaint, the reply, the power of attorney, the documents, and his case file of the first instance proceedings. From 30 June 2015 an electronic filing system became mandatory for the filing, in the Court of Appeal, of the deeds and documents by the lawyers of the parties to the first instance judgment. The same is true also for the deeds and documents filed by those that have been nominated or delegated by the judicial authority.
		FRANCE	The standard procedural scheme before the court of appeal is as follows: – The declaration of appeal is to be filed electronically with the court clerk; – The clerk sends a hard copy of the declaration of appeal to the respondent by letter; – In case of return of the letter or in case of non-appointment of an attorney by the respondent within one

No	Questions		Response
			month, the clerk informs the appellant that he/she must serve the declaration of appeal to the respondent; – The service of the declaration must be made within one month of this information, otherwise the declaration of appeal would be inadmissible; – Within three months of the declaration of appeal, the appellant must: 1. File his/her submissions (as a matter of admissibility); 2. Notify his/her submissions to the respondent's attorney; 3. Simultaneously communicate his/her exhibits to the respondent's attorney (otherwise they may not be admitted as evidence); – The respondent has then two months from the notification of the appellant's submissions to notify its submissions to the appellant's attorney and simultaneously communicate his/her exhibits to the appellant's attorney; Further submissions may occur. Then, a pre-trial judge of the court of appeal examines the case and determines the date of the closing and the date of the pleadings.
		NETHERLANDS	There is no current system for electronic filings of written statements, however there is an electronic system for procedural and administrative issues.

No	Questions		Response
		AUSTRALIA	There are online registries for the Local, District and Supreme Court (including the Court of Appeal). In most instances, court forms may be filed online. The High Court, however, does not have an online registry. Therefore, documents and forms must be filed in person. While the Principal Registry of the High Court of Australia is located in Canberra, each capital city has an office of the Registry at which forms and documents may be filed.
7	What assistance is available to judges hearing appeals? Are there permanent judicial assistants and legal secretaries or other roles assigned to support judges, and if so what are their specific roles?	**SINGAPORE**	Outstanding law graduates may, after having passed a rigorous interview including a written and verbal test, be appointed as Justices' Law Clerks who would ordinarily serve in the Supreme Court for two years. They would serve the High Court in their first year, and the Court of Appeal in their second year. They assist in legal research and general law/court work which the Court of Appeal may require. The clerks would be in attendance during court hearings to take notes.
		HONG KONG	In 2009, under the auspices of the former Chief Justice, a pilot scheme for Judicial Assistants for Appellate Judges was launched. The objectives of the Judicial Assistants Scheme in the Court of Final Appeal are: – To provide assistance to appellate judges in the Court of Final Appeal in conducting research on law points and assisting in other work of the court; and – To enable law graduates who are about to embark upon careers in the legal profession or otherwise in the legal field to acquire an insight into the appellate process and to benefit from working with appellate judges, which will be conducive to the development of the legal profession. The scheme has been in place since then and the Court of Final Appeal recruits a new batch of judicial assistants every year.

No	Questions		Response
		SOUTH AFRICA	In civil actions in the lower courts, a party may request that one or two persons with skill and expertise in the matter to which the action relates be appointed to act as an assessor in an advisory capacity. Persons appointed as such must have the ability and reputation of such persons in relation to the nature of the matter before the court. The appointment of assessors is however limited to the lower courts as neither the Supreme Court Act or the Uniform Rules of Court applicable to the High Courts of South Africa provide for the appointment of assessors in civil proceedings in the superior courts.
		NEW ZEALAND	At the Court of Appeal three or, occasionally, five Judges hear the appeal. They are assisted by registrars and judge's clerks. Each Judge is allocated a dedicated registrar and judge's clerk. Registrars manage the administrative side case and liaise with the parties in relation to court deadlines, filing fees etc. Judges' clerks assist the judges with research in preparation for drafting the judgments.
		UNITED STATES	Judges hearing appeals have law clerks to help them prepare for oral argument and to write the judicial opinions. Some have assistants and legal secretaries to manage their docket and calendar as well. There are no prescribed rules on how judges need to manage their support staff, but usually they are allocated a certain budget and can spend it on the support staff that they want to hire. Each case is also generally decided by a panel of four or five judges (in the New York court system the appellate judges are called justices). *See* N.Y. App. Div. First Dep't. R. § 600.1. Accordingly, the justices will divide the responsibility of writing the decisions among the members of the panel. Additionally, to keep caseloads under control, most Appellate Division opinions are extremely concise, usually comprising only one or two paragraphs.

No	Questions		Response
		GERMANY	Courts have registries looking after the files. The clerks do the administrative and secretarial work but no legal work. Judges are responsible for that. If a *Referendar* (person having passed the first legal state exam, roughly comparable to a trainee) is doing their court stage (about four months) with the responsible judge, they may help in preparing hearings and drafting judgments, but this is for training purposes and may give the judge additional work in guiding the *Referendar*.
		SPAIN	As anticipated, hearings do not normally take place within appeal proceedings. However, if hearings were to take place, judges have the assistance of legal secretaries and judicial assistants.
		IRELAND	Judicial assistants, who are all law graduates, are assigned to all judges appointed on or after 1 January 2012 in place of the traditional tipstaff. The judicial assistant combines the role of the tipstaff and the role of the research assistant. Their duties include assisting the judge in preparing for court, conducting the judge to the court, and assisting the judge as required. The judicial assistant may also assist the judge by researching points of law and proof-reading completed judgments prior to delivery and publication. Judges appointed before 2012 who have a tipstaff may also require the support of a judicial assistant for assistance with research or drafting judgments. A small team of judicial assistants is assigned to support the work of these judges of the Supreme Court, the Court of Appeal and the High Court. The Judicial Research Office (**JRO**) also provides research assistance to the judiciary in all courts. There are six judicial assistant posts in the JRO and all judicial assistants are law graduates. Their roles include carrying out research for judges of all jurisdictions, preparing memoranda on points of law and proof-reading of judgments and other documents.

No	Questions		Response
			The Court of Appeal Office and the Supreme Court Office also support the appellate courts with the administration of the civil and criminal caseload. Court registrars prepare and manage court lists, sit in court with the judge and draw up the formal orders made by the court.
		ITALY	Judges are assisted by trainee judges and, sometimes, law students carrying out clerkship work for the Judge. All the administrative activities are carried out by the Clerk's Office of the Court.
		FRANCE	The court of appeal is comprised of professional magistrates: a first president, chamber presidents and judges. Each chamber is specialised in an area of law (civil, commercial, labour law and criminal law) and is usually comprised of one president and two judges. One pre-trial judge is particularly involved in following up on the steps of the proceedings. Court clerks assist the presidents and the judges from an administrative standpoint.
		NETHERLANDS	The Court of Appeal sits with three judges. There is also a registrar who documents the proceedings in case of closing arguments. Furthermore each Court of Appeal has its own staff, including judicial assistants and (legal) secretaries to support the judges.
		AUSTRALIA	Extensive support is available for judges hearing appeals, including: – Tipstaff – assigned to individual judges. Tipstaff assist with general file management, legal research and liaise with other tipstaff

No	Questions		Response
			– Researchers – legal research and drafting – Associates/Legal secretaries – liaising with registry staff, admin support and registrars, as well as counsel and other associates as required – Registrars – case management prior to the hearing of the matter – General administrative support persons – maintaining files, general filing and document collation, photocopying.
8	Are there strict time limits in oral appeal hearings?	**SINGAPORE**	Parties to an appeal would be consulted on the time each party requires for the appeal hearing. The Court will take the indication into consideration and prescribe the allocated time for the appeal hearing. Some leeway may be allowed at the discretion of the court at the actual hearing, but counsel is expected to abide by the allocated time. There is a visible LED court timer facing counsel which shows the remaining time left for the oral submission.
		HONG KONG	The directions to be given by the Registrar of Civil Appeals may include appropriate directions as to the length of time to be allowed to each party for oral argument.
		SOUTH AFRICA	We are not aware of time limits in respect of the lower courts or the High Courts of South Africa. With regard to the Supreme Court of Appeal, if a matter has been set down for one day, subject to the presiding officer's directions, the time for oral argument may not exceed two hours for the applicant's main argument, two hours for the argument in answer and 15 minutes for the argument in reply.

No	Questions		Response
		NEW ZEALAND	There are no strict time limits other than in applications for leave as explained at question 2 above. Informally Counsel for appellants and respondents are allowed 15 minutes uninterrupted time for their submissions before the Court can intervene with questions. Appeals with many complex issues may be allocated a number of days for appeal however hearings tend to be one to two days on average.
		UNITED STATES	Yes. Oral argument would need to be specifically requested during briefing; otherwise the appeal would be decided on the documents. The First and Second Department Appellate of the Terms (which hear appeals from trial courts in New York City) allow no more than 15 minutes for argument on each side, without express permission of the court. See eg Appellate Term, Second Department Rules § 731.6.
		GERMANY	No, there are no time limits for hearings. This is not needed as most of the process is done in writing and hearings are generally short. More than half a day's hearing is rare. The hearing concentrates on the aspects the judges find most relevant and on taking evidence if needed. Also, the judgment is normally not handed down at the end of the hearing. In most cases, the court sets a date for when the judgment will be handed down (about three weeks after the hearing). The court then drafts the judgment in written form. On that date the court only reads out the operative part of the judgment (ie the decision on merits, costs, preliminary enforceability and permission to appeal on points of law). Sometimes the court announces its decision in this way on the day of the hearing. In all cases, the court serves the written judgment on the parties, and the parties only then see the court's reasoning. Sometimes it may take several weeks for a court to write down and serve the full judgment.

No	Questions		Response
		SPAIN	No.
		IRELAND	In the Court of Appeal, the court will have been provided with an estimate of how long the appeal hearing is likely to take and assign a date and time accordingly. At the hearing of the appeal, while strict time limits are not applied, the court is increasingly pressuring practitioners not to exceed the estimated duration of the appeal, as this has knock-on effects on the next matter in the list and risks creating a backlog. Similarly, the Supreme Court does not impose any time limits on the parties in oral appeal hearings.
		ITALY	Italian civil proceedings are essentially written proceedings. With regard to the appeal, generally speaking there are only two – very formalistic – oral hearings. At the first hearing, the judge verifies that all the necessary parties to the proceedings have been duly served with the complaint and have appeared. At the same hearing, the judge rules on the defendant's contumacy, joins the appeals filed against the same judgment, and attempts to reconcile the parties ordering, where necessary, that the parties personally appear before him. At the second hearing the parties briefly summarise for the Judge the briefs already submitted.
		FRANCE	There is no provision that limits the time of the oral hearings before the court of appeal. However, the length of the proceedings must comply with the requirements set out in Article 6, Sec. 1, of the European Convention on Human Rights.

No	Questions		Response
		NETHERLANDS	A time limit will generally apply to an oral appeal hearing. However the Court of Appeal can extend the amount of time granted to each party at the party's request (in which case both parties will usually be granted a similar amount of time to present their case).
		AUSTRALIA	Appeal to the Supreme Court or the Court of Appeal There are no time limits for oral appearances in appeal hearings in the Supreme Court or the Court of Appeal. Appeal to the High Court of Australia There is no time limit for an oral appearance in an appeal hearing in the High Court of Australia. However, if an application for leave or special leave to appeal is listed for hearing, there are strict time limits in which the parties may present oral arguments: (a) applicant – 20 minutes (b) respondent – 20 minutes (c) applicant in reply – 5 minutes.[19]
9	What is the typical timeframe of the civil appeal process? How	**SINGAPORE**	The rules prescribe that, as soon as a Notice of Appeal has been filed, the Registrar shall serve on the appellant a notice that a copy of the record of proceedings is ready for collection (this would include the court's grounds of decision). The Singapore Court of Appeal ordinarily hears an appeal within 19 weeks from the time when the

[19] r 41.11 High Court Rules 2004 (Cth).

No	Questions		Response
	long does it take on average for an appeal to come before a court of appeal?		record of proceedings are collected.
		HONG KONG	In 2013 and 2014, the average waiting time for civil appeals (from application to fix the date of the hearing) in the Court of Appeal was 138 days and 117 days respectively.
		NEW ZEALAND	Unlike the High Court, there are no guidelines or targets for the Court of Appeal. Urgent hearings are prioritised. There is a fast track procedure. The court will use its best endeavours to allocate a hearing date within two months of filing the fixture date being applied for and case on appeal being filed. If a case is not on the fast track then it will usually take between six and eight months for the appeal to proceed to hearing and between three and six months for judgment to be delivered. In the Supreme Court, it generally takes between six and eight months for the appeal to be heard and between three months and one year for judgment to be delivered.
		UNITED STATES	Usually it can take several months, sometimes more than a year. After the appellant files the record and brief, which may be up to six months after notice of appeal is served, the respondent will have 21 days to respond and the appellant will have a week to file a reply, following by oral argument within a few months of the final filing. Within two to three months or perhaps up to six months after oral argument, a decision will be handed down.

No	Questions		Response
		GERMANY	The particulars of appeal must be filed within two months of service of the judgment. This deadline may be extended on request. This happens frequently because of the detailed requirements for the contents of the particulars of appeal (see question five above). For an extension of more than one month the opposing party must agree. Hence it usually takes at least three months until the particulars of appeal are filed. The court then serves the particulars on the opponent and sets a deadline for the response, usually one to two months, depending on complexity. This may also be extended on request. Then there may be another deadline for the appellant's reply to the response. Only then does the court decide on admissibility, merits and the need for a hearing. A dismissal of the appeal as inadmissible or meritless requires another round of written submissions. How soon the date for a hearing can be set depends on the court chamber's or panel's workload. A second hearing may be necessary if the court takes witness or expert evidence. In total, the whole process between first instance judgment and second instance decision may take from eight months to two years, depending on court workload, complexity and need for witness or expert evidence.
		SPAIN	It depends on the workload of each court. That said, in average, since the appeal writ is filed until a decision from the Court of Appeal is granted, it may take from six months to a year.
		IRELAND	As set out in question 2 above, there are two types of appeal to the Court of Appeal – an Expedited Appeal and an Ordinary Appeal. Due to an increasing workload, the time taken for an Ordinary Appeal to be brought on for hearing has increased to approximately twelve months from the date of issuing of the notice of appeal. Despite its name, an Expedited Appeal does not guarantee that the appeal will be allocated an early hearing date. However, as the subject matter of an Expedited Appeal generally relates to issues of a more concise nature than

No	Questions		Response
			Ordinary Appeals and therefore can be heard in less time, they tend to be disposed of sooner than Ordinary Appeals and may be disposed of in four to six months from the date of issuing of the appeal. This is very much subject to the complexity of the issues being raised on appeal and the likely duration of the appeal hearing. Appeals requiring a priority hearing in the Court of Appeal, for example Article 40 (*habeas corpus*), bail, extradition and Hague Convention cases will be accommodated at short notice and by scheduling additional sittings if necessary. Prior to the establishment of the Court of Appeal, appeals to the Supreme Court could take up to four years to be heard. However, on the establishment of the Court of Appeal, the Supreme Court transferred a caseload of 1,355 civil matters to the Court of Appeal and retained a legacy caseload of over 800 cases. The impact of the Court of Appeal on the timeline for the hearing of a Supreme Court appeal remains to be fully seen but it has been estimated (subject to the volume of incoming appeals) that the non-priority legacy appeals will be disposed of by mid-2016. Applications for priority hearing in the Supreme Court can be made in cases involving the liberty of an individual, urgent medical intervention or the welfare of a child.
		ITALY	Once all the initial formalities on serving of the appeal are completed the appeal is pending. A typical appeal process can last between three and four years depending on the Court of Appeal.
		FRANCE	The length of the procedure depends on the court of appeal (there are 36 courts of appeal in France), its workload and the complexity of the case. The entire proceedings take usually between one year and two years (occasionally more).

No	Questions		Response
		NETHERLANDS	After submission of the written statements, and possibly closing arguments before the Court, the Court of Appeal will render a judgment. It will take at least several months before a judgment is rendered – some Courts of Appeal are currently experiencing a significant workload, causing further delays.
		AUSTRALIA	There are a number of variables which may impact the typical timeframe of the civil appeal process. The number of cases on the list, urgency, and party preparation may all be factors in how long an appeal process will take. As at 27 January 2015, 93% of matters before the Court of Appeal were less than twelve months old, while 83% of matters before the NSW Supreme Court (including both originating claims and appeals) were less than 24 months old.[20]
10	Who bears the costs of the appeal process?	**SINGAPORE**	As per the practice in many common law jurisdictions, costs generally follow the event. The Court of Appeal has broad discretion to award costs orders and to allocate costs appropriately. The Court can take into consideration various factors, such as the conduct of the parties, and any open offers to settle the matter.
		HONG KONG	Costs are in the absolute discretion of the Court. Although the Court typically orders costs to "follow the event" (ie the winner of an appeal will normally be awarded its costs in respect of that appeal), it has full power to decide who pays legal costs in civil appeals and the amount of those costs depending on the circumstances of the case.

[20] Supreme Court of New South Wales (27 January 2015) "Provisional Statistics", http://www.lawlink.nsw.gov.au/practice_notes/nswsc_pc.nsf/6a64691105a54031ca256880000c25d7/6bd219cf5f0333b6ca257ddc000d00a1/$FILE/Annual_Review_2014_Provisional_statistical_data.pdf.

No	Questions		Response
		SOUTH AFRICA	Costs are in the discretion of the judicial officer presiding over the appeal. Generally, they are awarded in favour of the successful party. While the purpose of such an order is to indemnify the successful party for the expenses it has incurred in order to initiate or defend the litigation, in practice only a portion of the costs are recoverable. Costs will be determined either on a party/party scale or on an attorney/client scale. Party/party costs are more common. Attorney/client costs are usually awarded as a punitive award.
		NEW ZEALAND	The appellant pays the filing fees and hearing fees. It also pays security for costs to the court which will be reimbursed if it is successful.
		UNITED STATES	Generally the party seeking the appeal bears the burden of costs. The burden can be shifted to the prevailing party upon appeal, however. The filing of the record on appeal costs $315 and the motion for appeal costs $45. *See* CPLR § 8022(b). As is standard in the US system, each side pays its own attorney's fees.
		GERMANY	Normally the losing party pays. If one party partly wins, the costs are shared pro rata. The losing party must reimburse the winning party's lawyer's fees only to the extent these could be claimed under the Lawyers Fees Act (*Rechtsanwaltsvergütungsgesetz*, **RVG**). These are calculated under a schedule based on the value of the matter. Fees based on hourly rates exceeding the standard fees under the RVG cannot be reclaimed.
		SPAIN	Unless the Court of Appeal agrees to impose the judicial costs to a particular party, each party bears its costs.

No	Questions		Response
		IRELAND	Generally, the costs of every proceeding in the Irish Courts "follow the event" which means that the unsuccessful party is ordered to pay the successful party's costs. However, the Courts retain a discretionary jurisdiction to depart from this general rule if the interests of justice so require. In the case of appeal proceedings, an unsuccessful appellant could seek to argue that the issues raised in the proceedings were of sufficient general public importance and were issues in which the appellant had no private interest in the outcome, to warrant an order that no costs be awarded against the appellant or even that an order for costs be made in favour of the appellant; this may mean that the successful party has to pay some or all of the unsuccessful party's costs.
		ITALY	The Judge will sentence the losing party to reimburse the opposing party's expenses, as well as the counsel's fees. The Judge will also determine the amount due for such expenses and fees. It is important to note that the expenses and fees are not the actual expenses and fees shouldered by the parties, but a standard amount automatically determined by the court based on the value of the claim.
		FRANCE	The court of appeal determines in its ruling which party will ultimately bear the cost of the appeal process. As a matter of principle, the unsuccessful party is liable for those costs, but the court can decide otherwise due to equity considerations or the financial situation of the parties.
		NETHERLANDS	Before the start of the procedure both parties have to pay a court registry fee. The party who "loses" the procedure will often, in addition to its own costs, have to pay compensation for procedural and legal costs to the other party. This decision will be made by the Court of Appeal. However we note that, as in first instance, the amounts payable are based on set amounts determined on the basis of the value of the claim and the course of the proceedings (ie not on actual costs) and will as a rule be (significantly) lower than the actual costs incurred (this

No	Questions		Response
			is different in certain types of disputes such as family law cases or IP cases).
		AUSTRALIA	In civil proceedings, costs are determined on a party/party basis, and follow the event.[21] All courts have the power to award costs in civil proceedings at their discretion. Ordinarily, however, costs will be awarded to the successful party to the proceedings. Therefore, the losing party will pay their own costs as well as *reasonable* costs of the winning party. What may be considered reasonable is decided by the court.
11	Is the appeals system in your jurisdiction generally perceived to be efficient? If not, what recommendations would you make to streamline the appeals process in your jurisdiction?	**SINGAPORE**	Yes. The Singapore Court of Appeal ordinarily hears an appeal within 19 weeks from the time when the record of proceedings are collected. In 2014, the Court of Appeal disposed of 661 appeals even though 614 appeals were filed in that year (the disposal includes appeals filed in 2013). There were 109 applications filed before the Court of Appeal in 2014, and the Court disposed of 111 applications. Several initiatives and procedural reforms were recently proposed (some of which have been implemented) to manage the appeal workload. 1. Masters, Case Management Conferences/Measures and Docketing of appeals – Creating a dedicated pool of registrars (masters) who would specifically manage civil appeals only. Also, the Court of Appeal Registry was created for the first time in 2014, separate from the High Court of Registry. This is led by a Registrar of the Court of Appeal with its own team of assistant registrars divided into dockets – for example, (a) complex commercial appeals (this would include appeals from the Singapore International

[21] Rule 42.1 Uniform Civil Procedure Rules 2005.

No	Questions		Response
			Commercial Court, (b) construction appeals, (c) arbitration related appeals, (d) company, equity and trusts (like the Chancery Division), (d) admiralty, (e) intellectual property, and (f) (very important to be managed separately given the different procedure and significance) criminal appeals. The registrars would have charge of managing an appeal throughout its lifetime, as per the docketing system – case management conferences are used robustly to ensure that counsel/parties follow timelines (on average the conferences are held once to twice a month). The rules of court together with the use of such conferences ensure that appeals are heard within 19 weeks from the time when the record of proceedings are collected. A recent innovation is to have parties fill up an appeal/case information sheet to assist in the management of the appeals. Registrars can also use case management conferences to have parties work towards an agreed or narrowed-down list of issues on appeal. 2. Clerks – Reforming the Justices' Law Clerks system – previously, law clerks assist the High Court and Court of Appeal judges concurrently. One of the reforms include having second year clerks (the more senior ones) assisting the Court of Appeal only. With this, the Court of Appeal has the benefit of dedicated appeal clerks for research and assistance on appeals work. 3. Judges – High Court Judges with the relevant expertise and seniority are assigned by the Chief Justice to hear appeals. This used to take place now and then, but then it became quite common to do so after some time. Appeals are heard by a bench of three judges, so in practice this can be presided over by a Judge of Appeal, joined by two High Court judges sitting as the Court of Appeal. Our rules allow this to be done. This however means that the Court of Appeal registrars have to be careful re conflicts, to ensure that the quorum is not conflicted from hearing the appeals. 4. Senior Judges – These are retired judges who were invited back to serve on a fixed term basis, given that the retired judges (many of them, especially the commercial ones) are still active in judicial work sitting

No	Questions		Response
			as arbitrators in commercial disputes. The bulk of Senior Judges hear High Court matters, thus occasionally freeing up the existing High Court judges from sitting on the Court of Appeal. We have former Chief Justice Chan Sek Keong who still sits on the Court of Appeal to hear current appeal matters (while the other senior judges do High Court work). 5. Paper Hearing – There is consideration on having a paper hearing procedure for appeals on interlocutory (as opposed to substantive) matters. This may be done with parties' consent, but the barrier that needs to be overcome here is the natural justice principle of a party's right to be heard. 6. Permission to appeal – There is some consideration on expanding the categories of appeal where permission is required. 7. Settlement/Mediation – Registrars are supposed to study the appeals under their management and make appropriate recommendations for appellants in appropriate appeals to consider mediation. This is a qualitative analysis of the appeals. Some examples are where the parties' real dispute and complaint falls beyond the substance of the issues on appeal (eg matrimonial cases, personal property disputes); or cases where there are no novel issues of law or matters of public importance involved. In such cases, parties will be asked to consider mediation and timelines are set up for them to allow proper consideration. They have the discretion/choice to proceed with their appeals if they want to. However, any unreasonable refusal to mediate can be taken into consideration subsequently when the Court of Appeal orders costs. There is some consideration of implementing mandatory mediation for appeals of a certain value (or depending on the nature of the appeal) but this is not yet implemented. 8. Use of Unless Orders – This is not used often, but it has been used where the appeal is vexatious or frivolous, or if the appellant shows repeated disregard for the appeal rules and fails to abide by the directed timelines; a registrar can issue an unless order for the appeal to be struck out unless the appellant

No	Questions		Response
			abides by a certain prescribed timeline to carry out a procedural act in the lifetime of an appeal.
		HONG KONG	The appeals system in Hong Kong is generally perceived to be efficient and follows standard common law civil procedure. There has also been civil justice reform introduced on 2 April 2009 to encourage the parties to mediate or settle. The courts have since taken a much more active role in case management.
		NEW ZEALAND	The appeals process is generally efficient. The Court of Appeal is proactive in setting appeals down for hearing and allocating fixtures if dates become free. Most Court of Appeal judgments are delivered within three months from the hearing date. We would suggest the following recommendations: – The introduction of clear criteria for appeals in the Court of Appeal; – Target guidelines for time to hearing/number of cases to be heard per year; – Target times for judgments from both the Court of Appeal and Supreme Court.
		UNITED STATES	Yes, it is generally perceived to be efficient, though sometimes it can take longer than desired. To streamline the process, you should become familiar with the local rules and work with a local practitioner who is familiar with them. This will greatly help the process move more quickly.

No	Questions		Response
		GERMANY	Yes, it is quite efficient. Even though the 2002 reform did not bring all the desired effects in costs and time savings, the process is quite reliable. A well-functioning appeal system with a real chance to have a wrong decision reconsidered by another court is crucial for the proper administration of justice and for the acceptance of courts in the public. Hence, there is a limit to streamlining the appeals process.
		SPAIN	Yes.
		IRELAND	Measures have recently been introduced in Ireland to greatly increase the efficiency of the appeals system. Prior to the establishment of the Court of Appeal the large backlog of cases before the Supreme Court had become unsustainable and had resulted in some appeals before the Supreme Court taking over four years to be listed for hearing. The lengthy delay also resulted in some practitioners filing an appeal as a delaying tactic in the knowledge that the appeal would not be heard for a number of years. However, the new Court of Appeal has very much reduced the delay in progressing appeals to hearing and increased judicial oversight of the progression of appeals. The introduction of the Court of Appeal will also allow the Supreme Court to focus on matters of general public importance and substantial points of law.
		ITALY	As with any Italian civil proceedings, the appeal process suffers from being overly slow. This is mostly due to the volume of cases that the Court of Appeal must face.

No	Questions		Response
		FRANCE	French courts are generally overwhelmed by the number of cases they have to hear, which explains why these proceedings are so lengthy. A decree recently reduced the deadlines applicable to the parties to file their submissions in order to avoid, to a certain extent, attempts to delay the proceedings (see also our answer to question 6). It is commonly accepted by French practitioners that French courts of appeal mainly suffer from a lack of judges and clerks.
		NETHERLANDS	Generally yes, although the fact that it takes at least several months and sometimes more than a year before a judgment is rendered is something which needs to be improved. A number of Courts of Appeal are currently running pilot programmes to make procedures more efficient through stricter adherence to shorter terms eg for the submission of written statements. This is in a bid to decrease run-through times and the workload of the courts.
		AUSTRALIA	Whilst the Australian appeals system is generally perceived to be efficient, there are concerns about delays and the rising cost of litigation.[22] However, increased case management has resulted in better oversight of the time and events involved in the movement of a case through the court system from initiation through to disposal.[23] Improved case management

[22] Chief Justice Allson (9 September 2014) "Judicial Case Management and the Problem of Costs", delivered at the Lord Dyson lecture on "the Jackson Reforms to Civil Justice in the UK", http://www.fedcourt.gov.au/publications/judges-speeches/chief-justice-allsop/allsop-cj-20140909.

[23] Ibid.

No	Questions		Response
			encourages not only a more efficient appeals process, but is essential to ensuring that the system operates with reasonable fairness.[24] Moreover, Australian courts have increasingly embraced technology.[25] The introduction of online registries has enabled documents to be filed more easily, and in a more timely manner. Online registries have also increased access to the courts for a "missing majority" of Australians, who reside outside of the main metropolitan areas.[26]

Respondents

[24] M Gleeson, The Purpose of Litigation', presented at the Martin Kriewaldt Memorial Address, Darwin, 12 August 2008.

[25] Australian Financial Review (23 April 2015) "NSW Courts should embrace technology: Attorney-General Gabriella Upton", http://www.afr.com/business/legal/nsw-courts-should-embrace-technology-attorneygeneral-gabrielle-upton-20150422-1mr6kn.

[26] S Garber, (25 June 2015) Lawyer's Weekly, "Technology brings justice to "missing majority"", http://www.lawyersweekly.com.au/news/16720-technology-brings-justice-to-missing-majority.

Civil Procedure Rule Committee Consultation: Appeals to the Court of Appeal: proposed amendments to Civil Procedure Rules and Practice Direction, May 2016

Appendix 5: Survey of appellate justice in other jurisdictions compiled by Allen and Overy

Draft December 2015

Jurisdiction	Organisation	Contact
Australia	A&O Sydney and Perth	michael.shepherd@allenovery.com John.Samaha@AllenOvery.com Mark.vanbrakel@allenovery.com
New Zealand	Chapman Tripp	jody.bevin@chapmantripp.com paula.gibbs@chapmantripp.com michael.arthur@chamantripp.com
Canada	Blakes	jeff.galway@blakes.com
Singapore	A&O Singapore	Shaun.leong@allenovery.com
Hong Kong	A&O Hong Kong	matt.bower@allenovery.com
United States	A&O New York	laura.hall@allenovery.com
South Africa	A&O Johannesburg	Anthony.Colegrave@AllenOvery.com
Germany	A&O Frankfurt	Ulrike.stimmel@allenovery.com

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Draft December 2015

Jurisdiction	Organisation	Contact
France	A&O Paris	Erwan.poisson@allenovery.com
Ireland	A&L Goodbody	lkennedy@algoodbody.com cclarkin@algoodbody.com
Italy	A&O Milan	Amilcare.sada@allenovery.com
Spain	A&O Madrid	Anunciada.delgado@allenovery.com
The Netherlands	A&O Amsterdam	Hilde.vanderbaan@allenovery.com

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