

DELOS GUIDE TO ARBITRATION PLACES (GAP)

2ND EDITION

REPORT ON TIME-LIMITATION

BY

SAPNA JHANGIANI KC & PROFESSOR JULIE KLEIN

COMMENTARY OF MARCH 2023 – GAP REFERENCES AS OF MARCH 2024

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GAP REPORT: TIME-LIMITATION

The presentation overleaf taken from the GAP chapters of the different statutes applicable to time-limitation shows a great disparity among the different legal systems.

Several manifestations of this disparity can be highlighted:

- Some legal systems have adopted a sole limitation period (see, for example, Algeria, Australia, Belgium, Brazil, Cyprus, England, Ethiopia, Finland, Gambia, Guinea, Hong Kong, Iraq, Korea, Lebanon, Mauritius, Morocco, New Zealand, Peru, Portugal, Singapore, Spain, Sweden), while others have adopted different periods according to the type of action: some countries distinguish between time limits applicable to actions in contract, in tort, or to the claims related to periodical obligations or to commercial sales (see, for example, Angola, Argentina, Benin, Egypt, Greece, Mongolia, Philippines, Poland, Serbia, Taiwan).
- The duration of the limitation period varies tremendously from one system to another, ranging from 3 years for the shortest (see e.g. Finland, Germany, India, Norway, South Africa) to 30 years for the longest (see e.g. Côte d'Ivoire, Indonesia). Between the two, the durations vary enormously.
- The starting point of the limitation period is also subject to divergent assessments. Some legal systems have adopted a legal criterion on the question of determining the starting point of the limitation period, while others simply deal with the duration of the limitation period. But even within the first group, there is still heterogeneity as to the guidelines adopted. The first distinction is between single-criterion and multi-criteria regimes. The former are based on a single criterion for determining the starting point, intended to govern all situations affected by time-limitation (see e.g. Finland). The latter are based on a multiplicity of special rules (see, for example, Angola, Egypt). But the heterogeneity of the models is not only due to the structure - uniform or plural - of the guidelines for determining the starting point of limitation period. It is also due to the divergence of their content. One may then distinguish between objective and subjective regimes for determining the starting point of limitation period. Certain regimes, which may be described as objective, are based on a criterion unrelated to the actual possibility of action by the holder of the right. These regimes are opposed to those - which may be described as subjective - which make the debtor's ability to act the criterion for determining the starting point of the limitation period by retaining a floating starting point, depending on the claimant's knowledge of the elements enabling him to act (see, for example, Angola, Austria, China, France).

Some points of convergence can nevertheless be underlined:

- Most of the countries studied have a system of time-limitation period. The "imprescriptibility" is rejected by all the systems, apart from Iran, which retains it only as a principle, while providing for exceptions.
- Few countries have adopted, in addition to the limitation period itself, a stricter time-limit (Maximum Period) within which the action would be confined. Only Austria, Egypt, Japan, France, Taiwan have adopted such a period.

How then can these disparities in the rules of time limitation be explained? It is logical that the different laws reflect the diversity of the systems to which they belong. They differ first by their source, Anglo-American or Romano-Germanic. An approach by "family of rights" thus makes it possible to explain certain disparities. Whereas in a Romano-Germanic approach, both duration and starting point obey uniform rules, in an Anglo-Saxon approach, some homogeneity can also be observed. For example, the common law jurisdictions of England & Wales, Hong Kong, Singapore, New Zealand, the BVI and Australia have a general limitation period of 6 years applicable to claims in both contract and tort. This homogeneity does not apply in Canada or the USA, as these federal systems have a variety of limitation periods across different provinces (for Canada) and

states (for the USA). Nor does it apply in India, where the limitation period is three years for claims in contract and tort. It is worth noting that some of the jurisdictions may have a more nuanced position than that reflected in the table, which provides a succinct summary of limitation periods in the context of international arbitration. For example, in England & Wales, the date of the claimant's knowledge of damage is relevant to claims for personal injury, latent defects, and under the Consumer Protection Act 1987.

Geographical influences add to this congenital disparity. Legal systems thus show both the mark of local specificities and the result of games of influence. The rules of time-limitation in Africa provide a good illustration. For example, in numerous African countries, the duration of the limitation periods derives from former French law (the Napoleonic code), which provided that all claims, both real and personal, were subject to a 30-year statute of limitation. This is why for example Côte d'Ivoire, Guinea and Benin laws provide that the ordinary limitation period for bringing a civil action is 30 years. In those countries, time limitation rules in commercial matters are also influenced by French law, but this time by the new French law resulting from the reform of the French provisions on statute of limitation n°2008-561 of 17 June 2008. This reform shortened the limitation period to five years for the ordinary law. It is such a period that is found in article 16 of the OHADA Uniform Act on General Commercial Law which, adopted on 15 December 2010, was able to take into consideration the said reform. However, numerous African jurisdictions are also based on common law systems. For instance, Gambia implements a tripartite legal system based on English common law, Sharia (Islamic) law, and customary law. As with the common law jurisdictions referred to above, the limitation period for claims in both contract and tort is six years, and the influence of the common law in this regard is therefore clear (although different time periods apply in respect of certain specialized claims such as under the Labour Act (Cap 56:01)).

Limitation statutes can still be distinguished by their degree of modernity. Indeed, some countries have not evolved their rules relating to time-limitation for decades, while others have recently undergone a comprehensive reform of statutes of limitation either independently or on the occasion of a more extensive reform of national civil law. A temporal approach thus makes it possible to shed some light on this diversity of solutions. Indeed, in all legal systems, the evolution of the rules relating to time-limitation is marked by (i) the shortening of time-limits, (ii) the postponement of the starting point to the day when the claimant was actually in a position to act, and (iii) a search for uniformity, through the adoption of single-criterion regimes in modern legal systems, which are however often completed by specific criteria for certain situations, in order to take into account the diversity of the situations.

The heterogeneity of the models is thus partly a reflection of the evolution of time-limitation. Indeed, objective regimes and long periods of time are essentially found in legal systems which have not been the object of a recent reform of the law. On the other hand, the recently reformed systems have opted for a subjective approach and have shortened the periods. Thus, countries whose time-limits appear particularly long are generally countries whose statutes of limitation have not been recently amended. Conversely, the countries in which the periods are particularly short and the starting points floating are generally countries which have been the object of a recent reform of the statute of limitations. It is also mostly in these countries that one finds Maximum Periods (as defined above), coming within the framework of a subjective rule based on a floating starting point.

*Sapna Jhangiani KC & Professor Julie Klein
16 March 2023*

The information below is presented in summary form. Additional detail is available in the GAP chapters, to which you can click through via the hyperlinked jurisdiction names. Please note that the information presented in this reference sheet does not constitute legal advice and the contributing law firms and Delos Dispute Resolution decline any and all responsibility. Time-limitation can be a highly technical subject, with multiple exceptions and variations, and you should accordingly consider seeking legal advice.

Jurisdiction	Default time-limitation period for civil actions subject to specific situations and exceptions
Algeria , by Bennani & Associés	In general: 15 years.
Angola , by Miranda & Associados	Contract in general: 20 years (6 months to 5 years in certain situations). Tort in general: 3 years from time of knowledge that cause of action has arisen, within a maximum of 20 years from date of damage. Claims relating to periodical obligations: 5 years.
Argentina , by Bomchil	Contract and tort in general: 5 years. Damages (contract and tort): 3 years. For claims that accrue over periods of years or shorter terms: 2 years.
Australia , by Squire Patton Boggs	In general: 6 years.
Austria , by Knoetzel	By default: 30 years, but many claims have shorter limitation periods. Warranty claims: 2 years after the handover of the goods or works, and 3 years for immoveable objects. Damage claims: 3 years after the claimant became aware of the damage and the liable party; 30 years after the occurrence of the damage all damage claims are time-barred regardless of the knowledge of the damage and the tortfeasor. Contractual performance claims: 3 years after the due date. A claim for rescission/adjustment of a contract due to error: 3 years after the conclusion of the contract.
Belgium , by Fieldfisher	Contract in general: 10 years.
Benin , by Oya	Contract in general: 5 years from date of (deemed) knowledge that cause of action has arisen. Tort in general: 30 years. Commercial sale: 2 years.
Brazil , by TozziniFreire Advogados	Contract in general: 10 years.
British Virgin Islands (BVI), by Conyers	Contract and tort in general, action to enforce a recognisance, actions to enforce an award, where the submission is not by an instrument under seal, actions to recover any sum recoverably under an enactment: 6 years. Action brought on any judgment: 12 years.
Bulgaria , by Kambourov & Partners	In general: 5 years. For liquidated damages: 3 years.
Canada , by Borden Ladner Gervais (BLG)	Varies by state, and generally 2, 6 or 10 years.
China (Mainland) , by Herbert Smith Freehills	In general: 3 years from date of (deemed) knowledge that cause of action has arisen and of the person liable for it.
Côte d'Ivoire , by Dogue - Abbé Yao & Associés	In general: 30 years. In commercial matters: 5 years, save for commercial sales: 2 years.
Cyprus , by Christos Georgiades & Associates	In general: 6 years.
Dominican Republic, by Jimenez Peña	In general: 20 years. Contract in general: 2 years, but for annulment of contracts: 5 years.
Egypt , by Zulficar & Partners	In general: 15 years, save for cases where the law provides for a specific time-limitation period.

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Jurisdiction	Default time-limitation period for civil actions subject to specific situations and exceptions
England & Wales (UK) , by White & Case	Contract and tort in general: 6 years from the time when the cause of action has arisen.
Ethiopia , by Aman Assefa & Associates	In general: 10 years.
Finland , by Castrén & Snellman	In general: 3 years from date of (deemed) knowledge that cause of action has arisen.
France , by August Debouzy	Contract in general: 5 years from date of damage. Tort in general: 5 years from date of (deemed) knowledge that cause of action has arisen.
The Gambia , by Farage Andrews Law Practice	In general: 6 years.
Germany , by CMS Hasche Sigle	In general: 3 years from the end of the year in which the claim arose and the claimant had or reasonably could have had knowledge of the claim.
Greece , by KLC Law Firm	Contract in general: 20 years and, for most types of commercial contracts, 5 years (from the end of the calendar year in which the claim arose). Tort in general: 5 years from date of (deemed) knowledge of the damage and of the person responsible for it.
Guinea , by Thiam & Associés	In general: 30 years.
Hong Kong , by Fangda Partners	Contract and tort in general: 6 years.
Indonesia , by KarimSyah Law Firm	In general: 30 years, but for services and supplies: 3 years.
India , by Trilegal	In general: 3 years.
Iran , by Gheidi & Associates	In general: indefinite, subject to exceptions.
Iraq , by Eversheds Sutherland	In general: 15 years.
Italy , by Legance	Contract in general: 10 years. Tort in general: 5 years.
Japan (as of Nov. 2022)	Contract in general: 5 years from date of knowledge, within a maximum of 10 years from date of damage. Tort in general: 3 years from date of knowledge that cause of action has arisen and of the person liable for it, within a maximum of 20 years from date of damage.
Kenya , by ALN Kenya - Anjarwalla & Khanna	Contract in general: 6 years. Tort in general: 3 years, except for actions for libel or slander, which must be brought within 12 months.
Korea , by Yulchon LLC	Commercial matters in general: 5 years. Civil matters in general: 10 years. Shorter periods apply for certain claims.
Lebanon , by Obeid Law Firm	In general: 10 years.
Libya , by MKE Lawyers	In general: 15 years. Contract: 10 years.
Mauritius , by Peeroo Chambers	In general: 10 years.
Mexico , by Von Wobeser	Contract in general: 10 years from the date of knowledge that the cause of action has arisen (or 2 years if a claim for breach of contract includes a claim in tort or for civil liability).

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Jurisdiction	Default time-limitation period for civil actions subject to specific situations and exceptions
Mongolia , by Nomin & Advocates	In general: 10 years. Contract and claims related to obligations to be performed within a fixed period: 3 years.
Morocco , by Gide Loyrette Nouel	In general: 15 years.
New Zealand, by Chapman Tripp	In general: 6 years.
Nigeria , by Broderick Bozimo & Company	Contract in general: 5-6 years, depending on the state.
Norway , by Wikborg Rein	Contract and tort in general: 3 years.
Pakistan , by Raja Mohammed Akram & Co. (RMA&CO)	No default time-limitation period. Depending on the nature of claim: generally either 3 years or 6 years.
Peru (as of Nov. 2022)	In general: 10 years.
The Philippines , by SyCip Salazar Hernandez & Gatmaitan	In general – contract: 10 years; oral contract and quasi-contract: 6 years; tort: 4 years.
Poland , by Clifford Chance	In general: 6 years. Claims relating to periodical obligations or to economic activity: 3 years.
Portugal , by Morais Leitão, Galvão Teles, Soares da Silva & Associados (MLGTS)	In general: 20 years.
Romania , by Iordache Partners	In general: 3 years.
Russia , by Freshfields Bruckhaus Deringer	In general: 3 years from date of (deemed) knowledge that cause of action has arisen and of the person liable for it, within a maximum of 10 years from date of damage.
Rwanda , by Freshfields K-Solutions & Partners	In general – civil actions: 5 years.
Senegal , by Geni & Kebe	In general: 10 years.
Serbia , by Moravčević Vojnović and Partners in cooperation with Schoenherr	In general: 10 years. Commercial contracts: 3 years. Damages: 3 years from date of (deemed) knowledge that cause of action has arisen and of the person liable for it, within a maximum of 5 years from date of damage. Claims relating to periodical obligations: 3-5 years.
Singapore , by Shearman & Sterling	Contract and tort in general: 6 years from the date of accrual of the cause of action.
South Africa (as of Nov. 2022)	In general: 3 years.
Spain , by Garrigues	In general: 5 years.
Sri Lanka , by FJ&G de Saram	In general: 6 years.
Sweden (as of Nov. 2022)	Contract in general: 10 years.
Switzerland , by Lévy Kaufmann-Kohler	Contract in general: 10 years. Tort in general: 3 years, subject to an absolute limitation of 10 years.
Taiwan , by Formosa Transnational	In general: 15 years. Hire of Work: 1 year. Payment for goods: 2 years. Interest or rental in general: 5 years. Tort in general: 2 years from the date of knowledge of the damage and of the person responsible for it, within a maximum of 10 years from the date on which the tort occurred.

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Jurisdiction	Default time-limitation period for civil actions subject to specific situations and exceptions
United Arab Emirates (UAE) , by Al Tamimi & Co.	Contract and tort in general: 15 years, but 10 years for commercial contracts subject to the UAE Commercial Transactions Law.
United States of America (USA) by Arent Fox for California, Boies Schiller Flexner for Florida, New York and Washington D.C., and Vinson & Elkins for Texas	Varies by state. <ul style="list-style-type: none">California – contracts in general: 4 years.New York – contracts in general: 6 years.

Acknowledgements for their help in preparing the reference sheet part of this report:
Facundo Marcone, Ezequiel Pien