

## ANTI-SUIT INJUNCTIONS

**This Client Guide outlines the key points to consider when applying for, or defending an Anti-Suit Injunction (ASI): a powerful court order that prohibits a party from pursuing legal proceedings in another jurisdiction.**

An ASI is a court order that prohibits parallel legal proceedings in another country. This type of injunction is often used in international arbitration to support the parties' choice of dispute resolution i.e. resolution through arbitration in the jurisdiction agreed by the parties, rather than through litigation in another country.

Following the UK leaving the EU on 31 January 2020, English courts are once again able to exercise this power against parties seeking to run parallel proceedings in EU member state courts, which whilst we were a member of the EU, was an option denied by the EU Court of Justice<sup>1</sup>.

The English courts have the power to grant an ASI where it is just and convenient to do so<sup>2</sup>, e.g. to prevent parallel proceedings in another jurisdiction in breach of an arbitration agreement.

### Why are ASIs Important?

ASIs help ensure that both parties keep to their agreement to resolve disputes through arbitration in the agreed jurisdiction. They prevent one party from trying to gain an advantage by issuing proceedings in another country, most usually their native country. This helps avoid 'forum shopping', that is, where a party compares different jurisdictions to identify the most favourable to their case.

### When and Why Might You Need an ASI?

1. **Parallel Proceedings:** If there is a risk of legal cases ongoing in different countries at the same time, which could lead to conflicting decisions.
2. **Breach of an Arbitration Agreement:** arbitration is consensual and therefore the English courts will be keen to uphold the agreement reached by the parties on the choice of law and jurisdiction i.e. whether the matter is to be determined in arbitration or litigation.

### ASI's – Chance of success

The English court is keen to support the wishes of the parties and the terms of the agreement to which they have signed up. But how likely is an anti-suit injunction (ASI) to succeed? According to independent data from Solomonik, the chances of an ASI succeeding in full or in part before the English High Court is 58.1%.

Success – 42.3%

Success in part – 15.8%

Failure – 41.9%<sup>3</sup>

This suggests that applicants have a better-than-even chance of obtaining at least some relief, reflecting the court's commitment to uphold contractual certainty.

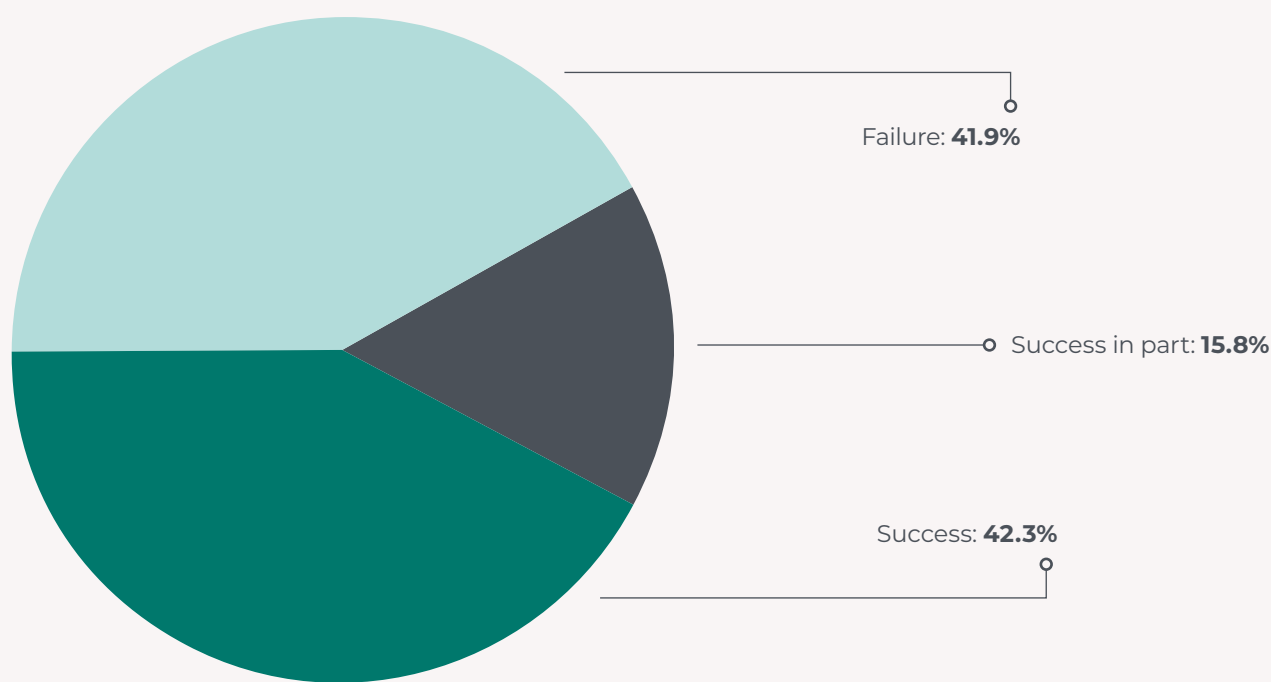
This suggests that applicants have a better-than-even chance of obtaining at least some relief, reflecting the court's commitment to uphold contractual certainty.

1. Allianz SpA v West Tankers Inc (Case C-185/07)

2. under Section 37(1) of the Senior Courts Act 1981

3. Correct as of independent data from data analytics platform Solomonik in December 2025

Anti-Suit Injunctions



Requirements for an ASI for breach of an arbitration agreement:

The English court has discretion to grant an ASI if the following four requirements are met, and where it is just and convenient to do so:

Jurisdiction	The applicant needs to prove that: <div><div>1. the claim falls within a permissible category for suing a foreign defendant, and</div><div>2. England is the appropriate forum in which the claim should be heard.<sup>4</sup></div></div>
Agreement	There must be an agreement, which contains a jurisdiction/ arbitration clause.
Breach	The foreign proceedings must be in breach of the arbitration agreement.
No good reason not to grant	<div>There must be no good reason not to grant an injunction.</div> <div>The parties will need to make the ASI promptly, and before proceedings are advanced<sup>5</sup>.</div>

Requirements for an ASI to prevent parallel proceedings:

Where there is no specific contract governing the dispute, the parties may be able to apply for a non-contractual ASI. The court has discretion to grant a non-contractual ASI in the following circumstances:

Jurisdiction	The court must have the jurisdiction over the claim.
Vexatious or Oppressive	The applicant will need to show that the pursuit of foreign proceedings is vexatious, oppressive, or unconscionable.

Procedure for Obtaining an ASI:

1.

**Application:** draft a claim form, a witness statement with the facts, a draft order, and a skeleton argument outlining the legal reasons for the injunction.
2.

**File the application:** submit the application to the High Court.
3.

**Service:** the application and supporting documents need to be served on the respondent. For service outside of the jurisdiction, the court’s permission may be required.

a.

If the respondent is within the jurisdiction, the claim form must be served on them within four months.

b.

If the respondent is outside of the jurisdiction, the claim form must be served on them within six months.

4. UniCredit Bank GmbH v RusChemAlliance LLC [2024] EWCA Civ 64  
5. Birmingham City Council v Afsar & Ors [2019] EWHC 1560 (QB).



4. **Interim Hearing:** the court will consider the application for the ASI and will grant an injunction where it is just and convenient to do so.
5. **Final Hearing:** if an interim ASI is granted, a full hearing will be scheduled and the court will consider both parties arguments, then decide whether to make the ASI permanent

*According to independent data from Solomonic, the average length of an ASI claim is 375.37 days.*

## Urgent ASI's

An urgent ASI is an injunction applied for without notifying the other party.<sup>6</sup>

For an urgent ASI, a good reason must be shown (e.g. where delay would render the injunction ineffective due to imminent court action) and set out in the supporting witness statement.

When an application is made without notice, the applicant has a duty of full and frank disclosure and must disclose all relevant information to the court. The applicant may also have to provide a cross-undertaking in damages – meaning that the applicant would have to compensate the respondent for any losses caused as a result of the ASI if it is subsequently held that the ASI should not have been granted and is discharged.

## Consequences of Breaching an ASI

Following the order of an ASI, continuing to pursue foreign proceedings constitutes a breach of the ASI. As with any court order, there are a number of serious consequences that may apply if a party is found to be in breach of the ASI:

Breaching an anti-suit injunction can lead to contempt of court, for which the sanctions are:

1. a custodial sentence for a maximum of two years where ordered by a superior court, or one month if ordered by an inferior court;
2. a fine – there is no statutory limit for the amount unless imposed by an inferior court (maximum £2,500 in this case); and/or
3. confiscation of assets.

The consequences for corporate entities are similar - if a corporate entity breaches an ASI, then the company could face a fine, its directors could be imprisoned or fined, or the company's assets could be seized.

**This client guide was produced by the HFW Disputes Knowledge Management team, should you require any further information or assistance with any of the issues dealt with here, please do not hesitate to contact them at [KM@hfw.com](mailto:KM@hfw.com) or your usual HFW contact to discuss.**



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6. *Birmingham City Council v Afsar & Ors* [2019] EWHC 1560 (QB).

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