

*The Foundation of the International Association of Defense Counsel*  
**SURVEY OF INTERNATIONAL LITIGATION PROCEDURES: A REFERENCE GUIDE**

*This document is a resource tool only. The information was compiled in 2014.  
Please verify all current laws and regulations before proceeding as items could have changed since the time of publication.*

# **URUGUAY**

**Responses submitted by:**

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**1. Would your jurisdiction be described as a common law or civil code jurisdiction?**

As a Civil Code jurisdiction.

**2. What method of adjudication is used (adversarial, inquisitorial, other or hybrid)?**

Adversarial in all areas of practice except for Criminal Law in which inquisitorial method is used.

**3. What are the qualifications of the adjudicator (judge – elected, appointed; jury; other)?**

The qualification of the adjudicator is always a Judge, with appeals to a Court of Appeal. The Judges are randomly selected for each case, always in his or her area of practice. To be a Judge, a person first must be an attorney and then the person receives a special capacitation.

**4. Are there any procedures available for specialized courts (i.e. commercial court, employment, environmental)?**

There is one general procedure that rules for all areas of practice, except for Criminal and Labour issues which both have a special procedure.

**5. Is arbitration an option and when? If so, what rules are typically used?**

Arbitration is a valid method for any controversial issue that is not governed by public policy law. For that reason arbitration is not an option in Family, Labour and Criminal issues.

The parties are free to choose the rules governing the arbitration.

**6. Will the Courts enforce an arbitration agreement to preclude other forms of litigation?**

Yes, Courts must recognise valid arbitral awards. Even before an award is made any party could reject the jurisdiction of

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the Court, in which case it has to decline jurisdiction.

**7. For Court proceedings, is mediation mandatory, either before or after filing of a claim or complaint?**

Yes, a conciliation hearing is mandatory before filing a judicial claim.

**8. What is the process for pre-hearing fact discovery (if any)?**

*(a) Are there provisions for mandatory document disclosures?*

No

*(b) Is there provision for oral examinations of the parties or others?*

No

*(c) Are there limits on the length of oral examinations?*

N/A

*(d) Are witness statements or summaries to be provided before the hearing?*

No

**9. What is the process for pre-hearing expert disclosure (if any)?**

*(a) Are expert reports or written summaries required to be exchanged?*

Yes, before a hearing, experts must file a report with their opinion.

*(b) Are the parties entitled to conduct a pre-hearing oral examination of opposing experts?*

Yes

*(c) Are there provisions requiring experts to meet and narrow issues before the hearing?*

Experts are required to meet and narrow issues before the hearing.

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**10. Are there other notable discovery rules?**

No

**11. Is there a prehearing conference (for trial management, settlement or other purposes)? Who conducts it? How long before the hearing?**

There is no prehearing conference but a conciliation hearing must take place before the trial begins. This conciliation hearing is conducted by a Conciliation Judge, or by an officer of the Labor Ministry for labor issues.

**12. Can a prehearing motion for judgment be brought? If so, what is the threshold test for judgment?**

No.

**13. Is there a process for obtaining pre-hearing rulings with respect to evidence admissibility including admissibility of expert testimony? What is the process and when does it occur?**

No.

**14. What is the standard for admissibility of expert evidence?**

In every area that requires a professional opinion, the Judge or any party could ask for an expert opinion. The expert must have a specific qualification in the area of practise at issue i.e. should be an Architect or an Accountant.

**15. Does the Court have the power to appoint its own experts? Under what circumstances and what type?**

Yes, the Court has the power to appoint its own experts, when parties do not agree on certain appointment, or when the Court asks for the expert evidence.

**16. Does your jurisdiction protect privilege? If so, what privileges are protected from disclosure (attorney client / legal advice; documents prepared in anticipation of litigation; settlement discussions; other)?**

Yes, attorney-client and in general professional-client. Non authorized disclosure is a criminal offense.

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**17. If privilege is not protected, are there other protections from disclosure (i.e. privacy) that could prevent disclosure of otherwise privileged information, and what is the basis for those protections?**

N/A

**18. Who determines privilege disputes, or disputes with respect to other forms of protection described in 17 above?**

A Criminal Court and Civil Court in case of economic damages.

**19. Briefly describe the trial process?**

*(a) Are there opening submissions, in what form and of what length?*

Yes, the trial starts with the lawsuit and then the defendant has thirty days to respond in general procedures, ten or fifteen days (depending on the amount of the case) in labor procedures.

*(b) What is the order of presentation of witnesses?*

The Judge of the case decides the order of presentation

*(c) Who conducts examination and in what order?*

The Judge of the case conducts the examination. First the Judge asks his/her questions and then both parties could interrogate the witnesses.

*(d) What is the process for closing submissions?*

Each party presents its final Allegation, and that is a conclusion of the probation stage.

**20. Please identify any other notable trial procedures.**

Expedited proceeding is provided for collecting of cheques and securities. In this case the procedure is simpler and faster.

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**21. Who bears the burden of proof of liability? Causation? Damages? What is the standard of proof for each?**

Each party has the burden of proof of the facts on which it relies for his pretention or defense.

**22. What heads of damage are recoverable (compensatory, pre-judgment interest, punitive damages, other)?**

In general the emerging damage and loss of profits are recoverable, as well as moral damages.

**23. If punitive damages are available, what is the threshold for recovery, and range of awards?**

Punitive damages are not available in our jurisdiction.

**24. Are there time limits for bringing claims? Responding to claims? Please describe.**

Yes there are different limits of time depending on the area of practice. In contractual relationships the limit of time to file a claim is twenty years. In case of non-contractual liability the limit is four years.

The statute of limitations applicable to labor credits of five years. Tax claims could be brought within ten or five years depending on the nature of the claim.

**25. What are the requirements to establish jurisdiction over a foreign defendant in your court? Can a foreign defendant request that the court decline jurisdiction on the basis that there is a more convenient forum?**

The requirements to establish jurisdiction are according to territory, nature of the matter (e.g. civil, labor, criminal) and amount of the case. The defendant can object to the jurisdiction of the court if it is not the correct one according to law.

Foreign defendants can be sued in our jurisdiction without limitations. The foreign defendant could reject the jurisdiction of the Court on the basis that there is a more convenient forum. The Court will make a decision based in our private international law.

**26. Are there procedures for a defendant to bring other potentially responsible parties into the proceeding? Briefly describe.**

Yes, in trials regarding civil and commercial matters the defendant can bring other parties that might be liable into the proceeding.

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**27. Are legal costs recoverable by either party? If so, under what circumstances, and how is the amount calculated? (i.e. is it a loser pays costs system).**

Yes, in case the Judge understands that one party has acted without fairness and good faith, could condemn paying legal costs to the other party. In that case legal costs are calculated according to the bar association tariff.

**28. Are contingency fees allowed?**

Yes.

**29. Is third party funding of claims permitted? Under what circumstances?**

Funding claims of third party is not prohibited.

**30. Are class or multi-party actions allowed? Under what circumstances? For what types of claims?**

Class actions are not contemplated in our jurisdiction. Nevertheless a group of people can file together an action against the same defendant if the cause of the action is the same.

**31. Can claims be commenced by a consumers association or other representative organization? Under what circumstances?**

No.

**32. On average, how long does it take to get to trial/final hearing, and what factors can affect that?**

For civil and commercial areas the average is one year and a half. In Labor Courts the average is eight months. In every case, depends on the attitude of both parties and the number of stages of the trial.

**33. Is an appeal process available (distinguish between final and interlocutory/procedural orders as needed)? Who hears the appeal? How are they appointed? What are their qualifications?**

Yes it is available for the losing party. In case of appeal the case arises to a Court of Appeal.

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- 34. Are hearing rooms available for electronic trials or appeals (i.e. where documents and transcripts are presented on computer monitors; witnesses can testify by video conference)?**

Yes, there are specific rooms available for electronic hearings.

- 35. What is the practice regarding the use of graphics, computer animation, power point and the like, in trials? In appeals?**

It is not a very used practice but is not forbidden.

- 36. Will the lawyer at trial be the same as the one responsible for pre-trial procedures? Is there a solicitor / barrister distinction?**

Yes, the lawyer is the same at trial and pretrial. There is no distinction between solicitor and barrister.

- 37. What are the contributory negligence laws in your jurisdiction? Is there a comparative fault assessment, joint and several or proportionate liability among tortfeasors? Does a plaintiff's negligence reduce or eliminate liability of defendants named in the litigation?**

The plaintiff's or any third's party negligence may reduce or eliminate the liability of defendants.

- 38. Is service of a complaint issued outside your country permitted in your country by "informal" means, or must the Hague Convention be followed?**

The Hague convention must be followed.

- 39. Do your laws prohibit export of relevant documents from your jurisdiction for the purposes of litigation outside your jurisdiction? (Consider privacy rules)**

No.

- 40. Please point out any litigation Best Practices employed by Courts in your jurisdiction but not yet referenced in the survey.**

N/A

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- 41. Are there any significant areas in which you believe the playing field between plaintiff and defendant is not level that you think need to be addressed?**

No, both parties are equal at trial.

- 42. Are there legislative efforts under way that address any of the litigation practices in your country?**

No.