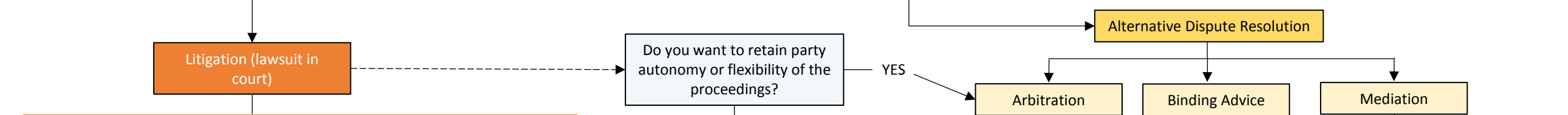
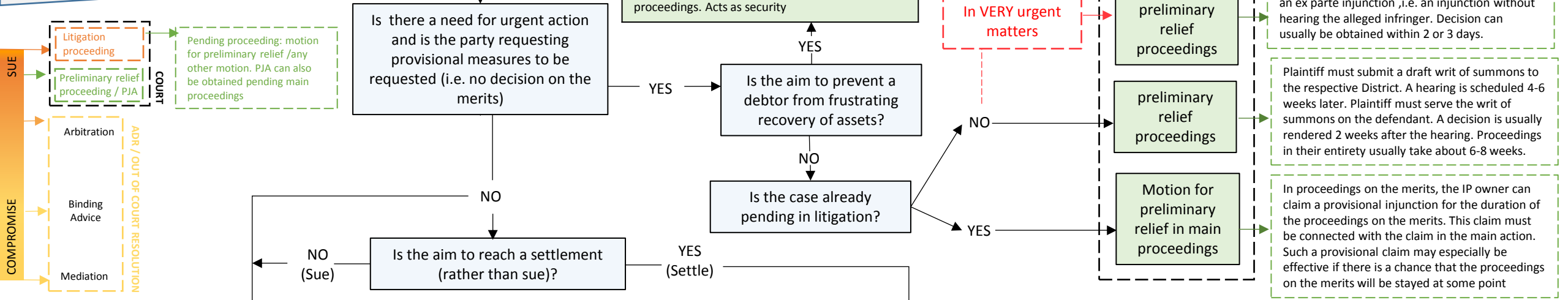
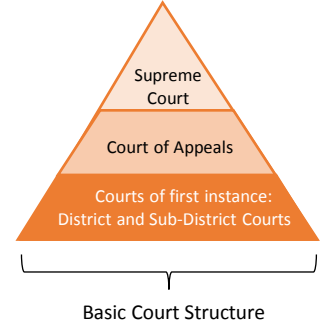


Legal proceedings in The Netherlands

Information sheet – dispute resolution in Holland



Outcome	Judgment
3rd party	Parties come to the court of first instance in the place where the jurisdictional rules apply.
Rules	Dutch Civil Code of Procedure. Practical rules of procedure may be laid down by each court
Mandatory	Litigation is not voluntary. One party summons another by way of writ. In case of non-compliance to appear, a bailiff will serve the writ. If still no appearance, may take enforcement measures
Process	Each party submits written documents (plaintiff = writ, defendant = statement of defense). Parties are heard with the possibility of witness and expert opinions, evidence is weighed. An interlocutory proceeding (motion) may be taken pending proceedings, e.g. motion for preliminary relief
Role of the judge	Judge has a (more) active/inquisitorial and less adversarial role. Standard of proof is decided on the facts the judge acquired knowledge of during proceedings.
Binding / non-compliance	Is binding (unless appeal) and conclusive. Decision may either be an award for damages, create or cancel a legal relationship, or confirm a legal relationship.



Enforcement through court

Pre-judgment attachment (PJA)

The provisional judgment results in the attachment of assets so the debtor cannot dispose of them. Can be requested pending or prior to main proceedings. Acts as security

Provisional relief

- Preliminary Relief (3 ways to obtain)**
- Ex parte preliminary relief proceedings
 - preliminary relief proceedings
 - Motion for preliminary relief in main proceedings

In very urgent matters, especially if delay would cause irreparable harm to the IP owner, the IP owner can request the Provisions Judge to issue an ex parte injunction, i.e. an injunction without hearing the alleged infringer. Decision can usually be obtained within 2 or 3 days.

Plaintiff must submit a draft writ of summons to the respective District. A hearing is scheduled 4-6 weeks later. Plaintiff must serve the writ of summons on the defendant. A decision is usually rendered 2 weeks after the hearing. Proceedings in their entirety usually take about 6-8 weeks.

In proceedings on the merits, the IP owner can claim a provisional injunction for the duration of the proceedings on the merits. This claim must be connected with the claim in the main action. Such a provisional claim may especially be effective if there is a chance that the proceedings on the merits will be stayed at some point

Outcome	Judgment (award)	Binding Advice / opinion	Settlement agreement (contract)
3rd party	Arbitrators (1-3)	Binding Advisor	Mediators
Rules	Arbitration Act 2015 (statutory)	Not regulated by law	NMI Mediation Rules (code of conduct; not regulated by law)
Mandatory	No, agreement to submit via arbitration clause	No, agreement for binding advice via contractual clause	No, voluntarily agree to resolve dispute via mediation
Process	Both parties present their views and arbitrator decides	Parties agree in advance on what they are bound to	Parties are willing to compromise
Role of 3rd party	Arbitrator makes a 'decision'.	Conciliation Board makes a 'decision'.	Mediator does not make a decision, but facilitates the negotiation between the parties
Binding / non-compliance (NC)	Is binding. Directly enforceable after leave of enforcement has been obtained	Only binding between the parties. If NC, can claim specific performance before court.	Only binding between the parties. NC needs to be enforced by follow-up court procedure