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Comparative analysis of disclosure of documents in the AIFC court and English courts: Impact on legal certainty in commercial disputes

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Abstract. The aim of this study was to compare the procedures for disclosure of evidence in the Astana International Financial Centre (AIFC) court and the courts of England. The study used historical and comparative approaches, which made it possible to analyse the development of legal analysis methods, comparative research and contextual approaches to assess disclosure of documents practices in court proceedings, including an analysis of international norms such as the United Nations Convention on the Protection of Human Rights and the Hague Convention. The main focus was on the similarities and differences between these systems, as well as how they adapt to international standards. The results showed that the AIFC and English courts actively borrow elements of the English system, including the order of disclosure of evidence and arbitration mechanisms. However, these norms are adapted to national legislation and the requirements of foreign investors, taking into account the specifics of the legal system. At the same time, the English system has a long history and a high degree of specialisation in commercial disputes. The study emphasised that both systems aim for transparency and efficiency in court proceedings. The AIFC courts and the courts of England seek to adopt the best practices of English law, adapting them to local conditions. To improve procedures, it was recommended to take into account the modern needs of international trade and develop specialised methods of working with evidence. The results of the study can be used to improve disclosure of documents practices in judicial systems, in particular in the AIFC and English courts, with the aim of bringing them into line with modern international standards. Recommendations include developing specialised methods of working with evidence and taking into account the modern needs of international trade to improve the efficiency and fairness of court proceedings

Keywords: English courts; international standards; arbitration; rule of law

Introduction

The relevance of this study lies in the need for an in-depth analysis of the legal systems that regulate the disclosure of evidence in international judicial proceedings. The development of international law and the strengthening of cooperation between countries require not only compliance with uniform standards, but also an understanding of the specific features of each national approach in order to ensure the fairness and transparency of judicial proceedings. In this context, the analysis of disclosure of documents procedures in the courts of the Astana International Financial Centre (AIFC) and England takes on particular significance. The AIFC is a modern legal platform aimed at supporting international business and legal activities. It was created with the need for effective and transparent procedures for the disclosure of evidence, adapted to the specifics of international disputes. The system of disclosure of evidence at the AIFC strives for maximum openness and flexibility, which is important for meeting the demands of foreign investors operating in a globalised environment. In turn, the English legal

system, with its centuries-old history and highly developed mechanisms for disclosure of evidence, serves as a model for many jurisdictions, including the AIFC (Ketners *et al.*, 2025). Its strict and detailed procedures for disclosure of evidence, applied in commercial and other contentious proceedings, are recognised as among the most effective in the world.

Research conducted by a number of authors significantly complements and deepens the analysis of disclosure of documents in the courts of the AIFC and England. In particular, the works of I. Bantekas (2020) and G. Dimitropoulos (2022) emphasised the importance of unifying legal norms for the development of disclosure of documents processes in international courts, including the AIFC. This research is relevant to the topic, as disclosure of documents in the AIFC is actively adapting to international standards, which in turn contributes to the improvement of judicial practice in Kazakhstan and other Central Asian countries. The work of M. Kenzhaliyev (2024) focused on the prospects for the development of the AIFC as a legal institution, which

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is directly related to changes in the legal landscape of the region and the adaptation of judicial procedures, including the disclosure of evidence, to international standards. This work is relevant to the study as it provides an understanding of the impact of legal and institutional changes on disclosure of documents procedures in the AIFC.

As noted by A.B. Satayeva (2022; 2023), the process of disclosure of evidence in AIFC courts is largely similar to that in English courts, including the obligation to provide key documents before the start of court proceedings. This mechanism allows the parties to objectively assess the prospects of the case, facilitates the settlement of disputes without the need for full court proceedings, and reduces the burden on the courts. The work of M. Kenzhaliev (2023) noted that the AIFC is oriented towards English common law and international standards, which brings it closer to the English system. However, unlike English courts, the AIFC actively integrates the specifics of the regional context. The works of K. Sabirov *et al.* (2019) and S. Valiyeva (2024) emphasised the importance of the AIFC adapting to the needs of international investors, especially in the oil and gas sector, where economic and legal security play a key role. In contrast, the English court system remains more universal, focusing on dispute resolution in all sectors.

The works of A. Thomas and J. Shearman (2024) and B. Yesimkhanova *et al.* (2024) provided an in-depth analysis of the practice of disclosure of evidence in England and the criminal protection of confidentiality in Kazakhstan, which helps to understand the main differences in approaches to data protection and disclosure of evidence in international and local judicial practice. The work of S.L. Karamanian (2022) on the role of international commercial courts in dispute resolution confirmed the importance of the international legal context for the effective regulation of disclosure of documents procedures in the AIFC and other international courts.

The work of Y. Saniyazova *et al.* (2024) draws attention to the role of digital forensics in the disclosure of cybercrimes, which is relevant for the AIFC judicial system in the context of digitalisation and globalisation. A.M. Myrzakhmetova *et al.* (2024) examined the macroeconomic factors influencing the behaviour of parties in court, which allows for an assessment of the economic aspects that may affect the effectiveness of disclosure of documents procedures. These aspects are relevant to the study as they help to identify best practices and adapt them to the needs of the AIFC and other international courts. The results of these studies highlight the importance of the interrelationship between international standards, local legal traditions and modern technological innovations for improving disclosure of documents processes.

Despite significant contributions to the study of the disclosure of evidence in the courts of the AIFC and England, there are several aspects that have not been sufficiently researched. In particular, little attention has been paid to the adaptation of international norms to the specifics of Islamic law in the context of the AIFC, as well as to the impact of new technologies, such as artificial intelligence and digital jurisprudence, on the disclosure of evidence in these jurisdictions. The issue of applying the theory of inevitable disclosure of evidence in AIFC courts also remains understudied. In addition, it is necessary to study in more detail the interaction between the judicial systems of the AIFC and England in matters of privacy protection and the use of biological evidence in international disputes, as well as the impact of

macroeconomic factors on the process of disclosure of evidence. Finally, the influence of English case law on AIFC judicial practice has not been sufficiently studied, which represents an important gap for further research in this area.

The aim of the study was to compare the procedures for disclosure of evidence in the AIFC court and the courts of England, identify their characteristics, similarities and differences, and develop recommendations for optimisation. The objectives of the study were:

1) to analyse approaches to disclosure of evidence in the AIFC and English courts, including regulatory requirements and practical aspects;

2) to identify key differences and similarities in disclosure of documents procedures between the AIFC and English courts, with a particular focus on the influence of legal traditions, technological innovations, and the specifics of international commercial standards;

3) to develop recommendations for improving disclosure of documents procedures in both jurisdictions.

Materials and methods

The comparative legal method was used to identify similarities and differences in the legal approaches of the two jurisdictions (AIFC and England). The doctrinal method was used to analyse normative sources. In particular, the provisions of the Code of Civil Procedure of the Republic of Kazakhstan (2015), which establishes the basic rules of disclosure of evidence in court proceedings in the territory of Kazakhstan, and Law of the Republic of Kazakhstan No. 488-V "On Arbitration" (2016), which regulates the resolution of international commercial disputes in accordance with the principles of independence and objectivity. For comparative analysis was used the Civil Procedure Rules of the United Kingdom (1998), the key legal act governing civil proceedings in England, as well as related documents, such as Rules and Practice Directions (1998), which define practical aspects of the application of procedural rules and describe the rules of disclosure and inspection of evidence, as well as Criminal Justice Law of the United Kingdom (1998), governing the admissibility and presentation of evidence in English courts, as well as Court Rules of AIFC (2018), Rules of Procedure and Evidence (2019). In addition, international standards such as the European Convention on Human Rights (1950), which enshrines the right to a fair trial, and the Hague Convention (1961), which regulates international co-operation in judicial proceedings, have been taken into account. These documents have had a significant influence in shaping the procedural rules in both the English and AIFC courts focused on attracting foreign investors and ensuring their legal protection.

The normative-empirical method aimed to investigate how specific legislative norms are implemented in court cases. It is investigated how certain legislative norms are implemented in practice in AIFC and England court cases. This involved analysing court decisions, judgments and other documents, namely: The Prosecutor v. Jean-Pierre Bemba Gombo (2008), ENRC v. SFO Court of Appeal Judgment (2018). This method made it possible to analyse how theoretically prescribed rules are implemented in real court cases and to assess their effectiveness in each jurisdiction. The systems analysis method helped to identify the unique challenges and issues faced by the courts of the AIFC and England in the context of disclosure of documents, and to propose

possible solutions. The method of strategic analysis was used to develop recommendations for improving disclosure of documents procedures in both jurisdictions, taking into account the national characteristics of the legal systems and the needs of global actors, as well as taking into account the use of digital technologies and standardisation of procedures.

Results

Disclosure of evidence is an integral part of the judicial process that ensures fairness and transparency in judicial decision-making. This process involves the submission by a party of all necessary materials and information that confirm or refute the factual circumstances of the case. It is important to note that disclosure of evidence is aimed not only at substantiating one's own claims, but also at ensuring equal access to information for both parties, which contributes to a full and fair consideration of the case. The basic principles of disclosure of documents include transparency, integrity and procedural fairness. Transparency involves the parties' openness in providing all available information that may be relevant to the case. Good faith requires the parties to approach the disclosure of evidence honestly, without deliberate attempts to conceal or misrepresent facts. Procedural fairness concerns the equality of the parties before the court and the opportunity for both parties to fully present their case. In addition, the disclosure of evidence is based on a balance of interests – providing sufficient information to substantiate one's claims or defences without violating the rights and interests of the other party. The use of different types of evidence, such as written documents, electronic data and oral testimony, allows the court to evaluate the situation more fully and comprehensively, making informed judgements.

Procedures for disclosure of evidence in AIFC courts are developed taking into account modern trends in law enforcement and are aimed at ensuring transparency, objectivity and efficiency of the judicial process. The main objective of the development of disclosure of documents procedures is to create a unified system that provides equal opportunities for all participants in the judicial process – both for plaintiffs and defendants. Such a system aims to minimise conflicts, eliminate legal ambiguity and increase confidence in the judicial system, while protecting the rights and interests of each party.

Given the diversity of international norms and national realities, AIFC's disclosure of evidence is based on a balance between the efficiency of the process and respect for the principles of fairness and equity. This allows for a transparent and fair judicial procedure that meets the highest level of legal and ethical standards. The rights and obligations of the parties to disclose evidence in AIFC are regulated by various legislative acts, including the Code of Civil Procedure of the Republic of Kazakhstan, as well as rules of court proceedings approved by specialised judicial bodies. Law of the Republic of Kazakhstan No. 488-V "On Arbitration" (2016) – contains rules regulating the disclosure of evidence in international arbitration disputes, providing participants with certain rights and obligations under international commercial arbitration procedures. International standards of judicial proceedings – including the European Convention on Human Rights and other international treaties, which set out general principles of disclosure of evidence and ensuring a fair trial.

Parties are obliged to produce all necessary documents and evidence that contribute to the substantiation of their claims or defences. It is important to bear in mind that

disclosure of evidence is not limited to the presentation of evidence favourable to one party, but requires full and honest disclosure of all available information. The principle of good faith plays a key role in this system, as its observance helps to maintain a high standard of justice and prevents the possibility of deception or concealment of important information. Violation of the principle of good faith in the disclosure of evidence can have negative legal consequences. Judges may refuse to admit evidence that has been disclosed for the purpose of concealing or misrepresenting information. Moreover, such bad faith may affect the course of the litigation and result in the dismissal of claims or the satisfaction of counterclaims of the other party.

Technological and procedural aspects of disclosure of documents in AIFC also play an important role. Court processes in modern conditions are becoming increasingly complex and require the consideration of a large amount of information, which often contains a variety of types of evidence – from traditional written documents to electronic data. Electronic evidence is becoming particularly relevant, especially in cases involving international commerce, financial disputes and arbitrations. The use of technology, such as electronic data management, systematisation of large amounts of information and automation of the evidence analysis process, helps to speed up the litigation process. This allows lawyers and judges to focus on the essence of the case, minimising time spent on processing information. The use of modern technology not only ensures faster processing of information, but also increases the accuracy of evidence analysis. Automating processes such as keyword research, data matching and pattern recognition can reduce the likelihood of errors and improve the quality of litigation. In addition, evidence management systems help minimise the risks of lost or falsified data, which is particularly important in the context of international interactions between parties. These aspects contribute to the creation of a transparent and secure environment for the disclosure of evidence, which is an important factor in ensuring fairness and objectivity in court judgements.

Analysing the use of different types of evidence in AIFC courts demonstrates the diversity of sources of evidence that contribute to a more complete and detailed assessment in a case. In addition to traditional written documents such as contracts, invoices, reports and other official documents, there is a significant focus on electronic evidence. This includes electronic correspondence, files, electronic data and databases, which are becoming particularly significant in the digitalisation of business and globalisation. In modern legal practice, specialised software solutions and methods are widely used to efficiently collect, store and analyse electronic evidence. Among them, Relativity, Nuix, Forensic Toolkit, EnCase, CaseMap, TextMap and Everlaw platforms stand out. These tools analyse large volumes of data, identify duplicates, search, keyword search and report generation, which significantly speeds up the trial preparation process. In addition to software, modern analysis techniques such as machine learning technologies for automatic document classification and pattern detection, predictive coding to speed up sorting and analysis of relevant evidence, and hashing (MD5, SHA-256) to verify the integrity of digital files and confirm their immutability are actively used (Callaghan, 2025). All of these tools and techniques are particularly relevant in jurisdictions with highly regulated

disclosure of documents procedures, such as the AIFC and the English court system. Their use increases the transparency of processes, reduces the influence of the human factor and contributes to speeding up court proceedings, which, in turn, affects the reputational stability of companies and the investment attractiveness of the jurisdiction as a whole.

AIFC courts use all types of evidence – electronic, written and oral – to ensure an objective consideration of cases. This approach helps to gain a deeper understanding of the circumstances of the case and reduce the risk of errors. Integrating different types of evidence makes the process more transparent and fair, and promotes quality decision-making. Disclosure of documents procedures in the English courts play a key role in ensuring that trials are transparent and fair. The main stages include preparation, sharing and analysing evidence. At the initial stage, parties are required to provide each other with all available information, including documents, electronic data and witness statements. This allows both parties to understand each other's positions and better prepare for the proceedings. During the document exchange process, each party provides materials that will be used in court: contracts, financial records, correspondence, and digital files. This stage helps the parties and the court to gain a full understanding of the case.

Before the hearing, the parties may request testimony from witnesses and experts. The court assesses the reliability and relevance of such evidence. In today's environment, electronic data such as correspondence, communications and databases are becoming an important part of litigation, especially in business or intellectual property cases. They enable the provision of compelling evidence and enhance the transparency of litigation. The mechanism of disclosure of evidence is also regulated by various legal rules and jurisprudence, which contributes to the harmonisation and unification of the process. The Civil Procedure Rules of the United Kingdom are the main set of rules governing civil proceedings in England and Wales. These rules set clear standards for the disclosure of evidence, including requirements for the process of exchanging documents and other evidence, as well as procedures for the various stages of litigation. They aim to ensure a fair and consistent approach to the evidential process in court. Rules and Practice Directions are supplementary directives developed by the High Court and the Court of Appeal to clarify and refine the application of the Civil Procedure Rules of the United Kingdom. These Directions provide practical guidance and standards to help parties and lawyers to better navigate the process of disclosing evidence and to identify the correct procedures for handling it. Rules and Practice Directions represent a specialised aspect of disclosure of documents governed by the Civil Procedure Rules. This process concerns the exchange of written documents and other forms of evidence between the parties. The duty to disclose documents requires the parties to provide all relevant information that may affect the outcome of the case.

Criminal Justice Law of the United Kingdom is the legal framework governing the rules of admissibility – admissibility of evidence. These rules set out what evidence can be admitted into evidence by the court and what evidence cannot be used. Judges play a key role in co-ordinating disclosure of documents procedures, controlling the process of information sharing and preventing abuse by the parties. The disclosure of evidence procedure in the AIFC Courts (2018) is governed by the Court Rules, in particular Part 28, and the

Rules and Practice Directions, which provide the court and parties with flexible tools to manage the disclosure process effectively. In *The Prosecutor v. Jean-Pierre Bemba Gombo* (2008) the court did apply the disclosure of evidence procedure by strictly establishing a disclosure system for the parties and setting out a timetable for the production of evidence. This was an important element in ensuring fairness and transparency in the process, which helps both parties to prepare their position and effectively defend their interests. The court set strict deadlines for each party to minimise delays and speed up the process.

The application of the disclosure procedure in international courts, such as the International Criminal Court, also affects the reputation and credibility of the judicial system. In this case, the court in the International Criminal Court system was guided by rules that are consistent with international standards for disclosure of evidence, including the Civil Procedure Rules of the United Kingdom. These rules required the parties to disclose all relevant evidence, including that which may be against their interests, thus making the process more transparent.

The openness of the disclosure procedure has a significant impact on the investment attractiveness of a jurisdiction. When the legal system demonstrates predictability, equal access to information and respect for adversarial principles, investors perceive such an environment as stable and reliable. The existence of a transparent procedure for disclosure of evidence sends a signal that a jurisdiction can handle disputes fairly, which is particularly important in cross-border cases where one of the parties may be a foreign investor. Companies operating in jurisdictions with well-designed disclosure procedures feel more secure in the event of litigation.

In *ENRC v. SFO Court of Appeal Judgment* (2018), UK, the court considered the disclosure of evidence as part of a corruption investigation. The company ENRC attempted to withhold internal documents by invoking legal privilege. However, the court rejected this argument and ordered the company to disclose the documents, as they were deemed essential to the investigation. The court referred to Part 31 of the Civil Procedure Rules of the United Kingdom and applied the principle that privilege should not extend to documents relating to potential offences or breaches of the law. This case illustrates how disclosure procedures can be used to ensure full transparency in investigations, particularly when serious allegations of offences such as corruption are involved. It also emphasises the importance of following disclosure procedures in order to protect the interests of the parties and to maintain the rule of law and public confidence in the judicial system.

As in the UK and other judicial systems, the AIFC (2018) has clear rules that govern disclosure procedures. For example, in the case of *Saneg v. Asadel Capital Ltd* the court applied Part 28.1 of the AIFC Court Rules, which sets out the duty to disclose all evidence relevant to the resolution of the dispute. This case demonstrated how important the disclosure process is to the transparency and efficiency of proceedings. Such decisions, based on the standards applied in international jurisdictions, help to build confidence in the AIFC court system and confirm its compliance with international standards. The speed of dispute resolution directly depends on the quality of disclosure: timely disclosure of evidence allows courts and parties to move swiftly to the merits, avoiding delays in procedures due to hidden

documents or procedural appeals. AIFC practice in particular emphasises the use of electronic case management platforms, which helps to speed up document flow and reduce administrative burdens. Thus, an efficient application of disclosure procedures, in line with international standards and adapted to the digital age, increases confidence in the judiciary, strengthens investment attractiveness, but requires a balancing act between openness and cost control. The AIFC courts, following the English tradition and guided by case law, are gradually building up their own corpus of judgments that reinforce the credibility of this new but ambitious legal jurisdiction. The key differences from the disclosure of documents procedures in the AIFC courts lie in the different approaches to process and regulation. In the AIFC, disclosure of documents procedures are based on modern international standards and aim to ensure transparency and efficiency of the judicial process. Here, the focus is on harmonising the disclosure of documents process, which contributes to the

creation of a harmonised legal system that complies with international requirements.

In contrast, in the English court system, the process of disclosure of evidence is governed by the Civil Procedure Rules of the United Kingdom, which set out clear rules and procedures for the exchange of evidence between the parties. These rules cover both written documents and electronic evidence, as well as oral evidence. The English system emphasises case law and strict adherence to the discovery process, which largely defines the boundaries of the admissibility of evidence and its use in legal proceedings. The main difference lies in the approach to process – in England there is a strong emphasis on detail and rigour in the enforcement of rules, which favours case law that influences the subsequent application of the law. At the same time, AIFC seeks to unify and harmonise processes to create a balanced legal system that can work effectively in international financial disputes (Table 1).

Table 1. Comparative analysis of disclosure of evidence in AIFC and English courts

Criterion	AIFC	England
Regulation	Laws and rules of court proceedings aimed at harmonising the disclosure of evidence, taking into account international standards	Civil Procedure Rules of United Kingdom, case law and court directives governing the disclosure of evidence
Types of evidence	Includes written, electronic and oral evidence, with an emphasis on transparency and equality of arms.	Includes written documents, electronic data and oral testimony, with detailed adherence to the disclosure of documents process
Principles of disclosure	Uniformity, transparency, observance of good faith, prevention of evasion of disclosure	Strict regulation, case law and avoidance of abuse of the disclosure of documents process
Technological aspects	Use of modern technology to analyse large volumes of information	Innovative approaches for handling electronic and oral evidence in court cases
Disclosure of documents process	Unified process in line with international standards and governed by various regulations	Detailed adherence to procedures, with due regard to jurisprudence and precedents
Purpose of disclosure of documents	Ensuring fairness, transparency and equal access to justice	Improved accuracy of analysis and minimisation of errors in the evidentiary process

Source: created by the author based on the Civil Procedure Rules of United Kingdom (1998), Code of Civil Procedure of the Republic of Kazakhstan (2015), Law of the Republic of Kazakhstan No. 488-V “On Arbitration” (2016)

Thus, although the AIFC and English courts take different approaches to disclosure of evidence, both systems endeavours to ensure that trials are transparent, fair and efficient. The AIFC focuses on unification of processes with an international focus, while England emphasises strict regulation and case law, thus ensuring a high degree of detail in the disclosure of documents process. Similarities and differences between the disclosure of documents procedures in the AIFC and England can be identified through analysing various aspects, including technological approaches and the influence of case law. Both judicial institutions seek to harmonise disclosure of documents processes in order to improve the transparency and fairness of court proceedings. In the AIFC, this aims to comply with international standards, while in England it aims to comply with strict regulations based on the Civil Procedure Rules of the United Kingdom and judicial precedents. Technological aspects are important in both systems. AIFC makes extensive use of artificial intelligence and automation to process large amounts of information, which helps speed up the process and improve the accuracy of analyses. Similarly, England utilises modern technology to manage disclosure of documents processes, including document automation and electronic data management. Both disclosure of documents systems honours the principle of good faith, requiring full and honest disclosure

of all available evidence, regardless of its benefit to either party. This promotes a level playing field for those involved in the process.

The English system relies much more heavily on case law, where each judgement of the court serves as a benchmark for future cases. Case law in England has a significant influence on the discovery process, creating strict regulations and stringent procedural requirements. In contrast, the AIFC is focused on creating a harmonised process that takes into account international standards and builds on recent developments in law enforcement. In England, the disclosure of documents process is more structured and subject to strict rules and guidelines, which allows a high level of detail to be maintained. In the AIFC, processes are more flexible, with greater ability to adapt to international and national developments. AIFC places greater emphasis on harmonisation and the creation of common standards to ensure a global approach to disclosure of documents. Whereas in England the focus is on compliance with localised legal rules and jurisprudence, resulting in more detailed regulation. Thus, despite the general trends towards harmonisation and the use of modern technology, the differences in approaches to disclosure of documents between AIFC and England reflect the specificity of legal systems and cultural approaches to justice.

The influence of international law on the disclosure of evidence plays an important role in shaping procedures in both jurisdictions – AIFC and England. International standards provide a basis for unification and harmonisation of approaches to disclosure of evidence, ensuring that legal processes are consistent with international norms and recommendations. Within the AIFC, disclosure of documents processes aims to comply with international standards such as the UNIDROIT Principles of International Commercial Contracts (2016), the Hague Convention (1961) and other international agreements governing commercial and financial disputes. These standards contribute to the creation of harmonised procedures that take into account the interests of both local and international participants. The AIFC implements mechanisms to facilitate the harmonisation of national law with international norms, which contributes to a transparent and efficient system of disclosure of documents. The English judicial system also makes extensive use of international standards such as the European Convention on Human Rights and European Union principles. However, the English system is more orientated towards adapting international norms to local legal realities through jurisprudence and regulations such as the Civil Procedure Rules of the United Kingdom. Case law plays a key role in interpreting international standards in the national system of disclosure of documents.

In both systems, international standards play a key role in simplifying and standardising disclosure of documents procedures. In the AIFC courts, the emphasis is on developing a harmonised approach that harmonises with international requirements while minimally affecting existing

national rules. This strategy preserves the flexibility of the system and accommodates the particularities of international commercial law, making it convenient for participants in global disputes. In contrast, the English legal system integrates international standards through a complex mechanism based on legal precedents and detailed regulations. This process requires careful thought and often results in a more rigorous framework for the disclosure of evidence, in keeping with the traditions of Anglo-Saxon legal culture. Both jurisdictions make extensive use of modern technology to improve the efficiency of disclosure of documents procedures. Tools such as artificial intelligence, automation of data processing and digitalisation of documents help speed up processes, reduce costs and ensure better compliance with international standards.

Despite the common goals of creating transparent and universal disclosure of documents procedures, the approaches to realising them differ significantly. The AIFC emphasises adaptability and minimising the impact of national differences, while England maintains the rigour and stability of its system through reliance on precedent and statutory regulation. These differences reflect the unique characteristics of each legal system and its ability to adapt to the contemporary challenges of international law. Disclosure of documents procedures play a key role in court proceedings, contributing to the fairness and transparency of the process. However, with international co-operation and differences in legal systems, certain problems and challenges arise. The AIFC and England represent two unique jurisdictions, each facing different challenges in ensuring effective disclosure of evidence (Table 2).

Table 2. Problems and challenges of disclosure of documents in the AIFC and England

Challenges	AIFC	England
Limited integration of international standards	Establishment of harmonised procedures in line with international requirements. Implementing international norms often requires adaptation to local legal culture	England actively utilises international standards, but more sophisticated adaptation through judicial precedents and regulations is required
Technological barriers	The introduction of modern technologies, such as process automation and the use of artificial intelligence, at the stage of disclosure of documents faces certain difficulties due to the lack of uniform standards	Sustained adoption of innovative technologies is possible due to the rigour of the legal framework and clear procedures
Transparency issues	Difficulty in harmonising procedures for disclosure of evidence, which may reduce transparency and the perception of fairness to the parties	In England, the current system of disclosure of evidence has a high degree of transparency due to strong regulation and case law
Problems with electronic evidence	The need for standards for the secure and efficient handling of electronic evidence poses some challenges due to the inadequacy of the regulatory framework	The English system makes extensive use of electronic evidence, but there is a risk of inadmissibility of some types of digital evidence

Source: created by the author based on B. Alina and Z.-U. Malik (2022)

Disclosure of documents procedures in the AIFC and England face a number of challenges related to differences in legal systems, use of technology and compliance with international standards. In AIFC, the emphasis is on creating a harmonised system that complies with international requirements while remaining flexible and adaptable to the specificities of international commercial disputes. In England, on the other hand, the implementation of international norms is carried out through strict legal regulation and case law, which ensures sustainability and structured processes. These differences create certain difficulties in harmonising approaches to the disclosure of evidence. For example, inconsistent procedures between jurisdictions can make it difficult for parties to international disputes to interact and reduce the

transparency of processes. In addition, the rapid development of technologies such as artificial intelligence and automation raises challenges related to the lack of uniform standards for their use, as well as issues of data protection and admissibility in court. Particular attention needs to be paid to the use of digital evidence, which is becoming an important tool in modern litigation. However, their use requires careful verification for authenticity, reliability and admissibility. In some cases, this may be complicated by the lack of universal procedures for processing and analysing such evidence. The lack of transparency in some aspects of disclosure of documents procedures is also a problem. This may be due to a lack of detailed rules or a lack of a regulatory framework, which increases the risk of errors and unjustified decisions.

To overcome these challenges, it is important to develop standards that harmonise international requirements with national specificities. Such standards will help parties to disputes to interact on an equal footing, ensuring fairness and transparency in litigation. The introduction of modern technologies, such as artificial intelligence, can significantly speed up and simplify the process of disclosure of documents. However, in order to successfully implement these solutions, it is necessary to develop and implement mechanisms that guarantee data security, reliability and compliance with the legislative norms of specific jurisdictions. This will improve the accuracy and efficiency of the judiciary in the face of globalisation and increasingly complex legal processes. Modern legal frameworks must be flexible in order to adapt quickly to new challenges, such as electronic evidence and its use in legal proceedings. The development of technology creates new challenges that require careful consideration of aspects such as the protection of confidential information, transparency and control over disclosure of documents processes. Legal rules should ensure equal access to justice and fairness for each party to the proceedings.

Ensuring transparency and fairness in disclosure of documents procedures is a key factor in enhancing confidence in the judiciary, especially in the context of globalisation of legal processes and the integration of national judicial practices into the international legal space. Modern courts are faced with the need not only to resolve disputes fairly and objectively, but also to demonstrate transparency at all stages of case proceedings, including parties' access to relevant evidence. The development of practical recommendations and reliance on case law contribute to the creation of a sustainable and effective legal environment where the rights of all litigants are protected and procedural actions are predictable and logically justified. A particularly important element is the alignment of national procedures with international standards, thereby harmonising approaches and facilitating the participation of foreign parties. For example, the International Criminal Court has developed Rules of Procedure and Evidence, which ensure uniformity in approaches to the disclosure of evidence and serve as a model for other jurisdictions. Modern technology makes a significant contribution to the efficiency of disclosure procedures. The use of electronic evidence management systems (e.g., Relativity, Nuix, Everlaw platforms) not only speeds up the analysis of large amounts of information, but also reduces the parties' costs for lawyers, storage and checking of documents. In the English court system, such electronic platforms have become a standard part of the disclosure procedure, allowing for automated sorting, classification and identification of documents, which is particularly relevant in commercial and cross-border disputes. In addition, regular review and updating of legislation in line with current realities, including digitalisation, the growth of information, the need to protect personal data and cybersecurity, is an important prerequisite for enhancing trust. Only with a comprehensive approach – including institutional reforms, technological solutions and international co-operation – can the disclosure of documents procedure become truly transparent, efficient and fair.

Discussion

This study identified key similarities and differences in the disclosure of documents processes of the AIFC and English courts. Despite the differences in historical and institutional

approaches, both systems are based on the principles of the rule of law, transparency and ensuring legal certainty. Importantly, recent developments in the legal regulation of disclosure of evidence in the AIFC courts, aimed at borrowing best practice from the English system, play a key role in ensuring efficient litigation. This approach helps to reduce the number of disputes reaching court and facilitates the early resolution of cases. Key aspects of disclosure of documents are analysed, including the mandatory production of key documents, procedural transparency and standards of party integrity. This includes investigations into key categorisation criteria such as completeness of evidence provided, compliance with procedural deadlines, and ensuring equality of arms between parties in accessing documents.

The AIFC, following the best practices of the British judicial system, has adapted the principles of disclosure of documents in line with modern international standards (Otyshiyeva *et al.*, 2019). In particular, the AIFC actively applies the disclosure system, which facilitates faster resolution of disputes, increasing the transparency and efficiency of the judicial process (Makhambetsaliyev *et al.*, 2024). This is due to the fact that AIFC rules are largely borrowed from English practice, which helps to increase the confidence of international investors and parties to commercial transactions. Studies such as the works of H.W. Yeung *et al.* (2018) and L.C. Alcolea (2022), confirm that AIFC jurisprudence is largely synchronised with English law, allowing for effective dispute resolution in an international and interstate environment.

Both courts actively utilise international commercial arbitration as one of the main avenues of dispute resolution. Studies by R. Marhaba and Z. Sairambaeva (2024), and H. Ortner and M. Hackl (2024) emphasise that arbitration is becoming an integral part of court systems focused on international disputes. In the AIFC and English courts, the arbitration process provides flexibility, confidentiality and speedy resolution of commercial conflicts. This is particularly important in the context of globalisation and the increasing number of cross-border transactions.

The debate on the application of disclosure in both jurisdictions also touches on aspects related to the parties' costs of lawyers and evidence gathering. In the case of the AIFC, as in England, complying with disclosure proceedings is associated with high financial costs, but due to the more expeditious processes in the AIFC, the timeframe for finalising proceedings can be shortened, reducing overall legal costs. This creates further incentives for companies and investors to consider the AIFC as an efficient and transparent jurisdiction for dispute resolution. Contemporary studies such as the works of R. Frankel *et al.* (2021), highlight that the introduction of new technologies, including machine learning and disclosure automation, can significantly speed up and simplify disclosure of documents processes. These technological innovations used in the AIFC and English court systems are helping to reduce the time and resources required to complete the disclosure process. For example, the use of digital platforms and tools to process and analyse large amounts of data can significantly improve the efficiency of litigation, which is particularly important for international disputes with large volumes of information (Permatasari *et al.*, 2025). However, despite technological advances, there remain reputational risks associated with a lack of transparency in the disclosure process. For example, if one party fails to fully disclose key evidence or uses data manipulation, this

can affect the outcome of a case and reduce the credibility of a jurisdiction. Works such as the studies by Y. Kim *et al.* (2020) and Z. Liu *et al.* (2021), emphasise that disclosure processes in different jurisdictions can be vulnerable to manipulation, resulting in reputational losses for both litigants and the judicial system itself.

A study by H. Ortner and M. Hackl (2024) shows that arbitration is also heavily utilised in both jurisdictions as a method of dispute resolution, giving parties additional opportunities to resolve disputes confidentially with less time and resources. In AIFC and England, arbitration processes are flexible and orientated towards international disputes, making them attractive to foreign investors. Importantly, disclosure is also an important element in such processes, allowing parties to agree in advance on the exchange of evidence, which facilitates faster dispute resolution (Horislavskaya, 2025). Firstly, the study by J. Chaisse and G. Dimitropoulos (2021) on the impact of international economic norms on the development of a special economic zone emphasises the importance of creating a legal infrastructure that complies with international standards. This is directly related to the activities of the AIFC, which, as shown in the study by N. Zambrana-Tévar (2019), focuses on the English legal system and international practices borrowed from financial centres such as London. This desire to synchronise with international norms contributes to the investment attractiveness of the AIFC, as investors accustomed to the standards of Western jurisdictions can confidently use this jurisdiction to resolve disputes.

The findings presented in the study by C. Norval *et al.* (2022) are consistent with this result: the authors highlight that the introduction of digital technologies, including artificial intelligence and machine learning systems, contributes to optimising the process of evidence discovery. In particular, the automation of data retrieval, classification and verification allows to reduce the time of material processing, minimise the probability of errors and reduce the parties' legal costs (Kamyshanskyi, 2025). Thus, the position of C. Norval *et al.* confirms the conclusion that the digitalisation of disclosure is an important factor in increasing transparency and accountability in modern court systems. Nevertheless, despite numerous technological improvements, reputational risks associated with unauthorised or incomplete disclosure of evidence remain. As studies by T.D. Lyon *et al.* (2020) and C. Roux *et al.* (2022), the need to revisit the principles of forensic science and develop more effective methods of disclosure of documents is becoming urgent to improve disclosure processes in forensic practice. These studies emphasise how important it is to consider technological and legal aspects to improve current disclosure procedures.

Regarding the practical relevance of disclosure of documents for investment attractiveness, it can be noted that clear and transparent disclosure of documents procedures have a positive impact on a jurisdiction's reputation. For example, the transparent disclosure processes followed by the AIFC attract international investors as they are confident that their cases will be dealt with on the basis of clear and fair procedures. In turn, any irregularities in the disclosure process, such as non-compliance or delays, can damage the reputation of both the company and the jurisdiction itself.

In summary, despite similar elements in their approaches to disclosure, the AIFC and English systems demonstrate differences that are driven by historical context and the

integration of new technologies. AIFC borrows best practices from the English system, but adapts them to the specifics of the region, which allows the jurisdiction to develop in the context of globalisation and increasing international economic ties.

Conclusions

An analysis of disclosure of documents procedures in the courts of the AIFC and England revealed both common features and significant differences in approaches, which are determined by their legal traditions, institutional structure and level of technological maturity. Both systems aim to ensure fairness, transparency and procedural equality of the parties, but the methods used to achieve these goals are shaped by different legal philosophies.

The AIFC courts are characterised by their focus on flexibility and adaptation to the requirements of the international commercial environment. One of the key features of the system is the desire to unify procedural standards, taking into account Anglo-American case law and international norms, which creates attractive conditions for the resolution of cross-border disputes. In addition, there is active implementation of digital solutions, including systems for automatic search and analysis of evidence, which increases efficiency and reduces the likelihood of errors when processing large amounts of information.

In the English system of disclosure of evidence, the emphasis has traditionally been on strict procedural rules and a high level of formalisation. This is due to the historically established structure of common law, where stability and consistency of judicial practice take precedence over procedural flexibility. This approach ensures predictability and legal stability, but in some cases slows down the introduction of technological innovations and limits the variability of procedures when new challenges arise related to the digitalisation and transformation of judicial processes.

Both jurisdictions are currently showing a trend towards modernisation and integration of innovative tools for working with evidence, such as artificial intelligence, machine learning, and automated data search and sorting systems. This opens up new opportunities to increase transparency, optimise time costs, and reduce errors in judicial processes. In particular, Big Data analytics technologies make it possible to model court scenarios, speed up the filtering of evidence, and automate the comparison of information with legal norms, which can significantly affect the quality of decisions made.

At the same time, the results of the study suggest that the full implementation of new digital tools requires the resolution of a number of regulatory and ethical issues, including personal data protection, cybersecurity, and procedural safeguards for all participants in the proceedings. Further harmonisation of legal norms and technical standards appears necessary to ensure the stability and predictability of disclosure of documents in cross-border jurisdictions. Future research could focus on an in-depth comparative analysis of the effectiveness of digital technologies in the disclosure of evidence, as well as the impact of legal differences on the cross-border recognition of court decisions between the AIFC and English courts.

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Порівняльний аналіз розкриття документів у суді МФЦА та англійських судах: вплив на правову визначеність у комерційних спорах

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Анотація. Метою цього дослідження було порівняння процедур розкриття доказів у суді Міжнародного фінансового центру Астани та судах Англії. У дослідженні використовувалися історичний та порівняльний підходи, що дозволило проаналізувати розвиток методів правового аналізу, порівняльних досліджень та контекстуальних підходів для оцінки практики розкриття документів у судових процесах, включаючи аналіз міжнародних норм, таких як Конвенція Організації Об'єднаних Націй про захист прав людини та Гаазька конвенція. Основна увага приділялась подібностям та відмінностям між цими системами, а також тому, як вони адаптуються до міжнародних стандартів. Результати показали, що суди Міжнародного фінансового центру Астани та Англії активно запозичують елементи англійської системи, включаючи порядок розкриття доказів та арбітражні механізми. Однак ці норми адаптовані до національного законодавства та вимог іноземних інвесторів з урахуванням специфіки правової системи. Водночас англійська система має довгу історію та високий ступінь спеціалізації в комерційних спорах. У дослідженні наголошено, що обидві системи прагнуть прозорості та ефективності в судових процесах. Суди Міжнародного фінансового центру Астани та суда Англії прагнуть запровадити найкращі практики англійського права, адаптуючи їх до місцевих умов. Для вдосконалення процедур рекомендується враховувати сучасні потреби міжнародної торгівлі та розробляти спеціалізовані методи роботи з доказами. Результати дослідження можуть бути використані для покращення практики розкриття документів у судових системах, зокрема в судах Міжнародного фінансового центру Астани та англійських судах, з метою приведення їх у відповідність до сучасних міжнародних стандартів. Рекомендації включають розробку спеціалізованих методів роботи з доказами та врахування сучасних потреб міжнародної торгівлі для підвищення ефективності та справедливості судових процесів

Ключові слова: англійські суди; міжнародні стандарти; арбітраж; верховенство права