

中国的司法体制(英汉对照) PDF转换可能丢失图片或格式，  
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[https://www.100test.com/kao\\_ti2020/449/2021\\_2022\\_\\_E4\\_B8\\_AD\\_E5\\_9B\\_BD\\_E7\\_9A\\_84\\_E5\\_c92\\_449109.htm](https://www.100test.com/kao_ti2020/449/2021_2022__E4_B8_AD_E5_9B_BD_E7_9A_84_E5_c92_449109.htm) 根据《中华人民共和国宪法》及《中华人民共和国人民法院组织法》，司法体系由最高人民法院、地方各级人民法院、军事法院及其它特别人民法院组成。地方各级人民法院由基层人民法院、中级人民法院及高级人民法院组成。基层人民法院由民事、刑事、经济及行政法庭组成。中级人民法院与基层人民法院的结构类似，并进一步分成其它特别法庭，如知识产权法庭等。高级人民法院对基层人民法院及中级人民法院进行监督。人民检察院亦有权对同级及下级人民法院的民事诉讼行使法律监督权。最高人民法院为中国的最高司法机构，具体监督所有人民法院的司法工作。人民法院采用两审终审制度。当事人可以就地方人民法院的判决或裁定向上一级人民法院上诉。同一级法院及上一级法院作出的二审判决或裁定属终局裁决。最高人民法院的一审判决或裁定亦属终局裁决。但是，倘最高人民法院或上一级人民法院发现下级人民法院作出的已生效判决存在错误，或人民法院院长发现本院所作出的已生效判决存在错误，则可根据审判监督程序重新进行审理。一九九一年四月九日颁布的《中华人民共和国民事诉讼法》规定了提起民事诉讼、人民法院管辖权、进行民事诉讼须遵守的程序及民事判决或裁定执行程序的各项标准。中国境内的民事诉讼各方当事人须遵守《中华人民共和国民事诉讼法》。一般而言，民事案件首先由被告所在省市的地方法院审理。合同各方亦可通过明示的同意选择提起民事诉讼的司法权

区，但该司法权区应为原告或被告的居住地、合同签署或履行地或行为目标的所在地。但在任何情况下，上述选择均不得违反级别司法管辖权及专属司法管辖权的规定。外国个人或外国企业一般与中国公民或法人具有同样的诉讼权利及义务。倘外国司法制度限制中国公民及企业的诉讼权利，则中国法院可以对该国在中国的公民及企业套用同样的限制。倘民事诉讼一方当事人拒绝在中国遵守人民法院作出的判决或裁定或仲裁小组作出的裁决，则受害方可以申请人民法院执行该判决、裁定或裁决。申请执行的权利有时间限制。倘争议当事人至少有一方为个人，则申请执行的时间限制为一年。倘争议双方均属法人或其它机构，则申请执行的时间限制为六个月。倘一方当事人未能在规定的时间内履行法院判决，则法院将可以经任何当事人申请，依法强制执行该判决。当事人寻求对不在中国且在中国不拥有财产的一方执行人民法院作出的判决或裁定时，可以申请有正式管辖权的外国法院承认并执行该判决或裁定。倘中国与相关外国缔结或参加关于相互承认及执行的国际条约或倘根据互惠原则有关判决满足法院的审查，则外国判决亦可由人民法院根据中国执行程序予以承认及执行，除非人民法院发现承认或执行该判决或裁定将导致违反中国的基本法律原则、主权或安全或不符合社会及公共利益。 Under the PRC Constitution and the Law of Organisation of the Peoples Courts, the judicial system is made up of the Supreme Peoples Court, the local peoples courts, military courts and other special peoples courts. The local peoples courts are comprised of the basic peoples courts, the intermediate peoples courts and the higher peoples courts. The basic peoples courts are

organised into civil, criminal, economic and administrative divisions. The intermediate peoples courts are organised into divisions similar to those of the basic peoples courts, and are further organised into other special divisions, such as the intellectual property division. The higher level peoples courts supervise the basic and intermediate peoples courts. The peoples procuratorates also have the right to exercise legal supervision over the civil proceedings of peoples courts of the same level and lower levels. The Supreme Peoples Court is the highest judicial body in the PRC. It supervises the administration of justice by all of the peoples courts. The peoples courts employ a two-tier appellate system. A party may appeal against a judgement or order of a local peoples court to the peoples court at the next higher level. Second judgements or orders given at the same level and at the next higher level are final. First judgements or orders of the Supreme Peoples Court are also final. If, however, the Supreme Peoples Court or a peoples court at a higher level finds an error in a judgement which has been given in any peoples court at a lower level, or the presiding judge of a peoples court finds an error in a judgement which has been given in the court over which he presides, the case may then be retried according to the judicial supervision procedures. The Civil Procedure Law of the PRC, which was adopted on April 9, 1991, sets forth the criteria for instituting a civil action, the jurisdiction of the peoples courts, the procedures to be followed for conducting a civil action and the procedures for enforcement of a civil judgement or order. All parties to a civil action conducted within the PRC must comply with the Civil Procedure Law.

Generally, a civil case is initially heard by a local court of the municipality or province in which the defendant resides. The parties to a contract may, by express agreement, select a jurisdiction where civil actions may be brought, provided that the jurisdiction is either the plaintiffs or the defendants place of residence, the place of execution or implementation of the contract or the object of the action. However, such selection can not violate the stipulations of grade jurisdiction and exclusive jurisdiction in any case. A foreign individual or enterprise generally has the same litigation rights and obligations as a citizen or legal person of the PRC. If a foreign countrys judicial system limits the litigation rights of PRC citizens and enterprises, the PRC courts may apply the same limitations to the citizens and enterprises of that foreign country within the PRC. If any party to a civil action refuses to comply with a judgement or order made by a peoples court or an award granted by an arbitration panel in the PRC, the aggrieved party may apply to the peoples court to request for enforcement of the judgement, order or award. There are time limits imposed on the right to apply for such enforcement. If at least one of the parties to the dispute is an individual, the time limit is one year. If both parties to the dispute are legal persons or other institutions, the time limit is six months. If a person fails to satisfy a judgement made by the court within the stipulated time, the court will, upon application by either party, mandatorily enforce the judgement. A party seeking to enforce a judgement or order of a peoples court against a party who is not located within the PRC and does not own any property in the PRC may apply to a foreign court

with proper jurisdiction for recognition and enforcement of the judgement or order. A foreign judgement or ruling may also be recognised and enforced by the peoples court according to the PRC enforcement procedures if the PRC has entered into, or acceded to, an international treaty with the relevant foreign country, which provides for such recognition and enforcement, or if the judgement or ruling satisfies the courts examination according to the principle of reciprocity, unless the peoples court finds that the recognition or enforcement of such judgement or ruling will result in a violation of the basic legal principles of the PRC, its sovereignty or security, or for reasons of social and public interests 100Test 下载频道开通，各类考试题目直接下载。详细请访问 [www.100test.com](http://www.100test.com)