



Proceedings in English before Swiss State Courts Soon a Reality in Bern and Zurich

01.04.2026

Key Takeaways

- **From May 2026 (Bern) and 2027 (Zurich) onwards, parties can bring their international commercial disputes before international commercial state courts in Bern and Zurich and have proceedings conducted in English.**
- **The new Swiss international commercial courts will hear cases that meet four requirements: (1) commercial dispute, (2) minimum value in dispute of CHF 100,000, (3) agreement on court's jurisdiction, (4) one or more parties domiciled or seated abroad.**
- **No connection to Switzerland is necessary other than the forum selection agreement.**

Introduction

In May 2026, the Bern Commercial Court will launch a new chamber, the Bern International Commercial Court. Trailing the federal city for once, Zurich is expected to follow next year with the Zurich International Commercial Court, a newly designated label of the Zurich Commercial Court. These international commercial courts will be the first Swiss state courts authorized to conduct proceedings entirely in English, including any submissions, orders and decisions. They will hear international commercial cases and may be chosen either through a forum selection clause or on an ad hoc basis, regardless of whether the case has any connection to Switzerland.

Federal Framework for Swiss International Commercial Courts in Force Since 1 January 2025

Stakeholders have persistently promoted the idea of international commercial courts in Swiss federal legislation. As a consequence, the Swiss Code of Civil Procedure ("CCP") since 1 January 2025 allows the cantons to establish international commercial courts. Swiss cantons may now declare their commercial courts competent for any commercial dispute with a value of at least CHF 100,000, provided that the parties have agreed to the jurisdiction of the cantonal commercial court and that at least one party has its domicile, habitual residence, or seat abroad (Art. 6(4)(c) CCP). This is a departure from the legal framework until 31 December 2024, which did not allow jurisdiction agreements in favor of a specialized court like a commercial court. Moreover, the cantons may also permit English as the language of proceedings in such international commercial cases (Art. 129(2)(b) CCP). This is another major shift in the Swiss court landscape as, previously, the parties were allowed to submit their briefs and related evidence in English only with the Federal Patent Court, subject to the parties' and court's agreement (Art. 36(3) Patent Court Act), or with the Federal Supreme Court in set-aside proceedings against international arbitral awards (Art. 77(2bis) Federal Supreme Court Act ["FSCA"]), noting that the Federal Patent Court's and the Federal Supreme Court's procedural orders and decisions in such proceedings still have to be drafted in one of the Swiss official languages.

In potential appeal proceedings before the Swiss Federal Supreme Court against a decision of an international commercial court, the parties may continue to file their submissions in English (Art. 42(1bis) FSCA). However, instructions and decisions of the Federal Supreme Court in such appeal proceedings will continue to be issued in one of the Swiss official languages (Art. 54(1) FSCA).

Which Cantons Will Have an International Commercial Court?

Of the four Swiss cantons that already have a commercial court (Aargau, Bern, St Gallen and Zurich), Bern and Zurich are making use of the new opportunity:

- The Bern International Commercial Court is already a done deal, following the expiry of the referendum period on 5 January 2026 against the related amendment to the Bernese organizational law. The Bern International Commercial Court is expected to launch in May 2026. The new chamber will be attached to the Commercial Court of Bern and staffed by its personnel. The parties can choose for the proceedings to be conducted in English.
- In Zurich, the relevant legislative amendment is expected to be adopted later this year. According to the draft, the Commercial Court of Zurich will operate under the label "Zurich International Commercial Court" with the commercial court's existing staff whenever the parties agree to conduct proceedings in English.

Also in Geneva there have been recent developments in this respect. The Geneva International Legal Association has been created to promote the establishment of a commercial court. The bill will soon be submitted to the parliament of the Canton of Geneva.

Why Consider the Bern and Zurich International Commercial Courts as Your Forum?

The Bern and Zurich Commercial Courts are long-established courts that are specialized in handling commercial matters. Usually, the Bern and Zurich Commercial Courts conduct settlement negotiations, including a preliminary assessment of the case by the court, after the first exchange of legal briefs. This practice offers a real chance for shorter (and less costly) proceedings. Other relevant factors include the specialized judges with commercial backgrounds, the quite limited document production before Swiss state courts in general, the Zurich Commercial Court's reluctance to hear witnesses, only one instance of appeal (the Swiss Federal Supreme Court), and mostly (comparatively) reasonable court costs.

The new international commercial courts in Bern and Zurich may be attractive options for example in the following scenarios:

- Companies that have historically chosen Swiss state courts as their dispute resolution venue for international contracts but would prefer English as the language of proceedings.
- Companies dissatisfied with certain aspects of international commercial arbitration.
- Companies without a nexus to Switzerland but interested in Switzerland as a reliable dispute resolution venue not willing to pay the price of language barriers.

Next steps

Are you in the process of negotiating a commercial contract? If so, consider whether a jurisdiction clause in favor of one of the new Swiss international commercial courts may be preferable to your standard clause or may help resolve a deadlock in negotiations. Or do you need to update your company's template database? Consider whether designating the Bern or Zurich International Commercial Court as dispute resolution venue could support smoother contract execution.

Authors: Sarah Drukarch (Partner), Dario Marzorati (Counsel), Myrtha Talirz (Associate)

No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this legal update.

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Florian Mohs

Partner
Attorney at law, Dr. iur., LL.M.
Head Arbitration

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 92 21
florian.mohs@pestalozzilaw.com



Sarah Drukarch

Partner
Attorney at Law

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 93 23
sarah.drukarch@pestalozzilaw.com



Dario Marzorati

Counsel
Attorney at Law, LL.M.

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 92 20
dario.marzorati@pestalozzilaw.com

