

# Litigation & Arbitration

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The Litigation & Arbitration practice group has a long-standing reputation for offering superior advisory services to domestic and international clients across a broad range of commercial, corporate, and financial issues. We represent states and state-owned entities, businesses from large international corporations to small and medium-size enterprises, together with private clients, in complex civil, criminal, and regulatory disputes at national and international level before state courts, authorities, and arbitral tribunals.

## Our Expertise

The team attracts mandates from all sectors of the economy, including financial services, insurance, energy and commodities, life sciences, industrials (manufacturing and infrastructure), trade and retail, media, IT and telecommunications, and construction. We are renowned for our expertise in commodities- and banking-related litigation and arbitration as well as internal investigations.

Clients rely on our clear understanding of their objectives and needs, our knowledge of their business and our results. They appreciate our hands-on approach and our commitment to their cause. Our litigation department has the size and capacity to handle several major cases simultaneously.

Our members have extensive practical experience of dispute resolution and have acquired additional expertise in international commercial litigation and arbitration as postgraduates and/or as foreign attorneys in common law countries. They regularly speak and lecture on dispute resolution issues before practitioners and academics and publish in their areas of expertise.

## Our services

We cover all aspects of litigation, arbitration, white collar and internal investigations, bankruptcy and composition proceedings, enforcement of debts, judgments and arbitral awards rendered abroad, mediation and other forms of alternative dispute resolution (ADR). Our working languages are English, French, German, Italian, and Spanish.

## **Litigation**

We have one of Switzerland's largest and most accomplished litigation teams and leave no avenue unexplored in our efforts to protect your interests. Achieving this may mean agreeing to a fair and mutually acceptable settlement or, where necessary, taking your case to the highest authority to obtain a judgment in your favor.

## **Courts and authorities**

With offices in Zurich and Geneva, we represent clients before:

- all types of cantonal decision-making bodies, including the ordinary courts of all cantons (for civil and criminal matters), the commercial courts that exist in some Swiss cantons and the administrative courts
- the Swiss Federal Supreme Court, Swiss Federal Administrative Court and Swiss Federal Criminal Court, as well as the Swiss Federal Patent Court, where one of our partners is a part-time judge
- international decision-making bodies, such as the Commission for the Control of Interpol's Files.

The team also cooperates with co-counselors abroad to provide assistance in disputes before various foreign courts or other authorities.

## **Litigation Strategies**

Our team will advise you on the correct litigation strategy. Examples of the issues we cover include:

- commencing debt enforcement proceedings or filing requests for immediate conciliation to forestall statutes of limitation and/or secure a favorable forum
- deciding whether provisional measures are needed and appropriate or whether it makes sense to file a protective brief in anticipation of provisional measures by the counterparty
- dealing with the press or public opinion in sensitive matters
- filing criminal complaints where necessary
- conducting fact-finding operations; obtaining expert reports where necessary; deciding whether internal guidelines or investigations are required; dealing with cross-border affairs; obtaining recognition from foreign orders and judgments when needed; cooperating with co-counselors in foreign jurisdictions; dealing with parallel proceedings in Switzerland or elsewhere.

## **Arbitration**

With a long-standing reputation and tradition, our arbitration department is one of the largest of its kind in Switzerland. Over the years, our arbitration specialists have taken active roles in several high-profile cases, which have on various occasions led to landmark decisions.

## Operations at national and international level

With offices in Zurich and Geneva, we have a presence in Switzerland's two most important arbitration venues, but our partners are also involved in disputes outside Switzerland at major international arbitration hubs such as Paris, London, Brussels, Istanbul, New York, and Hong Kong.

- We have experience of working with major arbitration institutions, including the International Chamber of Commerce (ICC), the Swiss Arbitration Centre, the London Court of International Arbitration (LCIA), the World Intellectual Property Organization (WIPO), the Arbitration Institute of the Stockholm Chamber of Commerce (SCC), the Belgian Centre for Arbitration and Mediation (CEPANI), the Vienna Arbitration Centre (VIAC), and the German Institution of Arbitration (DIS). We have also worked with the Permanent Court of The Hague (PCA).
- We have been involved in arbitration disputes governed by the laws of Switzerland, England, Germany, Austria, France, the Netherlands, Norway, Slovenia, Turkey, Albania and the Democratic Republic of Congo. The vast majority of the disputes we handle are international in nature. We have experience with foreign law issues, such as competition and anti-trust, patent law, regulatory, public law, *res judicata* and *ordre public*.
- Our team has considerable experience of successfully conducting set-aside proceedings against international and domestic arbitral awards before the Swiss Federal Supreme Court.
- Several members of our group also serve frequently as arbitrators (chair, sole, party-appointed) in ad hoc and institutional arbitrations.
- Partners of our firm are active members of the executive bodies of the ICC and the SCAI.
- Many of our team members are members of the best-known arbitration associations and frequently give presentations on arbitration issues. The Swiss Arbitration Academy was co-founded by one of our partners.

## White-collar and Internal Investigations

After representing major corporations and individuals in most of the large-scale international criminal investigations conducted from Switzerland in the past, we have established a solid reputation for dealing with white-collar crime and financial fraud and for conducting internal corporate investigations.

We regularly represent governmental bodies, states, banks, financial institutions and other corporations, as well as high-ranking members of management and high-net-worth individuals in white-collar matters and internal investigations.

Several banks listed in Switzerland and abroad regularly draw on our expertise to solve complex matters stemming from internal or external financial fraud or involving regulatory (Swiss Financial Market Supervisory Authority) recovery and liability issues. We have established a reputation for handling complex cross-border cases that require expertise in the fields of business crime, financial fraud, asset recovery and liability claims.

## **Bankruptcy and composition proceedings**

We have represented parties in major bankruptcy and composition proceedings in Switzerland. Services have included protective briefs, claims registration, actions against the schedule of claims, complaints before the supervisory authorities, claw-back actions (avoidance actions) against various beneficiaries of voidable transactions as well as directors' liability cases on behalf of administrators and/or creditors.

Our specialist areas include:

- obtaining recognition of foreign bankruptcies in Switzerland, thus allowing foreign administrators to act on Swiss soil and recover significant assets of foreign bankrupt debtors (mini-bankruptcy/ancillary bankruptcy), as well as bankruptcy-related criminal proceedings. In multi-jurisdictional cases, we work together with other law firms to ensure the client's success in all jurisdictions involved. These cases require special skills to coordinate the parallel proceedings and keep track of the peculiarities of the jurisdictions involved
- sitting on bankruptcy bodies to supervise the work of the bankruptcy administration in the interest of major creditors
- conducting large-scale asset recovery actions for our clients.

## **Enforcement of debts, foreign judgments, and foreign arbitral awards**

Clients regularly engage us to enforce their monetary claims, foreign judgments, and arbitral awards because we are ideally equipped to deal with any matter that may arise during the process.

Enforcement may involve attachment of the debtor's assets in Switzerland and/or abroad. We have well-established contacts with specialist law firms worldwide, who can trace and attach assets in any given jurisdiction. If assets are located in Switzerland – in a bank account, for instance – we represent our clients in state court proceedings, which may progress through all judicial levels up to the Swiss Federal Supreme Court. We have taken an active role in landmark cases involving the recognition and enforcement of international freezing orders in Switzerland.

Our team has expert knowledge of the Lugano Convention on the recognition and enforcement of judgments in civil or commercial matters rendered in European and EFTA member states, as well as the New York Convention on the recognition and enforcement of foreign arbitral awards.

## Mediation and other forms of Alternative Dispute Resolution (ADR)

If the dispute involves a contract with a multi-tiered dispute resolution clause (escalation mechanism), we steer clients through the contractual mechanism step by step.

Mediation in commercial disputes has become increasingly popular in Switzerland. Sometimes it is an interim step in a contractual escalation clause, while on other occasions the parties may agree to engage a neutral mediator to come to terms and avoid lengthy and costly proceedings. We have experience of representing or assisting clients in mediation proceedings designed to find the best solution.

Our team also has experience of other forms of alternative dispute resolution, such as negotiation. One of our partners has worked closely with WIPO to set up fast-track procedures for IP disputes arising during trade fairs, including the International Motor Show in Geneva.

## Team

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