

Arbitration in English

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International arbitration is the field in which English has most clearly become the working language of Swiss legal practice. Switzerland, with its seats in Geneva and Zurich and to a lesser extent in Basel and Lugano, is one of the most frequently chosen places of arbitration in the world. Parties from different countries choose Switzerland for its neutrality, its modern arbitration law, its experienced arbitrators and its supportive courts. The language of most of these arbitrations is English, even when the contract is governed by Swiss law and the arbitrators are Swiss.¹

The legal framework for international arbitration in Switzerland is Chapter 12 of the Federal Act on Private International Law, which was revised with effect from 1 January 2021. The revision codified the case law of the Federal Supreme Court, clarified the formal requirements for arbitration agreements and strengthened party autonomy. Among its innovations was the possibility, already mentioned, of filing submissions in English in setting-aside proceedings before the Federal Supreme Court. The legislator thereby recognised that requiring the translation of a voluminous English record into an official language placed a burden on the parties that weakened the attraction of Switzerland as a seat.²

The Swiss Rules of International Arbitration, first adopted in 2004 by the chambers of commerce of Basel, Bern, Geneva, Neuchâtel, Ticino, Vaud and Zurich, were revised in 2012 and again in 2021. The 2021 revision coincided with the transformation of the Swiss Chambers' Arbitration Institution into the Swiss Arbitration Centre, which administers arbitrations under the Swiss Rules. The Rules are published in English, French, German and Italian, with the English version the one most frequently used in practice. The Chamber of Commerce of Basel, the Handelskammer beider Basel, was among the founders of this system and continues to support arbitration in the region.³

For the commercial life of Basel, arbitration in English has a particular importance. Licence agreements between pharmaceutical groups and biotechnology companies, research collaborations with universities, supply agreements with contract manufacturers and joint ventures in emerging markets frequently provide for arbitration in Switzerland under Swiss law with English as the language of the proceedings. Disputes in this field require arbitrators who understand both the science and the law. The concentration of life sciences companies and law firms with arbitration practices in Basel and Zurich has created a pool of specialists who work in English on contracts governed by Swiss law.⁴

1 Notes

1. On the position of Switzerland as a place of arbitration, see the statistics of the ICC International Court of Arbitration, in which Switzerland has for many years been among the most frequently chosen seats, and the annual reports of the Swiss Arbitration Centre. Figures to be verified. ↩
2. Federal Act on Private International Law of 18 December 1987 (PILA, SR 291), Chapter 12, as revised by the Federal Act of 19 June 2020, in force since 1 January 2021. See the Federal Council's dispatch of 24 October 2018 (BBl 2018 7163). To be verified. ↩
3. Swiss Rules of International Arbitration, version of June 2021, and the website of the Swiss Arbitration Centre. On the role of the Handelskammer beider Basel, see its publications. To be verified. ↩
4. On arbitration in life sciences disputes, see the practice literature on pharmaceutical licensing and collaboration disputes and the WIPO Arbitration and Mediation Center in Geneva, which administers intellectual property disputes. To be verified. ↩

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