

Courts, administration and the language of proceedings

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The language of proceedings in Swiss civil courts is determined by the Civil Procedure Code, which since 2011 has replaced the twenty-six cantonal codes. Under its Article 129, proceedings are conducted in the official language of the competent canton, which in Basel-Stadt means German.¹ The revision of the Code that entered into force on 1 January 2025 has opened this rule. The cantons may now permit, with the agreement of the parties, the use of another national language or of English in certain proceedings, in particular before commercial courts and in international commercial disputes.² Several cantons have made use of this option or are preparing to do so, among them Zurich, Geneva and Bern, which wish to attract international commercial disputes that would otherwise go to arbitration or to courts abroad.³

Basel-Stadt has no commercial court of its own, unlike Zurich, Bern, Aargau and St. Gallen. Commercial disputes are heard by the civil court (*Zivilgericht*) at first instance and by the court of appeal (*Appellationsgericht*) at second instance.⁴ Whether and to what extent the canton has opened its civil proceedings to English was still a matter of political and professional debate at the time of writing. A city that hosts the BIS, two global pharmaceutical groups and a large international workforce has obvious reasons to consider the option, although the volume of cross-border commercial litigation in Basel is smaller than in Zurich or Geneva.⁵ For the parties to a commercial contract governed by Swiss law, the choice of a forum is therefore also a choice of the language in which they will argue their case, a point that Chapter IV of this part develops.

At the federal level, the Federal Supreme Court conducts its proceedings in one of the official languages, as a rule the language of the contested decision. Parties may submit their briefs in any official language.⁶ An important exception concerns international arbitration. Since the revision

of the Private International Law Act that entered into force on 1 January 2021, parties to an appeal against an international arbitral award may file their submissions in English, which reflects the dominance of English in international arbitration and strengthens the attractiveness of Switzerland as a seat.⁷ Basel has a long tradition in arbitration through its chamber of commerce, which was one of the founders of the Swiss Chambers' Arbitration Institution, today the Swiss Arbitration Centre.⁸

Oral proceedings raise a question that written proceedings avoid. The official language of the courts is Standard German, and judgments, minutes and written submissions are drafted in it. In practice, however, judges and lawyers in German-speaking Switzerland often speak dialect in oral hearings, especially when they examine witnesses or parties who are more comfortable in dialect, while the minutes record their statements in Standard German.⁹ A party from Germany, from Austria or from abroad may ask that the hearing be conducted in Standard German. The court will accommodate such a request, since the right to be heard requires that a party understand the proceedings. Criminal procedure follows similar principles, with the Criminal Procedure Code requiring an interpreter for persons who do not understand the language of the proceedings.¹⁰

The administration of Basel-Stadt follows comparable practices. A taxpayer who calls the cantonal tax administration will usually be answered in dialect, while the assessment that follows arrives in Standard German. The commercial register of Basel-Stadt keeps its entries in German, so that the articles of association of a company with its seat in Basel must be filed in the official language or with a certified translation.¹¹ International groups that establish subsidiaries in Basel therefore operate with German articles and English internal governance documents, a dual system that requires care when the two versions diverge. A recurring source of difficulty lies in the board regulations, which an international group drafts in English, while the articles of association that refer to them must be in German.

1 Notes

1. Swiss Civil Procedure Code (ZPO) of 19 December 2008 (SR 272), Art. 129 (language of proceedings), in force since 1 January 2011. ↩
2. Revision of the ZPO of 17 March 2023, in force since 1 January 2025, amending Art. 129 ZPO (cantonal option to allow other national languages and English with the consent of the parties) and introducing the option of international commercial courts (Art. 6 para. 4 lit. c ZPO). The precise wording and numbering are to be verified. Status to be verified. ↩

3. On the introduction of English as a language of proceedings and of international commercial chambers in the cantons of Zurich, Geneva and Bern following the ZPO revision, see the cantonal legislation and the reports in the Swiss legal press since 2024. Status to be verified. ↩
4. On the organisation of the courts of Basel-Stadt (Zivilgericht, Strafgericht, Appellationsgericht, Sozialversicherungsgericht), see the Gerichtsorganisationsgesetz of the canton of Basel-Stadt and the information on www.gerichte.bs.ch. To be verified. ↩
5. On the debate in Basel-Stadt about permitting English in civil proceedings under the revised Art. 129 ZPO, see the deliberations of the Grosser Rat and the cantonal government. Status to be verified. ↩
6. Federal Supreme Court Act (BGG) of 17 June 2005 (SR 173.110), Art. 42 para. 1 (submissions in an official language) and Art. 54 para. 1 (language of the proceedings, as a rule the language of the contested decision). ↩
7. Federal Supreme Court Act, Art. 77 para. 2bis, introduced by the revision of Chapter 12 of the Private International Law Act (PILA) of 19 June 2020, in force since 1 January 2021. The judgment itself is rendered in an official language. ↩
8. On the role of the Basel Chamber of Commerce (Handelskammer beider Basel) among the founding chambers of the Swiss Chambers' Arbitration Institution (2004) and its transformation into the Swiss Arbitration Centre (2021), see the information published by the Swiss Arbitration Centre. To be verified. ↩
9. On the use of dialect in oral court hearings in German-speaking Switzerland and the recording of statements in Standard German, see the commentaries on Art. 129 ZPO and Art. 67 StPO and the practice of the cantonal courts. To be verified. ↩
10. Swiss Criminal Procedure Code (StPO) of 5 October 2007 (SR 312.0), Art. 67 (language of proceedings determined by the cantons) and Art. 68 (translation and interpretation); Art. 6 para. 3 lit. e ECHR. ↩
11. On the language of entries and supporting documents in the commercial register, see the Commercial Register Ordinance (HRegV) of 17 October 2007 (SR 221.411), in particular the provisions on supporting documents in a foreign language. To be verified. ↩

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