

English before Swiss courts

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

For a long time, a foreign company that brought a commercial dispute before a Swiss court had to conduct the proceedings in the official language of the canton and translate its evidence into German, French or Italian. This requirement was a disadvantage for Switzerland in the competition among dispute resolution venues, because large commercial contracts governed by Swiss law are often drafted in English and the documents of the dispute are mostly in English. Parties who chose Swiss law but wanted to litigate in English had to resort to arbitration. The first step towards change came in patent litigation.¹

The Federal Patent Court, which began its work in St. Gallen in 2012, has exclusive jurisdiction over civil actions concerning the validity and infringement of patents in Switzerland. Because patents in the life sciences are typically granted in English by the European Patent Office, the legislator allowed the court to use English in its proceedings. Under the Patent Court Act, English may be used in proceedings with the consent of the court and the parties, while the court issues its decisions in an official language. Its use in practice has made the court attractive for patent disputes involving the pharmaceutical groups of Basel and their competitors.²

The revision of the Civil Procedure Code, adopted by the Federal Assembly on 17 March 2023 and in force since 1 January 2025, extended the possibility of English proceedings to other civil disputes. The revised code allows the cantons to permit the use of English in proceedings before their courts if the parties agree. It also allows them to create international commercial courts or chambers for international commercial disputes in which English may be used. The cantons decide whether and how far they use these options, so that the availability of English proceedings depends on cantonal legislation.³

Several cantons have taken up these options or prepared legislation to do so. The Canton of Zurich has prepared the creation of a Zurich International Commercial Court, attached to its commercial court and conducting proceedings in English, with a start planned for about 2026 or 2027. The Canton of Geneva has also considered an international commercial chamber, while Bern and other cantons with commercial courts have examined the use of English. Basel-Stadt, which has no separate commercial court, has discussed whether to allow English proceedings at its civil court for international commercial disputes. The precise state of legislation in each canton changes rapidly and should be checked at the time of reading.⁴

The Federal Supreme Court remains bound by the official languages for its judgments. Since 2021, however, parties may file submissions in English in appeals against arbitral awards in international arbitration, which is a significant concession to the practice of arbitration. When a commercial case decided in English at a cantonal court reaches the Federal Supreme Court, the question arises whether English submissions are admissible there as well. The legislator has addressed this question only partly. Practice will show how the courts manage the transition between English proceedings at cantonal level and German, French or Italian proceedings at federal level.⁵

1 Notes

1. On the competition between dispute resolution venues and the efforts of Switzerland to strengthen its position, see the Federal Council's dispatch on the amendment of the Civil Procedure Code of 26 February 2020 (BBl 2020 2697). To be verified. ↩
2. Federal Act on the Federal Patent Court of 20 March 2009 (Patent Court Act, PatGG, SR 173.41), Art. 36 para. 3. The court began operating on 1 January 2012. To be verified. ↩
3. Amendment of the Swiss Civil Procedure Code of 17 March 2023 (AS 2023 491), in force since 1 January 2025, in particular the revised Art. 6 para. 4 lit. c and Art. 129 para. 2 ZPO. Status to be verified. ↩
4. On the Zurich International Commercial Court, see the proposal of the Zurich cantonal government and the debate in the cantonal parliament (Kantonsrat). On developments in Geneva, Bern and Basel-Stadt, see the respective cantonal legislative materials. Status to be verified. ↩

5. Art. 77 para. 2bis of the Federal Supreme Court Act (BGG), introduced with the revision of Chapter 12 of the Private International Law Act in force since 1 January 2021. On the language of appeals in civil cases conducted in English at cantonal level, see the literature on the 2025 revision of the ZPO. Status to be verified. ↩

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