

A court made for merchants: the origins of the Zurich Handelsgericht

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

The Zurich Commercial Court was established in 1866. Its hundred-and-fiftieth anniversary in 2016 was marked by a Festschrift edited by Alexander Brunner and Peter Nobel under the title *Handelsgericht Zürich 1866–2016: Zuständigkeit, Verfahren und Entwicklungen*, and by public commentary in the Zurich press.¹ The *Neue Zürcher Zeitung* described Zurich on that occasion as the first Swiss canton to create a court of this kind, with Bern, St. Gallen and Aargau following later.² The date matters for the history of the financial centre. The court came into being in the decade in which Zurich acquired the institutions that still define it: the Schweizerische Kreditanstalt had been founded in 1856, the Federal Polytechnic had opened its doors in 1855, and railway, textile and machine-building enterprises were drawing capital and credit into the city at a pace that the old civil courts, staffed by generalists and bound to slow written procedure, found hard to follow.

Zurich's substantive commercial law of the period was itself a recent creation. Between 1854 and 1856 Johann Caspar Bluntschli drafted for the canton a comprehensive codification of private law that regulated commercial matters without separating them from general civil law.³ The Commercial Court was the procedural counterpart of that choice. Zurich did not adopt a separate commercial code on the French or German model, yet it recognised that commercial disputes required judges who understood bills of exchange, partnership accounts, freight contracts and the customs of particular trades. The solution was a mixed bench, on which trained jurists sat together with merchants and industrialists elected for their practical knowledge. France had developed the purest form of lay commercial justice with the *tribunaux de commerce* of the *Code de commerce* of 1807, whose members were merchants elected by their peers.⁴ German states used the chamber for commercial matters within the ordinary regional court, a model that still survives in the *Kammer für Handelssachen*

with one professional judge and two honorary commercial judges.⁵ Zurich chose a middle path in which the professional element retained control of procedure while the lay element supplied commercial judgment.

The federal unification of the law of obligations in 1881, in force from 1883, removed the cantonal substantive basis on which the court had first operated but left its organisation untouched, because procedure and court organisation remained cantonal matters for more than a century afterwards.⁶ The Commercial Court therefore became the Zurich forum for disputes under the federal Code of Obligations between merchants registered in the commercial register. Its reputation grew with the city's role as a banking and insurance centre. The great Zurich insurers, whose history is told in Part E of this book, and the big banks described in Part G were regular litigants, both as claimants and as defendants, and many of the court's commercial judges were drawn from their ranks or from the audit firms that served them.

Two features of the early court have survived every reform. The first is its attachment to the Obergericht, the cantonal High Court. Throughout its history the Commercial Court has formed an organisational unit of the Obergericht, which supplies its presiding judges, its clerks and its premises, today at Hirschengraben 15 in the old town.⁷ The second is a culture of settlement. From its early years the court sought to bring the parties to an agreement before the evidentiary phase, and the instruction hearing with a settlement discussion led by a professional judge and a commercial judge remains its defining procedural moment. The NZZ reported on the anniversary that around seventy per cent of the court's proceedings ended in a settlement and that a similar proportion was completed within one year.⁸

For the financial centre the significance of this history is easily understated. The Commercial Court was designed for the merchants of Zurich. Yet the combination it created, which joins legal rigour to an understanding of commerce and adds a strong preference for negotiated outcomes, is precisely what international parties look for when they choose a forum. That explains why Zurich was able to claim, in the reform debates of the 2010s and 2020s, that it already possessed the core of an international commercial court and needed only to open it to foreign parties and to the English language.

1 Notes

1. Alexander Brunner and Peter Nobel (eds.), *Handelsgericht Zürich 1866–2016. Zuständigkeit, Verfahren und Entwicklungen*. Festschrift

zum 150. Jubiläum (Zurich: Schulthess, 2016), ISBN 978-3-7255-7526-8; bibliographic data and description as Festschrift for the 150th anniversary confirmed by LA W.CH, “Brunner Alexander / Nobel Peter (Hrsg.): Handelsgericht Zürich 1866–2016”, March 2017, <https://law.ch/lawnews/2017/03/brunner-alexander-nobel-peter-hrsg-handelsgericht-zuerich-1866-2016/>. The content of the volume was not consulted. ↩

2. Neue Zürcher Zeitung, “Schlichten und richten für die Wirtschaft” (150 Jahre Zürcher Handelsgericht), <https://www.nzz.ch/zuerich/150-jahre-zuercher-handelsgericht-schlichten-und-richten-fuer-die-wirtschaft-ld.132987>. The article also describes the mixed bench of professional and commercial judges and the court’s high settlement rate, discussed below. ↩
3. Bernhard Schaaf, “Handelsrecht”, Historisches Lexikon der Schweiz (HLS), <https://hls-dhs-dss.ch/textes/d/D9612.php>. The article notes that Bern had institutionalised a form of commercial jurisdiction as early as 1687 and that the federal Code of Obligations of 1881 entered into force in 1883. ↩
4. Lefebvre Dalloz, fiche thématique “Tribunal de commerce”, https://open.lefebvre-dalloz.fr/droit-affaires/fonds-commerce/tribunal-commerce_dz-oasis-001006, which states that the code de commerce de 1807 consecrated the tribunaux de commerce, composed of judges elected by their peers, the merchants themselves. The French tribunaux de commerce have since been renamed in part as tribunaux des activités économiques in an experimental reform; that development lies outside this chapter. ↩
5. Wikipedia (German), “Handelsgericht”, section on Germany, <https://de.wikipedia.org/wiki/Handelsgericht>, referring to §§ 93–114 of the German Courts Constitution Act (GVG). Cited for orientation. ↩
6. Federal Office of Justice, “Vereinheitlichung des Zivilprozessrechts”, <https://www.bj.admin.ch/de/vereinheitlichung-des-zivilprozessrechts>: the revised Art. 122 of the Federal Constitution, adopted in the justice reform approved by Parliament on 8 October 1999 and accepted by the people on 12 March 2000, forms the basis for the unification of civil procedure. The Civil Procedure Code entered into force on 1 January 2011 and replaced the 26 cantonal codes. ↩
7. Obergericht des Kantons Zürich, “Handelsgericht”, <https://www.gerichte-zh.ch/organisation/handelsgericht.html> (address and organisation). The attachment to the Obergericht is laid

A court made for merchants

down in § 38 para. 1 of the Zurich Act on the Organisation of the Courts and Authorities in Civil and Criminal Proceedings (GOG), as noted by LAW.CH, “Handelsgericht Zürich”, <https://law.ch/lawinfo/handelsgericht-handelsgerichte/handelsgericht-zurich/>. ↩

8. Neue Zürcher Zeitung, “Schlichten und richten für die Wirtschaft”, <https://www.nzz.ch/zuerich/150-jahre-zuercher-handelsgericht-schlichten-und-richten-fuer-die-wirtschaft-ld.132987>. The article also gives an annual caseload of around 900 matters with an aggregate value in dispute of roughly CHF 2 billion for the year preceding the anniversary. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/zurich-a-court-made-for-merchants-the-origins-of-the-zurich-handelsgericht