

Mediation and ombudsman schemes

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Mediation has a secure but modest place in Swiss dispute resolution. The CPC allows the parties to replace conciliation by mediation and permits the court to recommend mediation at any stage of the proceedings. An agreement reached in mediation may be approved by the court and then has the effect of a judgment.¹ In commercial practice the settlement culture of the Zurich Commercial Court absorbs much of the demand that would elsewhere flow to mediation, because the instruction hearing offers a judicially guided negotiation with a credible view of the likely outcome. Institutional mediation nevertheless grows. The Swiss Arbitration Centre registered ten new mediation cases in 2025, an increase of two thirds over the previous year.²

For disputes between financial service providers and their clients, the Financial Services Act has created a separate channel. Since 1 January 2020 every financial service provider serving clients in Switzerland must be affiliated with an ombudsman recognised by the Federal Department of Finance, with an exception for providers that serve only institutional and professional clients. The ombudsmen settle disputes about legal claims between clients and providers in mediation proceedings.³ The Swiss Banking Ombudsman, the oldest and best known of these bodies, describes itself as a neutral and free information and mediation office that seeks negotiated solutions acceptable to both parties and so avoids costly court proceedings.⁴ Because ombudsman proceedings end with a recommendation that binds neither side, the client keeps the right to bring the claim before the courts afterwards.⁵ For private clients with smaller claims against Zurich banks, this route is often the most efficient one available.

1 Notes

1. CPC, Arts. 213 (mediation instead of conciliation), 214 (court may recommend mediation at any time) and 217 (approval of the agreement, which then has the effect of a legally binding decision), as summarised in Obergericht des Kantons Zürich, “Ausführliches Merkblatt zur Mediation”, 2022, https://www.gerichte-zh.ch/fileadmin/user_upload/dokumente/themen/Zivilprozess/ausfuehrliches_Merkblatt_zur_Mediation.pdf. ↩
2. Swiss Arbitration Association, “Swiss Arbitration Centre – Annual Report 2025”, loc. cit. ↩
3. FINMA, “Ombudsmen for financial service providers”, <https://www.finma.ch/en/authorisation/ombudsmen-for-financial-service-providers/> (legal basis in Arts. 74 et seq. FinSA; compulsory affiliation since 1 January 2020; recognition by the Federal Department of Finance; guidance of the State Secretariat for International Finance of 9 November 2020 on providers serving only institutional and professional clients). ↩
4. Swiss Banking Ombudsman, homepage, <https://ombudsman.ch/en>. ↩
5. Niklaus Zaugg, “The New Swiss Financial Market Legislation – New Momentum for ADR?”, *juriste international* 4/2019, CMS, 1 March 2020, <https://cms.law/en/che/publication/the-new-swiss-financial-market-legislation-new-momentum-for-adr>: the Banking Ombudsman has no decision-making power and submits non-binding proposals, and the claimant may go to court afterwards (Arts. 74 et seq., in particular Art. 76 para. 2 FinSA). ↩

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