



ZICC, the Swiss gateway to cross-border disputes resolution

With English-language proceedings and international jurisdiction clauses, Switzerland could strengthen its position as a global hub

by flavio caci

There's a before and after quality to the recent revision of the Swiss Civil Code of procedure. In particular, two big dowels within such revision are capable of initiating a domino effect of new avenues. The first, quite a practical one, is the possibility for Cantonal Courts to hold proceedings in English. The second, a tad more articulate, is the opportunity for contracting parties of any nationality – one of them coming from outside of Switzerland – to specify in a jurisdiction clause that a particular Swiss cantonal commercial court should handle any disputes arising out of their contract, acting as an international entity.

The reason why the combination of these two elements carries a certain legal weight is because it finally flicks the switch on Switzerland internationalizing its commercial courts offering, allowing businesses from around the World to exploit the Country's tradition in dispute resolution.

BUILDING AN ALTERNATIVE

While the revision came into force on January 1st 2025, the project of a Swiss International Commercial Court holds on to deeper roots. Rolling back time for a moment, we do know that the Zurich Bar Association (ZAV) got to work on internationalizing the Zurich Commercial Court offering in 2018. "At the time, there was a sense of an increasing competition for the resolution of international commercial disputes in many countries", recalls **Peter Reichart**, partner at Wartmann Merker and a member of the ZAV. "This competition was not limited to arbitration, but was extending to litigation in state courts as well. There are initiatives all over the World to attract international disputes by establishing this kind of specialised international commercial courts, so there was a sense that Switzerland had to follow and establish its own international commercial court".



THE HIGHER COURT OF ZURICH, THE INTENDED LOCATION FOR HOSTING ZICC



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Peter Reichart

Now that the project has turned into concrete reality, in order to better understand its characteristics we need to first define what the court is not.

Clearing the field from any competition with arbitration as a whole is a fundamental step in this regard. Unlike international arbitral tribunals, commercial courts conduct proceedings based on national civil procedure rules in accordance with local usages. In other words, not only they do belong to different leagues, they're also playing a different sport, under different rules.

Being deeply rooted in the Swiss civil law tradition further defines the ZICC's nature as an alternative solution rather than a competitor. "One of the reasons why we think this project is interesting is precisely because it's an alternative

to the common law model. Dispute resolution in the civil law tradition is appealing to many parties both in and outside of Switzerland," explains **Anne Catherine Hahn**, partner at Wartmann Merker and a ZAV member. "The goal is to not turn it into a hybrid between litigation and arbitration. Arbitration has its resonator and will keep its established practices more common law-inspired, whereas for the Commercial Court, the idea to make it attractive is, in turn, keeping it quite close to what it is". Reichart agrees: "It's not the goal to form some sort of a state led arbitration".

BUILDING ON A STRONG FOUNDATION

The ZICC is set to operate within the historic Zurich Courthouse, a venue that has long been the home of the city's Commercial Court. This choice of location is more than a matter of convenience: it's a visual clue to the fact that the ZICC does not reinvent Swiss commercial litigation but rather expands its operational reach to the international playground. "The ZICC will build on an established tradition of efficient dispute resolution in the civil law tradition," says Hahn. "What is core to this offering is the quality and efficiency of the existing Commercial Court". That quality and efficiency holds on to certain key characteristics. First, how the proceedings are carried-on from the very beginning.

The Zurich Commercial Court, and therefore its international counterpart, holds settlement hearings right after the first exchange of written submissions - the typical time range being six to nine months after the commencement of proceedings. At this hearing, a delegation of the Court made out of one professional judge from the Zurich High Court as well as an industry expert acting as commercial judge, provides a preliminary assessment of the parties' legal positions, and consequently moderates settlement discussions. "They don't just ask the parties to settle," Reichart explains. "They offer a very deep analysis of the case. Based on that, they will initiate settlement discussions between the parties, and their success rate in reaching settlements at this early point is extremely high". Now, if you're a practitioner coming from a



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common law jurisdiction, this type of early involvement from judges may sound a bit unusual. On the other hand, for a business involved in a litigation case handled by the ZICC, cruising toward a fast resolution sounds perfect.

Moreover, another “business perk” of this configuration is the involvement of industry experts as part of the decision taking body. As a matter of fact, internationalising the court’s offering entails making the depth and expertise of Switzerland’s business ecosystem accessible to companies worldwide. “There is always that commercial perspective”, Hahn notes. “The industry experts cover really a broad range: manufacturing, automotive, mechanical engineering, electrical engineering, pharmaceuticals, then of course the financial

sector, banks and insurance.”

Thanks to this peculiar configuration, when a business chooses the ZICC, it automatically ends up embracing the wider geopolitical and economic context of Switzerland as a warrantee. In that sense, the Country’s reputation as a multilingual neutral country in the middle of Europe is a fundamental asset. “Switzerland has a lot of cross-border connections for any industry,” adds Hahn. “There is a high degree of comparative law and respect for foreign law, as well as respect for foreigners: people like to come here”.

BOOSTING EUROPE’S LEGAL INFRASTRUCTURE

With the Lugano Convention as a background, the ZICC’s decisions will be easily enforceable across all Member States of the European Union, as well as in Norway and Iceland.

“Enforcing a judgement in Europe under the Lugano Convention or the Brussels Convention is far easier than to go through the works of enforcing an arbitral award under the New York Convention”, explains Peter Reichart. “This will be one of Switzerland’s contributions: making business practice easier in Europe and get disputes resolved quickly”.

2027 is around the corner, and is going to mark the ZICC’s official starting gun.

In that regard, the Country couldn’t choose a better moment to expand its European reach. A few weeks ago, Mario Draghi followed up on his 2024 report “on the future of European competitiveness”, addressing the European Parliament with a speech that went immediately viral. The former ECB President described a European economy in urgent need to be supported while facing a plethora of technological and geopolitical challenges. While aware that lawyers may play only a small role in such a large-scale economic initiative, Anne-Catherine Hahn sees the ZICC as a meaningful contribution: “I do really believe that making available a system where European companies can come to a resolution of business dispute within a short time, at reasonable cost, and with the involvement of industry experts, is a major element of this general idea. I really believe the quality of institutions is important”.