

# Client Briefing

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## English-language commercial litigation in Germany: The Commercial Courts Act one year on

On 01 April 2025, the “Act to Strengthen Germany as a Forum by Introducing Commercial Courts and English as the Language of the Courts in Civil Jurisdiction” (frequently referred to as the "Commercial Courts Act") came into force. The Act aims to strengthen Germany as a forum for national and international commercial disputes by introducing new procedural and institutional measures to make German courts more attractive compared to foreign courts and arbitration.

### I. Goal and content of the Commercial Courts Act

On 01 April 2025, Germany introduced the Commercial Courts Act with the explicit goal of strengthening the competitiveness of the German judiciary relative to both foreign courts and arbitration. The Act brought new procedural rules and institutional measures intended to contribute to the rapid and efficient resolution of international and national commercial disputes, particularly for high-value claims.

The law ([further information: Client Briefing April 2025](#)) authorised the German *Länder* (states) to establish specialised panels known as Commercial Chambers and Commercial Courts at the levels of the Regional Courts and Higher Regional Courts respectively. The *Länder* are empowered to pass statutory orders allowing for proceedings to be conducted entirely in English where the parties consent.

Proceedings before the Commercial Chambers and Commercial Courts also adopt a number of successful features of commercial arbitration, particularly a Case Management Conference to agree on the conduct of the proceedings and the possibility of a verbatim transcript of the hearing. The Act also improved protection of trade secrets. Together, these measures are intended to allow the State courts to hear commercial disputes with greater efficiency, putting them in a position to leverage their traditional advantage in terms of costs savings as opposed to arbitration and foreign courts while ensuring that the high quality of German state dispute resolution remains undiluted.

## II. Commercial Courts and Commercial Chambers

In line with the federal nature of Germany's judiciary, the *Länder* have considerable flexibility in implementing and establishing Commercial Courts and Commercial Chambers.

The general position under the Commercial Courts Act is that the *Länder* can establish Commercial Chambers at the Regional Court level. These are responsible for disputes involving amounts up to EUR 500,000. Many of these disputes would otherwise fall within the jurisdiction of the Divisions for Commercial Matters (*Kammern für Handelssachen, KfH*), which continue to exist alongside the Commercial Chambers. At the level of the Higher Regional Courts (traditionally Germany's second-level courts), each German *Land* may also establish one Commercial Court as a court of first instance for proceedings with a value in dispute exceeding EUR 500,000.

Depending on the implementation chosen by the *Land*, the new legislation results in two possible pathways of appeal:

- **Proceedings issued before a Commercial Chamber:** If a Commercial Chamber has jurisdiction in the first instance, the appeal is usually heard before the competent Commercial Court (if such a court exists in the relevant Higher Regional Court district), with a further appeal on points of law to the Federal Court of Justice lying under the general rules. This corresponds to the typical German court hierarchy in general civil matters.
- **Proceedings issued before a Commercial Court:** In cases where a Commercial Court (effectively a Higher Regional Court) has jurisdiction at first instance, an appeal on points of law may always be lodged with the Federal Court of Justice without requiring leave to appeal. This move to a two-tiered system reflects the greater specialisation of the Higher Regional Courts and is intended to reduce the duration of proceedings and thus also the legal costs, in line with the total absence of appeals from most arbitral rules. It also ensures that the panel hearing the case will consist of more experienced judges who have undergone

the strenuous internal vetting procedures to sit on the Higher Regional Court.

The jurisdiction of the Commercial Court in the first instance, as well as the jurisdiction of a Commercial Chamber, can be expressly or tacitly agreed by the parties or by uncontested admission in the Statement of Defence. There are no special formal requirements, though forum clauses are advisable (see eg Reichert/Groh, ZIP 2024, 2317). Certain Commercial Courts [also propose their own model clauses](#), similar to standard practice by arbitral institutions.

In principle, the Commercial Courts have jurisdiction in the first instance for civil disputes between businesses (with the exception of disputes in the field of intellectual property rights, copyright and claims under the Unfair Competition Act) with a value in dispute of EUR 500,000 or more, for disputes arising from or in connection with the acquisition of a company or shares in a company (post-M&A disputes) and for disputes between a company and members of its management body or supervisory board (though not for disputes on the validity of shareholder resolutions), provided that the parties have agreed to this. However, this list does not include disputes concerning defective resolutions under company law (which are particularly relevant in practice).

## III. Concrete implementation in the *Länder*

In line with the federal structure of the German judiciary, the *Länder* have considerable freedom in implementing and establishing Commercial Courts and Commercial Chambers, and therefore sometimes take different approaches in terms of content. In particular, the *Länder* can limit or extend the jurisdiction of Commercial Courts and Commercial Chambers to specific areas. They are free to make regulations regarding the local jurisdiction of Commercial Chambers. The *Länder* can also agree among themselves to establish a joint commercial court; however, the *Länder* have not made use of this option to date.

In practice, the present implementation in Baden-Württemberg, Bavaria, Hesse, Berlin, Hamburg, Bremen, Lower Saxony, North Rhine-Westphalia and Saxony shows varying approaches:

## 1. Commercial Chambers introduced only in some regions

Most *Länder* have established both a Commercial Court and Commercial Chambers. However, Bavaria, Bremen and Saxony do not have Commercial Chambers at the level of the Regional Courts, limiting themselves to a Commercial Court. North Rhine-Westphalia and Lower Saxony, in contrast, each have three Higher Regional Courts and have established a Commercial Court at one of these, together with at least one Commercial Chambers at the level of the Regional Courts in each Higher Regional Court district. For those Commercial Chambers located in other Higher Regional Court districts, this creates a risk that an appeal can go from a Commercial Chamber to a Higher Regional Court that does not have a Commercial Court, effectively neutralising many of the initial advantages of the Commercial Courts mechanism. These rules on jurisdiction lead to potentially confusing, levels of appeal; they also do not correspond to the model of the Commercial Courts Act, as it is not possible to appeal to the respective commercial court in all cases.

## 2. English as the language of proceedings

Under the Act, the *Länder* can allow proceedings in English on the condition that the parties either expressly agree or do not object. Once again, not all *Länder* have implemented this in the same way:

- **Language of proceedings either German or English:** Baden-Württemberg, Bavaria, Berlin, Hesse, Bremen, Lower Saxony
- **Differentiation between Commercial Court and Chambers:** In Hamburg and North Rhine-Westphalia, proceedings before the Commercial Court at the first instance may be conducted in German and English. However, first instance proceedings before the Commercial Chambers are conducted exclusively in English. Appeal and complaint proceedings before the Commercial Court at the

second instance are therefore also conducted exclusively in English.

## 3. Substantive Specialisations

The individual *Länder* have implemented various specialisations for the Commercial Courts and Commercial Chambers, often limiting their jurisdiction. The threshold for Commercial Courts is EUR 500,000 everywhere, whereas the threshold for Commercial Chambers varies depending on the *Land*.

- **Baden-Württemberg (Stuttgart):** Specialisation in company-law disputes and disputes arising from or in connection with the acquisition of a company or at least 3% of the shares, and disputes between the company and members of the management body or supervisory board.
  - Commercial Chambers threshold: from EUR 10,000
- **Bavaria (München):** Specialisation in disputes within the supply chain and disputes between companies and members of the management body or supervisory board.
- **Berlin:** Specialisation in civil litigation between businesses arising from construction and architectural contracts as well as engineering contracts insofar as they relate to construction work.
  - Commercial Chambers threshold: from EUR 10,000
- **Hesse (Frankfurt/Main):** Disputes in commercial law, company acquisitions/M&A, directors' and officers' liability and banking law except certain proceedings for which special jurisdiction exists, such as in construction law, insolvency law, securities law, and actions for defects in resolutions.
  - Commercial Chambers threshold: from EUR 500,000
- **Hamburg:**
  - Commercial Chambers: Disputes relating to commercial law, antitrust law, transport law, IT

law, insolvency law, post-M&A disputes and corporate law disputes.

- Threshold: from EUR 10,000
- Commercial Court: Disputes relating to construction law, banking and finance law, corporate law disputes and post-M&A disputes, insurance law, transport law, shipping law and traffic law.
- **Bremen:** Disputes between companies in the fields of shipping law, as well as in the fields of hydrogen, civil aviation technology and space technologies.
- **North Rhine-Westphalia:**
  - Commercial Chambers:
    - Regional Courts of Düsseldorf, Essen, Bielefeld, Cologne: M&A, corporate law, construction law and insurance law with a value in dispute exceeding EUR 10,000
    - Regional Courts of Essen and Bielefeld: renewable energies with a value in dispute exceeding EUR 100,000
    - Regional Court of Cologne: IT with a value in dispute exceeding EUR 100,000
    - Regional Court of Düsseldorf: statewide for M&A with a value in dispute exceeding EUR 500,000
  - Commercial Court (Düsseldorf): Construction and architectural matters, insurance law and post-M&A disputes.
- **Lower Saxony:**
  - Commercial Chambers (Hannover, Braunschweig, Oldenburg): Business disputes, disputes arising from or in connection with the acquisition of a company or shares in a company, disputes between the company and members of the management body or supervisory board.

- Threshold: from EUR 100,000

- Commercial Court (Celle): Construction disputes; commercial law proceedings including antitrust or energy law.
- **Saxony (Commercial Court Dresden):** Business disputes concerning real estate rental and lease agreements, banking transactions, company law and disputes between companies and members of the management body or supervisory board, certain civil disputes arising from banking transactions.

#### 4. Initial positive experience

The first ruling by a Commercial Court in Germany was handed down in Hamburg in November 2025 (Ref.: I CC 1/25). The subject matter was the reversal of a battery cell purchase. Two oral hearings were held, but the court was able to decide the dispute after only four months, an impressive feat in terms of rapid proceedings.

Hesse has had similar positive experiences, where around 60 cases totalling some EUR 450 million have already been brought before the Commercial Court and Commercial Chambers since they opened on 1 July 2025.

Baden-Württemberg in particular also draws on previous experience. Under the old law, Baden-Württemberg had set up highly specialised chambers for large and complex commercial disputes at the "Commercial Court" at the Regional Courts of Stuttgart and Mannheim, matched by an equally specialised appeal body at the Karlsruhe and Stuttgart Higher Regional Courts. Building on this pioneering role and the positive experiences gained at both locations, the new Commercial Court Baden-Württemberg and the Commercial Chambers in Stuttgart have now been adapted to the new legal possibilities offered by the Commercial Courts Act.

#### IV. Different models and a certain degree of fragmentation

In line with Germany's decentralised court structure, the current implementation of the Commercial Courts Act shows a wealth of different models and

approaches. While such diversity of approach allows for increased innovation, it does mean that until the dust settles and the most viable ideas become clear there is great divergence between the different *Länder* concerning their Commercial Courts and Commercial Chambers. Compared to other countries with a single specialised Commercial Court, this landscape is more difficult to navigate. In particular, the various levels of jurisdiction in North Rhine-Westphalia and Hesse, which include both the new Commercial Courts and traditional Higher Regional Court senates, risk surprises for parties who have not received adequate prior advice.

In the medium term, further consolidation between the Commercial Courts might be desirable. The legislator expressly intended to avoid an inflationary increase in the number of Commercial Courts and fragmentation of the Commercial Court architecture within the *Länder*. For this reason, each *Land* may only establish one Commercial Court. There is also the (as yet unused) option of establishing cross-*Länder* jurisdictions. This could lead to coordination between the *Länder*, particularly with regard to their respective specialisations. Although some *Länder* have established such specialisations, there is no general agreement between the *Länder* or cross-border agreements on jurisdiction. This slows the development of specialist expertise with the corresponding experience and resulting reputation.

For parties, on the other hand, competition between different judicial locations within Germany means that the new Commercial Chambers and, in particular, the new Commercial Courts as courts of first instance will see every case as an opportunity to demonstrate their competence in conducting proceedings and their efficiency in order to build up a correspondingly good reputation in the medium and long term. Combined with the strong staffing of Commercial Courts and Commercial Chambers, this means that, given the prestige of the “Commercial Court” project, parties can expect particularly proactive and expeditious proceedings and well-reasoned decisions.

## V. Substantive law a limiting factor

These welcome procedural reforms, however, would best be complemented by certain tweaks to substantive German law. In the vast majority of cases, the parties have an interest in aligning the forum and the applicable substantive law. German courts are usually less well equipped to interpret foreign law than the corresponding foreign courts would be. However, further reforms are needed in German substantive law to address perceived concerns about Germany as a venue for disputes. German terms and conditions control in particular is very strict by international standards and also applies between companies.

While the role of terms and conditions law in cross-border contracts is also developing, with a recent decision by the Federal Court of Justice that an exclusion of German law on general terms and conditions does not affect the validity of an arbitration clause (Federal Court of Justice, decision of 9 January 2025 – Ref.: I ZB 48/24; [further information: Client Briefing July 2025](#)), root and branch reform in this area would be preferable. The 2025 Coalition Agreement promises such reform, particularly a limitation on terms and conditions control in commercial transactions, but this has yet to be implemented. Ensuring that parties can rely on the wording of their contract would be a further step to address limiting factors that can currently sometimes render Germany less than ideal for certain contracts.

## VI. Conclusion

Overall, the Commercial Courts Act is a meaningful addition to Germany's strong position as a disputes location. The ability to bring cases directly before the Higher Regional Courts, with limited appeals and highly experienced judges, corresponds to businesses' need for fast, efficient dispute resolution at top quality. Moreover, the legislator's recognition that complex disputes increasingly require specialist dispute resolution bodies is a welcome departure from Germany's traditionally generalist judiciary, mirroring approaches such as the English High Court's Lists. The changes brought about by the Commercial Courts Act therefore also appear attractive in an international comparison, especially as the

German state judiciary rightly enjoys a good reputation internationally.

However, experience in other countries that have established similar Commercial Courts shows that even the best-equipped state civil courts will struggle to compete with international arbitration in the future. This is not least due to the significantly easier global recognition and enforceability of arbitral awards compared to state court judgments. While arbitration will therefore continue to be the first choice for parties to cross-border disputes in most cases, German Commercial Courts and Commercial Chambers are a genuine alternative to private arbitration tribunals particularly for the numerous domestic commercial disputes. The reduction in appeals and the professional expertise of the judges working in the Commercial Courts, which is sure to develop rapidly, are arguments in favour of concluding corresponding jurisdiction agreements.

The Commercial Courts Act, in conjunction with the planned reform of arbitration law ([further information: Client Briefing February 2026](#)), thus presents a convincing overall concept for Germany as a location for business disputes. Notably, the legislator has decided to link arbitration and the Commercial Courts by allowing the *Länder* to transfer arbitration-related proceedings, such as recognition and enforcement or challenge to awards, to the respective Commercial Courts. This harnesses the existing expertise at the Commercial Courts in commercial law disputes to support arbitration proceedings, allowing Commercial Courts and arbitration to complement each other. The combination of the regulations on Commercial Courts and the reform of arbitration law harnesses this synergy to further strengthen Germany's position as a leading jurisdiction in both state court proceedings and arbitration proceedings.

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