

GIBSON DUNN

International Arbitration Update

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Revolutionizing Commercial Disputes in Germany – The Launch of English-Language Commercial Courts and Chambers in Frankfurt

This significant step forward in the modernization of Germany's civil justice system seeks to position Frankfurt as a globally competitive forum for international commercial litigation.

A. Introduction

Effective July 1, 2025, Frankfurt established a Commercial Court at its Higher Regional Court (*Oberlandesgericht*) and Commercial Chambers at its Regional Court (*Landgericht*). These new permanent judicial bodies offer proceedings in English, are staffed by experienced commercial judges, and are specifically designed to handle complex, high-value, and cross-border disputes. This development marks a significant step forward in the modernization of Germany's civil justice system and seeks to position Frankfurt as a globally competitive forum for international commercial litigation.

B. The New Commercial Courts and Chambers in Frankfurt: Structure, Role, and Innovations

Frankfurt's new Commercial Court and Commercial Chambers form a specialized track within the German court system, distinct from general civil divisions. These adjudicatory panels are unlimited in duration and independent of internal court staffing rotations.

The judicial bodies at the Commercial Court (*Senates*) will normally comprise three professional judges. The Commercial Chambers, on the other hand, may be either staffed with one professional judge and two honorary judges (usually businesspeople or other individuals with comparable commercial expertise) if situated at the commercial division, or with three professional judges if situated at a civil division.

The Commercial Court's and Commercial Chambers' exclusive focus is on commercial litigation – particularly cases involving international parties and substantial claims. The aim is to provide a streamlined, business-oriented forum that promotes procedural efficiency within the public judicial system.

- The **Commercial Chambers**, located at the Regional Court level, serve as courts of first instance for commercial disputes that fall within their territorial and subject-matter jurisdiction.
- The **Commercial Court** may also serve as a court of first instance, provided the parties have expressly agreed to this in advance. This option allows parties to eliminate one level of proceedings, thereby expediting the ability to achieve a final and binding decision. Alternatively, the Commercial Court functions as the appellate body, reviewing decisions rendered by the Commercial Chamber.

I. Jurisdiction and Scope

To establish jurisdiction of the Commercial Courts or Chambers, the amount in dispute must exceed EUR 500,000 and relate to the following subject matters that will, in particular, cover post-M&A disputes:

- Disputes between businesses/business people arising from commercial transactions
- Conflicts related to corporate acquisitions or share purchases
- Disputes between companies and their management or supervisory boards

Excluded subject matters are:

- Capital investment law
- Construction and architectural contracts
- Medical treatment and insurance disputes
- Media, inheritance, and insolvency law

II. Appeals

Appeals from the Commercial Chambers in Frankfurt are heard by the Frankfurt Commercial Court. This arrangement allows parties to benefit from the expertise and procedural advantages of the specialized adjudicatory system even at the appellate level.

As a final review, appeals to the Federal Court of Justice (BGH) are available. Notably, no prior leave to appeal is required if the Commercial Court served as the court of first instance.

Appellate proceedings before the BGH may also be conducted in English, provided this is requested in the notice of appeal and the request is granted by the BGH. In the remaining cases, the BGH will conduct proceedings in German. In practice, however, this has limited impact. The BGH's review is confined strictly to questions of law — factual findings are not revisited — and submissions must be made by specially admitted BGH attorneys, who customarily argue in German. Given the narrow scope of review and the availability of high-quality translation support, the use of German at this stage is unlikely to pose a significant obstacle for international parties.

III. Key Features and Innovations

The Commercial Courts and Chambers introduce several procedural and institutional enhancements aimed at aligning German litigation with international best practices:

1. English-Language Proceedings

With the introduction of English-language proceedings, Germany is aligning itself with a well-established international trend. Jurisdictions such as Singapore, the Netherlands, Cyprus, Hong Kong, and Bahrain have all established specialized courts for international commercial litigation that offer proceedings in English. Germany now joins this group of modern, business-oriented forums, aiming to enhance its appeal for cross-border commercial disputes and ensure compatibility with global best practices.

2. Judicial Expertise and Specialization

Commercial matters are assigned to the Commercial Chambers and Commercial Courts to ensure they are handled by judges with relevant subject-matter expertise. These judges are selected for their background in commercial law and will continue to deepen their specialization through regular exposure to complex business disputes. This structure is designed to enhance consistency, procedural efficiency, and the overall quality of judicial decision-making.

3. Case Management Conferences

Several procedural enhancements introduced with the new Commercial Courts and Chambers are inspired by international arbitration: the implementation of Case Management Conferences is expected to facilitate early procedural planning, thereby assisting in a structured and efficient progression of the proceedings.

In addition, the implementation of verbatim transcripts will enhance transparency and precise documentation of hearings, thereby improving the traceability and accountability of the proceedings.

4. Bypassing the Regional Court Level

Parties may agree to initiate proceedings directly at the Commercial Court, skipping the Commercial Chambers at the Regional Court level. This streamlining will prevent lengthy proceedings, for example by avoiding a re-examination of the facts at the appellate level.

5. Videoconferences, enhanced Safeguards for Protection of Trade Secrets

In the context of the newly established Commercial Courts and Commercial Chambers, several additional developments in German civil procedure are worth noting:

- Court proceedings may be held via video conference, offering greater flexibility and accessibility
- Confidentiality: parties may exclude the public from negotiations on trade secrets and place the opposing party under a greater obligation to maintain confidentiality regarding the knowledge obtained during the proceeding.

IV. Practical Implications

To benefit from the procedural efficiencies and international accessibility of the new Commercial Courts and Chambers, parties would need to proactively reflect these options in their contracts. Specifically, forum selection clauses should designate the Frankfurt courts as the competent venue, particularly for high-value or cross-border commercial disputes. Where appropriate, it is also advisable to specify that the Commercial Court shall serve as the court of first instance to expedite proceedings. Additionally, to ensure that proceedings are conducted in English, contracts should include a clear agreement on English as the language of litigation.

V. Conclusion and Outlook

With the recent introduction of its Commercial Court and Commercial Chambers, Frankfurt seeks to reinforce its position as a premier venue for international commercial dispute resolution. These specialized courts seek to offer a modern, expert-led forum that combines the strengths of German procedural rigor with the expectations of international business actors.

With their dual-level structure, English-language capability, and business-focused approach, these courts should allow Frankfurt to compete with leading global litigation hubs. Businesses involved in complex or cross-border disputes should evaluate whether these new procedural options align with their litigation strategies and consider referencing them in future dispute resolution clauses.

The following Gibson Dunn lawyers prepared this update: Dirk Oberbracht, Finn Zeidler, Annekathrin Schmoll, Charlotte Popp, and Simon Stöhlker.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these issues. For additional information about how we may assist you, please contact the Gibson Dunn lawyer with whom you usually work, any leader or member of the firm's International Arbitration or Litigation practice groups, or the authors in Frankfurt:

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