

GO-AHEAD IN HESSE: NEW COURTS FOR COMMERCIAL DISPUTES WILL OPEN ON 1 JULY 2025 IN FRANKFURT

1 April 2025 saw the Act to Enhance Germany's Position as a Legal Hub (*Gesetz zur Stärkung des Justizstandortes Deutschland*) come into effect. The act introduces new options in civil proceedings, in particular provisions on the protection of trade secrets, and it allows Germany's individual federal states to set up a commercial court (at higher regional courts) and commercial chambers (at regional courts). This makes dispute resolution before state courts an even more attractive alternative. Hesse has now made use of this option with effect from 1 July 2025.

INTRODUCTION

The Act to Enhance Germany's Position as a Legal Hub is intended to make state jurisdiction more flexible, more confidential, more international and more efficient, as well as more attractive for parties who have previously opted for foreign or arbitration proceedings. The act allows for the establishment of specialised judicial panels and provides for new options in terms of how proceedings are conducted (most significant in practice are the provisions (i) on the protection of trade secrets [section 273a German Code of Civil Procedure (*Zivilprozessordnung*, "ZPO")], (ii) on the possibility of conducting proceedings in English [or also in German without the need to translate exhibits written in English], (iii) on an organisational meeting at which the parties can clarify the course of the proceedings with the court [comparable to the case management conference in arbitration proceedings, section 612 ZPO], (iv) on the preparation of a verbatim record [section 613 ZPO]).

A number of federal states have already established such courts, and Hesse has now followed suit by adopting the "Ordinance on the Introduction of a Commercial Court and Commercial Chambers" on 13 June 2025. This also corresponds to the agenda of the current governing parties in Hesse, who stated in their coalition agreement: *"Frankfurt am Main is one of the most important international financial centres in Europe. This means the city's position as a venue for dispute resolution needs to be enhanced in order to make the judiciary more competitive in comparison to arbitration tribunals. The focus here is on commercial and business disputes and more English-language proceedings."*

On this basis, two senates will now be established as a commercial court at Frankfurt am Main Higher Regional Court and, as commercial chambers, three

Key issues

- In a move to make Frankfurt an even more attractive legal hub, the Federal State of Hesse is setting up several new special judicial panels – the commercial court as part of the city's Higher Regional Court (*Oberlandesgericht*) and the commercial chambers at the Regional Court (*Landgericht*).
- From 1 July 2025 there will be a two-tier concept for commercial disputes with a value of more than EUR 500,000.
- These new judicial panels offer parties bringing cases before specialised courts the existing advantages of state jurisdiction alongside new benefits, including
 - choice of where to file proceedings initially, with the possibility of going straight to the Higher Regional Court
 - proceedings held in German and English
 - reasonable court costs based on a transparent court fee system
 - additional procedural rules
 - efficient processes for taking evidence
 - involvement of third parties in the proceedings
 - effective coercive instruments and legal enforcement

chambers for commercial matters and three ordinary civil chambers at Frankfurt am Main Regional Court. These panels will have jurisdiction for disputes with value of EUR 500,000 or more relating to

- civil disputes between entrepreneurs (except in the field of industrial property rights, copyright and claims under the Unfair Competition Act)
- 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

Further details are set out in the revised Judicial Jurisdiction Ordinance for the State of Hesse (section 4a for the commercial chambers and section 9a for the commercial court).

The structure of these new judicial panels is outlined below:

COMMERCIAL COURT

For the commercial court, two specialised senates will be set up at Frankfurt am Main Higher Regional Court as the court of first instance. Subject to the aforementioned conditions, a legal dispute can be brought before the commercial court in the first instance if the parties reached a corresponding agreement on jurisdiction in advance in accordance with section 119b (2) Judicature Act (*Gerichtsverfassungsgesetz*, "**GVG**") or consent to jurisdiction (including tacitly). The parties may also conduct the proceedings in English if they agree to this or if a defendant does not object (section 184a (3) sentence 1 GVG).

The first instance before the Higher Regional Court involves a streamlined appeal procedure: Pursuant to section 614 ZPO, first instance judgments handed down by the commercial court may (only) be appealed to the Federal Court of Justice (*Bundesgerichtshof*), which does not have to be specifically authorised to hear such appeal.

If the proceedings were conducted in English, this procedural language must be requested again in the appeal proceedings, and the Federal Court of Justice can reject this request or initially have the hearing conducted in English and then return to German during the course of the proceedings (see section 184b (1) sentence 1, (2) GVG).

COMMERCIAL CHAMBERS

In addition, Hesse is setting up a total of six commercial chambers at Frankfurt am Main Regional Court – three chambers for commercial matters and three ordinary civil chambers. The scope of their jurisdiction maps that of the commercial court but, unlike the situation with cases heard by the commercial court, no special application by a plaintiff is required. Instead, the legal dispute is automatically assigned to a commercial chamber – either the civil chamber or the commercial chamber, depending on the motions in question – provided the factual requirements for the jurisdiction of the commercial chambers are met.

As with cases heard before the commercial court, an agreement (explicit or implicit) is required only if the parties want proceedings conducted in English.

IMPLEMENTATION IN OTHER GERMAN STATES

German states have different approaches to implementing the Act to Enhance Germany's Position as a Legal Hub. There are different rules and a variety of lower thresholds for the value in dispute. This has created a bit of a patchwork, with major differences in the requirements for accessing these new judicial panels. It has been said that Germany and its federal states are passing up an opportunity to harmonise conditions for appeals to commercial courts and commercial chambers across all federal states. Different rules do not necessarily make these new options any less attractive. Any party opting for a jurisdiction clause specifying a particular higher regional court or regional court is not affected by the fact that different admission requirements apply at other courts, and any party filing an action without a jurisdiction clause and having their case assigned to a commercial chamber is not adversely affected by there being other regional courts with different admissibility rules.

SUMMARY AND LOOKING AHEAD

The launch of the new judicial panels in Hesse on 1 July 2025 means that companies need to familiarise themselves with the details of the new regulations and to assess whether they would prefer to resolve disputes before arbitration tribunals or state courts. The pros and cons of arbitration and state court proceedings are often discussed in detail and, depending on the individual standpoint, state proceedings and arbitration proceedings are each considered to have fundamental disadvantages. The combination of new procedural options and the establishment of the new panels makes the commercial court and the commercial chambers a dispute resolution alternative with particular benefits.

Another key point is that Frankfurt's Higher Regional and Regional Court's, given their size and the broad experience their judges have in dealing with commercial disputes, will be able to provide ideal appointments for the new panels, including in terms of proceedings being held in English (or even just allowing exhibits to be submitted in English without a translation being required).

There are compelling reasons for resolving disputes before an arbitration tribunal, for instance in cases where rulings handed down by state courts in any particular country are likely to be unenforceable or could only be enforced with considerable difficulty. But where this is not the case, the new commercial court and the new commercial chambers are good alternatives to what is currently on offer.

These new options therefore give Frankfurt a great boost as a venue for dispute resolution.

CONTACTS



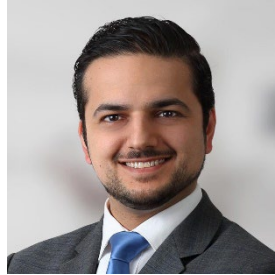
Sebastian Rakob
Partner

T +49 69 7199 4810
E sebastian.rakob
@cliffordchance.com



Peter Burckhardt
Senior counsel

T +49 69 7199 1495
E peter.burckhardt
@cliffordchance.com



Sunny Kapoor
Counsel

T + 49 69 7199 1438
E sunny.kapoor
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. If you would like to know more about the subjects covered in this publication or our services, please contact the authors or your usual contact at Clifford Chance.

www.cliffordchance.com

Clifford Chance, Junghofstr. 14,
60311 Frankfurt am Main, Germany

© Clifford Chance 2025

Clifford Chance Partnerschaft mit
beschränkter Berufshaftung von
Rechtsanwälten, Steuerberatern und Solicitors
· Registered office: Frankfurt am Main · AG
Frankfurt am Main PR 2669

Regulatory information pursuant to section 5
DDG and 2, 3 DL-InfoV:

www.cliffordchance.com/deuregulatory

Abu Dhabi • Amsterdam • Barcelona • Beijing •
Brussels • Bucharest** • Casablanca • Delhi •
Dubai • Düsseldorf • Frankfurt • Hong Kong •
Houston • Istanbul • London • Luxembourg •
Madrid • Milan • Munich • Newcastle • New
York • Paris • Perth • Prague** • Riyadh •
Rome • São Paulo • Shanghai • Singapore •
Sydney • Tokyo • Warsaw • Washington, D.C.

*AS&H Clifford Chance, a joint venture of
Clifford Chance LLP.

**Clifford Chance has entered into association
agreements with Clifford Chance Prague
Association SRO in Prague and Clifford
Chance Badea SPRL in Bucharest.

Clifford Chance has a best friends relationship
with Redcliffe Partners in Ukraine.