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Swiss Civil Procedure Code

(Civil Procedure Code, CPC)

of 19 December 2008 (Status as of 1 January 2022)

*The Federal Assembly of the Swiss Confederation,
based on Article 122 paragraph 1 of the Federal Constitution¹,
and having considered the Federal Council Dispatch of 28 June 2006²,
decrees:*

Part 1 General Provisions

Title 1 Subject Matter and Scope of Application

Art. 1 Subject matter

This Code governs the proceedings before the cantonal authorities for:

- a. contentious civil matters;
- b. court orders in non-contentious matters;
- c. court orders in matters of debt enforcement and bankruptcy law;
- d. arbitration.

Art. 2 International matters

The provisions of international treaties and of the Federal Act of 18 December 1987³ on Private International Law (PILA) are reserved.

Art. 3 Organisation of the courts and the conciliation authorities

The organisation of the courts and the conciliation authorities is in the competence of the cantons, unless the law provides otherwise.

AS **2010** 1739

¹ SR **101**

² BBI **2006** 7221

³ RS **291**

Title 2 Jurisdiction of the Courts and Recusal

Chapter 1 Material Jurisdiction and Functional Jurisdiction

Art. 4 Principles

¹ Cantonal law governs the material jurisdiction and functional jurisdiction of the courts, unless the law provides otherwise.

² If the material jurisdiction depends on the value in dispute, such value is calculated according to this Code.

Art. 5 Court of sole cantonal instance

¹ The cantonal law designates the court that has jurisdiction as sole cantonal instance for:

- a. disputes in connection with intellectual property rights, including disputes concerning the nullity, ownership, licensing, transfer and violation of such rights;
- b. cartel law disputes;
- c. disputes on the use of a business name;
- d. disputes under the Unfair Competition Act of 19 December 1986⁴ if the amount in dispute exceeds 30,000 francs or if the Confederation exercises its right to file an action;
- e. disputes under the Nuclear Energy Public Liability Act of 18 March 1983⁵;
- f. claims against the Confederation;
- g. the designation of a special comptroller by virtue of Article 697b of the Code of Obligations (CO)⁶;
- h.⁷ disputes under the Collective Investment Schemes Act of 23 June 2006⁸, the Financial Market Infrastructure Act of 19 June 2015⁹ and the Financial Institutions Act of 15 June 2018¹⁰;
- i.¹¹ disputes under the Coat of Arms Protection Act of 21 June 2013¹², the Federal Act of 25 March 1954¹³ on the Protection of the Emblem and Name of the Red Cross and the Federal Act of 15 December 1961¹⁴ on the Protection

⁴ SR **241**

⁵ SR **732.44**

⁶ SR **220**

⁷ Amended by Annex No II 4 of the Financial Institutes Act of 15 June 2018, in force since 1 Jan. 2020 (AS **2018** 5247, **2019** 4631; BBl **2015** 8901).

⁸ SR **951.31**

⁹ SR **958.1**

¹⁰ SR **954.1**

¹¹ Inserted by Annex 3 No II 3 of the Coat of Arms Protection Act of 21 June 2013, in force since 1 Jan. 2017 (AS **2015** 3679; BBl **2009** 8533).

¹² SR **232.21**

¹³ SR **232.22**

¹⁴ SR **232.23**

of the Names and Emblems of the United Nations Organization and other Intergovernmental Organisations.

² This court is also competent to order interim measures before an action is pending.

Art. 6 Commercial Court

¹ The cantons may designate a special court that has jurisdiction as sole cantonal instance for commercial disputes (Commercial Court).

² A dispute is considered commercial, if:

- a. it concerns the commercial activity of at least one party;
- b. the decision is subject to an objection in civil matters to the Federal Supreme Court; and
- c. the parties are registered in the Swiss Commercial Registry or in an equivalent foreign registry.

³ If only the defendant is registered in the Swiss Commercial Register or in an equivalent foreign register, but all the other conditions are met, the plaintiff may choose between the Commercial Court and the ordinary court.

⁴ The cantons may also assign to the Commercial Court:

- a. the disputes mentioned in Article 5 paragraph 1;
- b. the disputes relating to the law of commercial companies and cooperatives.

⁵ The Commercial Court is also competent to order interim measures before an action is pending.

Art. 7 Disputes concerning insurance supplementary to social health insurance

The cantons may designate a court that has jurisdiction as sole cantonal instance for disputes relating to insurance supplementary to social health insurance under the Federal Act of 18 March 1994¹⁵ on Health Insurance.

Art. 8 Direct action before the higher court

¹ If in a financial dispute the value in dispute is at least CHF 100,000, the plaintiff may, with the consent of the defendant, file its action directly before the higher court.

² This court decides as the sole cantonal instance.

Chapter 2 Territorial Jurisdiction

Section 1 General Provisions

Art. 9 Mandatory jurisdiction

¹ A place of jurisdiction is mandatory only if the law expressly so provides.

² Parties may not derogate from a mandatory place of jurisdiction.

Art. 10 Domicile and registered office

¹ Unless this Code provides otherwise, the following court has jurisdiction:

- a. for actions against a natural person: the court at the person's domicile;
- b. for actions against legal entities, public corporations and institutions as well as general partnerships and limited partnerships: the court at the location of their registered office;
- c. for actions against the Confederation: the Supreme Court of the Canton of Bern or the supreme court of the canton where the plaintiff's domicile, registered office or habitual residence is located;
- d. for actions against a canton: a court in the canton's capital.

² Domicile is determined in accordance with the Civil Code (CC)¹⁶. Article 24 CC does not apply.

Art. 11 Residence

¹ If the defendant has no domicile, the court at his or her habitual residence has jurisdiction.

² A habitual residence is the place where a person lives for a certain period of time, even if that period is limited from the outset.

³ If the defendant has no habitual residence, the court at his or her last known place of residence has jurisdiction.

Art. 12 Establishment

For actions arising out of the commercial or professional activity of an establishment or branch, the court at the defendant's domicile or registered office or at the location of the establishment has jurisdiction.

Art. 13 Interim measures

Unless the law provides otherwise, the following court has mandatory jurisdiction to order interim measures:

¹⁶ SR 210

- a. the court that has jurisdiction to decide the main action; or
- b. the court at the place where the measure is to be enforced.

Art. 14 Counterclaim

¹ A counterclaim may be filed in the court that has jurisdiction over the main action, provided the counterclaim has a factual connection with the main action.

² This place of jurisdiction subsists even if the main action is dismissed for whatever reason.

Art. 15 Joinder of parties and joinder of actions

¹ If an action is directed against two or more defendants, the court that has jurisdiction with regard to one defendant has jurisdiction with regard to all defendants unless jurisdiction is based solely on an agreement on jurisdiction.

² If two or more actions that are factual connected are raised against one and the same defendant, each court that has jurisdiction over any one of the actions has jurisdiction over all of them.

Art. 16 Third party action

The court that has jurisdiction to decide the main action also decides on the third party action.

Art. 17 Agreement on jurisdiction

¹ Unless the law provides otherwise, the parties may agree on which court has jurisdiction over an existing or future dispute arising from a particular legal relationship. Unless the agreement provides otherwise, the action may only be brought before agreed court.

² The agreement must be in writing or in any other form allowing it to be evidenced by text.

Art. 18 Acceptance by appearance

Unless the law provides otherwise, the seised court has jurisdiction if the defendant enters an appearance on the merits without objecting to the court's jurisdiction.

Art. 19 Non-contentious matters

Unless the law provides otherwise, the court or authority at the domicile or registered office of the applicant has mandatory jurisdiction over non-contentious matters.