IN-DEPTH

Labour And Employment Disputes

SWITZERLAND



LEXOLOGY

Labour and Employment Disputes

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In-Depth: Labour and Employment Disputes (formerly The Labour and Employment Disputes Review) provides an incisive examination of the most salient aspects of the regimes governing workplace disputes across myriad jurisdictions worldwide. With a focus on the most consequential recent developments in law and practice, it covers key topics such as procedural considerations, forums, common types of dispute and an outlook for the future.

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Introduction

Switzerland has a well-developed system of employment and labour law that aims to protect the rights of employees and ensure that employers abide by their legal obligations. For the private sector, the statutory framework for employment and labour law in Switzerland is governed by the Swiss Code of Obligations (CO), which sets out the basic legal principles for employment relationships, including the obligations of employers and employees and the rights and duties of both parties. For employees in the public sector, employment relationships are governed by federal, cantonal and sometimes even communal rules. Special regimes can also apply to employees of diplomatic missions, under certain conditions.

One of the fundamental principles of Swiss employment law is the freedom of contract, which means that the parties to an employment contract have considerable flexibility to negotiate the terms of their agreement. The CO sets out the general principles of employment contracts, stating minimum standards such as termination conditions, paid holidays, statutory leave and protection against unfair dismissal, which apply if the parties have not stipulated specific conditions for their contractual relations. Some provisions can only be modified to the advantage of the weaker party, namely the employee.

There is no minimum wage at the federal level, but several cantons have recently introduced a minimum wage. In addition, the Swiss Federal Supreme Court in a recent decision has clarified that – as long as this is in line with the applicable cantonal law – even municipalities may, in principle, introduce their own minimum wage regimes. Minimum wages can also result from collective bargaining agreements negotiated between employers' associations and trade unions for certain branches of the economy. These agreements often go beyond the minimum standards set by law and cover various aspects of the work relationship. If applicable, the minimum standards set by these agreements have the force of law and must be respected.

Further laws and regulations apply, such as the Federal Labour Act, which includes mandatory provisions for working hours and occupational safety and health, the Federal Act on the Leasing of Services and the Federal Act on Gender Equality.

The general tenor of Swiss employment and labour law is one of balance between the interests of employers and employees. The law not only provides a range of protections for employees, but it also recognises the importance of allowing employers to operate their businesses in a competitive environment. As a result, Swiss employment and labour law is generally viewed as fair and balanced.

In terms of dispute resolution, Switzerland has a well-established system of labour courts, which are responsible for hearing and adjudicating disputes between employers and employees. These courts are usually organised as parity jurisdictions, with both employer and employee representatives. Employers and employees are encouraged to resolve conflicts amicably, and the law provides for several mechanisms to facilitate this. In the event of a dispute, conciliation proceedings take place before the actual court proceedings with the aim of settling the dispute amicably.

Year in review

Post-contractual non-competition undertaking – compensation and termination

Federal Court Decision of 26 June 2025 (4A_5/2025/BGE 151 III 544)

An employee served as country manager for over 15 years at the Swiss subsidiary of an international group. His 2008 employment contract contained a two-year post-contractual non-compete clause with a compensation (*Karenzentschädigung*) of 50% of his most recent salary (excluding bonus). After the employee resigned, effective from 31 December 2021, the employer proposed a termination agreement addressing the non-compete undertaking, which the employee did not sign. On 28 September 2021, the employer notified the employee that it was terminating the non-compete together with the compensation.

Subsequently, the employee sued for the compensation. The first instance court dismissed the claim, holding the non-compete undertaking invalid for lack of a geographic limitation. The second instance court reversed the decision and upheld the employee's claim for compensation. The employer then appealed to the Federal Court.

On the validity of the non-compete, the Federal Court upheld the High Court's finding that the clause was geographically limited to Switzerland, even though it did not expressly name a territory. Since the employer was the Swiss country subsidiary and there was no evidence the employee had worked for any other group entity, the geographic scope could be determined through ordinary contractual interpretation and was sufficiently reflected in the written clause. The non-compete was therefore considered valid under article 340a(1) of the Code of Obligations (CO).

On the employer's unilateral termination, the Federal Court confirmed its long-standing precedent (BGE 78 II 230): a compensated post-contractual non-compete undertaking is a bilateral contract in which the compensation is the counterpart to the employee's abstention from competition. Without an explicit contractual provision, the employer cannot terminate the non-compete – with or without notice – nor free itself from the payment obligation by waiving the restraint. Despite contrary academic opinion, the Federal Court found no grounds for a change of precedent and expressly declined to do so.

On the offset of substitute income of the employee, the Federal Court held that such compensation is not damages but consideration for the abstract impairment of the employee's labour-market opportunities caused by the non-compete. It is therefore owed regardless of whether the employee earns income, seeks work, is actually hindered or changes profession. Neither actual earnings nor unemployment benefits are to be offset absent an explicit contractual agreement. A different result would apply only if the parties had structured the compensation as a guaranteed minimum wage.

In the result, the appeal was dismissed. This decision confirms that employers wishing to reserve the right to terminate a compensated post-contractual non-compete undertaking

or to offset substitute income must include express contractual provisions to that effect. It also clarifies that a non-compete clause need not expressly name a geographic territory, provided the scope is sufficiently determinable from the written agreement by ordinary interpretation.

Continued salary payment and addiction – causal chain prevails over concurrent fault

Federal Court Decision of 11 September 2025 (4A_221/2025)

An employee had worked since 2007 as a field service technician requiring a valid driving licence. On 26 September 2022, while heavily intoxicated (1.9 per mille), he caused a traffic accident leading to immediate confiscation of his licence and a criminal conviction. From 26 September 2022 until 31 January 2023, he was certified fully unfit for work due to a diagnosed alcohol dependency and underwent partial inpatient treatment, including an involuntary civil commitment.

On 25 January 2023, the parties concluded a termination agreement. The employee then sued for outstanding salary for the duration to 15 November 2022, claiming continued payment under article 324a(1) of the CO. Both the first instance labour court and the second instance court upheld the claim. The employer appealed to the Federal Court, arguing that the employee was simultaneously prevented from working by a blameworthy cause – the self-inflicted licence withdrawal – independent of his illness, and that a continued salary should therefore not apply.

The Federal Court dismissed the appeal. It confirmed that alcohol addiction is recognised as an illness and that where a person slides gradually into dependency, fault is in principle to be denied (citing BGE 145 V 215). The Federal Court then distinguished two constellations: where independent grounds for incapacity coexist (eg, an employee serving a prison sentence who falls ill during detention), the blameworthy ground remains the effective barrier and illness does not revive the salary claim. However, where the blameworthy circumstance is itself a product of the blameless illness – merely one link in the same causal chain – it does not constitute an independent ground of prevention. Here, without the advanced addiction, the accident, the involuntary commitment and the licence withdrawal would not have occurred. These were all different manifestations of the same underlying cause. The licence withdrawal was not an independent barrier to work but a further link in the causal chain. Drawing an analogy to an earlier case (BGE 133 III 185), the Federal Court held that the employee's incapacity was attributable to the addiction and its treatment. The requirements of article 324a(1) of the CO were met.

This decision clarifies that employers cannot avoid continued salary obligations by pointing to a self-inflicted secondary consequence (such as a licence withdrawal) if that consequence is itself causally rooted in the employee's blameless illness. The decisive test is whether the grounds of incapacity are truly independent or form part of one causal chain. Where addiction has developed gradually and the misconduct is a direct expression of the illness, the salary obligation under article 324a of the CO will typically be triggered.

Informal conclusion of an employment contract and identification of employer

Federal Court Decision of 26 May 2026 (4A_384/2025)

A nurse attended a job interview at a Geneva clinic in March 2022. The clinic's assistant subsequently emailed her a firm offer for an 80% position at a gross monthly salary of 4,560 Swiss francs, which the nurse accepted. It was orally agreed that she would start on 1 September 2022; at her request, the assistant issued an unsigned employment certificate on the clinic's letterhead and stamp. The nurse worked one day on 1 September 2022 but was not called in again, the clinic citing construction delays and insufficient workload. She repeatedly offered her services over the following weeks. On 19 November 2022, the assistant informed her that the "employment promise" was terminated so as to free her to find other work.

The nurse sued the clinic, the doctor personally and a company the doctor had founded for unpaid salary. The first-instance labour court held the doctor personally liable for gross wages of 18,240 Swiss francs (salary for September to December 2022). On appeal, the second-instance court reversed the finding on party identity, holding that the clinic – not the doctor – was the employer, and ordered it to pay the same amount plus default interest. The court confirmed that under article 320(1) of the CO an employment contract requires no particular form and can be concluded by email exchange or implied conduct. The totality of the circumstances – a firm offer with specific terms, acceptance, a fixed start date, communication through the clinic's infrastructure and actual work on the agreed start date – established a valid employment contract despite the absence of a signed document. On employer identity, the court applied the principle of good faith: since the interview, emails, employment certificate and first working day all involved the clinic's premises and branding, the nurse was entitled to assume she had been engaged by the clinic. The doctor's individual signatory authority for the clinic meant his actions could be attributed to it. The lack of work due to construction delays fell within the employer's business risk and did not relieve it of the obligation to pay the salary. The contract was terminated as of 31 December 2022 (one-month notice period), entitling the nurse to four months' salary totalling 18,240 Swiss francs gross.

The clinic filed an appeal in civil matters with the Federal Court. The Court declared it inadmissible for lack of sufficient reasoning under the Federal Supreme Court Act: the clinic had merely repeated its arguments without demonstrating how the cantonal court's analysis violated federal law.

This decision illustrates that a binding employment contract can arise from an email exchange containing a firm offer and acceptance, even without a signed written agreement. Employers should clearly communicate during the recruitment process whether an offer is binding or whether the employment relationship will only come into effect upon execution of a written contract. Employment confirmation should only be issued by authorised persons using clearly identifiable business infrastructure to avoid disputes about the employer's identity. Where the employer fails to provide work despite the employee's availability, the business risk remains with the employer, who must continue to pay the salary.

Data protection – right of access to personal data contained in an internal workplace audit

Federal Court Decision of 16 June 2026 (4A_504/2025)

A professor had been employed since 1992 at a graduate institute in Geneva. Following a first extension until August 2022, the professor requested a second renewal of his contract until December 2023 to complete a research project. The institute's board of trustees informed the professor that no decision would be taken until the completion of an internal workplace climate audit of his department, entrusted to an external lawyer. The professor was interviewed as part of the audit, with questions directed at him personally, including how he had managed the department and his positions during his career. The lawyer-investigator guaranteed anonymity and confidentiality to all persons interviewed. The professor's contract was not renewed.

In November 2022, the professor requested a copy of the audit report. The institute's legal department refused, maintaining that no investigation had been opened against him and that the report contained third-party data protected by confidentiality. The professor then brought an action before the Geneva Labour Court seeking disclosure under the Federal Data Protection Act (FADP). The Labour Court ordered the institute to submit the report to the court confidentially, without showing it to the applicant, and ordered disclosure of Parts I, II, III and VI of the report but denied access to Parts IV and V. On appeal, the Geneva Court of Justice reduced the scope of the disclosure, limiting the professor's access to Part I (the investigator's mission), selected passages of Part VI (synthesis and conclusions) containing data identifying the professor personally, and the final conclusion.

The Federal Court upheld the appellate decision. On the substantive right of access (articles 25–26 of the FADP), the Court confirmed the cantonal court's approach. The professor was entitled to know the purpose of the data processing (Part I – the investigator's mission) and to access passages of the synthesis (Part VI) where he was identified or identifiable. However, he was not entitled to access Parts II and III (confidentiality measures and chronology), which did not contain his personal data. Most significantly, access to Parts IV (interview content) and V (analysis) was denied. Although these parts contained the professor's personal data alongside those of third parties, the interests of the persons interviewed, who had spoken under a guarantee of anonymity and confidentiality, were manifestly preponderant. In a small department of approximately 15 people, the professor, as a long-standing member and former director, would almost certainly have been able to identify the interviewees through cross-referencing, despite the redaction of their names. Disclosure would have constituted an unlawful infringement of the personality rights of the persons interviewed and would likely have further degraded the departmental climate. The Court held that the refusal to disclose Parts IV and V was the only proportionate measure available. The appeal was dismissed.

This decision provides important guidance on the interplay between the right of access to personal data (articles 25–26 of the FADP) and the protection of third-party interests in the context of internal workplace investigations. Employers commissioning confidential audits may rely on the confidentiality and anonymity guarantees given to interviewees to resist disclosure of interview content, particularly in small work environments where identification by cross-referencing is likely.

Termination of an apprenticeship agreement – lack of aptitude

Federal Court Decision of 19 May 2026 (4A_514/2025)

An employer hired an apprentice in February 2019 as a laboratory technician under an apprenticeship contract set to expire on 31 July 2022. From the outset, the employer provided close supervision and support, including regular progress meetings. By September 2019, the apprentice was performing below the general average and the class average in the core technical subjects essential to the apprenticeship, achieving a passing overall average only thanks to better results in secondary subjects.

At the end of October 2019, owing to these insufficient theoretical and practical results, the employer extended the probationary period by three months until 26 February 2020, with approval from the cantonal authority. The apprentice was expressly warned that her shortcomings could lead to termination. Between November 2019 and February 2020, the employer introduced further support measures, including tutoring and weekly coaching sessions. No improvement was observed. In January 2020, the employer set specific objectives to be met by the end of the extended probation. The mid-term report of February 2020 recorded an overall average of 4.0 (out of 6.0), with below-average marks in the subjects indispensable for chemistry laboratory work. From March 2020, the apprentice was absent from the workplace because her father was deemed at risk from the covid-19 virus. Despite mock exams conducted during this period, her results remained insufficient, including a mark of 1 (out of 6.0) in a core technical subject.

Between late April and early May 2020, the employer learned of the grade of 1. Concluding that the apprenticeship was destined to fail, given both the persistent academic shortcomings and the apprentice's ongoing difficulties with elementary laboratory procedures involving hazardous substances, the employer took several steps before acting: contacting the apprenticeship commissioner, the school dean, the Cantonal authorities and an apprenticeship adviser. On 19 May 2020, the employer terminated the contract by telephone, confirming the dismissal in writing on 25 May 2020 with effect on 30 June 2020. The apprentice was released from the obligation to work and received one month's additional salary.

The apprentice sued for damages, arguing the dismissal was unjustified because she had not received a prior formal warning and because the employer had waited too long after the relevant shortcomings came to light.

The District Court and the Cantonal Court both dismissed the claim, finding that a just cause for termination existed under article 346(2)(b) of the CO. The Federal Court confirmed. On the requirement of a prior warning, the Court held that the issue was not one of fault or misconduct that could be remedied by a warning; rather, the apprentice lacked the intellectual aptitudes indispensable for the training (article 346(2)(b) of the CO), making the question of fault irrelevant. In any event, the apprentice had been repeatedly informed of her insufficient performance and expressly warned during the extended probation that her contract could be terminated. On timeliness, the Court clarified the distinction between the "immediate effect" of the termination (absence of notice) and the duty to act "without delay" once the relevant facts are known. It held that the employer had acted diligently by taking the time to verify the apprentice's situation with the school, the cantonal authority and professional advisers before notifying the dismissal. Given that the apprenticeship contract is a fixed-term contract terminable only for just cause, a degree of

flexibility in assessing timeliness is warranted in the interest of the apprentice. The Court further noted that where the grounds for termination, such as insufficient learning capacity, become apparent gradually over time, the timeliness requirement may be applied more flexibly than in cases involving specific isolated acts of misconduct under article 337 of the CO. The appeal was dismissed.

This decision confirms that just cause for terminating an apprenticeship contract may exist where the apprentice simply lacks the necessary aptitudes, without any fault being required. Employers are expected to provide support, communicate shortcomings clearly and consult relevant authorities, but are not obliged to issue a formal warning where the deficiencies are structural rather than behavioural.

Integration of a collective bargaining agreement into an individual employment agreement

Federal Court Decision of 24 April 2026 (4A_323/2025)

A foundation was a member of an employers' association that was a party to the Collective Bargaining Agreement for the Parapublic Social Sector (CBA). From 1 July 2016, the foundation employed a "night watchwoman". The successive employment contracts signed by the parties contained explicit references to the CBA for specific matters (probation, notice period, 13th-month salary, holidays) and a general clause stating that the employment relationship was subject to the CBA and that the employee, by signing, agreed to submit to it.

Article 3.7 of the CBA provided for night-work supplements, including a time compensation of 20% for hours worked between 8pm and 6am and a 5 Swiss francs per hour indemnity. Article 9.3 of the CBA, as amended with effect from 1 January 2017, brought "night watchwoman" within the scope of the CBA and, in particular, of article 3.7, unless the parties had renegotiated the status applicable to night staff.

Shortly before this amendment took effect, the cantonal government indicated that it could not fund the full application of article 3.7 to "night watchwoman" and proposed that they receive the 5 Swiss francs indemnity only when active during the night. On 13 December 2016, the joint committee (JC), namely a body constituted by the CBA parties to oversee compliance, adopted this proposal in a note, characterising it as a derogation from the CBA. The employer's association communicated this decision to its member institutions.

The employee claimed the full 5 Swiss francs per hour supplement for all night hours worked between January 2017 and September 2021, totalling 15,112.65 Swiss francs. The Labour Court awarded the full amount. On appeal, the Cantonal Court largely upheld this decision. The Federal Court confirmed.

On the incorporation of the CBA, the Court held that the general clause in the employment contracts, stating that the relationship was "subject to" the CBA, constituted a global reference incorporating all provisions of the CBA into the individual contract (indirect effect). This conclusion was supported by other evidence of the parties' subjective intent: the employee's payslips showed deductions for the JC, and a formal warning issued by the employer in January 2022 cited a CBA provision not expressly mentioned in the individual contract. The employer's argument that the contract's express salary provisions should

prevail over the CBA was rejected: no restrictive wording (such as "in addition" or "to the extent not covered by this contract") limited the scope of the general reference.

On the validity of the JC's derogation, the Court held that under article 356c(1) of the CO, only the contracting parties to the CBA have the authority to modify it. Article 7.2(1) of the CBA reserved the power to amend the CBA to the contracting parties, while the JC's competence was limited to modifying the annexes (article 7.2(2)). The JC's note of 13 December 2016 was not a valid amendment of the CBA: several signatory associations were not represented at the JC session, and the formal requirements for modifying the CBA were not met. The note represented at most an intermediate step in a process that was never completed. Nor could the employer's argument of abuse of right succeed: the employee had not personally adopted contradictory behaviour, and an employee's delay in asserting claims during the employment relationship cannot readily be characterised as an abuse of right. The appeal was dismissed.

This decision underscores that a general reference to a CBA in an individual employment contract incorporates the entirety of its provisions, unless restrictive language clearly limits the scope. It also confirms that a joint committee tasked with overseeing compliance cannot validly amend the substantive provisions of a CBA in lieu of the contracting parties.

Variable compensation – gap-filling where agreed performance parameters were never finalised

Federal Court Decision of 26 March 2026 (4A_579/2025)

An employee was initially hired on 1 June 2018 as a salesman at a car dealership. Effective from 1 September 2018, he was promoted to workshop and aftersales operations manager under an amended contract. The amended contract provided for:

- a fixed monthly salary of 8,500 Swiss francs, rising in annual steps to 9,250 Swiss francs and then 10,000 Swiss francs;
- a lump-sum bonus of 5,000 Swiss francs gross for the period ending on 31 December 2018, with a note that no entitlement to an annual payment existed; and
- a variable compensation from 1 January 2019 onwards, the "performance, amount, and form" of which were to be "defined according to agreed parameters, following the finalisation of the outstanding target agreements".

The contract further stated that summary dismissal for cause would extinguish the entitlement for the corresponding year.

The performance parameters were never finalised. According to a management meeting protocol of 28 March 2019, it was undisputed that the variable compensation would apply, and the parties identified a mix of criteria: budget achievement, employee development or targets, cost and margin development, and the employee's personal goals. However, the weighting and amounts were still to be verified. Because of construction delays affecting operations, the parties agreed on a transitional flat-rate payment "analogous to 2018" for the first half of 2019, amounting to 7,500 Swiss francs, while the parameter-based variable compensation was to take effect from 1 July 2019. In practice, the parameters were never defined, and the employee resigned on 13 May 2020, effective on 31 August 2020.

The employee sued for the variable compensation and overtime. The District Court awarded 7,500 Swiss francs for the first half of 2019 but denied compensation for the period from July 2019 onward, reasoning that the parameters had never been set. On appeal, the Cantonal High Court reversed in part, awarding the full 25,000 swiss francs claimed. It held that the variable compensation was a variable salary component, not a gratification, and that the failure to finalise the parameters created a contractual gap that had to be filled.

The Federal Court upheld this decision. On the classification of the variable compensation, the Court confirmed that three categories must be distinguished:

- variable salary, where the bonus is determined or determinable on the basis of objective criteria;
- gratification to which the employee is entitled in principle but the employer retains discretion over the amount; and
- gratification to which the employee has no entitlement.

In the present case, the wording of the amended contract was decisive: the variable compensation was to be determined according to "agreed parameters" after "finalisation of the outstanding target agreements", with no reservation of voluntariness on the employer's part. This language, together with the circumstances of the contract's conclusion, in which a commission-based variable component was replaced by a target-based variable component rather than by a discretionary bonus, pointed to a variable salary (category 1), not a gratification. The fact that some criteria (employee targets, personal goals) might involve a subjective element did not change this characterisation, since the other criteria (budget, margins) were clearly measurable and no overall discretion was reserved to the employer.

On the contractual gap, the Court agreed with the High Court that the amended contract was incomplete: it did not address what should happen if the parameters for calculating the variable compensation were never defined. Since no statutory default provisions applied, the court had to determine what the parties would have agreed, acting in good faith, had they considered this eventuality. The Court held that the most practical and equitable solution was to extend the transitional flat-rate arrangement already adopted for the first half of 2019 (1,250 Swiss francs per month) until the parameters were actually implemented, which never occurred. This approach was supported by the principle of continuity and by the parties' own conduct during the first transitional period. The employer's argument that the employee had not performed adequately was contradicted by a performance appraisal of 7 April 2020, in which the employer itself rated the employee 3 out of 4 ("good"). The Court held that this contemporaneous assessment was more credible than the employer's subsequent attempts to relativise it. The appeal was dismissed.

This decision confirms that where parties agree on a variable compensation component with objective criteria but fail to finalise the applicable parameters, the employer cannot escape liability by pointing to the absence of defined metrics. Courts will fill the contractual gap by reference to the hypothetical intent of reasonable and fair-minded parties, which may result in the continuation of an interim flat-rate arrangement. The decision also reaffirms the distinction between variable salary and gratification: the absence of any

voluntariness reservation and the parties' intent to replace one form of performance-based pay with another are strong indicators of a binding salary component.

Municipal minimum wage – validity of municipal ordinances

Federal Court Decisions of 12 May 2026 (2C_28/2025 and 2C_30/2025)

In 2023, the cities of Zurich and Winterthur each enacted municipal minimum wage ordinances (23,90 Swiss francs per hour and 23 Swiss francs per hour respectively), approved by popular vote with large majorities. The ordinances are intended to apply to employees performing work on the territory of the respective city, with exceptions for apprentices, trainees, family members in family businesses and other categories. Neither ordinance had been brought into force at the time of the proceedings. Employer associations challenged both ordinances through abstract judicial review. The Administrative Court of the canton of Zurich annulled them in September 2024, holding that cantonal law left no room for municipal minimum wage legislation. The cities appealed to the Federal Court.

The Federal Court reversed the Administrative Court and upheld both ordinances. It held that the Zurich Cantonal Constitution (KV/ZH) does not contain a constitutional reservation (*Verfassungsvorbehalt*): the catalogue of public tasks in the KV/ZH is not exhaustive, and new public tasks can be assumed without an explicit constitutional basis. The Court found that specific provisions of the KV/ZH collectively establish a very far-reaching municipal autonomy, and that both cities can combat in-work poverty at least as effectively as the canton due to their familiarity with local conditions. Crucially, article 111 of the KV/ZH (social welfare) and the Cantonal Social Welfare Act (SHG/ZH) do not preclude municipal minimum wages: social welfare and minimum wages are complementary instruments with different objectives – the minimum wage addresses the employment relationship and seeks to prevent reliance on social welfare. Finally, the Federal Court noted that the municipal ordinances are consistent with the social objective of article 41(1)(d) of the Federal Constitution (read with article 19 of the KV/ZH), which tasks all levels of government – including municipalities – with striving to ensure that persons capable of working can earn their livelihood under adequate conditions.

The annulled ordinances are revived. It remains for the city councils of Zurich and Winterthur to bring them into force. The city of Zurich has announced that implementation work has been resumed. The decisions confirm that not only cantons but also municipalities in the canton of Zurich may – under the conditions of the cantonal constitution – enact minimum wage rules as a social-policy measure to combat in-work poverty. The relationship between municipal minimum wages and generally binding collective bargaining agreements remains unresolved at the federal legislative level.

Procedure

As in any civil dispute in Switzerland, with a few exceptions, in the event of a dispute between an employee and an employer subject to private law, the claimant must first refer to the conciliation authority. According to the Swiss Civil Procedure Code (CPC), the

cantons are responsible for the organisation of the courts and the conciliation authorities, which explains why the organisation of the latter varies greatly from one canton to another.

In the case of private labour disputes, the CPC provides for two alternative forums: the court of the defendant's domicile or registered office, or the court of the place where the employee works. Notably, according to the case law of the Swiss Federal Court, most labour law disputes cannot be submitted to arbitration. Therefore, even if an arbitration agreement is concluded, the ordinary courts in general cannot decline jurisdiction if a dispute is referred to them.

The conciliation authority, which is sometimes a joint body, hears the parties and tries to promote an amicable settlement. If no solution to the dispute is found on this occasion – bearing in mind that the conciliation authority may also reconvene the case to give the parties time to negotiate further – an authorisation to proceed is issued to the claimant, allowing them to proceed before the court with jurisdiction on the merits within three months.

Litigation with a value in dispute of up to 30,000 Swiss francs is subject to a simplified procedure, the aim of which is to achieve a rapid investigation and decision of the case. In this case, the formal requirements for the application to the court are reduced. In particular, a written statement of the grounds for the claim (reasoning) is not required, which facilitates access to the court for individuals who are not assisted by a lawyer. The simplified procedure also applies regardless of the amount in dispute to claims based on the Federal Act on Gender Equality. In the other cases, the ordinary procedure applies.

The defendant has the opportunity to raise counterclaims against the claimant in the proceedings, provided the same procedural rules apply to both claim and counterclaim.

The Swiss courts charge court fees for these proceedings. However, the CPC provides for a fee exemption for employment disputes with a value in dispute of up to 30,000 Swiss francs or based on the Federal Act on Gender Equality. If these exceptions are not met, costs are generally charged in proportion to the value in dispute, according to a tariff fixed at the cantonal level. Costs may also be awarded to the successful party to compensate for its legal fees, although this will often not cover the full amount of those fees. Many cantons provide for more extensive fee exemptions, which can potentially determine the choice of forum for the action.

The language of the proceedings is determined by the canton, and can be German, French, Italian or Romansh. This means that if evidence documents are written in English, they will generally have to be translated to be used in the proceedings, unless the court accepts them just in English. Since 1 January 2025, cantonal law can provide that, upon mutual request of both parties, international commercial disputes may be litigated in English. The canton of Bern launched its International Commercial Court in May 2026, becoming the first canton to offer full English-language proceedings. The canton of Zurich is expected to follow with the Zurich International Commercial Court in 2027, with the relevant cantonal legislation currently undergoing parliamentary debate. Further initiatives are under consideration in other cantons, notably Geneva.

In practice, despite the application of the simplified procedure, proceedings in front of the labour courts often last at least one year from the filing of the request for conciliation, and often much longer until a decision is rendered by the first instance authority. This is mainly due to the fact that labour law disputes often involve the hearing of numerous witnesses

(eg, superiors and colleagues), which slows down the investigation of the case. Given the large number of proceedings in the court's list, it is often difficult to quickly reconvene a hearing when the witnesses are excused.

Notably, specific provisions apply if the dispute concerns claims based on the Unfair Competition Act. Similarly, disputes between a public official and a state authority (whose legal relationship is governed by public law) are subject to separate procedural rules. Collective bargaining agreements may also contain special provisions for dispute resolution, for example containing negotiation and mediation clauses or referring disputes to bodies other than the ordinary courts.

Decisions rendered by the first instance courts can be challenged at second instance before an appellate court located in the same canton that is empowered to review both the fact and the law. Decisions of the appellate court may be appealed to the Federal Court under certain conditions. The latter, however, has a power limited to deciding on matters of the law or the arbitrary finding of facts in the case.

Types of employment disputes

In Switzerland, there is a distinction between the types of employment disputes that arise according to the type of claimant. Claims brought forward by employees usually revolve around the following:

- termination: claims regarding abusive dismissal or the violation of a consensual mutual termination agreement; and disputes regarding the issuing of documents by the employer at the end of the employment relationship (such as reference letters), among other issues;
- bonus and compensation (including payment of vacation and overtime); and
- employee personality protection (eg, discrimination, mobbing and other types of harassment in the workplace) and data protection.

Conversely, claims brought forward by employers mainly concern the breach of contractual duties by the employee (eg, duty of loyalty and duty of care) or the breach of a non-competition or confidentiality clause.

The Code of Obligations (CO) contains a chapter on protection against termination, which sets out a list of circumstances under which a termination is deemed to be abusive. The list is not exhaustive, however, and these provisions have thus given rise to an abundance of case law. Except for cases of gender discrimination, in the private sector, the law does not provide for a right to reinstatement, which means that even if the dismissal is found to be wrongful, the claimant will only be entitled to monetary compensation. According to the law, such compensation is capped to a maximum of six months' salary. There is also a large body of case law relating to the determination of the amount of these compensation payments.

In cases of dispute, the courts will examine whether the contractual stipulations between the parties or, in the absence of specific agreements, whether the legal provisions providing for the minimum framework have been complied with. As the burden of proof usually rests with the claimant, it is in the claimant's interest to provide as much evidence as possible in

written form. However, if the employer is the defendant, depending on the subject matter of dispute, it has a duty to collaborate and to provide information that the employee would otherwise not have in their possession (eg, record of hours worked and annual turnover allowing the calculation of a possible bonus).

As a general rule, all claims that arise from the employment relationship fall due when such relationship ends. Note also that Swiss substantive law provides for certain time limits for claimants to proceed, failing which their claims will lapse. A claim for compensation for abusive termination must be initiated within 180 days of the end of the employment relationship; other claims become time-barred after five or 10 years, depending on the nature of the claim. The CO further provides that the employee may not waive the protection afforded by mandatory provisions of the law or that has arisen from a collective labour agreement during the term of the employment relationship and during the month following the end of the contract.

Unsurprisingly, in practice most disputes materialise at the time of termination of the contract, which is why there is an extensive amount of case law on this subject. In some cases, only a part of the claim remains in dispute at the stage of the proceedings before the courts. The nature of the contractual relationship should always be analysed first, as the legal protections apply only to parties to an employment contract and not if their relationship falls under another type of contract (eg, a simple mandate agreement).

Outlook and conclusions

The Swiss labour law landscape continues to evolve, including on two significant fronts: the regulation of teleworking and the strengthening of social partnership at company level in the context of the Switzerland-EU package (Bilaterals III).

The rapid expansion of teleworking since the covid-19 pandemic has prompted a legislative push to adapt the Labour Act to the realities of remote work. The process traces back to a parliamentary initiative filed on 1 December 2016 which argued that the Labour Act insufficiently accounted for the needs of teleworkers who could largely set their own working hours. After several extensions, the Committee for Economic Affairs and Taxation of the National Council published its report on 18 February 2025, presenting a preliminary draft aimed at regulating teleworking and introducing greater flexibility in working hours through amendments to the Labour Act. On 21 May 2025, the Federal Council broadly welcomed the proposed new teleworking provisions as a necessary response to the consequences of digital transformation.

A key element of the reform concerns the extension of permissible working hours for teleworkers. Under the proposed amendments, teleworkers who can independently determine a significant portion of their working schedule would be allowed to work during the full combined day-and-evening window, namely from 6am to 11pm, spanning 17 hours rather than the current 14-hour limit. The minimum daily rest period for these workers would also be reduced from 11 to nine hours, subject to maintaining an average of 11 hours over a four-week period. These teleworkers would further be permitted to interrupt their rest period to carry out urgent tasks, provided the total daily rest requirement is met. On 23 September 2025, the National Council accepted the preliminary draft as amended by the Federal Council. The dossier now lies with the Committee for Economic Affairs

and Taxation of the Council of States, and its further progress will be closely watched by employers and employees alike.

On a separate but equally significant front, the Switzerland-EU package known as Bilaterals III has brought the question of social partnership at company level to the forefront of domestic policy discussions. On 2 March 2026, Switzerland and the European Union signed a broad package of bilateral agreements designed to stabilise and further develop the bilateral approach that has governed Swiss-EU relations for more than 25 years. Negotiations were launched in March 2024, concluded in substance at the end of 2024, and the Federal Council adopted the dispatch to parliament on 13 March 2026. As part of the domestic accompanying measures negotiated alongside the package, the Federal Council, the cantons and social partners agreed in March 2025 on 14 measures to ensure that wage protection is effectively maintained. Thirteen of these measures were uncontested. However, "measure 14", which specifically concerns the strengthening of social partnership at company level, proved more contentious. On 11 February 2026, the Federal Council decided to adjust this measure following intensive discussions with social partners and in light of the results of the consultation process. Measure 14 specifically concerns the protection of elected employee representatives, members of joint commissions of employee benefits institutions, and members of national industry boards operating under a mandatory collective bargaining agreement. Employer organisations had expressed significant reservations about the measure during the consultation, while trade unions considered it integral to the overall wage protection package. The adjustments adopted by the Federal Council seek to address the concerns of both sides: on the one hand, they provide greater legal certainty for employers by classifying a dismissal pronounced before the end of the protection procedure as abusive rather than void; on the other hand, the prior notification procedure is established as a central element of the rule, with sanctions ranging from four to 10 months' salary for non-compliance. The Federal Council considers measure 14 indispensable to preserving the balance of the overall package and to meeting Switzerland's obligations towards the International Labour Organization. The Bilaterals III package now enters the parliamentary phase, where its ratification will be closely followed by employers and practitioners alike.



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