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Zivilprozessrecht

Diverging or Converging? Litigation Rates in Japan and Germany (1995–2023)

A Comparative Analysis of Trends and Determinants

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ABSTRACT

This paper compares litigation rates in Japan and Germany from 1995 to 2023 using a functional approach that includes various forms of civil dispute resolution. It confirms the persistently low litigation levels in Japan, while Germany, despite higher absolute rates, exhibits a noticeable decline across all types of proceedings. Temporary peaks, such as Japan's "litigation bubble" and Germany's diesel litigation, illustrate the impact of mass claims. The findings highlight the growing role of digitalisation, particularly in facilitating large-scale litigation through standardisation. By contrasting the two legal systems, the paper identifies both country-specific and parallel developments, contributing to the debate on whether declining litigation rates reflect reduced demand for courts or a shift toward alternative dispute resolution mechanisms.

Keywords Japan, Germany, Litigation Rates, Comparative Law, Functional Approach

A. Introduction

Japan is widely known for its comparatively low number of lawsuits among industrialized countries.[1] The issue first attracted international attention in 1963 through an influential essay by *Takeyoshi Kawashima*.[2] He presented extensive data showing that the Japanese engaged in relatively few lawsuits, even during periods of economic turmoil.[3] This observation sparked an enduring debate about its underlying causes. *Kawashima* attributed the low litigation rates primarily to cultural factors, emphasizing a societal preference for harmony and informal dispute resolution.[4] Conversely, later scholars such as *Ramseyer* and *Haley* challenged this view, arguing instead that institutional constraints and rational incentives offer a more convincing explanation.[5] As numerous as the theories on the causes of the phenomenon are, comprehensive figures have become rare in recent years. *Wollschläger*'s analysis covering a period until 1994[6] is still one of the most exhaustive ones and more recent publications tend to focus on specific aspects of the subject and thus offer selective data.[7] This paper seeks to address this gap by compiling and analysing comprehensive data on litigation rates for the period 1995–2023.

A comparison with Germany appears particularly instructive in this context. Traditionally characterized by comparatively high litigation rates, Germany represents a well-established counterpoint to Japan.[8] At the same time, recent developments indicate a noticeable decline in litigation, giving rise to a debate that increasingly mirrors the Japanese discussion.[9] This constellation allows for a more nuanced assessment of whether low litigation rates are the result of country-specific factors or part of a broader structural shift.

For both countries, the data provided in official statistics are compiled and subjected to a descriptive analysis. However, against the background of widely varying empirical findings on the subject,[10] it is important to carefully define the individual scope of the analysis. Furthermore, when dealing with different legal systems, one must set aside legal-dogmatic preconceptions, as these limit the understanding of the foreign legal system.[11] Both aspects will be addressed in an initial illustration of the scope and timing of analysis (B.) as well as a respective procedural framework for both nations (C.I.; D.I.).

Afterwards, the relevant figures will be presented and placed in the respective context of national singular

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[1] See, e.g. Bälz (2019), Streitbeilegung im japanischen Recht, p. 1; Ginsburg/Hoetker, JLS 2006, 31 (31).

[2] Kawashima (1963), Dispute Resolution in Contemporary Japan, in Von Mehren, Arthur Taylor (eds), Law in Japan – The Legal Order in a Changing Society, p. 41-72.

[3] Kawashima, p. 41-42; 60-72.

[4] Kawashima, p. 43-44.

[5] Haley, JJS 1978, 359 (381; 387); Ramseyer, JJS 1988, 111 (120).

[6] Wollschläger (1997), Historical Trends of Civil Litigation, in Japan, Arizona, Sweden, and Germany: Japanese Legal Culture in the Light of Judicial Statistics, in: Baum, Harald (ed.), Japan – Economic Success and Legal System, Berlin 1997, 89 (90).

[7] Colombo/Shimizu (2016), Oxford U Comparative L Forum 1, https://ouclf.law.ox.ac.uk/litigation-or-litigiousness-explaining-japans-litigation-bubble-2006-2010/ (accessed 26.04.2026).

[8] Wollschläger, p. 92; Bälz, p. 2-3.

[9] Meller-Hannich/Höland/Nöhre (2023), Abschlussbericht zum Forschungsvorhaben: Erforschung der Ursachen des Rückgangs der Eingangszahlen bei den Zivilgerichten p. 1.

[10] Bälz p. 2-3

[11] Zweigert/Kötz (1996), Einführung in die Rechtsvergleichung auf dem Gebiet des Privatrechts, 3rd ed., p. 34.

events (C.II.; D.II.). In a subsequent comparative analysis, initial insights will be gained from the directly contrasting analysis of both countries (E.). The purpose of this comparison is not only to confirm differences in litigation rates, but also to identify possible structural or societal factors influencing their development and to assess whether similar developments may be explained by comparable underlying causes despite institutional differences. This perspective may also contribute to the broader debate on the appropriate role of courts in modern dispute resolution systems.

B. Scope and timing of analysis

Comparing litigation rates requires an exact definition of what will be counted as litigation. Defining the term poses problems, as it is not a uniform phenomenon and thus there is no abstract definition which is generally agreed upon.[12] Simply put, litigation refers to the resolution of a conflict (therefore the necessity of at least two disagreeing parties) and the reliance on a judicial body (a court).[13] Accordingly, cases involving the state, such as criminal and administrative cases, will not be taken into account, as the subordinate relationship between a citizen and the state does not correspond to the idea of a conflict on equal terms. As a result, it is primarily ordinary civil cases that remain. However, in an international context, limiting the analysis to a numerical comparison of ordinary civil lawsuits before regular courts, as reflected in national statistics, would distort the results. Such an approach would ignore the substantive and procedural differences between the underlying legal systems.[14]

In his exhaustive analysis of the subject, *Wollschläger* addresses this problem by applying a functional approach which considers all kinds of civil proceedings involving judicial functions, regardless of their qualification as court cases under national law.[15] The relevant types of procedure in Germany and Japan will be respectively examined in a short procedural framework. They will then be presented separately in the national description in order to avoid a distorted representation of their respective impact and added afterwards for the comparison.

In order to select a reasonable time frame, various factors need to be taken into account. If the period is too short, there is a risk of capturing short-term peaks such as the 'litigation bubble' in Japan between 2006 and 2010.[16] A longer period, on the other hand, risks misrepresenting fundamental legal or political changes, like the German reunification.[17] This analysis will therefore focus on the period from 1995 to 2023, which is the earliest time when German statistics capture cases for all federal states[18] and includes sufficient time before the sharp rise of Japanese litigation rates in the early 21st century.[19]

C. Japan

I. Procedural framework

The judicial system in Japan is unified, which means that all types of cases (civil, criminal, administrative) are heard by District Courts and Summary Courts at first instance.[20] Among these, based on the definition given above, only the civil cases will be included.

They are conducted in a Summary Court if the amount in dispute is less than 1.4 million yen (approx. € 7,600), or by a District Court if it is higher.[21] An appeal is possible for a judgment from the Summary Court to the District Court or from the latter to the High Court.[22] It is therefore necessary to exclude the appeals filed at the District Courts from Summary Courts in order to prevent double counting.[23]

Unlike in Germany, civil cases already include labour disputes as they are treated in the same way as other civil disputes.[24] However, in 2004, a new judicial labour tribunal system was established, according to which members of the District Court are appointed to a panel consisting of one judge and two lay members when a petition is filed under the Act.[25] Against the background of the functional approach, these cases will be counted, since judicial functions are performed, as the panel includes a judge.

Furthermore, there are civil conciliation proceedings, which aim for a peaceful settlement of civil disputes.[26] These are court-annexed mediation proceedings, which are heard by a mediation committee composed of one professional judge and two lay persons.[27] They must be distinguished from other kinds of arbitration and mediation that are provided by administrative organs or private associations.[28] Applying the functional approach, only (general and family) conciliation will be counted.[29]

The sole exception of the unified court system are the family courts, which have exclusive jurisdiction over cases

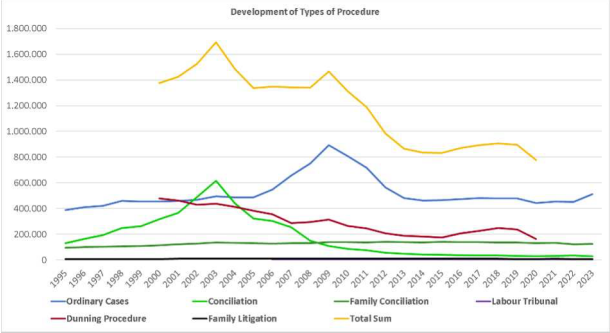
[12] Friedman, Annu. Rev. Sociol. 1989, 17 (17-18).
[13] Friedman, Annu. Rev. Sociol. 1989, 17 (17-18).
[14] Wollschläger, p. 95-96.
[15] Wollschläger, p. 96.
[16] Colombo/Shimizu, Oxford LF, after note 49.
[17] Wollschläger, p. 120.
[18] Destatis, SM-Series 10-2.1, available at https://www.destatis.de/DE/Service/Bibliothek/_publikationen-fachserienliste-10.html?nn=206136 (accessed 26.04.2026).
[19] See Section C.II.1.a.
[20] Nakajima (2014) Why is litigation density so low in Japan? And what are the factors that may have an impact on it?, in Schmiegelow/Schmiegelow (eds.) Institutional Competition between Common Law and Civil Law: Theory and Policy, 323 (325).
[21] Colombo/Shimizu, Oxford LF, after note 17.
[22] Colombo/Shimizu, Oxford LF, after note 17.
[23] Colombo/Shimizu, Oxford LF, after note 17.
[24] Yamakawa (2016), Japan, in: Ebisui/Cooney/ Fenwick (eds.): Resolving individual labour disputes: A comparative overview, 167, (171); Menne, JuS 2003, 26 (29).
[25] Yamakawa (2016), Japan, in: Ebisui/Cooney/ Fenwick (eds.): Resolving individual labour disputes: A comparative overview, 167, (171); Menne, JuS 2003, 26 (29).
[26] Supreme Court, Judicial System, p. 12, available at: https://www.courts.go.jp/english/vc-files/courts-en/file/2020_Courts_in_Japan.pdf (accessed 26.04.2026).
[27] Kakiuchi (2013), Regulation of Dispute Resolution in Japan: Alternative Dispute Resolution and its Background, in Steffek/Unberath (eds.) Regulating Dispute Resolution: ADR and Access to Justice at the crossroads, 269 (269; 271).
[28] Kakiuchi, p. 269.
[29] Wollschläger, p. 93.

involving domestic relations and juvenile delinquency.[30] Of these, only cases that are referred to as litigation cases in the statistics (as opposed to cooperation cases),[31] will be counted in order to meet the requirement of disagreeing parties.

Finally, dunning proceedings will be included, because even though the procedure is simplified, uncontested monetary claims must still be enforced through the courts.[32] However, there is a risk of double counting, because the objection of the debtor initiates an ordinary lawsuit, which is why these cases are subtracted from the number of newly received dunning proceedings.[33]

II. Development

The total number, including all types of civil procedure, has decreased by 43.46 % between 2000 and 2020. However, it shall be mentioned at this point already that this development is largely due to the decline in dunning proceedings. The following description of the development will be broken down by type of procedure in order to provide more detailed.



1. Ordinary civil procedure Between 1995 and 2023, the number of newly filed ordinary civil cases increased by 31.56% from 389,344 to 512,228 cases. As can be seen in figure 1, the numbers increased sharply from 2006, reaching a top in 2009, followed by an evenly sharp decline until 2015. Furthermore, the rather strong decrease in 2020 (-7.57%) as well as the increase in 2023 (+13.05%), are striking. Beyond that, there is a subtle annual increase of 1.41% on average during the whole period of 1995 to 2023.[34]

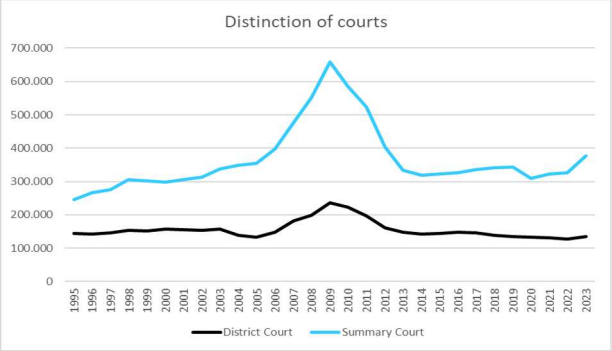
a) Litigation Bubble (2006-2010) The peak in 2009 can be attributed to a wave of lawsuits reclaiming overpaid consumer credits.[35] For many years it had been controversial – and therefore uncertain – under which circumstances and at what amount the borrower could reclaim excessive interest payments for loans.[36] In January 2006, the Supreme Court decided in favour of the borrowers that the payment of excess interest could not be considered 'voluntary' and therefore had to be paid back.[37] In 2010, the debate was finally ended, when the law was adapted in line with the decision of the court.[38] Against this background, the period which saw the peak was simply the limited phase when the incentive to bring claims related to this issue was maximised.[39] This interpretation of the numbers is supported by the fact that the number of cases, excluding the cases concerning overpaid interest in loans (kabarai), did not grow substantially (88,731 to 92,417 cases between 2006 and 2010).[40]

b) Covid-19 pandemic (2020) The sharp drop in 2020 and subsequent rise in figures seems comprehensible against the background of the Covid-19 crisis. In 2020, hearings were suspended between 7 April and 6 May and the courts did not start to return to normal business until 1 June 2020.[41] Thus, the pandemic necessarily reduced the number of new cases, which caused a backlog that could explain the rising figures afterwards. Furthermore, it is conceivable that the pandemic itself raised the incentive to litigate, as the legal problems it created had not been resolved in court before.

c) Distinction of courts Considering Summary Courts and District Courts separately, the numbers are strikingly parallel, as the maximum increase and decrease respectively occurred in 2007 and 2012. The nominal high point was likewise the year 2009 with respectively 235,508 (District Court) and 658,227 (Summary Court) cases. The overall increase of ordinary cases is entirely attributable to the development among the Summary Courts, whose numbers increased separately by 53.78%, whereas the District Courts even showed a small decline of -6.10% during this time.[42]

However, the decline at the District Courts is not consistent. After a steady increase in the first years of the period, the numbers dropped rather sharply in 2004. Notably, the movement was inversely mirrored by the Summary Courts, that saw a sharp rise in the same year. Therefore, it appears plausible that the drop is linked to the extension of the jurisdiction of the Summary Courts that came into force in 2004 (the threshold was raised from 900,000 yen to 1.4 million yen).[43] After the 'litigation bubble', the numbers at the District Courts, like at the Summary Courts, stabilised at a higher level than they had been before the rise and even started slightly increasing again. Therefore, it was not until 2016 that the decrease that eventually caused the figures to fall slightly below the level of 1995 actually started. As the movement in the subsequent years is largely distorted due to the Covid-19 pandemic, it is still unclear whether the overall decline indicates a general trend or is rather attributable to a single event.

[30] Supreme Court, Judicial System, p. 7.
[31] Statistical Bureau, Yearbook 2025, chapter 28-11 available at https://www.stat.go.jp/english/data/nenkan/74nenkan/1431-28.html (accessed 26.04.2026).
[32] Wollschläger, p. 96.
[33] Wollschläger, p. 97.
[34] Own calculations, based on: Supreme Court, Court Data Book 2024, available at https://www.courts.go.jp/vc-files/courts/2024/databook2024/db2024_all.pdf (accessed 26.04.2026).
[35] Bälz, p. 4.
[36] Colombo/Shimizu, Oxford LF, after note 19.
[37] Kozuka, ZJapanR, 81 (88).
[38] Colombo/Shimizu, Oxford LF, after note 19.
[39] Colombo/Shimizu, Oxford LF, after note 19.
[40] Supreme Court, Report on Speeding up Trials, p.3, available at https://www.courts.go.jp/vc-files/courts/2023/10_houkoku_3_minji.pdf10_houkoku_3_minji.pdf (accessed 26.04.2026).
[41] Rooney, DRI 2021, 5 (68).
[42] Rooney, DRI 2021, 5 (68).
[43] Nakajima, p. 327.



2. Family courts The number of cases classified as litigation at the Family Courts has been steadily increasing by 4.58% on average between 1995 and 2005. However, after a relatively stable period, it started to decline again from 2013 until 2019, when it fell below the value of the year 2000 for the first time. During 2020 and 2021, a similar pattern of a sharp decrease followed by a sharp increase as described for ordinary procedure occurred. However, the previously started decline continued in the years 2022 and 2023.

3. Conciliation cases In his aforementioned study, *Wollschläger* discussed the "decline of conciliation".[44] He determined that, in 1891, conciliation was initially replaced by dunning proceedings and, after a short revival during the war years, it lost its relevance when the share (in relation to the other proceedings) shrank to only 5% in 1987.[45] From the countercyclical relationship with dunning proceedings, he furthermore concluded that conciliation was rather a means of debt collection than the intended means of peaceful settlement.[46] Contrary to this, in 2008, conciliation was declared a success relying on the strongly increasing numbers in the early 2000s (numbers almost quintupled between 1980 and 2000).[47] And indeed, the numbers almost doubled again until 2003, but immediately afterwards started to decline rapidly until they fell below the level of 1980 in 2012.[48] Afterwards the numbers continued to shrink (at a slower pace) until they dropped below 30,000 cases in 2023, which is even less than the absolute number of 54,250 cases in 1987.[49] The same applies to the share of conciliation cases, which has been below 5% since 2015. Retrospectively, the peak in 2003 can therefore – like the similar development in ordinary procedure – be attributed to the 'litigation bubble'.[50] Here, it must be pointed out, that the described development is mostly attributable to a special kind of conciliation for debt restructuring, which entered into force in the year 2000.[51] The development can thus be interpreted as follows: after the collapse of the Japanese economy, many conflicts of indebted borrowers needed to be solved. The provided "special" conciliation procedure was used intensively, causing the peak, but failed and resulted in the already explained rise and fall of ordinary cases.[52]

Aside from that, the downward trend in litigation, which started prior to the development, seems to have continued afterwards, as the numbers have been decreasing – at a slower pace, but continuously – since the subsiding of the peak.

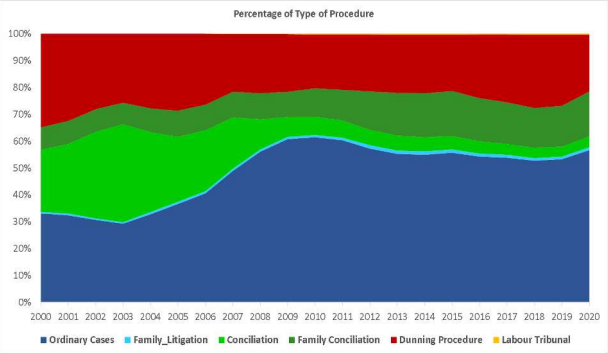
4. Dunning procedure Dunning proceedings (reduced by objections) have decreased quite strongly by 65.68% between 2000 and 2020. Indeed, this is influenced by the effect of the Covid-19 crisis, but even when disregarding the pandemic, this means a decline of slightly more than 50%. The decrease is quite steady and only disrupted by small increases, which are often followed by sharply decreasing figures.

Against the background of the development of ordinary procedure and conciliation, it is striking that the 'litigation bubble' does not seem to have had an effect on dunning proceedings.[53] When conciliation failed, people instantly resorted to ordinary procedure, although the Supreme Court had ruled clearly in their favour. One might think that it would have been at least a considerable option to reclaim money through simplified dunning proceedings. One explanatory aspect might be that lawyers tried to economically benefit from the situation by actively animating affected borrowers through all means of advertising to file a claim.[54] Furthermore, an overall lack of attractiveness of dunning proceedings might have contributed to the preference for ordinary procedure in this special case.[55]

5. Distribution by type of procedure Figure 3 illustrates plaintiffs' preference for each type of procedure by depicting their respective share during the observed period. As can be seen, the share of conciliation grew to a level of 36.32% until 2003, when the first wave of the 'litigation bubble' occurred. Afterwards, however, the share shrunk steadily, falling below 5% in 2015 for the first time, which is below the previous low of 1987[56] for the first time. Since then, the decline has continued, which aligns with the already described development of the absolute numbers. The share of ordinary proceedings started to increase in parallel to the absolute numbers until 2009. However, what is striking is that, unlike the absolute numbers, the share did not shrink after that, but remained constant at a level of about 50% compared to the previous level of 30%. By contrast, the share of dunning proceedings shrank by about 10% during the whole period. This is far less than the decline of the absolute numbers, but also a break of the anti-cyclical pattern of conciliation and dunning proceedings that *Wollschläger* had observed in his study.[57] Therefore, independently of the wave of consumer credit cases,

[44] Wollschläger, p. 108-109.
[45] Wollschläger, p. 108-109.
[46] Wollschläger, p. 108-109.
[47] Schwittek/Baum (2008), Mediation in Japan – Entwicklung und Praxis der außergerichtlichen Streitbeilegung, in Steffek (ed.) Mediation – Rechtstatsachen, Rechtsvergleich, 483 (555).
[48] Own calculation based on: Supreme Court, Court Data Book 2024.
[49] Own calculation based on: Wollschläger, p. 141.
[50] Colombo/Shimizu, Oxford LF.
[51] Colombo/Shimizu, Oxford LF, after note 26.
[52] Colombo/Shimizu, Oxford LF, after note 26.
[53] The numbers increased slightly in 2003, as well as in 2008 and 2009, but the extent is hardly comparable to the movement of conciliation and ordinary procedure.
[54] Weitzdörfer (2018), Verbraucherkreditregulierung in Japan, p. 82.
[55] Weitzdörfer, p. 78.
[56] Wollschläger, p. 109.
[57] See Section C.II.3.

the demand for ordinary civil proceedings has increased whereas simplified procedural means have become less attractive.



III. Legislative measures

In 1998 the Japanese Code of Civil Procedure was substantially amended.[58] By this the legislature responded to the criticism addressing outdated rules and limited accessibility of the judicial system due to very small numbers of judicial staff and high litigation costs.[59] Therefore, some of the main aims were the increase of judicial staff and with it the reduction in the length of proceedings and the reduction of costs.[60] Furthermore, since the pandemic an increasing need for digitalisation has become apparent. Therefore, on 18 May 2022, the Amendment of the Code of Civil Procedure was enacted.[61] It introduced e-filings (all complaints can be filed online), e-case management (digitalisation of all litigation records) and e-hearings (online participations for oral arguments).[62] These changes fall outside the temporal scope of this paper and thus have no direct impact on the present analysis, but they remain noteworthy as indicators of the ongoing digital transformation of the justice system.

D. Germany

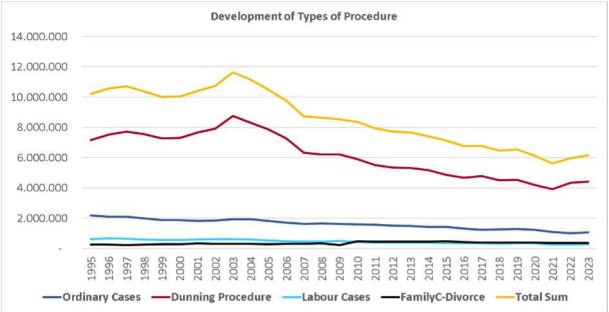
I. Procedural framework

The judiciary in Germany is divided into five judicial branches: the so-called 'ordinary' jurisprudence (including civil and criminal matters), labour, administrative, social security, and financial jurisprudence.[63] The latter three, as well as criminal proceedings, concern disputes between citizens and the state. In line with the aforementioned definition, such cases will not be included in the following analysis.

Labour court cases, on the other hand, will be counted separately and afterwards added to the ordinary civil cases, because in Japan these cases are among the civil cases due to the unified court system.[64] As in the case of Japan, family court cases will be included as long as they have the character of a two-sided conflict. Furthermore, divorces will be subtracted, because they do not require the involvement of a judge in Japan and would distort the results due to their large number in Germany.[65] In civil matters, Local Courts (*Amtsgerichte*), which deal with smaller disputes with an amount up to € 10,000, and Regional Courts (*Landgerichte*), for claims of higher amounts, are the two courts of first instance.[66] As pointed out above, dunning proceedings (again reduced by the number of objections) must be included for the functional approach.[67]

II. Development

The total number has decreased by 39.67% between 1995 and 2023. Unlike in Japan, this is a phenomenon which is shared both by ordinary procedure and dunning proceedings. Again, a description broken down by the different types of procedure will enable a deeper examination.



1. Ordinary jurisprudence (excluding criminal jurisprudence) The number of civil cases newly filed has decreased from 2,170,255 to 1,074,315 during the analysed period from 1995 to 2023, which corresponds to a decline of 50.50%.[68] The decline was particularly strong in 2016 (-8.10%), 2021 (-11.08%) and 2022 (-7.61%), each of which strongly exceeded the average decline of 2.40%.[69] The year 2023 saw the largest of the few increases of the period (+7.25%), followed by 2003 (+3.84%).[70]

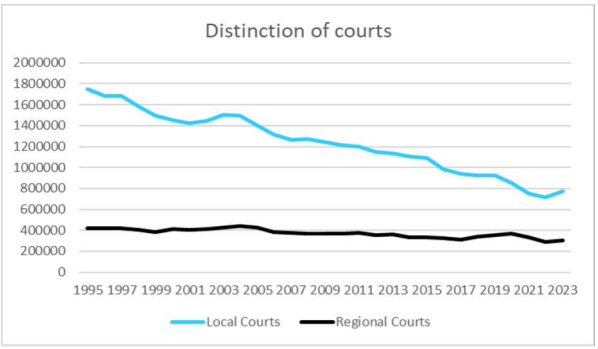
a) 2003 Although it brought numerous changes, the peak in 2003 does not appear to be attributable to the Reform of the Code of Civil Procedure in 2002.[71] However, the reform of the law of obligations could have caused the rise in residential tenancy cases, and therefore the overall

[58] Sato, C.J.Q., 2000, 224 (226).
[59] Sato, C.J.Q., 2000, 224 (226; 233; 235; 238).
[60] Bälz, p. 9.
[61] Nohara (2023), Digital Reformation of Japanese Civil Procedures and its Future Prospects, p. 5.
[62] Nohara, p. 13-14.
[63] Menne, JuS 2003, 26 (27).
[64] Bälz, p. 4.
[65] Bälz, p. 4-5.
[66] Menne, JuS 2003, 26 (27-28).
[67] Data is provided in: Destatis, SM-Series 10-2.1, for the years between 2007 and 2019. For the remaining years, an approximate value is calculated using the average proportion of dunning proceedings, that led to the initiation of ordinary procedure, which is about 7.60%, see fn. 13.
[68] Own calculation based on data from Destatis, Report 2024 (Civil Courts), available at https://www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/_publikationen-innen-statistischer-bericht.html (accessed 26.04.2026).
[69] Own calculation based on data from Destatis, Report 2024 (Civil Courts), available at https://www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/_publikationen-innen-statistischer-bericht.html (accessed 26.04.2026).
[70] Own calculation based on data from Destatis, Report 2024 (Civil Courts), available at https://www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/_publikationen-innen-statistischer-bericht.html (accessed 26.04.2026).
[71] Meller-Hannich/Höland/Nöhre, p. 77.

number of cases, as the limitation period was shortened from thirty years to three years, requiring claims to be filed within a considerably shorter period.[72] In any case, both reforms did not have a long-term effect, as after 2003 the decline continued at a similar pace as it had been before.

b) Diesel scandal Between 2018 and 2020, the numbers at the Regional Courts notably increased. During this time, a wave of individual lawsuits was filed against Volkswagen AG in which people claimed damages because the company had installed so-called "defeat devices" in the produced cars in order to reduce the emissions during an official test in this regard.[73]

c) Distinction of courts As can be seen in figure 5, the overall decline during the whole period is much more pronounced at the Local Courts (-55.84%) than at the Regional Courts (-28.14%). Although the Local Courts' share of the total number of newly filed cases on average is about 76%, their share of the decline is almost 90%.[74]



However, the development at the Regional Courts is strongly influenced by the aforementioned rise in civil litigation related to the Diesel scandal. As the amount in dispute was often above the litigation threshold of the Local Courts, those cases were mainly heard by the Regional Courts.[75] Furthermore, the commercial chambers at the Regional Courts experienced a disproportionately high decline of 72.06%.[76] Partly, this is explainable, as they were not affected by the Diesel scandal,[77] but the same is true for the Local Courts, whose decline of 55.84% is clearly exceeded.

Furthermore, the international orientation of the German economy – vividly represented by the high export rate – does not seem to be reflected in the court statistics, as the share of foreign parties is remarkably low (less than 5% in 2020).[78] This development is considered particularly problematic, as it amplifies the concern of a decreasing attractiveness of Germany as a judicial forum – especially for complex international commercial disputes.[79]

2. Labour litigation Labour litigation reflects the general downward trend observed in ordinary litigation. With an overall decline of 55.08% during the analysed period the figure is almost the same as for the Local Courts.[80] However, due to the smaller numbers the annual percentage change is particularly strong, as can be observed for example in the year 2020, when newly filed cases decreased by almost 20%.[81]

3. Family litigation Family litigation shows a different picture: The number of cases (reduced by divorce cases)[82] increased from 456,649 to 522,559.[83] However, the development is parallel, with cases increasing from 249,263 to 376,082. This could be related to the FGG Reform Act in 2009, which transferred extensive new tasks to the family courts.[84] This is supported by the fact that, in this year, there was a sharp decline of cases, quickly followed by a recovery, which exceeded the original level.[85]

4. Dunning procedure Dunning proceedings (reduced by objections) have steadily decreased by 38.19% between 1995 and 2023. What is striking again is a peak in 2003. This fits in well with the assumed context of the shortening of limitation periods: the initiation of dunning proceedings suspends the limitation period for up to six months.[86] It is therefore conceivable that property owners used the simplified procedure as well, to enforce their money claims.

5. Distribution by type of procedure Regarding the shares of type of procedure, there has not been much development. Dunning proceedings remained at a comparably high level of about 70%, whilst ordinary civil proceedings in the considered jurisdictions added up to the remaining 30%. Therefore, both types of procedure have declined at a similar pace with hardly any movement among them.

III. Legislative measures

The governmental awareness of the problem of declining litigation rates became clear when the Federal Ministry of Justice and Consumer Protection commissioned an exhaustive study on the subject in 2020.[87] The identified problems were not so much of structural nature (in fact, Germany has the most judges in the world in relation to its population)[88], but rather a negative perception of the judicial system and a decreasing demand for formal dispute resolution.[89] Hence, shortly after its completion in 2023, a law was passed, aimed at increasing the attractiveness of the judiciary by the introduction of commercial courts and the possibility of choosing English

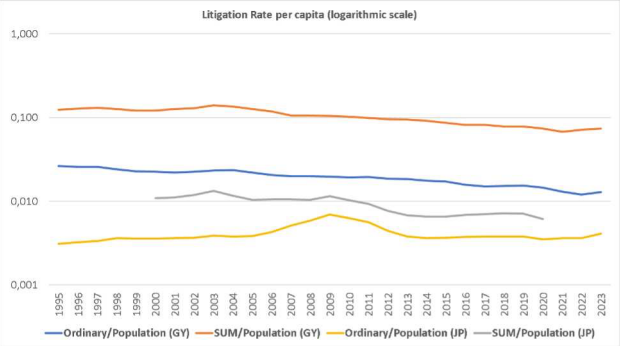
[72] Meller-Hannich/Höland/Nöhre, p. 63.
[73] Förster in BeckOK-BGB/, § 826, para.58.
[74] Own calculation based on data from Destatis, Report 2024 (Civil Courts), see fn. 59.
[75] Meller-Hannich/Höland/Nöhre, p. 73.
[76] Own calculation based on data from Destatis, Report 2024 (Civil Courts), see fn. 59.
[77] Riehm/Thomas, NJW 2022, 1723 (1725).
[78] Riehm/Thomas, NJW 2022, 1723 (1726).
[79] Riehm/Thomas, NJW 2022, 1723 (1726).
[80] Own calculations based on data from Destatis, Report 2024 (Labour Courts), see fn. 59.
[81] Own calculations based on data from Destatis, Report 2024 (Labour Courts), see fn. 59.
[82] See Section B.
[83] Destatis, Report 2024 (Family Courts), see fn 59.
[84] Leutheusser-Schnarrenberger, FPR 2009, 42 (43).
[85] Destatis, Report 2024 (Family Courts), see fn 59.
[86] Henrich in BeckOK-BGB, § 204, para. 25.
[87] Meller-Hannich/Höland/Nöhre, p. 1.
[88] Iglesias (2024), Hat Deutschland zu viele Richter?, IW-Kurzbericht 76/2024, p. 1.
[89] Meller-Hannich/Höland/Nöhre, p. 319-320.

as a procedural language (*Justizstandortstärkungsgesetz*, 07 October 2024)[90].[91]

Furthermore, as in Japan, the Covid-19 pandemic has highlighted the need to digitalise the justice system. Consequently, on 18 July 2024, a law was passed which aims at the increased use of video conferences in court.[92]

E. Comparative analysis

For the comparison, the absolute numbers of cases will be respectively put in relation to the population of both nations.



I. General trend

As can be seen in figure 7, this analysis confirms again – for the recent past – the phenomenon of notably low litigation rates in Japan. Even though the numbers are decreasing in Germany, they are still clearly high above Japanese rates (0.104 cases per capita for Germany compared to 0.009 for Japan on average during 2000 to 2020). This is even true if one does not include dunning proceedings for Germany (whereby the distinction is admittedly far less pronounced in this case). By contrast, in Germany, after a long period of concern about the overloading of the judicial system, the trend of steadily declining case numbers has become apparent.[93] Regarding the studies and legislative measures taken by both nations facing the low or declining litigation rates, it becomes clear that the phenomenon is perceived as unfavourable and thus creates a need of encouragement of litigation. This conclusion is not self-evident, as it is indeed questionable what amount of litigation is societally appropriate regarding the costs of the legal system.[94]

II. Mass litigation

Both nations saw temporary peaks due to mass litigation. In Germany, besides the most prominent example of the already mentioned Diesel scandal, similar waves of lawsuits occurred concerning air passenger flight rights and in the context of the breakdown of Wirecard.[95] All these incidents share a high degree of similarity, which makes legal service providers specialising in mass claims actively encourage affected parties to litigate, as they can assert claims with significant economies of scale.[96] The effect is amplified by their usage of legal-tech based infrastructure, accelerating the advocacy work due to a high level of standardisation.[97] The resulting localised overburdening of the judicial system leads to the paradoxical situation of the simultaneous need for relief and for enhancement of its attractiveness regarding the declining litigation rates.[98] Fortunately, as well as challenging the German judicial system, the phenomenon also increases the willingness to create a civil process meeting the needs of the 21st century.[99] Besides the omnipresent (but still rather vague) demand for digitalisation, the further differentiation of the system of process types, as well as stronger specialisation of judicial staff are suggested.[100] These demands are strikingly parallel to the ones that were part of the aims of the Japanese Reform in 1998, which again amplifies the impression of a similar phenomenon, but at a different time.[101]

In Japan, challenges for the judicial system similar to those faced in Germany during the Diesel scandal are clearly imaginable, because as mentioned in the context of the 'litigation bubble', lawyers likewise encouraged affected individuals to litigate, even though means of technical standardisation were far less common in 2009. Furthermore, the demand for digitalisation of the Japanese judicial system indicates a need for it, which could have caused similar troubles for the courts in dealing with a wave of lawsuits amplified by means of legal-tech. Against this background, the approach to a rather recent example of mass litigation – the Fukushima disaster of 11 March 2011[102] – is illustrative from this (admittedly very narrow) point of view. Suing TEPCO, the company responsible for operating the nuclear power plant, for compensation is an available option for victims However, only a small number of cases have been filed.[103] The vast majority of claims were asserted either directly against TEPCO or through the Center of Nuclear Damage Reconciliation, which was set up by the government as a standardised and thus rather fast means of alternative dispute resolution.[104] Against the background of standardised claims, this seems to be an effective approach to prevent judicial overload, even though the certainly existing disadvantages must be weighed up in the specific case of a potential mass litigation phenomenon.

III. Impact of digitalisation

The total number per capita including conciliation and dunning procedure has declined in both countries. However, for Japan this is mostly attributable to dunning

[90] BGBI 2024 I Nr. 302, available at: https://www.recht.bund.de/bgbl/1/2024/302/VO.html (accessed 26.04.2026).
[91] Wolff, SchiedsVZ 2023, 209 (209).
[92] BGBI. 2024 I Nr. 237 v. 18.07.2024, available at: https://www.recht.bund.de/bgbl/1/2024/237/VO.html (accessed 26.04.2026).
[93] Meller-Hannich/Höland/Nöhre, p.1.
[94] Shavell, JLS 1997, 575 (577).
[95] Allgayer/Klein, ZRP 2022, 206 (206)
[96] Meller-Hannich/Höland/Nöhre, p. 7.
[97] Allgayer/Klein, ZRP 2022, 206 (206); Fries, NJW 2016, 2860 (2863).
[98] Allgayer/Klein, ZRP 2022, 206 (207).
[99] Heiß, NJW 2025, 1625 (1626).
[100] Heiß, NJW 2025, 1625 (1626).
[101] See Section E. II.
[102] Feldmann, DePaul 2013, 335 (335).
[103] Feldmann, DePaul 2013, 335 (353).
[104] Feldmann, DePaul 2013, 335 (351-352.).

proceedings, even though their share is substantially smaller than in Germany (fluctuating between 30% and 40% compared with about 70% of the total number). Ordinary cases have increased in Japan, whereas in Germany every kind of procedure across all jurisdictions has shown declining figures – except for the development in family litigation discussed above.

1. Decline of dunning procedure

The uniform development of dunning proceedings suggests that there might be a shared reason for a decreasing demand for sheer debt collection in both nations. This has not been examined in detail. However, a study commissioned by the Federal Ministry of Justice and Consumer Protection suggests[105] that, for Germany, this phenomenon could be attributed to the increasing shift of consumption towards online retail and the accompanying increase of prepayment for purchases, with the resulting decrease of payment delays and defaults causing a dropping need for simple debt collection.[106] This explanation might be applicable to Japan, since the Japanese consumer behaviour has developed almost in parallel to Germany's in terms of the share of online purchases.[107]

2. Shift in dispute culture In Germany, it has been observed that the growth of e-commerce (and more broadly, the ubiquity of digital means) is accompanied by a shift in dispute culture[108] that could influence ordinary procedure as well. Contracts are commonly concluded through a standardized input form, preventing mistakes and thus legal conflicts.[109] If a problem nevertheless arises, companies provide internal online complaint management systems as a fast and accessible resolution (for example the buyer protection system offered by PayPal).[110] Furthermore, consumer claims are preferably met with goodwill, because the financial loss in an individual case costs less than processing the customer's continued demand.[111] The tendency is reinforced by the fact that consumer rights are now to a large extent codified and consequently enforced, so that against the background of the risk of expensive mass litigation the incentive to comply is high among companies.[112]

In Japan, ordinary litigation did not decrease like in Germany and its share rose significantly. This could indicate a positive effect of the measures taken in order to encourage litigation. Due to the explained impact of digitalisation, minor B2C conflicts are less likely to be heard by the courts, leaving rather complex legal problems. The different development of ordinary cases in Germany and Japan could be due to a relatively superior perception of Japanese judiciary compared with the German one, especially for complex (international) cases. However, as a counterpoint, according to Article 74 of the Japanese Courts Act, the court language is exclusively Japanese, which may limit the suitability of the Japanese courts for complex international disputes.[113] Anyway, in Germany, there is a serious concern regarding a possibly low attractiveness of the judicial forum for those cases.[114]

Alternatively, the influence of the explained phenomenon could simply be weaker for Japanese litigation rates as they were already low. As a result, cases which are now decreasing in Germany were never part of the statistics in Japan from the beginning. Furthermore, it is rather the smaller claims which have contributed to the different development of ordinary cases (in Germany the figures decreased far stronger at the Local Courts than at the Regional Courts, and in Japan the figures even decreased at the District Courts, leaving the increase solely to the Summary Courts).

Countering this, the extension of litigation at the Summary Courts as well as the Diesel scandal have distorted the development at the higher courts, which makes it difficult to conclude a clear refutation of the theory from their development. Eventually, a further examination, for example by investigating the relationship between litigation rates and various indicators such as the GDP or by including a third nation for comparison, might be a valuable contribution to the debate.

E. Conclusion

In conclusion, the much-discussed phenomenon of low litigation rates in Japan has once again been confirmed for the recent past. In comparison, the rates remain significantly higher in Germany. From a national German perspective, however, the decline across all types of procedure is increasingly coming to the fore. For Germany in this context a change in "dispute culture" is noted as one of the main reasons for declining figures,[115] whereas a similar explanation was rather criticized in the context of the debate related to Japan.[116] Ultimately, it must be borne in mind for both nations, that the cited factors are neither independent from one another nor mutually exclusive as a possible reason for the development of litigation rates.[117]

The comparative view could reinforce concerns about the decreasing attractiveness of Germany as a judicial forum, regarding the different development of ordinary proceedings and dunning proceedings. Conversely, illustrating that the litigation rates are still comparatively high can of course likewise counteract the concerns. Either way,

[105] See Section E. II.

[106] Meller-Hannich/Höland/Nöhre, p. 5-6.; 327.

[107] Share of b2c-e-commerce of total amount of commercial transactions in 2023:
Japan: 9.38% (METI 2024, available at https://www.meti.go.jp/english/press/2024/0925_002.html (accessed 26.04.2026));
Germany: 13.2% EHI (2024, available at https://www.handelsdaten.de/deutschsprachiger-einzelhandel/anteil-des-b2c-e-commerce-am-einzelhandelsumsatz (accessed 26.04.2026)).

[108] Dudek, JZ 2020, 884; Meller-Hannich/Höland/Nöhre, p. 5-6; 326-327.; Nicolai/Wölber ZRP 2018, 229 (230); Fries NJW, 2016, 2860 (2862).

[109] Dudek, JZ 2020, 884 (886 -887); Fries, NJW 2016, 2860 (2862).

[110] Meller-Hannich/Höland/Nöhre, p. 6; Deichsel, GVRZ 2021, 69 (70).

[111] Dudek, JZ 2020, 884 (888).

[112] Dudek JZ 2020, 884 (887).

[113]

[114] See Section (D. II.1.c).

[115] Meller-Hannich/Höland/Nöhre, p. 318-321.; Dudek JZ 2020, 884 (887-888).

[116] Inter alia: Haley JJS 1987, 359 (390); Ginsburg/Hoetker, JLS 2006, 31 (55).

[117] Bälz, p. 7.

when it comes to legislative measures encouraging or curbing litigation, it must be borne in mind that from an economic point of view, the appropriate level of litigation in a country is certainly debatable.[118]

Furthermore, as the analysis of dunning proceedings has shown, it becomes increasingly important to consider the impact of digital means on dispute resolution, when exploring the factors and interconnections behind the development of litigation rates. The same is true regarding the aim of the digitalisation of courts, as the accessibility and intuitiveness of informal alternatives are hard to combine with the formality of a legal process, but conceivably indispensable against the background of the digitally savvy future generations, who are used to intuitive digital applications.[119]

Finally, the temporal dimension of this topic alone leaves room for further investigation, to which the compilation and description of the figures presented here may offer a useful contribution.

[118] Shavell, JLS 1997, 575 (575).
[119] Nicolai/Wölber ZRP 2018, 229 (230).