

REPORT ON OPEN ACCESS IN LAW ROAL

UNIVERSITÄT
LUZERN



Universität
Basel

Unil.

u^b

b
UNIVERSITÄT
BERN



Universität
Zürich ^{UZH}



FernUni.ch

unine[•]
Université de Neuchâtel



UNIVERSITÉ DE FRIBOURG
UNIVERSITÄT FREIBURG

Title:**Report on Open Access in Law (ROAL)****Authors:**

Amanda Arnold, Silke Bellanger, Barbara Berchtold, Micaela Crespo, Margit Dellatorre, Bernhard Dengg, Marie-Hélène Gadina, Quentin Gallis, Laurent Gobat, Thomas Henkel, Teona Kvirikashvili, Hélène Labarraque, Dominik Matter, Bruno Pasquier, Simone Rosenkranz, Simona Sala, Uwe von Ramin

Date:

Lucerne / Zurich, September 2026

DOI: [10.5281/zenodo.22688119](https://doi.org/10.5281/zenodo.22688119)

Suggested Citation:

Arnold, A., Bellanger, S., Crespo, M., Dellatorre, M., Dengg, B., Gadina, M.-H., Gallis, Q., Gobat, L., Henkel, T., Kvirikashvili, T., Labarraque, H., Matter, D., Pasquier, B., Rosenkranz, S., Sala, S., & von Ramin, U. (2026). *Report on Open Access in Law (ROAL)*. University of Lucerne / University of Zurich, <https://doi.org/10.5281/zenodo.22688119>.



The text and figures in this report are licensed under a Creative Commons Attribution 4.0 International (CC BY 4.0) licence (<https://creativecommons.org/licenses/by/4.0/>)

Co-financed by

swissuniversities

Abstract:

This study examines the implementation of Open Access in Swiss legal scholarship and the factors facilitating or hindering its adoption from the perspectives of researchers, publishers, and legal practitioners.

Combining a quantitative publication analysis with stakeholder interviews, a literature review, and an assessment of publishers' Open Access information, the study finds that Open Access is established in Swiss legal scholarship but varies considerably by publication type, publisher, and Open Access model. Around 30% of books are available in some form of Open Access. Researchers particularly value Open Access for enhancing the accessibility and visibility of research and for ensuring that publicly funded research is publicly available. Key concerns include implementation workload, quality assurance, funding, insufficient practical guidance, the future role of publishers, and commercial reuse of Open Access content. AI is seen as both an opportunity and a challenge.

Recommended measures include discipline-specific guidance, basic Open Access literacy in legal education, stronger Green Open Access and rights retention strategies, and targeted information for courts. More broadly, stakeholders should jointly address sustainable funding and publishing models and the implications of AI.

Abstract Deutsch

Die vorliegende Studie untersucht den Stand und die Umsetzung von Open Access in den Schweizer Rechtswissenschaften sowie die Faktoren, die dessen Verbreitung fördern oder hemmen. Dabei werden die Perspektiven von Forschenden, Verlagen und der juristischen Praxis berücksichtigt.

Basierend auf einer quantitativen Publikationsanalyse, Stakeholder-Interviews, einer Literaturauswertung und einer Analyse der Open-Access-Informationen von Verlagen zeigt die Studie, dass Open Access in den Schweizer Rechtswissenschaften etabliert ist, jedoch je nach Publikationstyp, Verlag und Modell stark variiert. Rund 30% der Bücher sind in irgendeiner Form Open Access verfügbar. Forschende schätzen an Open Access insbesondere den verbesserten Zugang zu Forschungsergebnissen und deren höhere Sichtbarkeit sowie die freie Zugänglichkeit öffentlich finanzierter Forschung. Zu den zentralen Herausforderungen zählen der mit der Umsetzung verbundene Aufwand, die Qualitätssicherung, die Finanzierung, lückenhafte praxisnahe Orientierungshilfen, die zukünftige Rolle der Verlage sowie die kommerzielle Weiterverwendung von Open-Access-Inhalten. KI wird sowohl als Chance als auch als Herausforderung wahrgenommen.

Empfohlen werden fachspezifische Informationen zum Open-Access-Publizieren, die Vermittlung grundlegender Open-Access-Kompetenzen in der juristischen Ausbildung, die Stärkung von Green Open Access und Rights Retention sowie gezielte Angebote für Gerichte. Zudem sollten die beteiligten Stakeholder gemeinsam nachhaltige Finanzierungs- und Publikationsmodelle entwickeln und sich mit den Auswirkungen von KI auf das wissenschaftliche Publizieren auseinandersetzen.

Abstract français

Cette étude examine la mise en œuvre de l'Open Access dans les sciences juridiques en Suisse ainsi que les facteurs qui la favorisent ou l'entravent, du point de vue des chercheurs, des maisons d'édition et des praticiens du droit.

S'appuyant sur une analyse quantitative des publications, des entretiens avec les parties prenantes, une revue de la littérature et une analyse des informations fournies par les maisons d'édition concernant l'Open Access, l'étude montre que l'Open Access est bien établi dans les sciences juridiques en Suisse, mais varie fortement selon le type de publication, la maison d'édition et le modèle. Environ 30 % des livres sont disponibles sous une forme ou une autre en Open Access. Les chercheurs apprécient particulièrement l'Open Access pour l'amélioration de l'accessibilité et de la visibilité de la recherche, ainsi que pour la mise à disposition en libre accès des résultats de la recherche financée par des fonds publics. Les principaux défis concernent la mise en œuvre, l'assurance qualité et le financement, ainsi que le manque d'informations pratiques, le rôle futur des maisons d'édition et la réutilisation commerciale des contenus en Open Access. L'intelligence artificielle est perçue à la fois comme une opportunité et un défi.

Les mesures recommandées comprennent des informations spécifiques à la discipline sur la publication en Open Access, l'intégration de compétences de base en matière d'Open Access dans la formation juridique, le renforcement du Green Open Access et des stratégies de conservation des droits, ainsi que des informations ciblées pour les tribunaux. Plus largement, les parties prenantes devraient aborder conjointement les modèles durables de financement et de publication ainsi que les implications de l'intelligence artificielle.

Acknowledgements

We would like to express our sincere gratitude to all interviewees who generously shared their time, experiences, and perspectives with us. Their contributions provided valuable insights into the diverse views and practices surrounding Open Access in legal scholarship and were essential to this project.

We are grateful to Dr Nikolaus Heinzer, ISEK, University of Zurich, for his valuable advice on the quantitative analysis, and to Viliana Parusheva and Nobutake Kamiya for their technical support throughout the project.

We would like to thank all Swiss higher education institutions that supported the project by providing their publication data. Our sincere thanks also go to the members of the Sounding Board for their valuable input, feedback, and perspectives throughout the project.

We are grateful to all colleagues who contributed to the review and proofreading of this report.

We gratefully acknowledge the financial support of swissuniversities. The project was made possible through co-funding provided within the framework of the Open Science program.

We have already presented the findings of this report at several conferences and are grateful for the valuable feedback we received. We were particularly delighted that the project was awarded a Daniel Hürlimann Scholarship at the jurOA Conference on 27–28 August 2026 in Hamburg.

Executive Summary

Background

Open Access is widely regarded as less developed in legal scholarship than in many other academic disciplines. Frequently cited explanations include the close ties between legal scholarship and legal practice, the enduring importance of books as a primary publication format, and the limited size of many legal publishing markets, which reflects the predominantly national orientation of legal research.

Against this background, the present study analyses the publication landscape in Swiss legal scholarship and assesses the extent to which Open Access has been adopted. It addresses two central questions: First, to what extent has Open Access been implemented in Swiss legal scholarship? Second, which factors facilitate or hinder its implementation from the perspective of key stakeholder groups, including researchers, publishers, and legal practitioners working in law firms, courts, and public administration?

Methodology

To answer these questions, we employed a mixed-methods approach combining a quantitative analysis of publication data from Swiss higher education institutions with law faculties and semi-structured interviews with key stakeholder groups. This was complemented by a literature review, an analysis of Open Access information on the websites of 20 publishers, and an exploratory analysis of publishing agreements.

Findings

The literature review of 58 publications identified several recurring barriers to Open Access in legal scholarship, including the close relationship between scholarship and legal practice, limited awareness of Open Access, a predominantly print-based publishing culture, inadequate digital infrastructure, and practical constraints such as insufficient funding and a lack of suitable publishing opportunities. Accordingly, the literature highlights targeted information, adequate funding and infrastructure, community building, and stakeholder engagement as key enablers of Open Access adoption.

The publication analysis confirms the enduring importance of books in Swiss legal scholarship, with their share of total publications increasing slightly between 2020 and 2024. While established Swiss legal publishers continue to dominate the field, Open Access publishers have gained notable ground: one ranked among the five most frequently used book publishers, and both Swiss Open Access publishers were among the twenty publishers most frequently chosen by Swiss legal researchers.

Overall, Open Access has become an established component of Swiss legal publishing. Around 30% of books are available in some form of Open Access, representing an increase of approximately 10 percentage points between 2020 and 2024. Yet this growth is uneven across publication types, publishers, and Open Access models. In particular, Gold Open Access has gained momentum, whereas Green Open Access has remained largely stagnant.

Compared with the Swiss National Open Access Monitor, legal scholarship appears much closer to the national average for books than is often assumed: the Open Access share is only around 10 percentage points lower. For journal articles, however, legal scholarship lags markedly behind,

with a gap of more than 40 percentage points. Between 2020 and 2024, 32% of legal science articles were published in journals that were Diamond or Gold Open Access or that allowed Green Open Access. Because Green Open Access policies do not necessarily translate into actual self-archiving practices, the proportion of articles that are genuinely accessible is likely to be lower. In comparison, the Swiss National Open Access Monitor reported an overall Open Access share of 73% across all disciplines in 2024.

For the report, 24 interviews were conducted with a total of 27 participants. Interviewees included researchers at different career stages, representatives of publishers and related organizations, including a Swiss legal AI platform, as well as legal practitioners from courts, an arbitration institution, public administration, including the Federal Chancellery, and law firms.

The interviews identified several overarching themes, including values and principles, access and visibility, quality assurance, business models, and AI. While these issues were viewed differently across stakeholder groups, they collectively point to a publishing landscape undergoing profound transformation. This transformation is driven not only by the growing adoption of Open Access, but also by broader developments such as digitalization, shifting market dynamics, and the increasing influence of AI.

Values and Principles

Across stakeholder groups, Open Access was closely linked to broader questions of public funding, access to legal knowledge, visibility, and academic freedom. Many participants argued that publicly funded research should be openly accessible, both as a return on public investment and as a means of improving access to legal knowledge for researchers and practitioners alike. At the same time, interviewees noted that a substantial share of legal research is not publicly funded and expressed concerns that public funding mechanisms may ultimately benefit commercial actors.

Views diverged on the extent to which Open Access should be mandated. While some participants supported an «open by default» approach, others emphasized the importance of academic and publishing freedom and cautioned against compulsory Open Access policies. Overall, Open Access was widely regarded as serving a strong public interest. However, participants stressed that its implementation should balance openness with academic and publishing autonomy while recognizing the important role of legal practitioners in the production, dissemination, and use of legal knowledge.

Access and Visibility

Open Access was widely seen as an opportunity to improve access to legal scholarship, particularly for users without access to costly legal databases, and to increase the visibility and impact of research. However, participants identified visibility and discoverability as persistent challenges. Open Access content is often fragmented across platforms, insufficiently integrated into legal databases, and difficult and time-consuming to locate. As a result, greater openness does not automatically translate into greater accessibility in practice. Open Access can realize its full potential only if publications are easily discoverable and seamlessly integrated into the information tools routinely used by legal professionals, including legal practitioners.

Quality Assurance

Quality assurance emerged as a key concern across all stakeholder groups. Open Access publications were generally regarded as meeting established scholarly standards, and predatory

publishing was not perceived as a significant problem in Swiss legal scholarship. Nevertheless, the reputation of established publishers and the inclusion of publications in major legal databases continue to serve as important proxies for quality. This points to a persistent tension: although scholarly quality is often ensured through peer review, assessments of quality remain closely tied to established publishing brands and distribution channels.

Peer review itself was widely valued as a mechanism for safeguarding quality, but participants noted that its implementation can be particularly challenging in small and highly specialized fields, where the pool of qualified reviewers is limited. In addition, some interviewees expressed concerns that emerging funder requirements for quality assurance may increase administrative complexity and impose additional costs on publishers and researchers alike.

Business Models and Economic Factors

Costs and long-term sustainability were recurring concerns in discussions of both Open Access and closed publishing. Participants criticized aspects of the traditional publishing landscape, including extensive rights transfers, limited author compensation, and high publisher profits. Yet they also highlighted that Open Access requires sustainable funding and can entail additional costs, particularly where parallel publishing infrastructures are maintained.

A key tension emerged in the assessment of publishers. Although commercial publishing practices were frequently criticized, established publishers were widely recognized for the professional services, expertise, and author support they provide. At the same time, smaller publishers were perceived as operating under increasing market pressure. Participants therefore emphasized the need to view publishing as an interconnected ecosystem and to develop funding models that are transparent, sustainable, and capable of supporting the full range of publishing services.

AI and Digital Transformation

Although AI was not a specific focus of the interviews, it emerged as a recurring topic across stakeholder groups. Participants viewed AI as both an opportunity and a challenge. While AI has the potential to enhance the visibility and accessibility of legal scholarship, concerns were raised about the accuracy and currency of AI-generated information, as well as the commercial exploitation of scholarly content. In particular, interviewees questioned whether technology companies should be able to derive commercial value from openly accessible research without returning value to the scholarly community.

Next Steps

This report provides an evidence-based foundation for developing measures to advance Open Access in Swiss legal scholarship. Accordingly, we distinguish between measures that can be implemented during the project extension and longer-term measures that require coordinated action at the national level involving all relevant stakeholder groups.

Priority Measures for the Project Extension Phase:

- **Publisher information:** Develop recommendations for Open Access information on publishers' websites, in collaboration with the SNSF.
- **Discipline-specific information:** Expand the existing discipline-specific page on Open Access Network (open-access.network) with detailed information on Open Access publishing options in legal scholarship.

- **Early-career researchers:** Develop training materials for early-career researchers, including a toolbox on rights retention.
- **Students:** Develop short introductory Open Access materials for law students.
- **Courts:** Develop Open Access training materials for courts that can be integrated into continuing education programs.

Longer-Term Measures Requiring National Coordination:

- **Read & Publish agreements:** Explore agreements with Swiss legal publishers that combine access to content with Open Access publishing opportunities for Swiss researchers at no additional cost.
- **Open Access textbooks:** Address the promotion of Open Access Textbooks with relevant stakeholders.
- **Partial Open Access for legal commentaries:** Explore models for making selected parts of or contributions to legal commentaries openly accessible.
- **Funding of Closed and Open Access publishing:** Discuss with relevant stakeholders how public funds are used, who pays for which services, and how greater transparency regarding costs, profits, and author remuneration can be achieved.
- **Commercial reuse of Open Access content:** Address the commercial exploitation of openly available research by private companies, including large technology companies.
- **Private-sector involvement:** Since Open Access also benefits the private sector and public administration, models for involving these stakeholders in the costs of Open Access publishing should be explored.
- **Indexing:** Index Open Access content in legal databases and integrate bibliographic metadata for both Open and Closed Access publications from legal databases into swisscovery / juscovery.

Table of Contents

Acknowledgements	5
Executive Summary.....	6
Background.....	6
Methodology	6
Findings	6
Next Steps.....	8
Table of Contents	10
1 Introduction and Background	12
1.1 Project Background and Mandate.....	12
1.2 Scope and Purpose of the Report	12
1.3 Description of the Problem	13
1.4 Methodological Approach	13
1.5 Project Organization and Partners	14
1.6 Structure of the Report	14
2 Literature Review	16
3 Publication Analysis.....	22
3.1 Methodology	22
3.2 Development of Legal Publications across Publication Types	24
3.3 Developments in Publication Types and the Share of Long-Form Publications.....	25
3.4 Most Frequent Publishers	26
3.5 Open Access Share	30
3.6 Share of University-Affiliated Legal Publications in Switzerland.....	34
3.7 Conclusion Publication Analysis	34
4 Stakeholder Interviews.....	36
4.1 Methodological Notes on the Interviews	36
4.2 Analysis of the Interviews.....	38
4.2.1 Experiences with Open Access and Perceptions of Value	38
4.2.2 Open Access in the Legal Publishing Landscape	44
4.2.3 Key Publishers and Initiatives – Open Access in the Legal Publishing Landscape.....	53
4.2.4 Open Access Guidelines and Funding Opportunities	55
4.2.5 Information and Advice on Open Access.....	58
4.2.6 The Future of Open Access and Emerging Developments	60
4.3 Recommendations Based on the Interviews	62
4.3.1 Strengthening Successful Approaches.....	62
4.3.2 Adopting New Approaches	63

4.3.3	Reducing Barriers	64
4.4	Conclusion.....	64
5	Assessment of Open Access Information on Publishers' Websites	67
6	Evaluation of Publisher Contracts.....	69
6.1	Transfer of Rights	69
6.2	AI Clause.....	69
6.3	Conclusion.....	70
7	Overall Findings and Next Steps.....	71
	Bibliography.....	73
	List of Interviews	78
	Appendix 1: Interview Guidelines Researchers and Practitioners.....	80
	Appendix 2: Interview Guidelines Publishers	82

1 Introduction and Background

1.1 Project Background and Mandate

Open Access is a central element of Swiss higher education and research policy. The revised Swiss National Open Access Strategy of 2024 aims for all publicly funded scholarly publications to be freely accessible by 2032¹. While significant progress has been made in many fields, the implementation of Open Access remains uneven across disciplines. This is particularly evident in disciplines with strong long-form publication traditions and specific publication markets. Law is most certainly one of those areas.

Legal scholarship in Switzerland continues to rely heavily on publication formats such as monographs, dissertations, legal commentaries, textbooks, edited volumes and «Festschriften». These formats remain important for academic communication, career development of young researchers, doctrinal work and legal practice. At the same time, the share of Open Access publications in law remains comparatively low. The reasons are linked to, among others, the national and language-specific orientation of legal scholarship, the role of specialized legal publishers and platforms, established publication practices, contractual arrangements and the continued importance of print and database-based dissemination models.

Against this background, the project «Report on Open Access in Law» (ROAL) was developed within the swissuniversities Program «Open Science II», under the action line «Open Access Long-Form Publications and Other Publication Formats». The project aimed at providing an evidence-based overview of publication practices in legal scholarship in Switzerland and to identify barriers, enabling factors and possible pathways for strengthening Open Access in this field.

This report presents the results of that work. It brings together publication data, literature, interview-based stakeholder perspectives, publisher policy analysis and sample contract analysis to provide nuanced groundwork for future institutional and national measures concerning Open Access in law.

1.2 Scope and Purpose of the Report

The present report examines the current state of Open Access in the legal sciences in Switzerland. Its focus lies primarily on publication practices at Swiss universities, while also taking into account stakeholders outside academia, such as law firms, courts, and public administration with particular attention to long-form publications and other formats that are characteristic of legal scholarship.

This report serves the following purposes: First, it provides an overview of the publication landscape in Swiss legal scholarship, including relevant publication types, publishers, journals and Open Access status. Second, it analyses obstacles, incentives and good practices from the perspective of the relevant stakeholder groups based on interviews conducted across Switzerland. Third, it identifies conditions under which Open Access can be further developed in Swiss legal scholarship in a realistic, proportionate and discipline-sensitive manner. The report is addressed to higher education institutions, law faculties, libraries, Open Science units, legal publishers, research funders, legal practitioners and other actors involved in the legal publishing landscape.

¹ Swiss National Open Access Strategy: <https://www.swissuniversities.ch/en/topics/open-science/open-access/national-strategy> [accessed 20 September 2026].

1.3 Description of the Problem

The transition to Open Access in the field of law raises specific challenges. These challenges are not limited to the availability of repositories or publication funding. They concern the broader structural organization of legal scholarship, the structure of the legal publishing market, the expectations of researchers and practitioners, and the legal and contractual conditions under which scholarly works are published.

In many disciplines, Open Access policies and negotiations have focused primarily on journal articles. In law, however, long-form publications and other non-article formats continue to occupy a central position. Legal commentaries, textbooks, monographs and dissertations often have a particular function for legal doctrine, teaching and professional practice. They are used not only within universities, but also by courts, public administration, law firms and other legal professionals.

This creates a more complex environment for Open Access implementation. Researchers may face uncertainty regarding publication options, funding opportunities, copyright arrangements, secondary publication rights and the academic reputation and recognition associated with Open Access publications. Publishers may face economic and organizational challenges, especially where their business models depend on specialized legal markets, print sales, database subscriptions or professional audiences. The problem is therefore both empirical and strategic. On the empirical level, there is a need for reliable information on where, how and in which formats Swiss legal scholars publish, and to what extent these publications are openly accessible. On the strategic level, there is a need to identify obstacles and measures that take account of the specific conditions of legal scholarship and the interests of the different actors involved.

1.4 Methodological Approach

The report is based on a mixed-methods approach. This approach reflects the fact that Open Access in law cannot be assessed through publication data alone. It also requires an understanding of disciplinary practices, stakeholder expectations, publishing models, institutional frameworks and contractual conditions. The analysis draws on five main elements:

- First, a literature review was conducted to identify existing research on Open Access in the legal sciences and in long-form publishing more generally. The review focused on documented barriers, enabling factors, good practices and relevant national and international initiatives.
- Second, a data-based publication analysis was carried out. This analysis examined publication data from Swiss law faculties over the past five years. It focused on publication types, publishers, journals, developments over time and Open Access status.
- Third, stakeholder interviews were conducted in order to include the perspectives of actors involved in the legal publishing landscape. These interviews addressed attitudes toward Open Access, perceived barriers, practical needs, existing good practices and possible solutions. The stakeholder groups included researchers at different career stages, publishers, representatives of legal practice, courts and public administration.
- Fourth, Publishers' websites were analyzed to assess the information they provide on Open Access. The analysis focused on publishers with which Swiss researchers publish most frequently. It examined the availability of Open Access information, license models, costs, and secondary publication options.

- Fifth, selected sample publishing agreements were analyzed in order to assess how contractual arrangements may facilitate or hinder Open Access. The analysis focused especially on rights transfers, rights retained by authors, possibilities for secondary publication and contractual provisions relevant to Open Access. As only a few sample publishing agreements were available, this section is brief.

Taken together, these elements provide a broad basis for assessing the current situation and identifying possible future measures.

1.5 Project Organization and Partners

ROAL was conducted as a cooperative project involving several Swiss higher education institutions. The project was led by the University of Lucerne, with the University of Zurich as a key partner institution. Further participating institutions included the University of Fribourg, the University of Neuchâtel, the University of Lausanne and UniDistance Suisse as well as the University of Basel and the University of Bern.

The project brought together legal scholars, university libraries, Open Science specialists and institutional representatives from different language regions of Switzerland. This broad cooperation was important because legal scholarship in Switzerland is shaped by multilingual publication cultures, different institutional practices and national as well as language-specific publishing markets. Furthermore, all Swiss higher education institutions with a law faculty / law institute not directly involved in the project provided a letter of support for the project.

The project was coordinated by a project management team responsible for operational management, communication and preparation of the final report. A project board composed of representatives of the participating institutions supported strategic decisions and ensured exchange between partner institutions. The project was further accompanied by a Sounding Board that served both as an advisory body and as a channel of communication to relevant stakeholder groups. This governance structure reflected one of the central assumptions of the project: Open Access in law cannot be advanced through isolated institutional measures alone. Because legal scholarship is embedded in specific academic, professional and publishing structures, sustainable development requires cooperation across institutions and stakeholder groups.

1.6 Structure of the Report

The report is structured in accordance with the main analytical components of the ROAL project. Following the introduction and background, Chapter 2 presents the literature review. It examines existing research on Open Access in the legal sciences and related fields, with particular attention to barriers, enabling factors, good practices and relevant national and international developments. Chapter 3 contains the publication analysis. It provides an overview of publication practices in Swiss legal scholarship, including publication types, publishers, journals, developments over time and, where available, Open Access status. The report then turns to the stakeholder interviews. This chapter presents the perspectives of relevant actors in the legal publishing landscape, including researchers, publishers, legal practitioners, courts, public administration and institutional Open Science actors. It identifies attitudes toward Open Access, perceived obstacles, practical needs and possible incentives. A further chapter analyses publishers' websites and publicly available Open Access information. It examines whether and how legal publishers communicate Open Access options, licenses, embargo periods, publication costs, secondary publication possibilities and related policies. The next chapter evaluates selected sample contracts. It analyses contractual provisions relevant to Open Access, including rights transfers,

rights retained by authors, secondary publication options and clauses that may facilitate or hinder openly accessible publication.

The conclusion of the report brings together the main findings of the individual analyses and identifies key challenges and possible next steps for strengthening Open Access in the legal sciences in Switzerland.

2 Literature Review

For the project, a literature review on Open Access practices in the legal sciences was conducted. To this end, the following databases were searched for publications on the topics of «Open Access», «Law», or «Legal Sciences»: LEX campus, legalis, Weblaw, Beck Online, swisscovery, Renouvad, Web of Science, Scopus, Google scholar and OpenAlex. In total, 58 publications were analyzed to identify barriers to Open Access in legal scholarship and existing good practices. However, not all findings were directly applicable to the Swiss context, as legal publishing landscapes vary considerably across countries, particularly between the United States and German-speaking countries.

Overall, many studies have shown that Open Access is less prevalent in legal scholarship than in other academic disciplines (Beatty, 2023; Severin et al., 2020). Many publications highlight the distinctive features of the publication culture in the legal sciences. Legal scholarship is inherently partly national in scope, which results in a limited publishing market, particularly in small countries such as Switzerland (Gjon, 2022). Another defining characteristic of legal scientific literature is the close interconnection between academia and legal practice: legal practitioners act both as authors and readers of scholarly legal literature, while academic staff also write for a more practice-oriented audience. Dengg has shown that the body of practice-oriented literature in Switzerland in the legal sciences has grown in proportion to the expansion of law faculties at Swiss universities. Thus, there is a close connection between the academic and the practice-oriented strands of legal scholarship (Dengg, 2017; Gjon, 2022).

At the same time, legal studies exhibit elements of an «open culture», such as the free public access to legislation and, in part, to court decisions.² In addition, it is stated in the literature that broad access to legal information including scholarly literature is essential for the effective exercise of democratic rights as stated for example by Marion Goller (Goller, 2019).

The reviewed literature identifies the following **barriers to the implementation of Open Access** in legal scholarship:

Publication Formats in a Traditional Publication Culture

Legal scholarship is characterized by a comparatively traditional publishing culture: formal peer review plays a limited role, and print-oriented formats such as monographs, commentaries, and lengthy journal articles remain dominant (Hamann & Hürlimann, 2019; Solum, 2006). Furthermore, legal scholarship remains strongly attached to print culture and the symbolic value of books, especially dissertations and postdoctoral theses, while legal education remains largely traditional and weakly digitized. Moreover, a defining feature of legal scholarship is its close interconnection with legal practice, for example through commentary literature. As a result, the market for legal publications is financed not only by academia but also by legal practitioners (Fischer, 2022). Economic factors further strengthen Closed Access models. Publications in traditional venues are sometimes remunerated, whereas Open Access publishing typically offers no financial incentives or even requires author contributions (Früh & Koch, 2024). These entrenched structures are sustained by established publishers, close ties between publishers and scholars, and a strong dependence on publishers as intermediaries that act as gatekeepers and – in the

² For Switzerland see e.g. <https://entscheidsuche.ch> <https://entscheidsuche.ch/> and the publication platform for federal law, fedlex.admin.ch [accessed 20 September 2026].

absence of formal peer review – often as guarantors of quality (Fischer, 2022; Gjon, 2022; Van Gestel et al., 2018).

Lack of Awareness among Authors and Publishers

A further obstacle to the adoption of Open Access in legal scholarship is the limited level of disciplinary awareness and understanding both among authors and publishers. Open Access remains relatively unfamiliar and is often mistakenly equated with mere «free access». This narrow interpretation overlooks the normative dimension of Open Access, particularly the rights of reuse, modification, and redistribution. Understanding of open licensing remains limited. Creative Commons and comparable licenses are often misunderstood or underused, and authors frequently hesitate to publish Open Access due to concerns about losing rights or violating publisher agreements (Hamann, 2019; Severin et al., 2020). Knowledge gaps also exist on the publishers' side, further complicating adoption: There is for example a weak understanding of international Open Access standards, as editors and publishers seldom align their practices with frameworks such as the Budapest or Berlin Open Access Declarations, resulting in inconsistent implementation (Beatty, 2023; Kaier & Lackner, 2019).

Unclear Legal Framework that is Unfavorable to Open Access

Legal and copyright-related uncertainties constitute a further major barrier to the adoption of Open Access in legal scholarship. Researchers may not always be fully aware of their rights as authors, while exclusive rights transfers to publishers often create legal and practical obstacles to the free dissemination of scholarly work (Beatty, 2023). Legal uncertainty is one reason that Open Access uptake in legal scholarship remains persistently low, even where legal frameworks support it. In Germany, for instance, less than a quarter of publications are openly accessible despite the existence of legal provisions such as the mandatory secondary publication right (Hamann, 2023; Radtke, 2022).

At the institutional level, weak or divisive Open Access policies and limited leadership support reduce the effectiveness of formal mandates. On the other hand, mandatory Open Access requirements are sometimes perceived as conflicting with academic freedom or as placing undue pressure on publishers' economic freedom. Overall, the combination of legal ambiguity, restrictive licensing practices, and institutional inertia significantly hampers the broader adoption of Open Access in the legal sciences (Hartmann, 2025).

Lack of Incentives

Limited incentives for authors remain a major barrier to the adoption of Open Access in legal scholarship (Hamann, 2016; Severin et al., 2020). As already mentioned, unlike in many other disciplines, legal scholars may receive honoraria for journal articles and monographs. Traditional publishing models can therefore provide financial incentives that are generally absent from Open Access publishing (Rosenbaum, 2016). This situation is further reinforced by the limited participation of legal publishers in Open Access initiatives; for example, no exclusively legal publisher took part in the OAPEN-CH pilot project of the SNSF (Ferwerda et al., 2018).

Inadequate Technical Standards and Infrastructure for Open Access Publishing

Another significant barrier to the implementation of Open Access in legal scholarship lies in technical and infrastructural limitations. Overall, the available infrastructure is fragmented and insufficient, with only a small number of dedicated Open Access repositories for legal publications

(Severin et al., 2020). Technical issues are, however, common in both Closed Access and Open Access law publications: Digital publishing standards are often missing, including missing standard metadata and Digital Object Identifiers (DOI) (Euler & Falkenburg, 2026). All this hinders the discoverability of legal (Open Access) publications. Publications from legal databases such as LEX campus for example are not shown in swisscovery, the national library catalog and search portal for scholarly publications. On the other hand, legal Open Access journals are rarely indexed in international directories or national databases, and suffer therefore from low visibility (Beatty, 2023; Rücknagel et al., 2023). Attempts to establish a dedicated Open Access infrastructure for the legal sciences have failed so far in Switzerland (Dengg, 2019).

(Perceived) Low Quality and Concerns Related to Career Advancement

Perceptions of quality, prestige, and reputation constitute a major cultural barrier to Open Access in legal scholarship. Open Access publications are often perceived as being of lower academic quality, and many scholars fear that publishing openly – such as making dissertations available in Open Access – may harm their career prospects. Legal academia is embedded in strongly prestige-oriented evaluation systems in which «traditional» publication venues serve as primary indicators of quality, frequently in the absence of formal peer review (Fischer, 2022). As a result, publishing with established, Closed Access publishers is widely regarded as a prerequisite for scholarly recognition (Hamann & Hürlimann, 2019).

Economic Factors and Prevailing Business Models

Economic concerns and market structures represent a further barrier to Open Access in legal scholarship. Established legal publishers dominate a highly concentrated market and continue to rely on traditional business models, including the remuneration of authors for journal articles, monographs, and practice-oriented publications – practices that are largely absent in other disciplines. Open Access journals in law on the other hand often depend on short-term, project-based funding and lack sustainable long-term financing models, raising concerns about maintenance and continued access once funding expires (Hürlimann, 2021; Severin et al., 2020).

Mandatory secondary publication rights are often perceived as a threat to publishers' economic viability, potentially disadvantaging national publishers, reducing competition and diversity, and exacerbating inequalities between large international and smaller domestic publishers (sbv Schweizer Buchhandels- und Verlagsverband, 2025). Overall, fears of revenue loss, economic instability, and disruption of established public-private arrangements contribute to resistance against Open Access in the legal publishing market.

Limited or Misaligned Funding

Although funding for Open Access publishing is available in Switzerland, for example through the SNSF or institutional Open Access funds, these funding opportunities are often not widely known. Another obstacle is that the funding criteria are not always well suited to legal scholarship, for instance where peer review is a prerequisite for funding. In addition, the costs of legal publications, such as commentaries, may exceed the available funding amounts (Hürlimann, 2021).

Fragmented Actor Landscape and Stakeholder Interests

The implementation of Open Access in legal scholarship is further complicated by the diversity of actors involved in the publishing process. Collective action remains weak: Open Access initiatives in law are largely driven by individual actors rather than by coordinated institutional or

disciplinary efforts. In Switzerland, not all major legal databases are currently covered by consortium-wide licensing agreements. In Switzerland, negotiations on secondary publication policies with legal publishers have so far taken place primarily at the institutional level, while no coordinated national initiative specifically targeting legal publishers has been established (Haux & Fischer, 2023).

Our literature review indicates that the Open Access debate in legal scholarship has focused primarily on researchers, publishers, libraries, and research funders, while the perspective of legal practitioners has received comparatively little attention. This points to a need for stronger involvement and coordination of all relevant stakeholder groups in developing shared strategies for Open Access.

Besides these obstacles and challenges the literature reviewed identifies **several best practices and measures to promote Open Access** in legal scholarship. In many cases, these represent an inversion of the obstacles mentioned above.

Awareness Rising and Training

The literature reviewed contains calls for a cultural shift in which Open Access is recognized as an ethical and beneficial practice that strengthens the discipline (Goller, 2019; Haux & Fischer, 2023). Especially Open Access in law has a strong democratic dimension, as it promotes transparency, civic participation, and trust in legal scholarship and institutions. This dimension should be addressed in Open Access training and discussion (Graf & Haux, 2017; Hamann & Hürlimann, 2019). Open Access should be established as a legitimate and high-quality publication pathway, supported by evidence such as the Open Access citation advantage, which shows increased visibility and impact for openly published (legal) research (Solum, 2006). Showcasing successful Open Access journals could help counter persistent concerns about quality and peer review (Zhu, 2017).

Libraries and academic institutions could play a central role in addressing this gap through targeted training offers on repositories, metadata, author rights, funding models, and digital dissemination. Early and continuous education is essential: Open Access and Open Science principles should be integrated into legal curricula, doctoral training, and supported by high-quality Open Educational Resources (OER), which often shape first encounters with legal publishing culture (Eisentraut & Petras, 2025).

Publication Culture, Cooperation and Community Building

The literature reviewed shows that Open Access can also serve as an opportunity to experiment with new publication formats including for example peer-reviewed academic blogs, OER or open legal commentaries and living books. Open Access could also be an opportunity for supporting scholar-led and non-profit publishing models (Eisentraut & Petras, 2025; Solum, 2006; Van Geuns-Rosch, 2019).

Cooperation between all involved stakeholders such as legal libraries, consortia, universities and researchers could create new leverage for joint negotiations with publishers and database providers (Alabi, 2026; Severin et al., 2020). Libraries could play a central role in networking, advising, actively promoting Open Access legal publications, and supporting sustainable, community-driven funding models. Wherever possible, publishers should be involved and serve as providers

of editing and quality assurance services instead of acting as proprietary gatekeepers. (Euler, 2020).

Appropriate Infrastructure and Business Models

Existing (Closed) platforms in the legal sciences do not always meet contemporary standards (Retteen & Hall-Retteen, 2024). Therefore, Open Access in the legal sciences should meet standard Open Access requirements, including standardized metadata formats, open interfaces, clear open licensing, transparency regarding quality assurance procedures, as well as effective dissemination and long-term preservation. In practice, these standards are often not fully met, indicating a clear need for improvement. Academic libraries are well positioned to support and advance these developments as stated by the evaluated literature (Arasteh-Roodsary et al., 2025).

In legal scholarship, publications are funded not only by academic institutions but also by the private sector. The financing of Open Access in legal scholarship needs to take into account these specific characteristics of legal publishing (Fischer, 2022). The proposed business models include collective funding, Journal-Level-Agreements, Consortium and framework agreements with publishers (Read & Publish)³. Früh et al. state that universities are subject to public procurement law and therefore have a special responsibility to act as role models. In this context, they must adhere to the principle of sustainability, which clearly implies a general commitment to Open Access (Früh & Koch, 2024).

Research Evaluation and Quality

The perceived prestige of closed publication formats remains a barrier, as some scholars prefer to be read only by a small, elite academic audience. Addressing this mindset requires cultural change within academia, highlighting that openness enhances visibility, accessibility, and scholarly impact without compromising quality. To this end, it is important to highlight the democratizing potential of Open Access, which is particularly evident in the field of legal sciences (Solum, 2006).

Academic incentives need to be aligned with openness by valuing Open Access publishing on an equal footing with traditional outlets. Evaluation criteria should explicitly recognize Open Access publications, open commentaries, and collaborative research projects as legitimate and valuable scholarly contributions (Eisentraut & Petras, 2025).

Legal Framework and Policies

The reviewed literature states that clear and harmonized legal frameworks are needed to give researchers legal certainty. Strengthened secondary publication rights and rights retention models enable lawful Green Open Access while allowing for justified exceptions (e.g. legal commentaries). Open Access must be understood as both *gratis* and *libre*, including clear reuse rights (Beatty, 2023).

Open Access policies require stronger enforcement through legally binding guidelines, institutional mandates, and Open Access clauses in standard contracts. Open Access should be normalized as a professional and ethical duty, also in legal scholarship (Eisentraut & Petras, 2025; Rocholl, 2025). Moreover, integrating Open Access early – e.g. through mandatory open

³ See [Max Planck Digital Library kooperiert mit Nomos - MPDL](#) [accessed 20 September 2026].

publication of dissertations and clear faculty-level policies – helps establish openness as a scholarly norm (Demeter et al., 2021; Hamann & Hürlimann, 2019).

Funding

The reviewed literature states that Open Access funding must reduce structural inequalities between disciplines, institutions, and career stages. Fee-based or subsidized publishing models are essential, particularly for underfunded fields and for Open Access textbooks, which currently depend heavily on authors' or publishers' financial capacities (Hürlimann, 2021; Kaier & Lackner, 2019; Radtke, 2022). According to Eisentraut et al., targeted funding should support new Open Access journals, the conversion of existing Closed Access titles to Open Access, and experimentation with digital formats. Open Access in legislation and case law could be supported through partnerships with bar associations, businesses, and civil society actors (Eisentraut, 2025).

The literature reviewed shows that Open Access in legal scholarship faces a combination of cultural, legal, economic, and technical challenges that are closely linked to the specific characteristics of the discipline. At the same time, numerous studies identify concrete measures to overcome these obstacles, including awareness-raising, improved infrastructures, adapted funding and evaluation systems, stronger legal frameworks, and enhanced cooperation among stakeholders. Overall, the findings suggest that the transition to Open Access in law requires coordinated action across the scholarly communication ecosystem. Building on these insights, the next chapter turns to the Swiss context and presents the empirical findings of the ROAL project.

3 Publication Analysis

The aim of the publication analysis was to provide a robust empirical overview of the publication landscape of legal scholarship at Swiss universities over a five-year period (2020–2024). It was designed to establish a quantitative basis for assessing current publishing practices and the role of Open Access in Swiss legal scholarship. The analysis focused specifically on publicly funded research and therefore examined publications authored by researchers affiliated with Swiss universities. By mapping where, in which formats, and with which publishers legal scholars publish, the analysis sought to capture key characteristics of the legal publishing landscape and to identify patterns relevant to the development of Open Access. More specifically, the publication analysis addressed the following research questions:

- How has the overall volume of publications changed over time?
- How has the balance between long-form and short-form publications evolved?
- Which publishers do Swiss legal researchers publish with most frequently?
- How has Open Access publishing for books evolved over the years, and which forms of Open Access have played the most significant role?
- Is Open Access more prevalent among certain publishers, or for certain publication types?

3.1 Methodology

To address these questions, all Swiss higher education institutions with a faculty, department, or institute of law were invited to provide publication data covering the five-year period from 2020 to 2024. The data request was sent to the institutions in June and July 2025. Institutions were asked to extract the relevant records from either their current research information system (CRIS) or their institutional repository. Where both systems were in use, institutions were free to select the source that provided the most comprehensive and reliable coverage of their publication output.

To capture the breadth of publishing practices in legal scholarship, institutions were asked to provide records for all publication types, rather than limiting the dataset to journal articles or other conventional research outputs. The following Swiss higher education institutions were contacted and invited to contribute publication data:

- University of Basel
- University of Berne
- Geneva Graduate Institute of International and Development Studies
- Lucerne University of Applied Sciences
- UniDistance Suisse
- University of Fribourg
- University of Geneva
- University of Lausanne
- University of Lucerne
- University of Neuchâtel
- University of St. Gallen
- University of Zurich
- Zurich University of Applied Sciences (ZHAW)

All institutions provided the requested datasets, resulting in comprehensive institutional coverage. However, this does not necessarily mean that the dataset captures the complete publication output of legal scholars at Swiss higher education institutions. Neither CRIS nor institutional repositories can be assumed to contain a complete record of all publications produced by affiliated researchers.

Although some publication data are imported or otherwise recorded automatically, the completeness of these systems often depends, at least in part, on researchers entering or validating their publications manually. As a result, publications that were not recorded in the respective institutional systems could not be included in the analysis. The datasets should therefore be understood as reflecting the publication records available at the participating institutions rather than as an exhaustive record of all legal scholarship published during the period under review.

Another challenge was the considerable heterogeneity of the data. Although all datasets were provided in a structured format (CSV or Excel), their structure and content varied considerably. A further challenge concerned inconsistencies in the data, both across institutions and within individual institutional datasets. Publication types were not classified uniformly. Institutions used different publication categories, and identical or similar labels did not necessarily refer to the same types of output. For example, some institutions used dedicated categories for dissertations or conference proceedings, whereas others classified such publications more broadly as books. Similarly, the distinction between books and reports was not always clear-cut.

Comparable ambiguities arose with journal articles and blog posts. In some datasets, blog-like contributions were classified as journal articles, while the boundary between blogs, online journals, and other forms of serial publication was itself not always clearly defined. Where classifications were ambiguous, and there was no clear evidence that an entry had been incorrectly categorized, the classification assigned by the respective institution was retained. This approach was chosen to avoid introducing additional subjective judgements into the dataset.

Inconsistencies were also found within individual institutional datasets, particularly at the level of bibliographic metadata. Publishers, journal titles, and other fields were sometimes recorded using different spellings, abbreviations, or name variants. Where necessary for the analysis, these entries were standardized and harmonized to enable reliable aggregation and comparison across the dataset.⁴ Moreover, only few institutions provided reliable information on the Open Access status of their publications. Before the data could be analyzed, extensive data harmonization and enrichment were therefore required.

In a first step, all data were transferred into a single dataset which resulted in a dataset of 11'596 entries. In a second step, the following data parameters were harmonized: publication type, publisher, Open Access status, and journal title. Subsequently, duplicate records were identified and removed by matching DOIs, ISBNs, as well as publication titles and publication years, resulting in the deduplication of 1991 records. The analyses were conducted accordingly using a total of 9605 entries.

⁴ In Switzerland, the NAIF project, which is also supported by swissuniversities, aims – among other things – to establish a foundation for better and as far as possible, complete data: <https://eth-library.github.io/naif/> [accessed 20 September 2026].

Although the project focuses on long-form publications, short-form publications were included in the analysis, primarily for comparative purposes. The following publication types were analyzed after being mapped to BibTeX entry types:

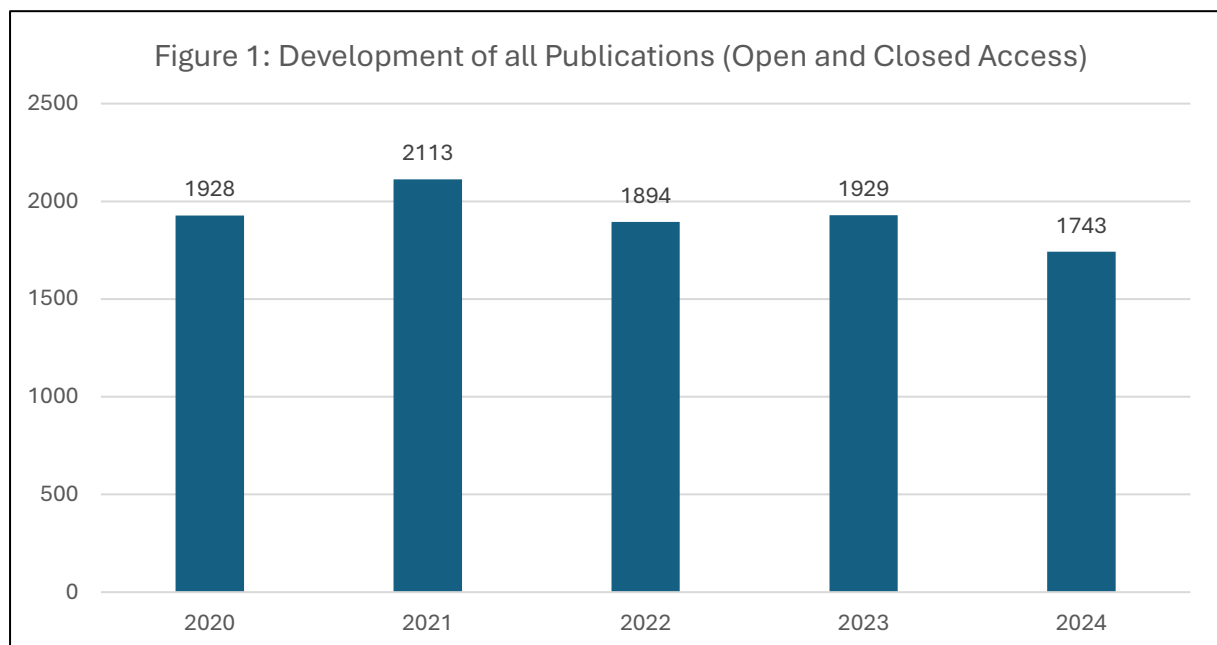
- Books
- Inbooks
- Inproceedings
- Proceedings
- Thesis

All harmonization steps were challenging, because automated workflows were often not reliable so that they had to be partly carried out manually. For example, publications in the field of law are only very incompletely represented in open databases such as OpenAlex. The enrichment of Open Access status was particularly demanding. Attempts to enrich the data using the Directory of Open Access Books (DOAB), the Directory of Open Access Journals (DOAJ) or Unpaywall proved only moderately successful, requiring extensive and time-consuming manual verification and completion.

We therefore do not claim that the dataset is either exhaustive or free from inconsistencies. Nevertheless, given its broad institutional coverage, it represents what is likely the most comprehensive dataset currently available for identifying patterns and trends in publicly funded legal scholarship in Switzerland. The following sections present the results of the publication analysis. They begin with general observations on the characteristics and development of the legal publishing landscape in Switzerland, before examining the prevalence and development of Open Access within this landscape.

3.2 Development of Legal Publications across Publication Types

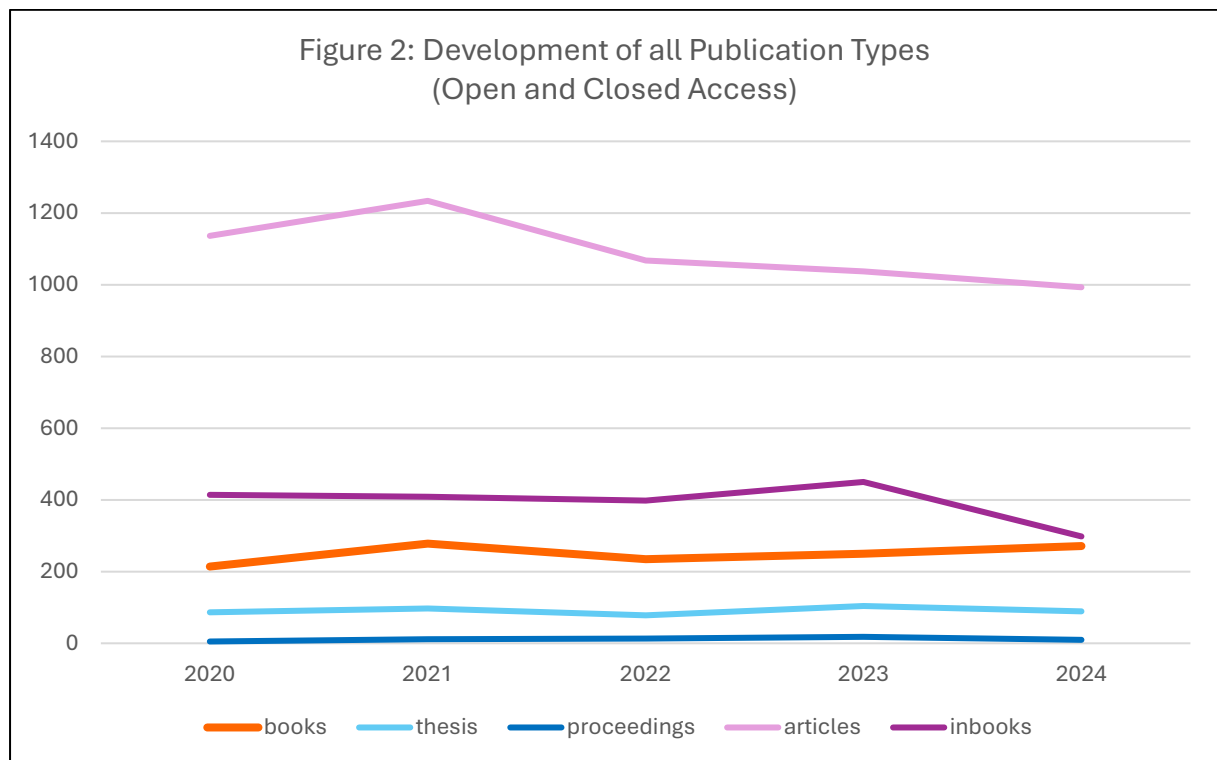
An analysis of all publication types (Open and Closed Access) over the period under investigation, 2020–2024, shows that the number of publications in the field of law in Switzerland remained relatively stable overall.



A temporary increase in publication output can be observed in 2021, followed by a marked decline in 2022. One possible explanation for the 2021 peak is the COVID-19 pandemic, although the available data do not allow a direct causal relationship to be established. The slight decline observed in 2024 should likewise be interpreted with caution. As the data were collected in early summer 2025, publication records for 2024 may not yet have been complete in all institutional systems. The apparent decline is therefore likely to reflect incomplete data collection rather than a substantial decrease in publication output. Overall, the publication trend observed in Swiss legal scholarship therefore differs somewhat from the broader global trend in scholarly publishing, which continues to be characterized by a steady increase in publication output.⁵

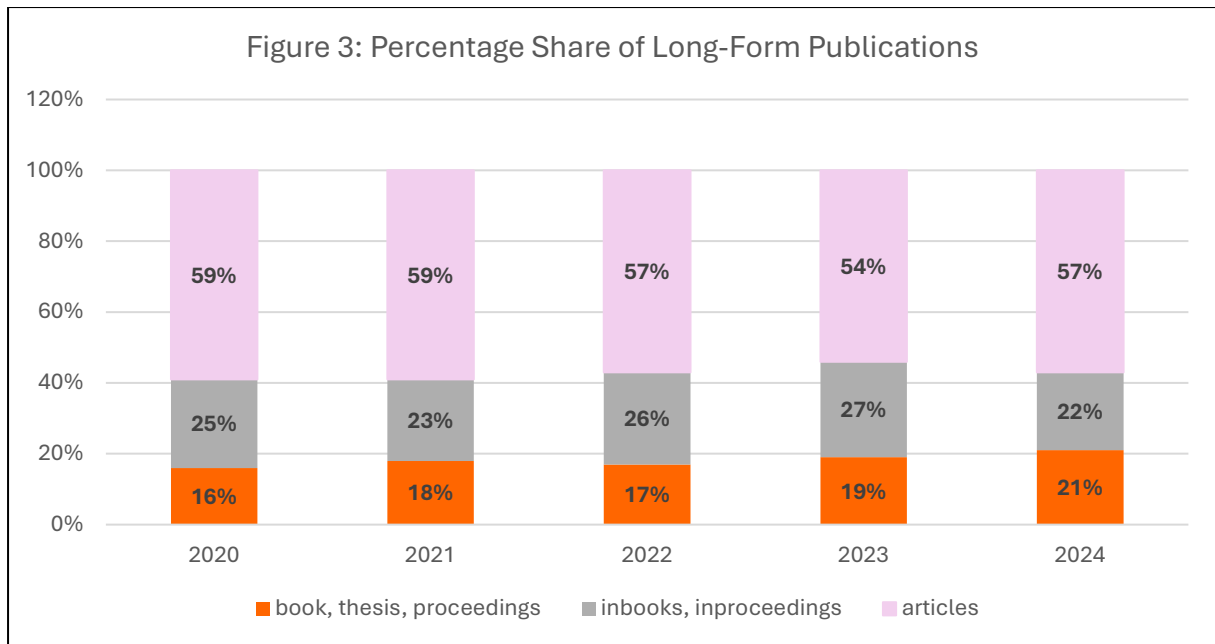
3.3 Developments in Publication Types and the Share of Long-Form Publications

An analysis of individual publication formats over the five-year period shows that the relative importance of long-form publications, particularly books, has remained stable and, in comparison with journal articles, has even increased slightly. By contrast, the share of journal articles shows a modest downward trend over the period under review, with the exception of a temporary peak in 2021.



This pattern becomes even more apparent when comparing the relative shares of long-form publications (books, theses, and conference proceedings) and articles. While the increase in the share of long-form publications is modest, it is consistent over the period under review.

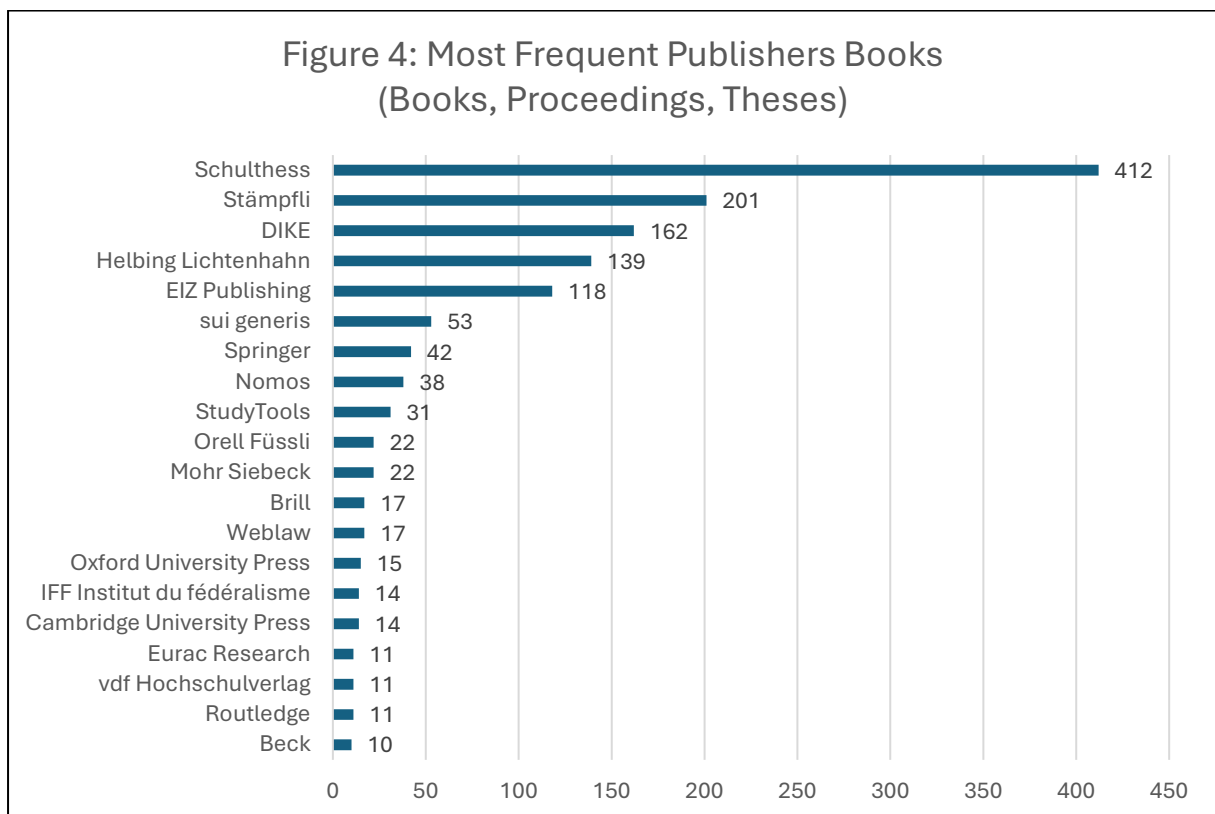
⁵ This global growth in scientific publications is considered problematic by many scholars; see, for example: Hanson, M. A., Barreiro, P. G., Crosetto, P., & Brockington, D. (2023). The strain on scientific publishing. arXiv preprint, <https://doi.org/10.48550/arXiv.2309.15884>.



The claim advanced by Solum (2006) that long-form formats in legal sciences are being replaced by short-form formats does not hold true, at least, for the Swiss legal landscape. The book remains a central publication format in legal scholarship in Switzerland.

3.4 Most Frequent Publishers

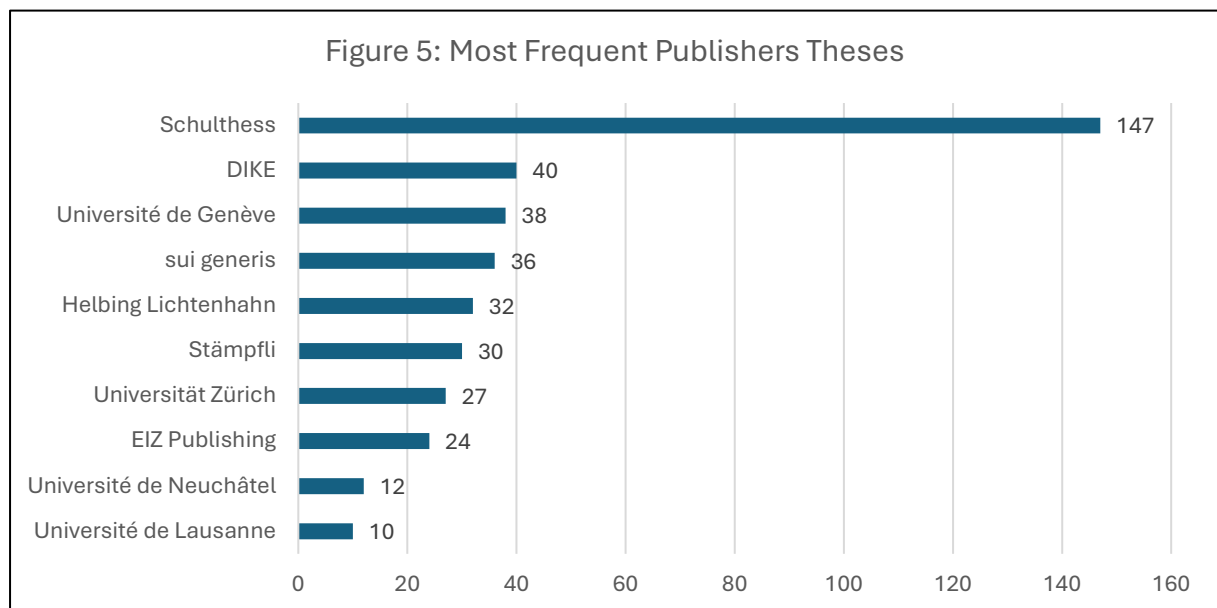
An analysis of the publishers with which Swiss researchers most frequently publish books shows, unsurprisingly, that the Swiss legal publishing landscape is clearly dominated by domestic legal publishers.



Despite the clear dominance of Swiss legal publishers, the twenty most frequently represented publishers reveal a remarkably diverse publishing landscape. They include medium-sized multi-disciplinary publishers with a strong focus on law, major international publishing houses, university-based publishers, and even a private research center. Possibly reflecting the relatively small size of the Swiss market, the top twenty also include a highly specialized publisher focusing primarily on educational materials for law students (Study Tools). For our research question, it is particularly noteworthy that a purely legal Open Access publisher ranks fifth. Indeed, both major Swiss legal Open Access publishers are among the top ten book publishers (EIZ Publishing, *sui generis*).

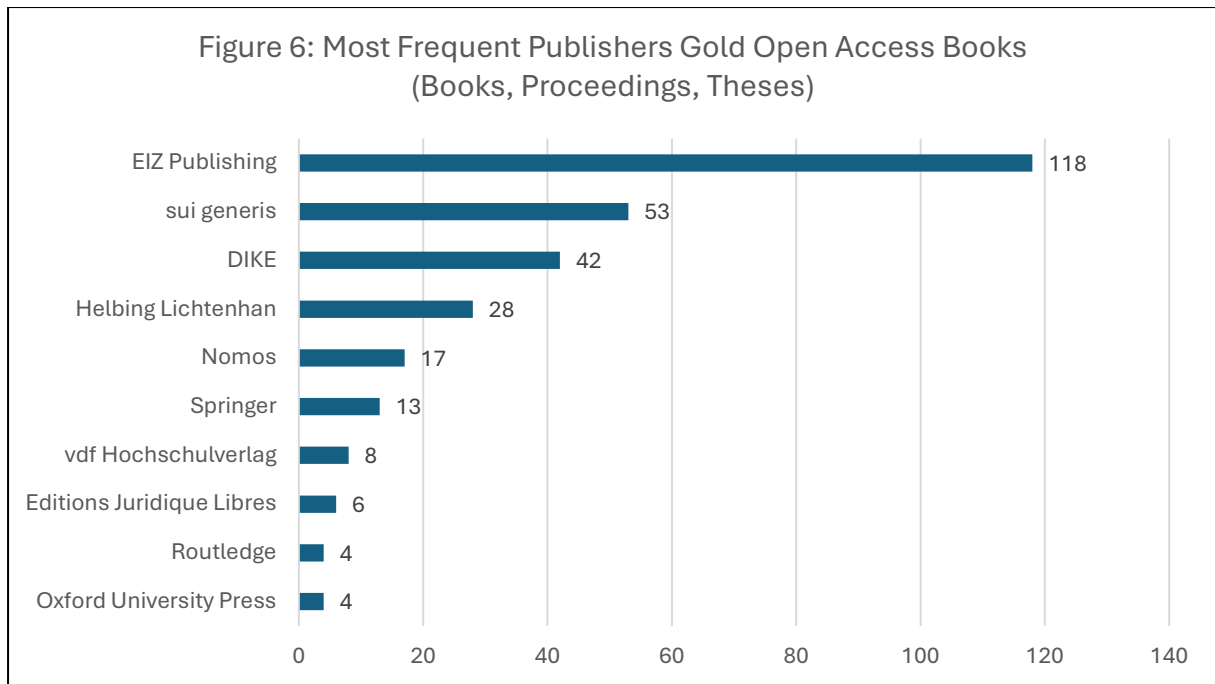
Between 2020 and 2024, Swiss legal researchers published books with 179 different publishers, ranging widely in size, scope, and publishing profile. This points to a remarkably diverse publishing landscape. At the same time, however, book publishing is highly concentrated: 69% of all book publications were issued by just ten publishers, while the five most frequently represented publishers alone accounted for 59%. Notably, one of the top five is an Open Access publisher.

A similar pattern can be observed for doctoral dissertations. Here too, Swiss legal publishers clearly dominate, including two Open Access publishers. The market is also highly concentrated, with the five most frequently represented publishers accounting for 65% of all dissertations. Universities themselves also play a notable role, primarily by making dissertations available through their institutional repositories.



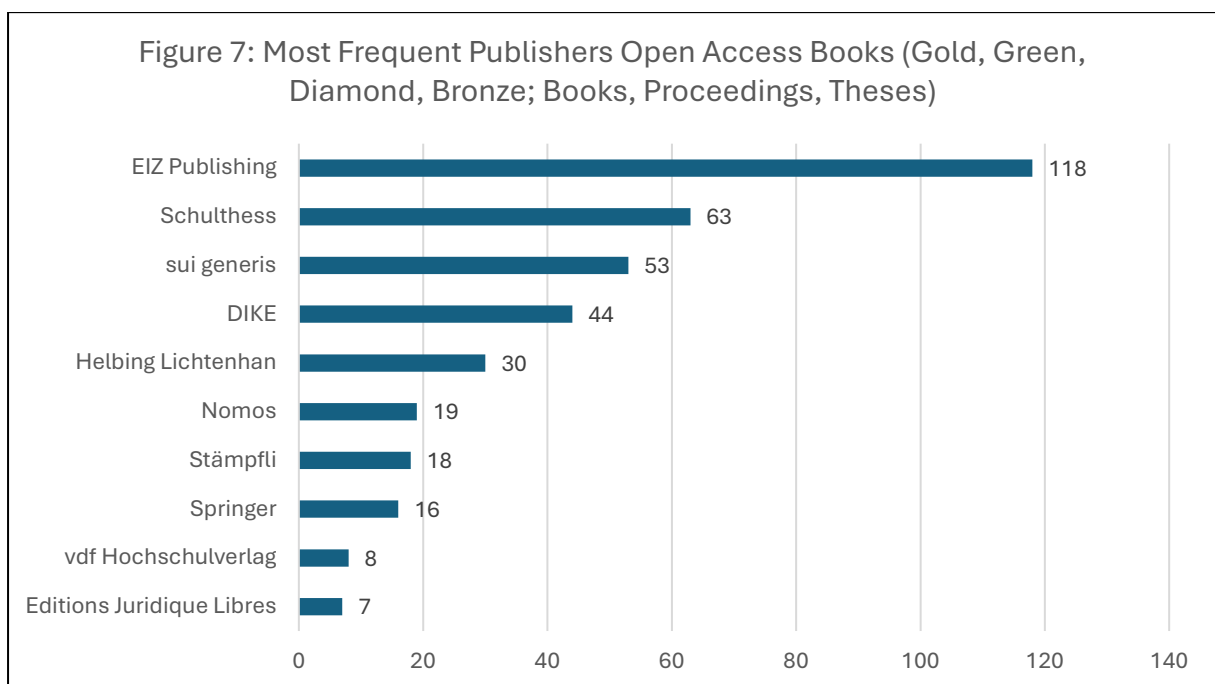
Compared with the overall diversity of publishers represented in long-form publishing, the range of publishers offering Gold Open Access is considerably more limited. Of the 179 publishers and publishing platforms identified in the dataset, only 46 published at least one Gold Open Access title.

A comparison of the publishers with the highest number of Gold Open Access book publications with those dominating book publishing overall reveals a markedly different publishing landscape.



Here, perhaps unsurprisingly, Swiss Open Access publishers occupy the most prominent positions, followed by several established Swiss legal publishers and international publishing houses. By contrast, the two publishers with the highest overall book publication output (Schulthess, Stämpfli) are only marginally represented in Gold Open Access publishing during the 2020–2024 period.

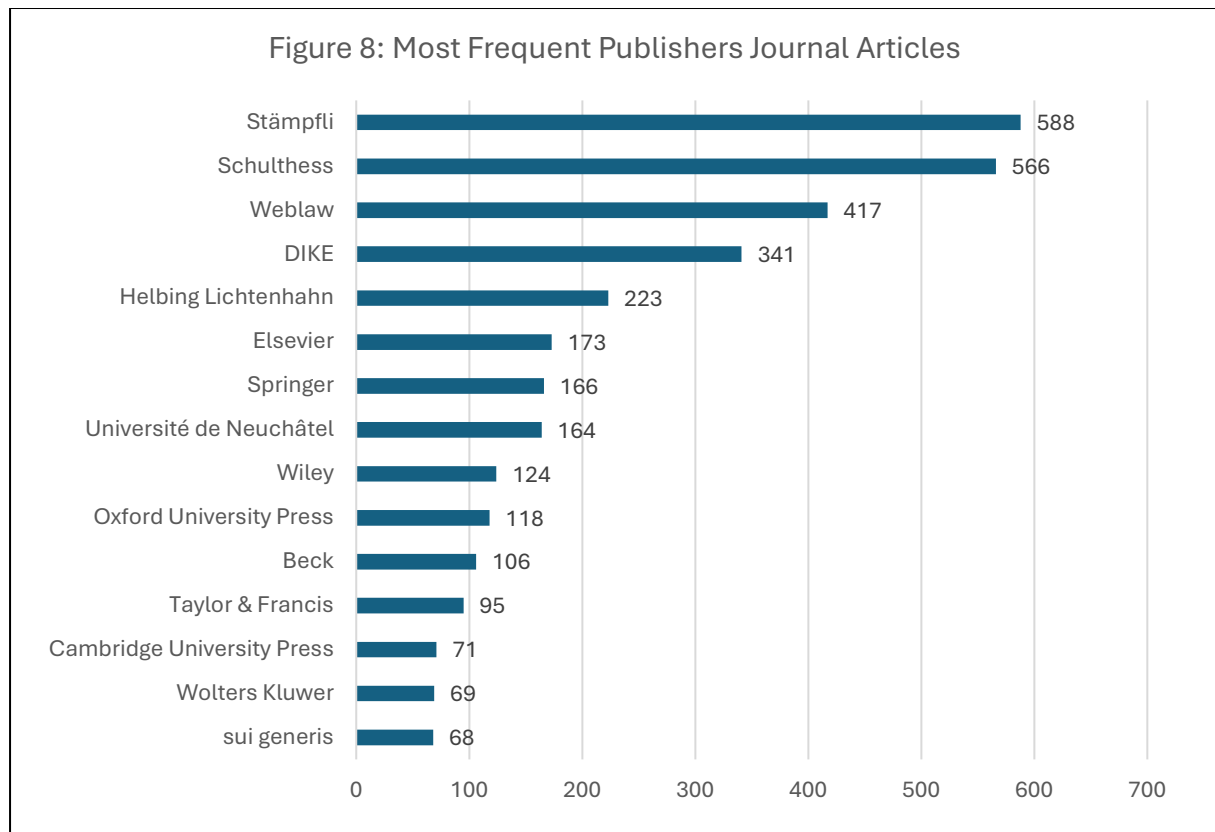
However, when all forms of Open Access are considered, particularly Green Open Access, all major traditional Swiss publishers rank among the leading publishers of Open Access books, alongside fully Open Access publishers.



This indicates that Open Access is present across the Swiss publishing landscape, although the extent and relative importance of different Open Access routes vary considerably between publishers.

Although the present analysis focuses on long-form publications, journals were also included to a limited extent. To facilitate comparison with books, the most frequent publishers in the journals segment were identified, and the Open Access status of the journals was assessed.

Among the 15 most frequently represented publishers, the four major traditional Swiss law publishers occupy the top positions, alongside another Swiss legal publisher specializing primarily in journals (Weblaw).



Open Access publishers, by contrast, are considerably less prominent in journal publishing than in book publishing. The first dedicated Open Access publisher (*sui generis*) appears only in 15th place. International publishers have a notable presence in the journal publishing landscape. Of the 15 publishers with which Swiss legal researchers publish most frequently, six are covered by national Read & Publish agreements (Cambridge University Press, Elsevier, Oxford University Press, Springer, Taylor & Francis, Wiley).

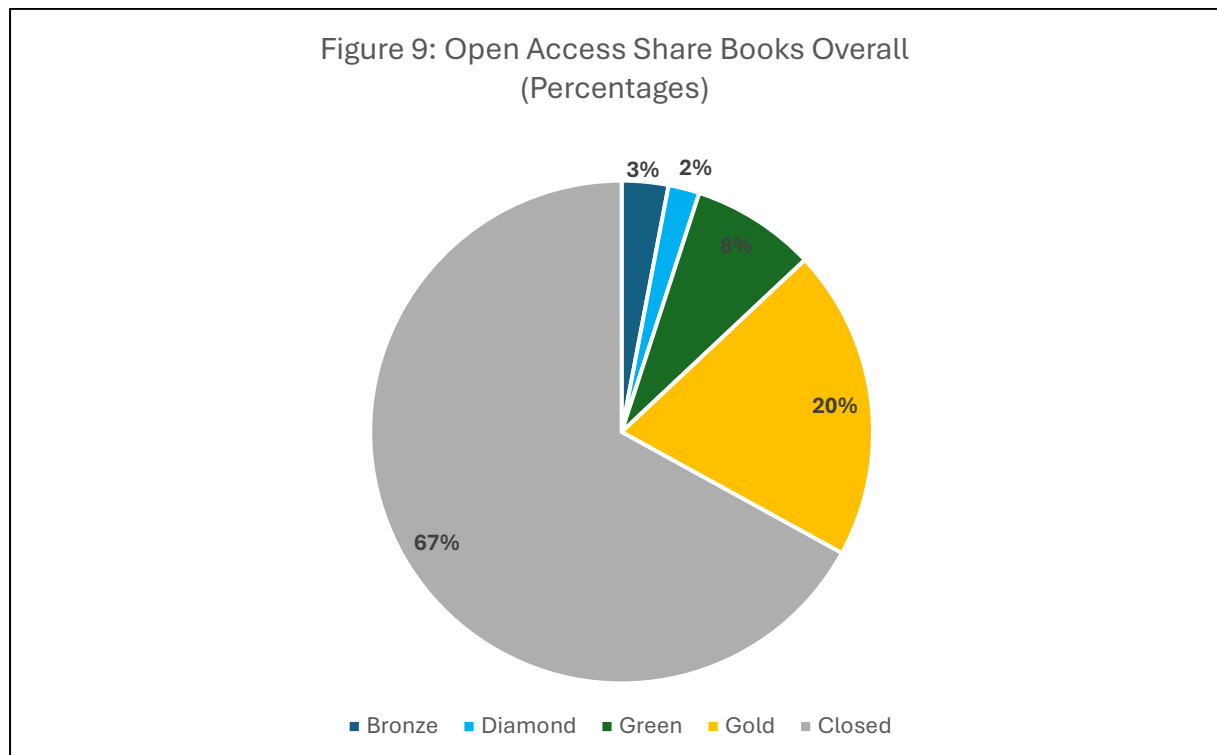
As with book publishers, the journal publishing landscape includes specialized publishers of primarily local significance which, in terms of publication volume, nevertheless rank among the larger publishers at the national level. This phenomenon may partly reflect the relatively small size of the Swiss publishing market. Thus, the University of Neuchâtel publishes short contributions on various areas of law, in some cases in cooperation with publishers and often as secondary publications.

3.5 Open Access Share

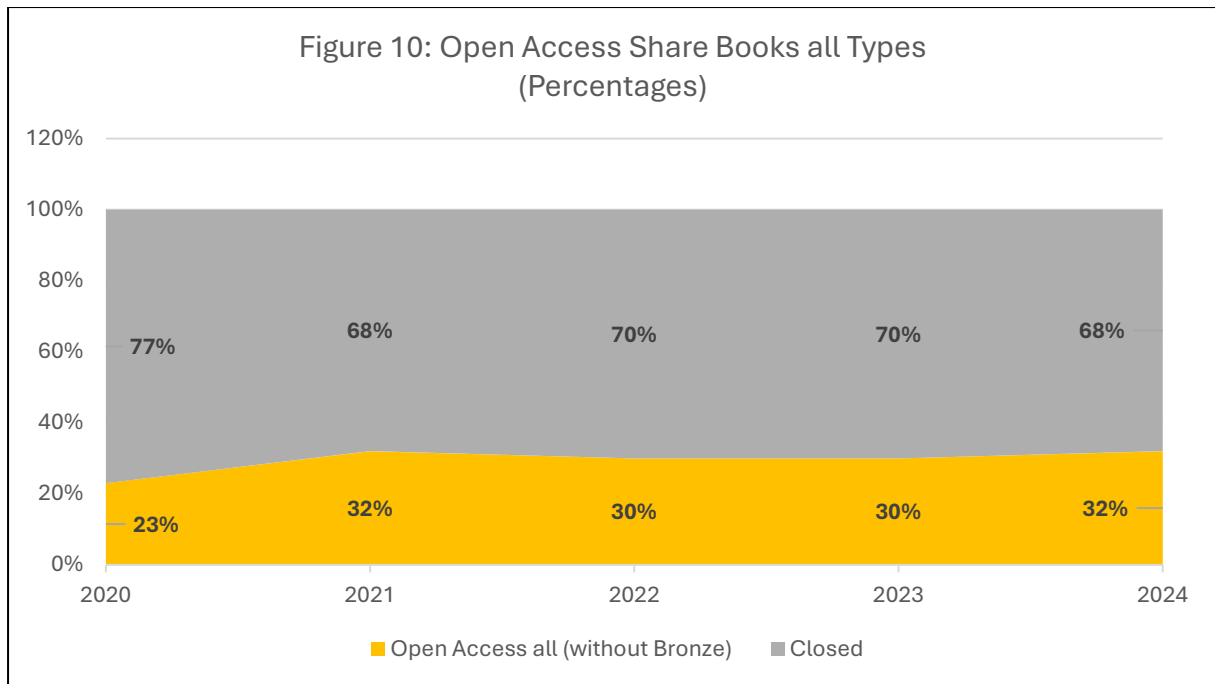
In the analysis of Open Access status, the following categories were distinguished:

- **Diamond:** Freely available online under an open license, with no publication or access fees for authors or readers.
- **Gold:** Freely available online under an open license, typically on the publisher’s website. Publication fees apply to authors.
- **Green:** A version of the publication is made freely available through a repository, typically subject to an embargo period.
- **Bronze:** Freely available online without an open license (this type of incomplete Open Access is often classified as Closed access).
- **Closed:** Not freely available online; access is restricted, typically through a paywall.

An analysis of the Open Access status of long-form publications (books, theses, and proceedings) over the entire period under investigation shows that, although the majority of books are classified as Closed Access (roughly 1200 titles), the number of Open Access publications (including all Open Access types) is nevertheless close to 600 titles. Gold Open Access is the most significant category, followed by Green Open Access. By contrast, Bronze and especially Diamond Open Access play a much smaller role. In percentage terms, this means that approximately one-third of the books are published as Open Access.

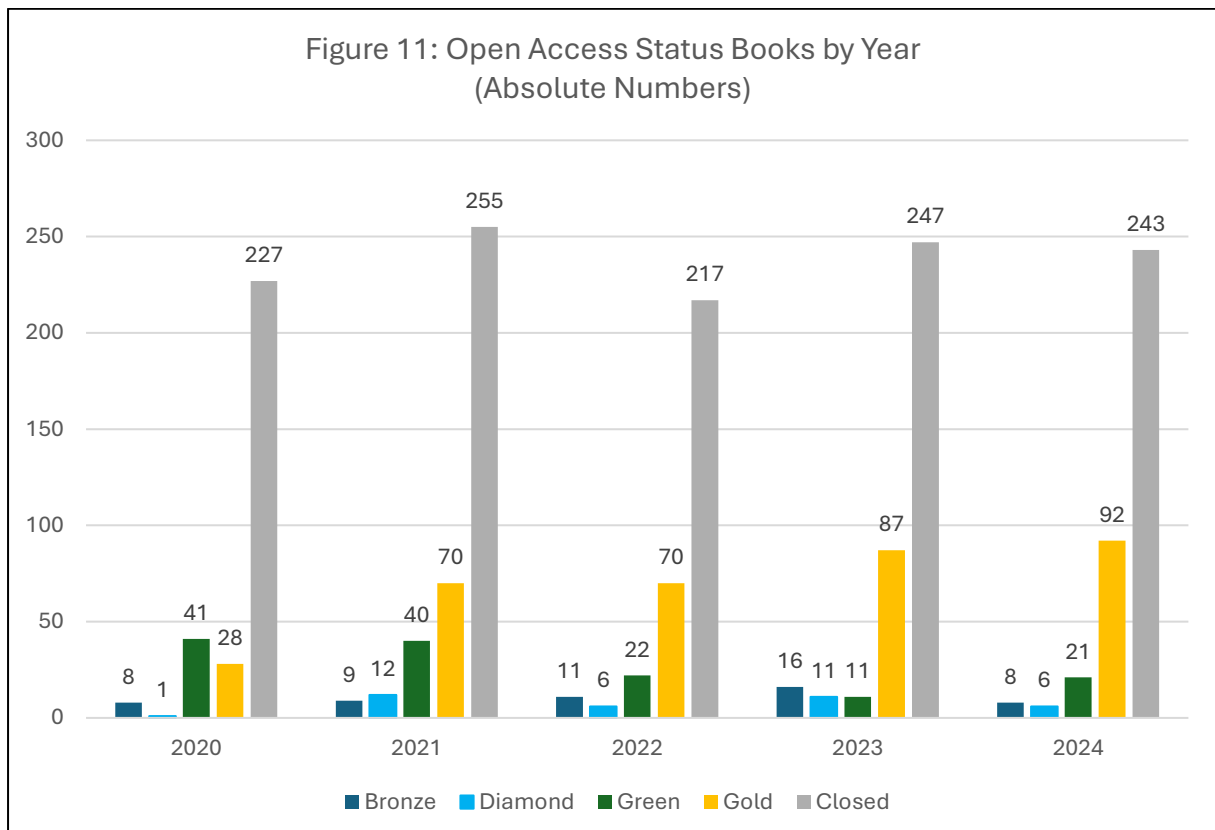


An analysis of the share of Open Access publications by year shows that the overall share of Open Access publications is slowly increasing by just under 10 percent over the five-year period from 2020 to 2024.



The increase in the Open Access share observed in 2020 and 2021 is particularly noteworthy. While the available data does not allow this development to be attributed to specific causes, it coincides with several changes in the Swiss Open Access landscape that may have contributed to this trend. These include the establishment of two major Swiss legal Open Access publishers in 2019 and the SNSF's shift towards funding Gold Open Access from 2018 onwards.

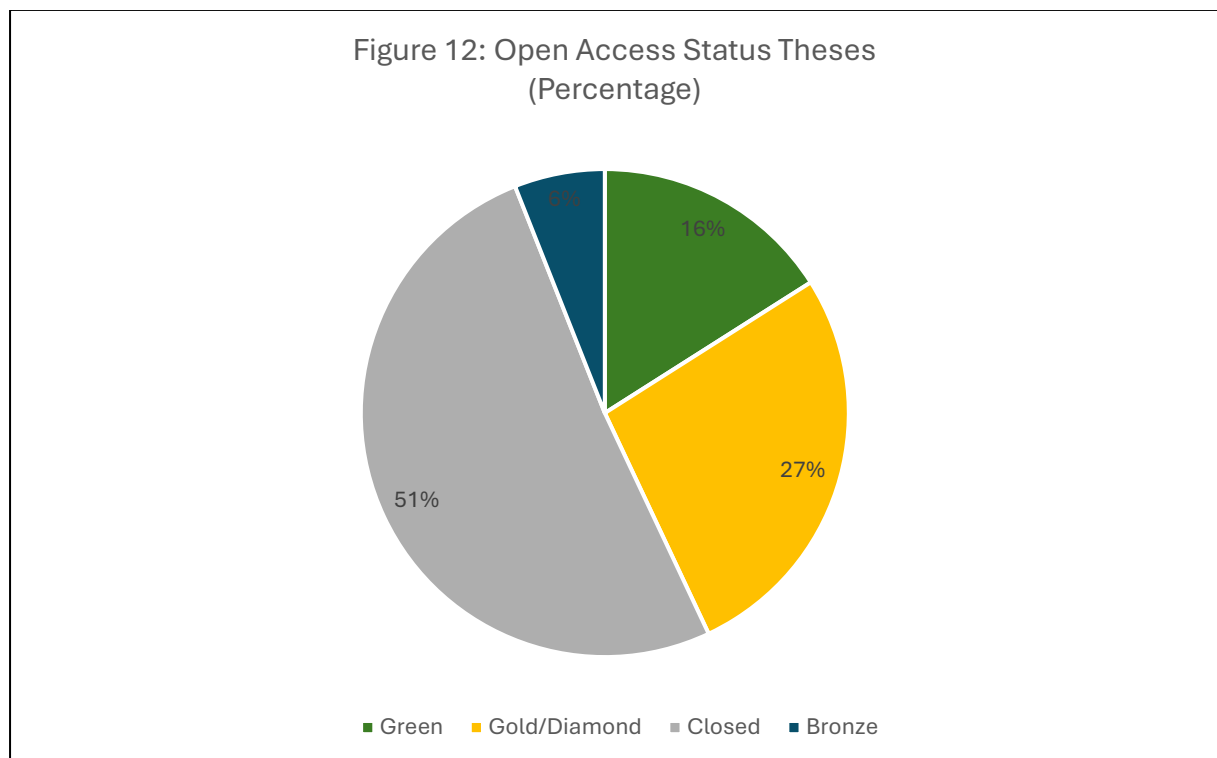
The overall stagnation in Open Access figures across all publication types masks the fact that the different forms of Open Access have developed quite differently:



The figure indicates a relatively rapid initial increase in Gold Open Access, followed by a more gradual but continued upward trend. Green Open Access, by contrast, appears to decline before increasing again in 2024. The available data does not allow the reasons for these developments to be determined conclusively. One possible factor affecting the observed share of Green Open Access is the use of embargo periods, which may delay the availability of publications in repositories. The decline may also partly reflect a broader shift towards Gold Open Access, with publications that might previously have followed the Green route increasingly being published directly as Gold Open Access. However, these explanations remain tentative and cannot be verified based on the present data. The shares of Bronze and Diamond Open Access are comparatively small, making it difficult to identify meaningful trends for these categories.

A comparison with the Swiss Open Access Monitor for books, based on the average for the years 2021–2024, shows that the share of Open Access books in legal scholarship is slightly below the national average of just over 40%.⁶

Our analysis shows that, despite its overall growth, Open Access is not developing uniformly across publishers and types of publication. Notable differences can be observed between different forms of publication. In particular, the share of Open Access titles among doctoral dissertations is higher (49%) than both the average for legal books overall and the national average for books across all research fields.



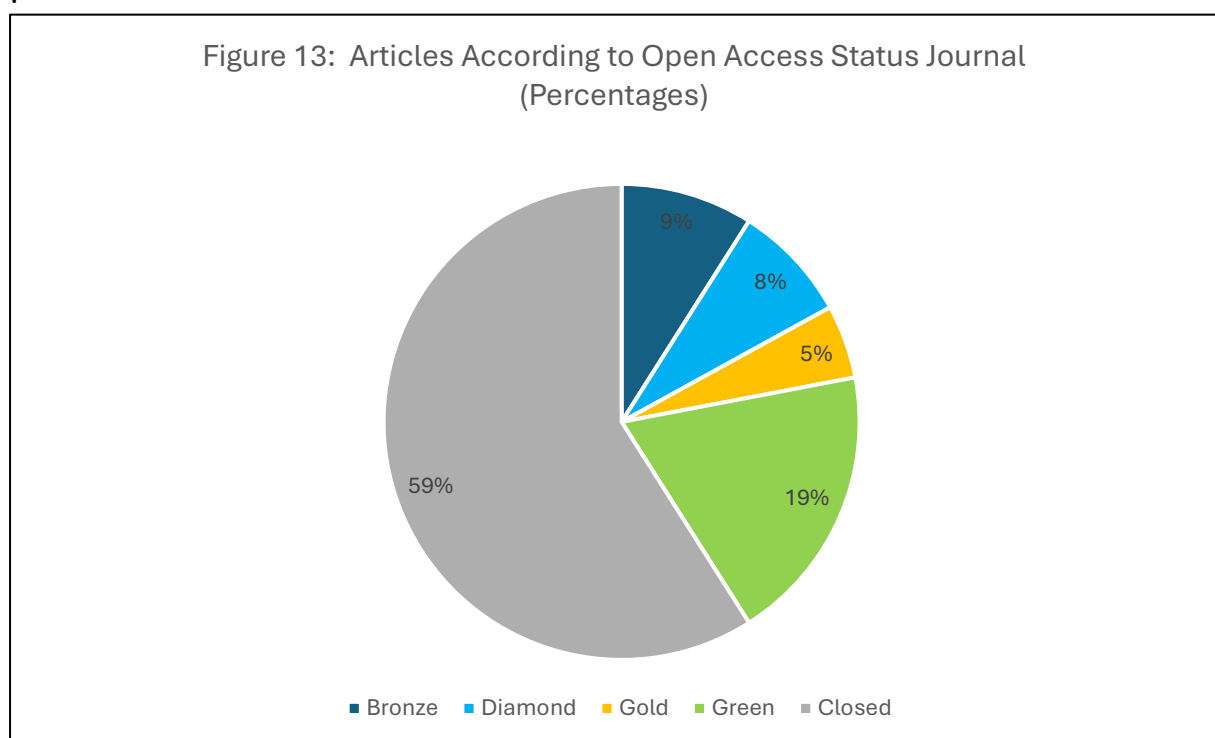
The distribution of Open Access types among doctoral dissertations also differs markedly from that observed for legal books overall. The shares of Green and Bronze Open Access are substantially higher among dissertations: the share of Green Open Access is approximately twice as high, while that of Bronze Open Access is almost three times as high as among legal books overall. By

⁶Swiss Open Access Monitor, Repository Monitor: <https://oamonitor.ch/de/diagramme-und-daten/repository-monitor/> [accessed 20 September 2026]. To view the percentage of books available through Open Access, select the «Books» filter in the right-hand column.

comparison, the share of Gold Open Access is only around one-third higher. The particularly high share of Bronze Open Access can largely be explained by universities making dissertations openly available through their institutional repositories without applying an open license.

In comparison, the share of articles published in Open Access journals was also determined. It is important to note that this analysis was based on the Open Access status of the *journal* rather than that of the *individual article*. While this distinction is not relevant for Diamond, Gold, and Bronze Open Access, it is particularly important in the case of Green Open Access, where a journal may permit self-archiving even though individual articles have not necessarily been made openly available.

When Bronze Open Access is included and Green Open Access is assumed to have been fully implemented, 41% of articles across the entire period were published in journals classified as Open Access.



This figure, as mentioned, also includes Bronze Open Access, whose classification as Open Access is contested. Since not all articles published in journals with a self-archiving policy are necessarily deposited in a repository, the actual share of Open Access articles is likely to be lower. Moreover, as Bronze Open Access is often not considered fully compliant with Open Access principles, excluding it would reduce the overall Open Access share even further.

A comparison with the Swiss Open Access Monitor⁷ reveals a substantial gap between legal scholarship and the national average. According to the Monitor, around 70% of journal articles across all disciplines in Switzerland are available Open Access, compared with a maximum of 32% in legal scholarship (for the purposes of this comparison, Bronze Open Access was classified as Closed, following the methodology of the Swiss National Open Access Monitor).

⁷ Swiss Open Access Monitor, Journal Monitor: <https://oamonitor.ch/de/diagramme-und-daten/journal-monitor/> [accessed 20 September 2026].

Despite the existing Read & Publish agreements, from which legal scholars also benefit, these figures suggest that current measures to promote Open Access have not yet been sufficient to achieve Open Access levels in legal scholarship comparable to those observed across other disciplines.

3.6 Share of University-Affiliated Legal Publications in Switzerland

Given the significant role of the private sector in both the production and use of legal scholarship, we also sought to estimate the share of legal publications in Switzerland authored by researchers affiliated with higher education institutions. To this end, we conducted a sample-based analysis comparing publications by authors with an academic affiliation with the overall output of legal publications in Switzerland. To address this question, we compared, on a sample basis, the publications of two Swiss publishers included in our dataset with datasets from the Universities of Bern and Basel containing all publications by these two publishers. This dataset was compiled based on information collected from the publishers' websites. The authors' affiliations were checked manually.

This selective and exemplary analysis showed that the share of publications originating from authors with a university affiliation varies depending on the publisher or type of publication. Some publishers focus more heavily on commentaries and practical handbooks, while others publish more dissertations and research-oriented literature. The share of publications with authors affiliated with a university also depends on the type of publication. So, for dissertations, it is likely to be 100%, whereas for commentaries it is around 50%. Overall, the share of publications authored by researchers with a university affiliation is likely to be around 75–80%. This very general assessment is corroborated by the personal perspectives of the project staff.

However, these figures should not obscure the fact that it is often not possible to draw a completely clear-cut distinction, as authors with a university affiliation in the field of law quite often also work at law firms. Our evidence-based estimate suggests therefore that the majority of legal publications (three-quarters to four-fifths) is authored by individuals who are affiliated, at least in part, with a higher education institution.

3.7 Conclusion Publication Analysis

The publication analysis has shown that long-form publications are not losing importance in legal scholarship; on the contrary, both their absolute numbers and their share are increasing slightly, while the share of journal articles is declining somewhat in the period between 2020 and 2024.

Although Swiss legal scholars publish with a wide range of different publishers and platforms, there is a strong concentration among a relatively small number of publishers: This applies to both Open and Closed publications. More than two-thirds of the book publications overall (69%) are published by just ten publishers, while well over half (59%) are published by just five publishers.

The results of the publication analysis also show that Open Access has clearly become part of the publication landscape in legal sciences: the share of Open Access publications increased by just under ten percentage points over the period examined from 23% to 32%. It nevertheless remains below the Swiss average of about 40%.

By comparison, the Open Access share of journal articles – measured based on the Open Access status of the journal – is substantially below the Swiss average. While approximately 70% of

journal articles across all disciplines in Switzerland are available Open Access, the corresponding share in legal scholarship is only around 32%.

Open Access is not developing uniformly across publishers, Open Access routes and publication types. Its growth has been driven particularly by newer Open Access publishers, while traditional publishers and universities have also adopted different Open Access models. The share is particularly high among dissertations but remains very low for major legal commentaries, where Open Access initiatives such as the «Onlinekommentar»⁸ have emerged outside traditional publishing. Overall, Open Access in legal scholarship is developing through a combination of established publishers, university-based Open Access publishers, and initiatives from legal practice.

There are significant differences regarding the growth of the different forms of Open Access: Gold Open Access is growing most strongly, while Green Open Access has tended to stagnate, and Diamond and Bronze Open Access account for only a very limited share.

Another striking finding is that publishers of Open Access publications account for only around one-fourth of all publishers represented in the dataset. This suggests that researchers may have access to a considerably narrower range of publishers when publishing Open Access than when considering the publishing landscape as a whole.

Our analysis has revealed significant potential for expanding Open Access with relatively little additional effort – the so-called «low-hanging fruit». This applies to the large majority of doctoral theses, which could readily be made available in Open Access: the major publishers offer corresponding publication models and funding is available from the SNSF. Another potential measure to promote fully Open Access publishing would be to encourage the direct publication of scholarly works – such as dissertations, reports, and conference proceedings – through university repositories under a Creative Commons license, thereby avoiding Bronze Open Access, which is not generally recognized as a fully Open Access model.

Our analysis also showed that Open Access is more prevalent in certain publication types, such as dissertations and edited volumes, while it remains largely absent from others, particularly textbooks and legal commentaries. Developing viable Open Access models for these important forms of legal publishing, in collaboration with all relevant stakeholder groups, therefore remains a key challenge.

Finally, further potential lies in Green Open Access, which remains underutilized despite existing publisher policies that permit the self-archiving of scholarly works, particularly journal articles.

⁸ Onlinekommentar: <https://onlinekommentar.ch/de> [accessed 20 September 2026].

4 Stakeholder Interviews

To complement the quantitative analysis of publications with personal experiences and perspectives, we conducted 24 interviews with relevant stakeholders. Given that law faculties are represented at universities in both French- and German-speaking Switzerland, the interviews covered both language regions.

The interviews focused on researchers, legal practitioners, and relevant stakeholders from the publishing industry and related institutions. As part of the ROAL project, university libraries and universities suggested individuals who might be willing to participate. Most of those approached agreed to be interviewed, and many already had an interest in or familiarity with Open Access. We also approached leading publishers and platforms in Switzerland, although not all of them responded to our invitation. While the number of interviewees was substantial, the sample is not representative. Nevertheless, the interviewees' familiarity with and engagement in Open Access provided valuable insights into their experiences, perspectives, and assessments.

4.1 Methodological Notes on the Interviews

The 24 qualitative semi-structured interviews (see Helfferich, 2009; Flick et al., 2022) were conducted with the help of a «Questionnaire for researchers and practitioners» (Appendix 1: Fragebogen für Forschende und Praktikerinnen) and a separate «Questionnaire for publishers», which was adapted to the specific context of publishers but otherwise differed only slightly from the questionnaire used for researchers (Appendix 2: Fragebogen für Verlage).

In terms of content, the interviews were structured around several thematic areas: Each interview began by establishing the interviewee's professional context and background. The discussion then focused on their personal experiences with Open Access and their assessment of its role within the Swiss legal publishing landscape. Particular attention was paid to existing barriers and uncertainties, as well as to opportunities, needs, and potential areas for further development. The aim was to gain a comprehensive understanding of the current landscape and, on this basis, to identify incentives and opportunities and develop approaches to further advance Open Access in Swiss legal scholarship.

As a general rule, the interviews were conducted in person. A small number was conducted online at the interviewees' request. The interviews were conducted in the respective national language and generally lasted around 90 minutes (± 30 minutes). The interviews were subsequently transcribed, and the transcripts were lightly edited to correct obvious linguistic inconsistencies without altering their meaning. The meaning, as well as the character of the spoken language, was retained. Upon request, the transcript could be reviewed by the interviewee and was subsequently revised. The priority was to ensure that interviewees could identify with the content and substance of the text, rather than with the exact wording used during the conversation. The finalized transcripts are not part of the final report but were used for the analysis.

Some interview transcripts were anonymized at the request of the interviewees, and personal information was removed. Accordingly, statements that would allow conclusions to be drawn about these individuals are not reproduced.

The various groups of interviewees were composed as follows:

- **Researchers:** The seventeen researchers we interviewed were at different career stages and work in different specialist fields. Research assistants, senior research assistants, lecturers and nine professors agreed to be interviewed. Some of them have or have had experience on a deanship level; some interviewees helped shape the Open Access policy of their university or faculty.
- **Practitioners:** We interviewed eight people from the legal profession. Four of them work at a court or an arbitration body. In addition, public administration and law firms are each represented by two people.
- **Publishers and related fields:** Seven people represented publishers or related sectors. As mentioned, we wrote to all the major Swiss legal publishers and the two leading legal platforms but did not receive a response from all of them. Helbing Lichtenhahn and Dike, both part of the Beck Group, represented the perspective of traditional Swiss legal publishers. Helbing Lichtenhahn also operates the legal research platform legalis. In addition, representatives of two legal Open Access publishers were interviewed: *sui generis* and the Europa Institute at the University of Zurich (EIZ Publishing).
- **Federal Chancellery:** Two interviewees represented the Federal Chancellery, which, through its Open Access publication of legislation and related materials, plays a central role in the dissemination of legal information in Switzerland, although its role and practices differ in several respects from those of traditional legal publishers.
- **Legal AI platform:** Finally, a representative of a Swiss legal AI platform was interviewed. Although the platform is not currently a publisher, it could potentially evolve into one in the future. This is particularly noteworthy given the growing number of AI platforms entering the Swiss legal market.

The variation in numbers can be explained by two factors: First, several interviews were conducted with two participants simultaneously. Second, some individuals hold multiple roles, for example, working both in academia and in legal practice. In total, we spoke with 27 people across 24 interviews. We are very grateful to all participants for sharing their insights and perspectives with us.

By selecting participants from all career stages within academia and including practitioners and publishers representing a range of perspectives, the interviews captured a broad and diverse set of views relevant to our research questions. At the same time, this diversity means that general conclusions can only be drawn from the interviews to a limited extent. Rather, the interviews provide a nuanced and multifaceted picture of experiences, reflections, and opinions. To reflect this diversity as adequately as possible, the analysis focuses on themes and observations that emerged frequently or repeatedly across the interviews on the one hand and on individual statements that provide particularly relevant or insightful perspectives on the other hand.

Our analysis drew on elements of «grounded theory» (Breidenstein, 2015): The transcribed interviews were coded using key terms (codes) that either emerged frequently from the material or were considered relevant for other analytical reasons. These codes were subsequently grouped into broader, more abstract categories representing overarching thematic areas. Through this iterative process, a four-level system of codes and categories was developed. This coding framework provided the basis for a systematic analysis of the interview material, allowing recurring themes, underlying meanings, and relationships between different topics to be identified.

4.2 Analysis of the Interviews

The following analysis provides a synthesis of selected topics emerging from the interviews, focusing on those most relevant to the scope and objectives of the ROAL project. As a rule, therefore, topics, experiences and attitudes are summarized; individual phrases are sometimes retained, but the themes are presented in a consolidated form. As this report does not constitute a quantitative study, the frequency of particular responses or views is indicated only in approximate terms where relevant. In selected cases, the analysis is complemented by direct or indirect quotations from the interviews. As one professor observed, the legal academic community includes both ardent supporters and staunch opponents of Open Access, highlighting the importance of fostering a re-engagement in dialogue. Our approach – of naming the interviewees sparingly, whilst placing attitudes toward Open Access, statements and arguments in the foreground – supports engagement with the issues – it supports «re-engaging in dialogue».

At the outset, we asked our interviewees to introduce themselves briefly and to explain their connection to the field of law and to academic publishing. All interviewed researchers have extensive publishing experience, including, in most cases, experience with Open Access publishing. Our analysis follows the thematic areas addressed in the interviews and covers the following topics:

- Experiences with Open Access and Perceptions of Value
- Open Access in the legal publishing landscape
- Key publishers and initiatives – Open Access in the legal publishing landscape
- Open Access guidelines and funding opportunities
- Information and Advice on Open Access
- The Future of Open Access and Emerging Developments

Several recurring themes emerged across these topics, including the use of public funds and Open Access funding, the visibility and accessibility of Open Access publications, academic freedom, quality assurance, publishing services, and AI. As these themes cut across several areas of discussion, some overlap and repetition between chapters is unavoidable.

4.2.1 Experiences with Open Access and Perceptions of Value

This section of the interview explored respondents' personal views and attitudes towards Open Access, as well as their own experiences with Open Access publishing. It also addressed the factors influencing publication decisions and the challenges encountered in this context.

A notable finding is that Open Access played a role in the publishing practices of researchers to varying degrees. Many respondents had published Open Access when suitable opportunities arose; some sought to do so whenever possible, while a smaller number consistently opted for Open Access. Publishers' responses largely reflected their respective publishing profiles and business models. The courts, by contrast, reported relatively limited experience with freely accessible legal content beyond official publications, such as those provided by the Federal Chancellery, publicly available case law, and EU sources.

Public Money and Open Access

Most interviewed researchers generally publish in Open Access, or even exclusively so – regardless of their career stage. At every career stage, there are many researchers who choose Open Access out of conviction or even regard it as a duty. The main reason cited was the conviction that knowledge should be accessible to everyone. This reflects a broader commitment to the democratization of knowledge: research findings – particularly those generated at public institutions and

funded with public money – should be freely accessible to the public (Interview with Plozza). This fundamental idea was central for most people: «Public Money, Open Science» – as an interplay (Interview with Dauag). This concerns – according to the interviewees – the economic aspects of scholarly publishing as well as its broader contribution to society. The considerations raised in this context encompassed both financial concerns and broader questions of fairness and equitable access. According to several interviewees, however, this underlying principle has so far been implemented only in a fragmented and inconsistent manner. Thus, Professor Dupont regarded the current situation as problematic: «Peu gênant d'être payée par l'État, par le contribuable, pour écrire des livres qui sont ensuite vendus par des sociétés commerciales qui font du bénéfice là-dessus. C'est un modèle économique qui m'a toujours un peu déplu parce que, finalement, je travaille pour le contribuable et je suis payée par le contribuable. Je ne vois pas pourquoi le contribuable ne pourrait pas avoir accès à ma production qui lui appartient, en fait, un petit peu» (Interview Dupont).

Some interviewees stressed that both in a national and international context, Open Access should be used to promote equal opportunities and the progress of society. One professor emphasized justice as the ability and opportunity to gain a better understanding of one's own rights and obligations, enabling individuals to assess them and ultimately determine their own actions (as stated in the interview with Romano). The saying «Unkenntnis des Gesetzes schützt vor Strafe nicht» [ignorance of the law is no excuse] was also mentioned. Against this backdrop, several interviewees emphasized the importance of ensuring that those seeking legal information or advice have access to legal explanations that enable them to understand and apply the law.

This is consistent with the approach adopted by the Federal Chancellery which is based on the principle that no one may claim ignorance of the law (interview with the Federal Chancellery). The Federal Chancellery therefore seeks to make legal information accessible to as broad an audience as possible – not only to all citizens, but also to machines, by using HTML formats. This also facilitates access for people with visual impairments. Moreover, as the electronic version of the law has become increasingly reliable over time, both in terms of textual accuracy and protection against forgery, the electronic version of any legal document was granted legal force on 1 January 2016.

Another internationally active branch of the federal administration emphasized the transparent nature of its research findings, which are published on its own website. According to them, access is of particular importance in an international context as many countries have few resources to draw upon. In their experience, libraries often lack access to some of the materials that students and researchers would like to consult. At the same time, Switzerland itself relies on legal information made openly available by foreign governments, courts, and public authorities. The interviewees also noted that, even within the Federal Administration, there are limits to the extent to which subscription-based services from other countries can be licensed – an issue that is also familiar to university libraries.

Furthermore, advocates of Open Access point to the uneconomical use of content that is not freely available. If content that has been produced with a great deal of specialist knowledge and effort were to disappear behind a paywall, that would be a waste.

However, the publishers Helbing Lichtenhahn and Dike argued that it is a myth that academia should publish via Open Access so that the general public might benefit. As a rule, the general public cannot make use of academic publications because academic findings are highly dynamic and extremely specialized. Outside of the relevant discipline, the text is barely comprehensible

and therefore cannot be put to further use. It is therefore a spurious argument. In reality, such content – they argue – would be more likely to help data aggregators and search engines generate economic value, without authors, or the academic community benefiting from it.

In contrast, many researchers and practitioners see Open Access as an opportunity, particularly for the general public, and as an important foundation for a functioning democracy. In their view, the emergence of large language models has made legal texts more accessible to broader audiences, allowing legal information to provide valuable insights beyond the legal profession.

One professor was generally supportive of the commercial re-use of Open Access content, including through AI. He emphasized that re-use by the general public is not the only relevant consideration. As this professor pointed out, universities have always educated and trained individuals who later pursue careers in the private sector, thereby contributing their knowledge and expertise to the benefit of businesses. From his perspective, a similar principle applies to research produced at universities: once published, it can also be used by the private sector. In this sense, he regarded the commercial re-use of Open Access publications as a natural extension of the university's broader contribution to society and the economy.

Although we did not explicitly ask about AI in the interviews, it repeatedly emerged in various contexts throughout the discussions. Some researchers view the use of AI models with skepticism. Content intended to be open should not – in their view – in any form disappear behind a paywall. However, as was also noted, developments in this area are still ongoing, and their longer-term implications remain to be seen.

Finally, Tim Willmann, a criminologist at the University of Bern, explained that awareness of Open Access is likely to be greater in criminology because the field brings together researchers from a wider range of disciplines. In his view, Open Access publications play a more prominent role – or have even become the norm – in fields such as psychology and social sciences. Interdisciplinary fields such as criminology may therefore contribute to and further promote the uptake of Open Access (Interview with Willmann). This observation echoes a well-established argument in favor of Open Access: the benefits of freely accessible research are particularly apparent in interdisciplinary fields, where researchers and readers engage across different disciplinary and publication cultures.

Academic freedom, freedom of publication and the Swiss publishing landscape

Three professors, all of whom have deanship experience and thus have a strategic perspective on the issue, emphasized the importance of safeguarding authors' freedom to choose how and where to publish. In their view, researchers should be free to decide whether to publish with a traditional publisher or through an Open Access model, without pressure from their universities. They stressed that Open Access policies or requirements should not create additional barriers to publication. Open Access should remain a viable option, but a publication should not be prevented or delayed simply because, for example, funding for Article or Book Processing Charges (APCs, BPCs) is unavailable.

Some interviewees expressed concern that the existing publishing landscape could be placed under pressure by certain Open Access requirements. From this perspective, a diverse and sustainable publishing landscape was regarded as contributing to the protection of academic freedom and was therefore considered valuable. Against this background, a mandatory right of secondary publication was viewed critically, as some interviewees considered it a potential restriction on authors' individual and academic freedom to determine how their work is published.

This included, for example, the preference of some authors to have their dissertations published in print. Several researchers highlighted the value of their close collaboration with Swiss publishers, both in supporting academic publishing more broadly and in the development of individual publications.

At the same time, one professor who had played a key role in shaping a university's Open Access strategy advocated a contrasting approach based on the principle of 'open by default'. As outlined above, this position is grounded in the idea that openness and free access to academic knowledge should constitute the norm within academia. In this professor's view, though many promising approaches already exist, their systematic and consistent implementation is still lacking.

Positive and Negative Experiences with Open Access

Beyond personal values and convictions, attitudes towards Open Access are also strongly shaped by practical experience. In this context, the interviewees highlighted several additional issues that have not yet been addressed above:

Positive Experiences with Open Access:

- **Visibility, usage:** In addition to their general commitment to Open Access, individual researchers valued the fact that with Open Access their publications are freely accessible to readers worldwide. Some interviewees reported receiving feedback from researchers and practitioners across different continents – feedback they believed would have been unlikely or impossible had their work been published behind a paywall. The reach of Open Access publications was illustrated by the example of the University of Geneva's Faculty of Law, where approximately 5500–6000 Open Access publications have reportedly been downloaded more than one million times.
- **Embargo periods:** Several interviewees explained that, once an embargo period had expired, authors made their publications available through Open Access. In their experience, this increased the visibility of their work without causing any significant harm to the publisher, as the relevant period of commercial exploitation had already come to an end. Several researchers reported actively seeking opportunities to make their publications available through Green Open Access once the applicable embargo periods had expired. In a small number of cases, authors reported making their publications openly accessible after the expiry of the embargo period without further consultation with the publisher, with no subsequent objections or other consequences being reported.
- **Contract negotiations:** One professor mentioned that he negotiates with publishers from the very outset of developing a work. In his experience, particularly in the case of commemorative volumes or a contribution to an anthology, he has been able to secure at least «Green» Open Access – that is, the option to publish a freely accessible secondary publication.
- **Translation:** It was also pointed out that Open Access and digital publications offer the advantage of being more readily accessible across language barriers, particularly through the use of digital translation tools.
- **Quality:** It was noted during the interviews that a number of highly reputable Open Access journals have emerged by now, including the *Berkeley Technology Law Journal*, which is considered a top-tier journal.

- **Funding:** According to some interviewees it is often straightforward to arrange for the SNSF or the universities to cover the costs of an Open Access publication.

Negative Experiences with Open Access:

- **Additional workload:** The requirement to pay publication fees and to undergo a potentially time-consuming peer-review process was perceived by some interviewees as an additional burden within the overall publication process. According to this statement, this may also entail additional work related to formatting, layout, and other traditional publishing services. However, it is important to note that these potential drawbacks are not unique to Open Access and may equally apply to Closed Access publications.
- **Peer review:** It was mentioned that in highly specialized fields, finding suitable peer reviewers can be challenging, as experts in a particular area often know one another. Identifying an appropriate reviewer can therefore prolong the publication process and make it more cumbersome.
- **Gap between aspirations and actual possibilities:** At the same time, researchers who are generally committed to Open Access may have valid reasons for choosing other publishing models in individual cases. One reason, mentioned on several occasions, was that young researchers are sometimes encouraged by senior academics to contribute to selected – Closed Access – publications of high standing. Furthermore, in certain areas of Swiss law, there are hardly any Open Access options. In the case of legal commentaries, for example, «Online-kommentar», which is run by a non-profit association, is the notable exception. It was mentioned that among legal journals there is a lack of Read & Publish agreements. At the same time, certain publications – which are usually published only by traditional legal publishers – form part of a legal scholar's portfolio. Among professors in particular, contributing to a commemorative volume in honor of a valued colleague may be one reason for choosing a Closed Open Access publication. It was generally noted that, compared with other disciplines, Swiss law offers significantly fewer options for Open Access publication. Finally, one professor noted that most of her PhD students do not have access to university or SNSF funding because they pursue their doctoral studies while working in public administration, the judiciary, the legal profession, or the private sector. Their doctoral research therefore does not fall within the scope of university-funded research. The same applies to contributions to specialist journals and legal commentaries, most of which are likewise not based on university-funded research. As a result, according to the professor, Open Access is less readily feasible in legal scholarship than in natural sciences.

Broader experiences with Open Access

- **Coexistence of publication models:** It was emphasized on several occasions that traditional publication models and Open Access currently coexist and that this is likely to remain the case for some time to come.
- **Courts and Open Access:** One finding from the interviews was that court staff at different career levels rarely search for or use Open Access content beyond core legal materials such as legislation and related documents, court decisions, and EU legal sources. Instead, they primarily rely on legalis and Swisslex, as well as established legal commentaries in print or digital form. These sources were valued for their reliability, currency and, above all, practicality. Commentaries in particular were considered useful for quickly gaining a comprehensive

overview of a legal issue, while other print resources in court libraries also continued to play a role.

The limited use of Open Access appears to be related to established research practices, limited familiarity with Open Access sources, and concerns about their reliability. Interviewees had not received training on Open Access during their university education and noted that high caseloads leave little time to assess unfamiliar sources in detail. Established platforms and commentaries therefore offer an efficient and trusted way of accessing legal information. At the same time, interviewees reported that courts generally provide no specific guidance on the use of sources, referring to judicial independence in this context. When asked what could increase trust in Open Access content, they highlighted the role of universities in familiarizing future legal professionals with Open Access sources, as well as the potential value of continuing education for court staff. The expertise of authors, for example their direct involvement in recent legislative reforms, was also considered an indicator of reliability and relevance.

- **Administration, law firms and Open Access:** A researcher who had previously worked in the Federal Administration recalled that access to Swisslex was restricted due to its high cost: every query entailed costs, without any guarantee that it would yield a suitable resource. Also, lawyers from smaller administrative units or law firms stated that partly due to the high costs they did not have access to Switzerland's market-leading legal platforms. As they sometimes only used individual products from a database, the price for the whole database was considered disproportionate. In this respect, Open Access sources were important to them. However, one public authority noted that conducting thematic searches for Open Access articles can sometimes be challenging, particularly for those who are not affiliated with a university and are therefore less familiar with the various options and platforms available (interview with the Migration Service of the Canton of Neuchâtel). A member of arbitration authority found Open Access to be very helpful in terms of accessibility and collaboration (interview with Bloch). An administrative body operating internationally highlighted significant differences in access practices across countries. According to the interviewee, legislation and case law are generally freely accessible, at least in Western Europe and North America. By contrast, access to closed legal databases is often effectively confined to national borders, as licensing such services abroad is frequently considered too costly. Even within Switzerland, the cost of such licenses can represent a significant barrier for smaller institutions, public authorities, and law firms.

The interviews with court and administrative staff indicated considerable interest in using Open Access content where suitable material is available. Its use by courts and public authorities could further increase its relevance and visibility within the legal knowledge cycle. To realize this potential, interviewees highlighted the need for training in identifying, assessing, and using Open Access sources. At a minimum, these skills should be taught to law students.

Some of the more critical statements mentioned above point to differing interpretations of Open Access and, in some cases, to perceptions that do not fully align with established Open Access principles. It is, for example, perfectly possible to publish a doctoral thesis both digitally and freely accessible, as well as to sell it in print through standard bookshops. Thanks to funding from the SNSF, this approach is already the norm in other academic disciplines. Furthermore, publishers and collaboration with them continue to play an important role also in an Open Access

publishing culture. Moreover, SNSF funding is available to all doctoral students enrolled at a Swiss university, including those who are employed by a law firm. A further point requiring clarification concerns the concept of a mandatory secondary publication right. As outlined in the relevant swissuniversities report (Thouvenin et al., 2023) and in accordance with general legal principles, «mandatory» in this context does not mean that authors would be required to make their work available through secondary publication. Rather, it means that the right itself could not be waived or excluded by contract. If such a right were to be introduced into law, authors would therefore have the option, but not the obligation, to make use of it. As this point has also caused uncertainty in discussions beyond the present project, clearer communication on the scope and implications of such a right appears necessary. Another point of uncertainty concerned the relationship between Open Access and collecting societies such as ProLitteris: Contrary to a common assumption, Open Access publication does not necessarily preclude authors from receiving remuneration through ProLitteris.

4.2.2 Open Access in the Legal Publishing Landscape

This section of the interviews focused on the broader landscape of legal academic publishing. Interviewees were asked to identify factors they considered conducive to Open Access and to reflect on the opportunities and risks associated with Open Access publishing.

Concerns, Obstacles and Risks Associated with Open Access

- **Publishing structures and market dynamics:** A point repeatedly emphasized by many interviewees was that a substantial share of legal scholarship – particularly legal commentaries – is authored by individuals outside universities. Several interviewees noted that this poses distinct challenges for the implementation of Open Access, as authors outside academia are less directly reached by university-based Open Access policies, funding mechanisms, and support structures. Several professors said that they value the contractual services provided by established publishers and the long-standing collaborations they have developed with them. For example, they appreciated the professional and appealing presentation of their publications, which can help attract greater attention. Some interviewees expressed concerns about the future of established publishers and, more broadly, about the potential erosion of the legal book market as a result of Open Access. At the same time, they pointed out that demand for specialized legal information comes primarily from professional audiences rather than from the general public, raising questions about the potential reach and economic viability of Open Access models in this specific market.
- **Publication:** Professor Thier valued the fact that his Open Access publication through the Max Planck Institute significantly facilitates distribution, which he sees as a clear advantage, particularly in the field of basic research. The Max Planck Institute works successfully with a publisher, which is why distribution is so efficient. However, in light of current funding cuts, he regarded his own university library as an unreliable partner, as there was no guarantee that its services would be maintained in the long term (Interview with Thier).
- **Quality and peer review process:** Professors expressed concerns that Open Access content is geared more towards downloads than towards scholarly debate. Furthermore – according to some interviewees – it was not clear to them why universities would pursue Open Access in law since Open Access originated in the natural sciences and the Anglo-Saxon world, where monopolistic journals play a role. They further mentioned that this would make it

difficult to apply Open Access to the European context in general. Peer review, while generally regarded as a mechanism of quality assurance, was also viewed by some interviewees negatively as it contributes potentially to a standardization of academic thought. The implementation of peer review was repeatedly described as challenging in the field of legal scholarship: One professor noted that genuine double-blind peer review is difficult to implement in the Swiss context. Given the relatively small and closely connected academic community, reviewers are often able to identify authors from their writing style and linguistic idiosyncrasies. This makes it challenging to establish a publication system that fully adheres to the principles of double-blind peer review.

- **Lack of Open Access options:** Several researchers mentioned that Open Access journals – particularly in Switzerland – often have a broad scope in terms of content and lack sufficient specialization. Furthermore, for the sake of variety, one should not publish always in the same journal. Given the lack of variation in Open Access journals, this would leave researchers little choice but to publish elsewhere.
- **AI:** Concerns were expressed that AI could sometimes reference old Open Access articles and comments that no longer reflect the current legal situation. This would lead to confusion. Furthermore, several researchers expressed concern that third parties could commercially benefit from publicly funded Open Access content. In their view, this raises the broader question of whether, and under what conditions, commercial services should be able to benefit financially from publicly funded research? In this discussion, however, researchers often seemed to overlook that transferring extensive rights to publishers may allow them to commercially exploit publications through third parties, including by selling content to AI companies.
- **Future of robust Open Access:** Professor Diebold distinguished between the various services provided by publishers: the provision of content on the one hand, and its aggregation and enhancement within a digital database together with all its associated features, on the other. He explained: «Und wenn man jetzt einfach mal die Datenbanken wegdenkt und sagt, alles ist Open Access online irgendwo erhältlich, das heisst dann noch nicht, dass man es findet.» Even if all data were theoretically accessible, according to Diebold it would remain difficult to locate the data because it is dispersed across different sources. This underscores the need for comprehensive databases that aggregate, structure, and organize the available information. Whether such infrastructure should be publicly funded and provided by the state is ultimately a political question. At the same time, maintaining competition between platforms could foster innovation. According to Diebold, the current dominance of a single platform is therefore problematic, as its bargaining power may create a bottleneck in access to a vast body of data (Interview with Diebold). Similarly, Professor Thier pointed out: «Bei 100 % Open Access: Wer entscheidet, wer produziert, wer distribuiert? Und wo kommt das Geld her? Das sind Fragen, die ich für komplex halte» (Interview Thier).
- **Quality of content:** The Federal Chancellery was aware of the issue that open data on platforms could be falsified or hacked: «Es gibt immer Risiken, wenn wir Daten frei zugänglich machen, weil wir garantieren müssen, dass die Daten nicht gefälscht sind. Der Zugang zur Seite muss ebenfalls bis zu einem gewissen Grad gewährleistet sein (z.B. Gefahren durch Cyberangriffe). Und schliesslich besteht auch für uns die Herausforderung darin, die gute Qualität der veröffentlichten Texte zu garantieren» (Interview Federal Chancellery). A deputy judge even raised concerns that Open Access could result in a dilution of content and that the sheer

volume of publications could become difficult to manage. At the same time, it was noted that to date there are reportedly no predatory journals in the field of Swiss legal scholarship. Care should be taken to ensure that none emerge.

Best Practices and Opportunities

- **Publication process:** The efficiency of publication processes is important to researchers. The university's Read & Publish agreements were found to be straightforward. Concerns were expressed that publication in traditional journals can sometimes take a very long time, «eine Ewigkeit», up to two years. It was noted by some interviewees that similar delays can occur with Open Access publications, especially when many authors are involved, as a considerable amount of time can elapse before publication. It was also noted that some journals were being avoided because they have long embargo periods.
- **Visibility:** As noted above, a key factor for researchers – if not the most important one – is visibility and easy access. Virtually all researchers highlighted this in the context of Open Access, especially since many interested parties do not have access to the relevant legal databases. For some interviewees, AI may act as a catalyst in this regard by making Open Access content easier to discover. The view that increased visibility represents an opportunity is shared by researchers, publishers, and other stakeholders in the field. Indeed, there is probably no other issue raised in the interviews on which there is such a high degree of consensus, although the topic is discussed with varying degrees of nuance. Greater visibility leads – according to the persons interviewed – to increased use and more citations. Open Access content is therefore not only more visible in the academic debate; it also has a greater impact. There was also a hope that Open Access could help academia as a whole reach new audiences and expand its influence, particularly if Open Access content were also taken up by journalists. This could enable research findings to reach a much broader public. Findings in the field of criminology were cited as an example. Today, language models can be used to process complex legal texts and present them in a way that is accessible to non-specialists, thereby making them more understandable to a wider audience. Conversely, valuable research findings may otherwise remain undiscovered.
- **Knowledge transfer and comprehensibility:** Alongside the broad reach of Open Access content, language itself was seen as offering potential for greater accessibility, as authors could adapt their writing to make it more understandable to non-specialists, e.g. through AI translation tools. This point was raised by both a researcher and a court official. A lay judge and a representative of an arbitration body likewise expressed the hope that this could help non-specialists better understand their legal situation and court rulings. At the same time, however, third parties pointed to the risk of misunderstandings, particularly due to AI «hallucinations» and the possibility that AI systems may rely on or reproduce outdated information. Conversely, one researcher noted that, in the medical field, people are accustomed to consulting a specialist even when relevant information is readily available to them.
- **AI:** AI was indeed seen as an opportunity by some researchers. Professor Romano assessed the situations as follows: «On ne sera pas dépassé par l'intelligence artificielle, on sera dépassé par celles et ceux qui savent l'utiliser, par celles et ceux qui savent tirer profit de manière prudente et intelligente» (Interview with Romano). And if an article is not Open Access, it is not accessible to AI. Many researchers stated that AI could therefore significantly change and shape research in general in the future.

- **Equal opportunities:** It was stated that, in general, Open Access promotes greater equality of opportunity, including ensuring that students who cannot afford textbooks are not disadvantaged. For smaller law firms, Open Access can even help to level the playing field in legal proceedings. In an international context, Open Access provides additional means of ensuring that sources are accessible and actually consulted and used. This applies equally to courts, law firms, government agencies at home and abroad, the research community, and private institutions. One professor valued the broad academic exchange facilitated by Open Access content: «Ja, Sichtbarkeit. Wir sind ja oft in unseren kleinen Silos unterwegs und haben dann das Gefühl, wenn es publiziert ist, ist es zugänglich. Aber das ist es nicht. Für mich ist es wesentlich einfacher, meine Publikationen national und weltweit zu streuen, wenn sie Open Access sind, als wenn ich dann immer noch jemanden dazwischen geschaltet habe, den ich fragen muss; egal, wie viel Freiraum diese mir geben. Also die Sichtbarkeit ist das Wichtigste, finde ich. Die Nachnutzung: Man wird häufiger zitiert, habe ich das Gefühl. Man wird wesentlich breiter wahrgenommen.»
- **Open Access and career:** Several established professors expressed an understanding that younger researchers might not opt for Open Access under certain circumstances. However, they themselves are in a position where they are under no pressure to publish in a prestigious journal. In that sense, they would give preference to Open Access.
- **Greater flexibility in the choice of format:** According to some interviewees, Open Access not only offers more direct communication, but also greater flexibility in terms of scope. One professor was tasked with drafting a position paper on a legislative proposal for the Federal Office of Justice, which turned out to be quite extensive. Had he submitted it to a journal, he would have had to shorten it considerably, and publication would have taken too long in the context of the political process. Another professor pointed to more flexible publication formats for Open Access content, e.g. using a pre-print server and an overlay server for selected content.
- **Public money, Open Access:** However, there were also fundamental considerations regarding best practices from other sectors. As part of Open Government Data, Swisstopo makes maps freely available, which are used commercially by various providers. The strategy behind Open Government Data is that anything produced using public funds should be made available to the public. The view that Open Access can be seen as a return on investment in researchers for the benefit of the public also fits into this context.
- **Open Access and trust in the rule of law:** The Federal Chancellery emphasized not only the importance of dissemination to a wide audience, but also the need for trust and transparency regarding the state's activities, trust in the rule of law: «Nos pratiques à la Chancellerie sont le reflet de la loi sur la publication. Nous sommes pour l'Open Access, mais c'est aussi une obligation légale de publier l'ensemble sur la plateforme FedLex. C'est le reflet de la transparence de l'administration. Il est assez important pour nous d'avoir cette confiance en l'état de droit. La mise en ligne des contenus ne peut qu'accentuer cette confiance en promouvant la dissémination de l'information au public. De plus, cela garantit la qualité et l'origine de la source. Il y a des fonctionnalités sur notre plateforme qui permettent de vérifier l'origine du texte.» In addition, a range of Open Access tools are available that enable users to analyse texts in detail, for example to compare different versions of a text or different languages (Interview Federal Chancellery).

- **Quality of content:** Quality was also seen as an opportunity in the implementation of Open Access: One professor remarked that what is unique to the field of law is the absence of citation indices, journal impact factors and bibliometrics as a whole, which is why it would be all the easier to implement more Open Access. The focus on very specific journals could, in principle, be dispensed with.

Topics Involving Ambivalence

- **Open Access, courts and public administration:** Within the research community, it is widely observed – regardless of one’s stance on Open Access – that Open Access publications appearing outside traditional, established channels receive negligible attention in practice. This visibility gap affects the entire administration of justice, including the courts, the legal profession, public prosecution, and the civil service. While Open Access options are available, practitioners predominantly rely on Swisslex as their primary source, leaving platforms like LEX campus and its Open Access offerings underutilized. Furthermore, resources such as EIZ Publishing or dedicated Open Access journals remain unutilized by those unfamiliar with them. According to some interviewees, by aggregating content from their associated publishers, including Open Access publications, the two leading legal platforms, Swisslex and legalis, effectively hold a dominant position in the Swiss legal information market. For scholars, this raises a critical question: if a work is absent from these dominant databases, can it truly be found and cited? There have been efforts by *sui generis* and EIZ Publishing to be integrated into LEX campus and Swisslex respectively. However, these have so far failed as they noted. According to *sui generis*, Swisslex stated that technical constraints prevented the inclusion of its Open Access content. However, given its substantial market power in the field of legal research platforms, some interviewees considered it particularly important for Swisslex to include Open Access content. At the same time, EIZ Publishing confirmed that its own publications are heavily geared toward practitioners – particularly attorneys – meaning that integration restricted solely to LEX campus, without the core Swisslex database, offers little practical value.
- **Practice and research:** A key aspect of the legal publications landscape in Switzerland frequently highlighted is the deep intertwining of practice and academia as a distinctive feature of the legal discipline. Legal literature is both co-authored and utilized by researchers and practitioners alike. Commentaries, in particular, are shaped heavily by this collaborative approach, which is often cited as the primary reason why such works are rarely, if ever, published via Open Access: Open Access concerns primarily publicly funded research outputs. Several interviewees countered that these arguments are unsustainable; they pointed out that academics also write specifically for the legal profession, while practitioners, for their part, have little incentive to pay high prices for the access to legal publications, particularly when alternatives are available. Furthermore, even for practitioners, the primary motivation for publishing is to establish themselves as experts. The argument in favor of access for all, including small law firms, carries greater weight. One professor distinguished between works which are primarily sourced from universities and those that come from the legal profession. In the case of commentaries and similar works, he sees less merit in the Open Access argument, as these are aimed at the legal profession and are also largely written by practitioners. He does not see the benefit in the general public funding this via taxpayers’ money. As a taxpayer, he felt that public funds were not being put to good use if they were used to finance

commentaries, as these are not necessarily based on publicly funded research. Another professor anticipated higher costs for universities if law firms and other private-sector actors were to benefit from university research – for example, legal commentaries – while the full financial burden of making such research openly available fell on universities. This point was also emphasized in the interview with Till Willmann: «Ich habe das Gefühl, dass sich die juristische Publikationslandschaft nicht nur per Zufall so entwickelt hat, weil die rechtswissenschaftliche Forschung vermutlich stark von der juristischen Praxis wahrgenommen wird. Also Gerichte beziehen sich auf Forschungsarbeiten, auf wissenschaftliche Artikel; Anwälte, Anwältinnen beziehen sich in ihren Beschwerden, Plädoyers auf juristische Forschung und das ist wahrscheinlich ein Unterschied zu anderen wissenschaftlichen Disziplinen. Also die rechtswissenschaftliche Forschung, die ist nicht nur einfach für die Forschung selbst relevant, sondern höchst relevant für die Praxis. Und ich gehe davon aus, dass diese Mechanismen, die sich da entwickelt haben, stark damit zu tun haben, zumindest zu tun haben könnten, dass die Forschung in den Rechtswissenschaften einen anderen Zweck erfüllt als beispielsweise in den Sozialwissenschaften» (Interview Willmann).

- **Publishers in transition:** Several voices within the research community perceived major legal publishers in Switzerland as being under threat, although this perception was not substantiated by further evidence during the interviews. Others pointed instead to global publishers like SpringerNature, Elsevier, and Wiley, which have not been weakened by Open Access but have instead grown larger and more powerful. Were Swiss publishers to withdraw due to a lack of economic viability, university-backed infrastructure would be required to prevent researchers from being increasingly burdened with publishing tasks which are normally covered by publishers – a shift that would inevitably come at the expense of valuable research time. It was feared by some that at worst gaps in the availability of information might arise. The work of the publishers was highly valued by some interviewees. Conversely, others viewed traditional publishers as state-subsidized enterprises that profit from publishing numerous works authored by state-funded experts, who are then required to assign their copyrights. At the same time, this academic labor is not appropriately remunerated by the publishers according to these interviewees. Some interviewees argued that traditional legal publishers provide inadequate service and quality across the board – at the editorial, typesetting, production, and administrative levels. One researcher noted that, unlike domestic publishers, she had experienced significantly better and entirely cost-free services with foreign publishing houses. Ultimately, some interviewed people suggested that publishers must reinvent themselves and that, to some extent, they are already doing so through the development of their databases.
- **Publishing services:** The current practices of publishers have been called into question by several interview participants. They were concerned that legal works, whether commentaries or textbooks, are so lucrative for publishers that they have an incentive to limit Open Access options. They identified this as one of the major practical obstacles to Open Access. If, on the other hand, solutions were to be found to enable wider Open Access publishing, this might end up later benefitting the publishing sector. One professor believed that, at present, the publishing market is not functioning properly: «Also, wenn ein privater Schriftsteller zu einem Verlag käme und dieser würde sagen: 'Ja, also setzen? Das können wir leider nicht, tut uns leid. Lektorieren? Können wir auch nicht. Wir können es in einen Einband fassen und dies für 120 Franken verkaufen und wir geben Ihnen 12 Franken pro verkauftes Buch. Und die Rechte

müssen Sie uns auf Lebzeiten abtreten. Also nicht nur für die erste Auflage, sondern für den Rest Ihres Lebens.» Dann würde doch jeder vernünftige Autor sagen, vielen Dank für das Angebot, ich glaube, ich gehe woanders hin. Dieser Markt funktioniert nicht.»

It was repeatedly suggested that, if current publishers were highly disadvantaged by the significant increase in Open Access publishing, then universities would need to develop the relevant services (proofreading, layout, marketing) themselves. Conversely, it was pointed out that if such services were to be established at universities, the situation would need to be planned for the long term, particularly given the recurring threat of federal budget cuts.

Nevertheless, as some interviewees pointed out, publishers' services are not equally accessible to everyone; access to these services may vary depending on an individual's status and career stage. PhD students in particular already carry out many of these services themselves. Current professors can often rely on publishers' services, which is likely explained by their role.

- **AI:** AI has also been a recurring subject of controversy. On the one hand, its potential to enhance the visibility and accessibility of research is recognized; on the other, concerns have been raised that content made openly available through Open Access could once again become enclosed behind paywalls. As one interviewee put it, we may now be facing a situation in which Open Access is giving rise to a new form of commercialization and a new value chain. Content is released from traditional silos through Open Access, only to be potentially absorbed into new silos through the use of AI. Similarly, as another researcher pointed out: «Was mich derzeit besonders beschäftigt, ist die Frage, inwiefern Akteure von Open Access profitieren, die mit diesen öffentlich finanzierten Inhalten wiederum private Gewinne erzielen. Das empfinde ich im Moment als eine problematische Entwicklung.» Researchers at all stages of their careers are grappling with this issue, emphasizing the need to carefully consider whether they are comfortable with their content being used for training large language model. This has also prompted arguments in favor of placing content not necessarily behind a paywall, but behind a login, thereby introducing a degree of controlled access. As already noted, not all interviewees took a critical view of the commercial re-use of Open Access content. Some pointed out that universities have always played a role in facilitating and supporting the commercial re-use of academic research.

Another important issue that came up regarding AI is the publishers' interest to create their own models trained on the materials that they publish. For example, a publisher (Helbing Lichtenhahn) which is in the process of developing their own in-house AI made the following point: «Man muss sich im Klaren sein, dass Open Access Publikationen dazu beitragen, internationale KI-Unternehmen unentgeltlich und unkontrolliert mit Daten zu versorgen. Damit schwächt sich die Wissenschaft in Teilen selbst, denn die KI verändert die Vermittlung von Wissen, die Lehre, die Forschung sowie die Erstellung und Verwendung von Sprache, Bildern und Texten als Form von «Wissen» nachhaltig.» From an academic perspective, however, one professor pointed out that publishers' own AI systems can also raise concerns, as sources may be used for AI training without this use being transparently reflected or disclosed. Authors are therefore unable to trace how their work is incorporated into the training process, potentially putting them at a disadvantage.

The publisher Helbing Lichtenhahn stated that it would use works as part of its own AI services, provided that such use was disclosed and the authors had given their consent to AI-Training. At the same time, some researchers mentioned that they find it problematic to

hand over exclusive rights concerning AI processing to the publishers, when they have already published their works Green Open Access: this may create a conflict.

- **Authors' rights:** Many interviewees considered the framework of traditional publication models inadequate and questioned whether waiving authors' rights was justified, given that authors derive little, if any, financial benefit from the sale of their publications. One interviewee noted that an author who contributes to an edited volume may receive a complimentary copy but would still have to pay for digital access to the publication at a later stage. Another example was provided by a professor who had contributed to an anthology published by a traditional publisher several years ago. He had asked the publisher whether he could use his own contribution in his lectures and share it with his students. The publisher refused for reasons that were difficult for him to understand.

Liability issues relating to traditional publishers were also discussed in this context. One editor noted that, when overseeing a publication featuring authors from various countries, they could be held liable for copyright infringements committed by individual contributors. Additionally, the editor would not be allowed to publish on the same subject with any other publisher. Such restrictions were considered difficult to reconcile with the interests of academia.

- **Costs:** Interviewees often mentioned that publishing offers authors little financial benefit. PhD candidates, for instance, may have to pay several thousand Swiss francs to have their dissertations published, Open or Closed, while at the same time being expected to do much of the proofreading, formatting, and other production work themselves. Emeritus professors may face similar situations. Only professors in permanent positions – as some interviewees reported – may be able to draw on publishers' editorial and production services, but their financial compensation remains limited. According to one professor, these Closed Access publications are then purchased at considerable cost by university libraries or library consortia. Effectively, in some cases, this amounts to the repurchase of publicly funded research. The financial burden of Closed Access publications is also a growing concern among some researchers, particularly in light of funding cuts affecting university libraries. Many fear that these cuts will increasingly restrict their access to essential research resources.

Publishers, however, take a different view of these costs. In contrast, Helbing Lichtenhahn and Dike emphasized that large commentaries would entail a significant amount of editorial work and several years of publishing effort. This work would have to be recouped through sales. Gold Open Access publication of these texts would therefore be harmful for the business model of publishers (interview Helbing Lichtenhahn, Dike). The interviews revealed a lack of transparency regarding publishing costs, services and remuneration also in traditional Closed publishing models.

The costs associated with Open Access publishing were also a concern for many researchers. As some interviewees pointed out, the cost of publishing a doctoral thesis with a traditional publisher can more than double if it is to be made available in Open Access. In this context, many interviewees raised the question of who will bear the costs of Open Access (i.e. Open Access fees, APCs, BPCs) in the long term. The financial implications of implementing a comprehensive or even gradual Open Access business model for legal sciences in Switzerland are difficult to estimate. Some interviewees, however, suggested that funds could potentially be freed up through savings on subscription and license costs.

This also raised the broader question of whether a viable long-term solution can be established in the field of Open Access. The quality and long-term availability of publications must

be ensured, which requires staff to edit, curate, enhance, and publish the content. Whether universities should provide the necessary funding through cross-subsidization was viewed critically. Some interviewees, however, cited examples of Open Access models that operate outside the traditional publishing industry, such as EIZ Publishing and *sui generis*. Their funding appears to rely primarily on grants. Another example mentioned was «Onlinekommentar», which is structured as a cooperative and operates independently as an Open Access publisher.

Regardless of the funding model, interviewees often pointed out that, for the foreseeable future, both forms of publication, Open and Closed, would have to be maintained which might lead to a doubling of effort and associated costs.

Room for Improvement in Support of Open Access

The interviewees put forward various suggestions for improvement:

- **«Tone at the top»:** It was noted that faculties and university libraries already have a wealth of ideas and approaches, and that the next step should be to translate these into meaningful action through coordinated implementation. This calls for strong change management and committed leadership. Senior management should provide clear direction and demonstrate the institution's values through its own practices.
- **Open Access requirement:** Another option mentioned was a shift to a national-level effort. The idea would be to require all publicly funded research to be openly accessible. This would establish Open Access as the standard for publicly funded research, extending beyond research funded by the SNSF.
- **Centralized platform:** The need for a centralized national platform providing access to Open Access content through open interfaces was highlighted. This could be the result of a collaboration between Open Access publishers. Alternatively, AI platforms could act as intermediaries to centralize the content.
- **Publication without publishers:** Some interviewees suggested that a publishing platform could simplify the publishing process and make it more accessible. Tools such as Open Journal Systems (OJS) already make it easy to prepare and publish content. Much of the traditional publishing process – including typesetting, editing, referencing and quality checks – can increasingly be supported by software. Distribution and promotion could take place through digital and social media channels. The traditional publishing house model belongs – according to this opinion – to another era; what is needed now is to build the infrastructure and expertise for a modern, digital approach to publishing.
- **Legal commentaries:** In legal commentaries, where Open Access is still very limited, updates to existing articles could be made available as Open Access publications.
- **Transforming existing journals into Open Access:** There is significant potential to convert existing journals to Open Access as well as to establish genuine Open Access journals with proper peer review and transparent article selection.
- **Promoting Green Open Access:** Administrative staff could help academic departments make older articles and textbook editions available through the university repository when they are free of copyright restrictions or embargoes.

- **Information and communication:** Communication should also be a key focus: are all stakeholders informed about Open Access, and have they been encouraged to produce or use Open Access content?

4.2.3 Key Publishers and Initiatives – Open Access in the Legal Publishing Landscape

The questions in this section explored which aspects interviewees consider important when it comes to publishers. The focus was on both literature research and the publishing process, including publishers' services and offerings.

For literature searches, the publisher is generally not a key consideration. Researchers tend to search through platforms and value practical features such as full e-book downloads and reliable citation metadata. Only a few regularly consult specific publishers. Publishers become more relevant when choosing where to publish.

Interviewed researchers mentioned the following criteria regarding their choice of publisher:

- **Quality and reputation:** Reputation and perceived quality of the publisher, series, or journal, based on personal experience or indicators such as peer review, although peer review remains less common in legal publishing outside Open Access publications.
- **Profile and reach:** Effective reach of the intended target audience.
- **Publishing services:** High-quality, efficient publishing services and a service-oriented approach.
- **Cost transparency:** Fair and transparent pricing for editing, proofreading, layout, and other publishing services.
- **Print options:** Flexibility regarding the number of printed copies according to specific needs.
- **Recommendations:** Recommendations from colleagues or, particularly for early-career researchers, doctoral supervisors.
- **Additional features:** Options such as online pre-publication ahead of the print version and correct attribution of ORCID IDs.

Interviewed researchers mentioned the following criteria regarding their choice of OA publisher:

- **Quality and peer review:** High quality of the publisher and peer-review process, including an efficient and smooth review procedure.
- **Open Access options:** Availability of and, where possible, flexibility in choosing between different Open Access routes, such as Gold or Green Open Access; for some authors, opportunities for Open Access publication of legal commentaries.
- **Embargo periods:** Alignment, where relevant, with secondary publication rights and corresponding embargo periods in countries such as Germany, France, Austria, the Netherlands, and Belgium.
- **Funding:** Inclusion of journals in Read & Publish agreements, facilitating the implementation of Open Access.

Legal practitioners considered the following criteria when choosing research resources:

- **Legal commentaries:** Easy to use, up to date, and of high quality (publishers)
- **Legal databases** (Swisslex and legalis): easy to use; quality ensured by publishers

Open Access publications are often not considered, as they are time-consuming to identify and there are uncertainties regarding their quality.

Publishers highlighted the following aspects as particularly important:

- **Establishing relationships with authors / «customer retention»:** Publishers have an interest in retaining authors and are even ready to offer them additional benefits.
- **Peer review:** Peer Review is especially relevant for Open Access publishers.
- **Embargo:** Publishers generally favored Open Access following an embargo of between six months and one year for articles and conference proceedings. Long embargo periods would damage a journal's reputation and would be a disadvantage also for publishers.
- **AI:** The AI company was considering a solution involving Open Access content, including remuneration for authors whose publications are used for purposes such as AI training.
- **High-quality publishing services:** EIZ Publishing stated that they maintain a broad publishing program comprising journals, doctoral theses, monographs, commemorative volumes and, most recently, textbooks. The guiding principle is, according to EIZ Publishing, that doctoral students should concentrate on the content and be relieved of all other responsibilities. They provide administrative support, assist with communication with the Dean's Office and any potential funders and take on editing and proofreading whilst promoting the publications as they reported. According to EIZ Publishing, textbooks are a particular priority, as they would otherwise be very expensive for law students, while clear precedents and examples of good practice are needed. To encourage PhD students to publish their thesis with them, EIZ Publishing sometimes advertises its services at doctoral seminars. At present, they noted, they have reached their publishing capacity.
- **Open Access textbooks:** Felix Uhlmann's Open Access textbook⁹, stands out as a case in point that Open Access textbooks are feasible in legal scholarship. Many other Swiss law textbooks are not digitally accessible to students. To date, universities have been unable to obtain licenses for a large number of textbooks. The opportunities offered by digitization have so far been limited in the Swiss legal textbook sector. This makes the increase of Open Access textbooks all the more welcome according to some interviewees.
- **High quality Open Access books:** In addition to the well-known journal, the publisher *sui generis* also produces books. According to *sui generis*, these books are produced at a very high standard; they are edited and proofread. They noted that the content is typeset in accordance with best practice and added that both the content and presentation of the contributions are expected to be of a high standard because they don't just want to disseminate content but to create good-looking, well-designed books. In their view, the work as a whole should be enjoyable to read. If the sole aim is to disseminate a manuscript, they argued, it can simply be made available through a repository and supplemented by an affordable print-on-demand option. They noted that production costs are particularly high for commemorative volumes and edited collections. At the same time, many legal professionals are bibliophiles who value owning a physical copy. Other publishers similarly emphasized their commitment to producing books to a high standard, placing considerable value on services such as professional editing and high-quality design.

⁹ Uhlmann, F. (2026). *Swiss Administrative Law*. EIZ Publishing. <https://doi.org/10.36862/68R3-EC9Q>

- **Implementation of Green Open Access:** One publisher noted that Green Open Access had already been standard practice for journal articles before 2020 and was also available for book chapters and, in some cases, entire books. After the embargo period, articles would sometimes be made available to authors unsolicited or on request, although the authors would often not take up the opportunity for secondary publication (Interview with Helbing Lichtenhahn, Dike).
- **Implementation of Gold Open Access:** Gold Open Access can be a good option for publishers, as Helbing Lichtenhahn note. They had positive experiences with Gold Open Access, as long as the costs are offset by support from the SNSF or other sources. There are benefits for users, authors and the publisher (Interview with Helbing Lichtenhahn, Dike).

4.2.4 Open Access Guidelines and Funding Opportunities

In this section of the interview, we wanted to find out what role the existence, or lack thereof, of guidelines and funding opportunities plays in shaping attitudes towards Open Access. This also includes the opportunities and barriers that different target groups have encountered in relation to guidelines and funding.

University or Faculty Policies and Strategy

All Swiss universities have adopted Open Access or Open Science policies over the course of the last decades. These policies might slightly differ, but all share the idea that publicly funded research should be openly accessible. In the case of the University of Geneva for example, as Professor Romano explained, their Open Access Policy contributes to the university's mission to support the democratization of knowledge, equal opportunities, and the social, economic, and cultural development of the community. Some universities such as the University of Zurich pursue an «open by default» approach in their Open Science strategy. This allows for subject-specific opt-out options, which are particularly important in the field of law.

While several law professors have contributed to the creation or adoption of Open Access policies and strategies at their universities, several researchers at various career stages, who have committed to the Open Access movement, are calling for more incentives and stricter implementation. For example, they want only openly available publications to be included in academic reporting. However, during the development of one university's Open Science strategy, the law faculty strongly opposed this idea of considering only Open Access publications in academic reporting.

Even if an author has an obligation to publish Open Access because they are funded through the SNSF, the fulfillment of this obligation is not monitored and enforced in practice. The opposite is the case whenever EU third-party funding is involved, as one researcher publishing in the area of international law has experienced. Here, the funder verifies whether the Open Access requirements have been met.

Some interviewees pointed to existing collaborations between universities and publishers as examples of strategic approaches to supporting Open Access. These included the development of the LEX campus database and, at another university, a collaborative initiative related to legal science.

Funding for Open Access and Guidelines

Researchers' perspective:

The interviews showed that many researchers at all career levels wish to publish exclusively or increasingly in Open Access. They make use of funding opportunities offered by their universities, the SNSF, or the EU and choose Open Access publication options for both monographs and journal articles. Although these different funding opportunities were generally welcomed, the interviews also revealed some barriers related to the application processes and funding conditions:

- **Short publication deadlines:** One difficulty with funding from the research commission and the SNSF is that the funds are only released once the manuscript has been accepted by the publisher. This therefore leaves some uncertainty and one must even be prepared to cover the costs. As Dr. Plozza pointed out, the six-month period between the release of the funds and the actual publication is relatively short. «Es ist positiv, dass diese Angebote bestehen. Negativ bemängeln könnte ich höchstens, dass es sein kann, dass sie sich gegenseitig wegbedingen. Denn ich habe auch schon von Kolleg:innen gehört, dass zunächst die Gelder vom SNF gesprochen werden müssen, Open Access-Gelder, und dann beginnt eine Frist von sechs Monaten zu laufen. Also das heisst, innerhalb dieser Frist muss das Buch publiziert werden. Bei grossen internationalen Verlagen, wie beispielsweise Oxford oder Cambridge University Press, kann das sehr knapp sein. Bei einem Kollegen von mir, der hat bei Oxford University Press publiziert, haben die Verleger ihm dann gesagt, dass sie sein Buch nicht Open Access publizieren können, weil sie es nicht innerhalb dieser Frist schaffen. Aber jetzt bei meinem Verlag, bei Cambridge University Press, wurde mir das zugesichert. Aber sie beginnen erst mit der Produktion, wenn sie die Zusage vom SNF haben» (Interview Plozza).
 - **Peer Review and quality control:** It was also noted that the peer review required by the SNSF can be very time-consuming, particularly for Festschriften. This is illustrated by the experience of one researcher who, together with several colleagues, wanted to publish a Festschrift in Open Access with SNSF funding. Since the volume included twelve chapters, each chapter had to undergo peer review. Finding suitable reviewers for such specialized topics proved difficult. In one case, the SNSF rejected a reviewer because he had previously participated in the same panel discussion with the author. The researcher found this problematic, as it can be difficult to find independent experts in highly specialized fields. The publisher ultimately helped to make the publication possible, but the process was perceived as more effort than benefit. Furthermore, quality assurance was repeatedly described as inconsistent. While some interviewees considered it insufficient, others found it overly demanding. The SNSF's stricter requirements from January 1, 2027, were particularly criticized: Funding for publishing a dissertation will require an additional independent review, on top of the two reviews already required for the dissertation itself.
- Open Access and quality assessment were discussed from various perspectives. One researcher distinguished between quality control in Open Access and Closed Access journals. According to him, commercial journals have a strong incentive to maintain high quality because publishing poor-quality articles could lead to a loss of subscribers and threaten their commercial viability. According to this researcher, Open Access journals face less of this market pressure, making the role of the editorial team in maintaining quality standards particularly important.
- **SNSF cost-cutting measures:** The planned cuts to SNSF funding for Open Access monographs were mentioned several times. From January 1, 2027, the SNSF will change its funding

policy and reduce the maximum BPC from CHF 15'000 to CHF 12'000¹⁰. According to one professor, this will particularly affect the humanities, where monographs remain the standard form of publication and also edited volumes are important. The professor sees this as a bias towards STEM disciplines.

- **Income and effort:** It was repeatedly stated that there is little money to be made from academic publications. While publication costs of around CHF 12'000 were mentioned for dissertations, professors reported earning little or no income from their publications. Instead, publishing was mainly seen as a way to establish oneself as an expert in a particular field. Even emeritus professors may have to pay for their publications, with costs ranging from CHF 5000 to CHF 20'000, similar to those faced by doctoral candidates.

Publishers' perspective:

Publishers generally welcomed the available funding opportunities. EIZ Publishing, for example, highlighted the importance of SNSF funding for doctoral candidates, as it allows early-career researchers to focus on their research. At the same time, publishers identified several challenges. Some were similar to those mentioned by researchers, while others appeared to be specific to publishers:

- **Peer Review processes:** Publishers also found the SNSF peer-review process problematic in some cases. EIZ Publishing suggested that the application process for edited volumes could be simplified, particularly by streamlining the peer-review requirements. It was suggested that funders' peer-review requirements may require publishers to establish their own peer-review systems, as some foreign publishers have already done. This additional service would then need to be compensated. There were also some more general reflections on peer review: EIZ Publishing emphasized that the quality assessment processes used by the SNSF and other funding bodies should remain closely connected to field-specific publishing practices. It was noted that it is often difficult to find legal experts who meet the SNSF's requirements. Reference was also made to the new SNSF regulations regarding the review of dissertations and habilitation theses. From an Open Access perspective, this was seen as a step in the wrong direction. However, peer review is fundamentally important (Interview Helbing Lichtenhahn, Dike).
- **The underuse of Green Open Access:** For publishers, the funders' focus on Gold Open Access represented a missed opportunity. Helbing Lichtenhahn and Dike described the situation from the perspective of a publisher: «Eine weitere Herausforderung ist, dass der Fokus auf Gold (bzw. Diamond oder Platin) liegt. In der neuen Open Access Strategie 2027 von swissuniversities und SNF wird Green Open Access vernachlässigt, obwohl beide Wege in der ursprünglichen Strategie noch gleichgestellt waren. Wir bedauern das. Green hätte aus unserer Sicht noch Potential – ganz unabhängig von einem zwingenden Zweitveröffentlichungsrecht. Von unserer Seite erlauben wir eine Zweitveröffentlichung bei vielen Büchern und sämtlichen Zeitschriften, doch die Autoren nutzen es nicht regelmässig. Viele Autorinnen und Autoren, die ihre Dissertation veröffentlicht haben, sind nach 6 oder 12 Monaten oft nicht mehr daran interessiert, oder sie denken nicht mehr daran. Manchmal erhalten wir Anfragen, alte Dissertationen Jahre später elektronisch zur Verfügung zu stellen. Grundsätzlich haben

¹⁰ <https://www.snf.ch/en/G2XqbkM4DKK9wHCQ/news/snsf-to-adapt-its-open-access-funding> [accessed 20 September 2026].

wir nichts dagegen, aber organisatorisch ist es für uns oftmals schwierig und mit zusätzlichen Kosten verbunden. In einzelnen Fällen nahmen wir den Aufwand auf uns, in grossem Umfang können wir das aber nicht finanzieren. Man könnte über Lösungen nachdenken, um diese Bemühungen zu unterstützen, sei es bei den Verlagen oder an den Universitäten.» It is often difficult to meet the SNSF's criteria regarding the independence and impartiality of legal experts in a discipline that is generally confined to the national territory and fragmented into specialized areas of law. Reference was also made to the new SNSF regulations regarding the review of dissertations and habilitation theses, for which it will no longer be possible to use reports drawn up as part of the internal evaluation of the universities for the peer review. With regard to the spread of Open Access, this is a step in the wrong direction. However, it was noted that peer review is fundamentally important (Interview Helbing Lichtenhahn, Dike).

- **More funding opportunities:** It was suggested by some publishers that there should be more funders and funding opportunities for Open Access. EIZ Publishing called for stronger support for Open Access journals, which are particularly important to the academic community.

Practitioners' Perspectives:

Naturally, policies and funding were less relevant to those working in legal practice. Nevertheless, some related issues were raised:

- **Little visibility of Open Access content:** Practitioners pointed out that Open Access publications often remain less visible because they are not fully integrated into major legal databases such as Swisslex and legalis. Universities could therefore do more to increase the visibility of their Open Access publications. One deputy judge noted that content published by universities is generally perceived as reliable and trustworthy. However, a key prerequisite is that such content can be easily found and accessed.

As noted above, integrating Open Access content into Swisslex could significantly improve its visibility. According to our information, both *sui generis* and EIZ Publishing have submitted proposals for cooperation with Swisslex.

4.2.5 Information and Advice on Open Access

In this section of the interviews, we explored the legal community's need for information on Open Access publishing and Open Access more generally. We asked whether there is a demand for information, what kind of information is needed, and how it should be communicated.

Opinions on this issue are varied. While some stakeholders considered the information on Open Access publishing opportunities to be sufficient and easily accessible, others felt that more information was needed. In particular, some researchers seemed to have limited knowledge of rights management, what Open Access entails, and licensing. More generally, it was even noted that better promotion and greater awareness of these resources could help reduce the legal community's reluctance towards Open Access.

With regard to the need for support in Open Access publishing, it is noteworthy that none of the participants expressed criticism of the availability of such support. On the contrary, most participants held either a positive or a neutral view on the matter. But there were still some suggestions:

Researchers' perspective:

- **Integrating Open Access literacy into university curricula:** It was suggested that Open Access literacy should be integrated into university curricula from an early stage. According to one research assistant, universities should inform students not only about subscription-based resources but also about freely accessible platforms. The respondent noted that such initiatives currently depend largely on individual staff members. More systematic and long-term efforts are therefore needed to raise awareness of Open Access among both students and university staff.
- **Targeted and visible information on Open Access for researchers:** Although universities and libraries provide information on Open Access, it does not always reach researchers. Two professors said they had learned about the topic on their own initiative. One professor stressed the value of providing researchers with more information and guidance through universities. As publicly funded institutions, she sees this as an important service to society. The information should be visible, available when needed and clearly understandable to save time. One researcher stressed the importance of informing colleagues about Open Access publishing and its potential to increase the visibility of their work. He considered information on funding to be particularly important, especially regarding the costs of Open Access publishing and why they arise (Interview Bueno).
- **Better visibility of Open Access content:** One professor suggested creating a central source of information on Open Access in Switzerland, specifically for the legal field. It could explain the current situation, available publishing options, and what Open Access means in practice for researchers. Such a resource would give researchers, lecturers, and students a clear and easily accessible source of information (Interview Dauag).
- **More discipline-specific information on Open Access publishing:** Some participants suggested providing more discipline-specific information on publication opportunities, such as the Open Access options offered by different publishers. In this vein, one postdoctoral researcher reported having greatly appreciated a presentation organized by her university on the various Open Access publishing opportunities offered by different publishing houses. Several participants called for better information on publication options, funding, rights retention, and embargo periods. This information should be up to date and, where possible, provided by publishers, including details on available services and costs.
- **Support or assistance for negotiations with publishers:** The need for stronger institutional support in negotiations with publishers was stressed: Many researchers stated that they lack the time, motivation, or confidence to assert their rights when dealing with publishers. Universities could therefore negotiate with publishers on behalf of researchers and ensure that their Open Access policies are respected. For example, a university could require a three-month embargo based on its institutional policy rather than leaving individual researchers to negotiate this with publishers. This would reduce the pressure on researchers and strengthen their position in negotiations.

Publishers' perspective:

- **Open Access information and training at universities:** Publishers also called for more training and information on Open Access for students and researchers at universities. EIZ Publishing shared this view: at a minimum, universities should ensure that researchers and students are informed about the principal publication channels available to them. Another publishing house shared this perspective and considered supporting for the implementation of Green

Open Access to be a means of fully exploiting the potential of the secondary publication right (Interview Helbing Lichtenhahn, Dike).

Practitioners' perspective:

- **Lack of time:** For practitioners, limited time was identified as a major barrier to engage with Open Access, particularly to assess the reliability of different sources. As their time is often limited, practitioners may therefore be less likely to explore and make use of Open Access opportunities.
- **Central Swiss platform for Open Access content:** Two court clerks emphasized the usefulness of having access to a clear and comprehensive list of resources available through Open Access. A cantonal administration expressed a similar view (Interview Gimoeno).

4.2.6 The Future of Open Access and Emerging Developments

In this section of the interviews, participants were asked about the future of Open Access, whether it should continue to be pursued, and which recent developments they considered important.

Potential Developments Supporting Open Access:

- **Open Access as the future standard:** The ongoing shift towards Open Access was repeatedly welcomed and seen as an important development. One interviewee referred to the strong criticism faced by some publishers, when they contacted authors about contractual changes related to AI. The publishers lost some goodwill among authors as a result. The interviewee also noted that younger generations increasingly want to publish through Open Access channels. For future generations, Open Access may become the norm rather than something that needs to be explained. As publicly funded institutions, universities are expected to ensure that research is widely accessible and benefits society as a whole.
- **Integration into the international academic community:** It was noted that Open Access content remains limited in Switzerland and that progress has been relatively slow compared with other countries. Several researchers nevertheless saw Open Access as an opportunity to become more closely integrated into the international academic community, where much more Open Access content is available.
- **Open Access as driver of digital methods:** Open Access was seen as a potential driver of digital methods in legal research. It was noted that Open Access facilitates digital research workflows, including literature research, citation management, and scholarly exchange. These processes were described as working very effectively, and in some cases better than under Closed Access models. Further expansion of Open Access was therefore considered desirable.
- **Open Access and legal platforms:** A possible development would be a central platform for legal Open Access content, with links to Closed Access resources. Another option would be to integrate Open Access content of all publishers into Swisslex or legalis. Both approaches could improve the visibility and accessibility of Open Access content for researchers and legal practitioners.
- **More Green Open Access:** Several interviewees suggested that it would be worthwhile making older publications available through Green Open Access once the relevant rights have been clarified. At present, in some cases, research assistants are paid to locate such

materials. With printed works, where passages often have to be transcribed manually for further analysis, there is also a risk that users may abbreviate or reproduce the original ideas incompletely.

- **Alternative business models:** One researcher noted that publishing is «not rocket science» and suggested that authors could increasingly manage the publishing process themselves. Alternative business models could make publications available at lower prices, without reducing authors' current income, which is often little or nothing. Another option would be to charge prices similar to those charged by traditional publishers but distribute the revenue differently, for example by sharing it with authors and editors. However, this would ultimately just recreate a conventional publishing model.
- **Open Access and scholarly communication:** The inclusion of laypersons as an additional target group was mentioned several times. Open Access could make legal information on everyday issues such as tenancy, employment, and divorce law more accessible to the general public. This could also encourage the publication of legal texts in a more accessible and understandable way and help reach new audiences. In this vein, the Federal Chancellery is reportedly considering a system that would allow users to create a free account and customize their access to suit their needs. Further developments are also planned, with a banner on the website already providing updates. At the same time, trust was seen as essential. According to the interviewees, trust depends on making information fully accessible and presenting it without value judgements.
- **AI:** Developments in artificial intelligence were mentioned frequently and have already been discussed extensively and controversially in earlier chapters. Large language models, AI systems developed by publishers, start-ups, and initiatives by the Federal Chancellery are all shaping the legal sector. The use of content by AI systems was seen as both an opportunity and a risk: an opportunity because AI can make processes faster and more efficient, and a risk because of its implications for authors' rights and the reliability of AI-generated outputs and their sources.

Potential Developments of Concern:

- **General developments:** Many interviewees noted that Closed Access and Open Access are likely to coexist for a considerable period of time.
- **Licencing and AI:** Questions were raised as to whether the CC BY-NC license adequately protects Open Access content from being harvested by large language models (LLMs). Different interpretations were expressed in this regard. Some interviewees also wondered whether technical solutions might exist to address this issue.
- **AI as a threat to academic reliability:** There were concerns that, in the case of LLM-generated outputs, it is sometimes difficult to determine who is responsible for the content. This raises questions about the reliability and accountability of such outputs. Others, however, regarded these developments as presenting significant opportunities.
- **New SNSF regulations:** Some interviewees viewed the new requirements that start January 1, 2027, particularly the introduction of a third review for qualification theses, as a measure that could impede the further development of Open Access.
- **Maintaining quality:** Several participants emphasized the importance of maintaining the quality of Open Access publications and preventing a decline in scholarly standards. At the same time, some argued that traditional publishers do not always provide peer review and

therefore may not fully perform their traditional gatekeeping role. Ensuring quality in the long term was seen as a key concern for all actors involved in legal scholarship.

- **Dependence on legal databases:** It was noted that dependence on Closed Access databases remains a significant risk. This could become particularly problematic if a major database were to cease operations, for example for financial reasons.
- **Threats to publishers:** Some interviewees expressed the view that traditional Swiss publishers are increasingly coming under pressure from large international publishing groups. Against this background, the secondary publication right was regarded as problematic, as it could create additional challenges for established Swiss publishers. This view was expressed, in substance, by both a professor and a representative of a publishing house.
- **Mandatory secondary publication right:** Helbing Lichtenhahn responded as follows: «Wir stehen für ein partnerschaftliches Vorgehen mit der Wissenschaft sowie mit unseren Autorinnen und Autoren. In der Diskussion um das zwingende Zweitveröffentlichungsrecht vertritt der SBVV unsere Linie. Man muss die gesamte Wertschöpfung im Blick haben, die Marktstrukturen und die Finanzierungsbedingungen. Verlegerische Dienstleistungen, egal ob privat oder innerhalb der Unis erbracht, kosten etwas und müssen finanziert werden. Der SNF erhöht einerseits die Anforderungen, andererseits leistet er weniger finanzielle Unterstützung. Wir können uns nicht vorstellen, dass sich Open Access weiterentwickelt oder gar verstärkt, wenn die Bedingungen verschärft werden und die Finanzierung begrenzt wird. Letztere muss gewährleistet sein. Ansonsten ist auch die Qualität der Publikationen in Gefahr.»

The proposed secondary publication right was mentioned surprisingly rarely in the interviews. It appears to be little known and, in some cases, misunderstood. This suggests a need for greater awareness and clearer information on the issue.

4.3 Recommendations Based on the Interviews

With the aim of identifying ways to support Open Access publishing in the Swiss legal field, the following recommendations emerged from the interviews. The concluding section of this report outlines which of these approaches will be pursued as part of the extension of the ROAL project.

4.3.1 Strengthening Successful Approaches

Universities

- **Support in Publishing Contract Negotiations:** Universities could strengthen researchers' negotiating position by establishing institutional requirements, such as maximum embargo periods, that researchers can invoke in negotiations with publishers.
- **«Tone at the Top»:** Senior academics and institutional leaders can play an important role in shaping publication practices by actively supporting and promoting Open Access.

Authors

- **Rights retention:** Authors can negotiate publishing agreements that preserve Open Access options and establish secondary publication as standard practice.
- **Publishing Open Access textbooks:** Many textbooks are unavailable digitally to university members because they cannot be licensed through LEX campus, despite being available to practitioners via Swisslex. Open Access textbook initiatives, such as that led by Professor Felix Uhlmann, should therefore be encouraged.

- **Open Access publication of (parts of) commentaries:** Where practitioners prefer Closed Access, commentaries or individual sections could be published Open Access where possible, balancing greater accessibility with contributors' differing publication preferences.

University Libraries

- **«Greening» university content:** Support should be increased for academic chairs to identify and «flip» older articles and previous textbook editions no longer subject to copyright restrictions or embargo periods, and to deposit them in institutional repositories.
- **Rights clearance:** Institutional repositories should offer rights clearance for secondary publication, including guidance on eligible deposits and permissible reuse (e.g. translations and derivative works).
- **Platform for sharing experiences on secondary publication rights:** A dedicated platform could facilitate the exchange of experiences, best practices, and guidance on secondary publication rights, raising awareness and promoting their consistent use across institutions.
- **Information and communication about Open Access:** Providing targeted Open Access information to all stakeholder groups, tailored to their specific needs, including concise formats such as «the essentials at a glance» and measures to strengthen Open Access literacy among students. Greater transparency is needed regarding publishing options and conditions, including services, costs, rights retention, secondary publication rights, and embargo periods. Ideally, a dedicated platform would provide a reliable and up-to-date overview of these options.
- **Information on AI and Open Access:** Libraries should monitor developments, ensure transparency, and provide information on the use of content by publisher-developed AI tools and large AI models, as well as on how to protect against AI harvesting.
- **Negotiating Open Access Agreements:** Libraries should negotiate more Read & Publish agreements, particularly in the field of Swiss law.
- **Flipping journal to Open Access:** Libraries should support the transition of journals to Open Access, where appropriate in collaboration with publishers.

SNSF and Universities

- **Open Access monitoring:** Funders and universities should more closely monitor and assess the implementation of Open Access.

4.3.2 Adopting New Approaches

Publisher and Publishing Platforms

- **Development of an Open Access platform:** A central portal for legal content produced by Swiss universities could serve as a clear and easily accessible resource for researchers, students, practitioners, and the general public. A more modest alternative would be a shared portal established jointly by Open Access publishers.
- **Integration of (Open Access) legal content into swisscovery/juscovery:** As a further option, Open Access content could be systematically integrated into the Swiss library systems swisscovery and juscovery and, where possible, enriched with metadata such as tables of contents, abstracts and fulltexts (this paragraph is a comment of the project team).

- **Integration of more Open Access content into legalis and Swisslex:** Integrating more Open Access content including content from Open Access publishers into legal databases such as legalis and Swisslex, potentially with support from libraries, thereby increasing its visibility and use in legal practice.

Authors:

- **Commentaries and Open Access:** Consideration could be given to making updated versions of commentaries, or individual contributions within them, available in Open Access. A similar approach is already common for individual journal articles in international legal databases (e.g. The Cambridge Law Journal; International Human Rights Law Review published by Brill Nijhoff). The project team suggests that this approach could also be applied to legal commentaries. An online legal commentary does not need to be published as a single comprehensive work but can consist of individual contributions that are continuously updated and expanded. Accordingly, even individual Open Access contributions can provide significant value.

University libraries:

- **Engaging legal practitioners:** Libraries should collaborate with providers of continuing professional development for the judiciary to develop Open Access literacy programmes tailored to the needs of legal practitioners and court staff.

4.3.3 Reducing Barriers

Funders, SNSF

- **Efficient and realistic publishing and peer review processes:** Peer review is widely supported as a means of ensuring quality. However, publication and peer review processes could be better supported: More efficient and realistic publishing and peer review processes could include extending publication deadlines where necessary, allowing sufficient time for revisions following peer review, and simplifying review procedures involving multiple authors or publishers. Regarding the SNSF changes planned for 2027, interviewees viewed the requirement for a third review of qualification theses as a setback for Open Access and expressed a preference for this requirement to be waived.

4.4 Conclusion

The interviews reveal a legal publishing landscape in which Open Access has clearly become established but remains embedded in a complex system of competing interests and expectations. Across researchers, publishers, and legal practitioners, similar themes repeatedly emerged – including the use of public funds, access and visibility, academic freedom, quality assurance, funding, costs and publishing services as well as digital transformation and AI. The roles and responsibilities of different stakeholder groups, including universities, publishers, funders, and the non-academic sector, were also frequently discussed in the interviews. However, these issues were often assessed from different, and sometimes opposing, perspectives.

One of the clearest findings is that the debate cannot be reduced to a simple opposition between Open and Closed Access. Open Access was associated with wider access, greater visibility both in a national and global context, and the democratization of knowledge, while concerns were raised about academic freedom, quality, sustainable business models, the maintenance of the

high-quality services provided by traditional publishers, the use of public funds and the additional costs and workload involved in publishing Open Access. At the same time, the existing Closed Access system was itself critically assessed, particularly with regard to high licensing costs, the transfer of authors' rights, limited cost transparency and the use of public resources. Publishers, meanwhile, emphasized the considerable work involved in producing legal publications and the importance of sustainable business models and established relationships with authors. This was confirmed, at least in part, by the researchers.

The interviews also suggest that some of the main obstacles to Open Access are practical rather than fundamental. These include limited publishing options, insufficient or time-consuming funding procedures, gaps in information about Open Access publishing, the underused potential of Green Open Access, and the limited visibility of Open Access publications in the databases commonly used by legal practitioners and researchers. This last point is particularly important in legal scholarship, where academic research and professional practice are closely connected: making publications openly available does not necessarily ensure that they are visible or used if they remain outside established legal information systems. In particular, court staff who often rely on legal commentaries and major legal databases for practical reasons, expressed a need for greater knowledge of reliable Open Access sources that would allow them to identify and use such resources quickly and efficiently. From the publishers' perspective, sustainable funding for publishing services is essential.

Overall, there were isolated instances of a need for information regarding Open Access and the mandatory right to secondary publication. For example, regarding the mandatory right of secondary publication, there was some uncertainty as to who was legally bound by it.

Although AI was not explicitly addressed in the interview questions, it emerged frequently in the discussions from a range of perspectives. AI was seen as having the potential to improve access to and the usability of legal information, while also raising new questions concerning licensing, commercial reuse, reliability, the potential enclosure of openly available research, and the distribution of economic value.

The interviews point less towards a replacement of one publishing model by another and more towards an ongoing transformation of the legal publishing ecosystem. The challenge will be to develop sustainable models that combine openness and accessibility with quality, academic freedom, sustainable publishing services, and the specific needs of both legal scholarship and practice.

The interviews identified several areas in which stakeholders see potential for strengthening Open Access in Swiss legal scholarship:

- **«Tone at the top»:** Interviewees emphasized the role of university and faculty leadership in setting a clear direction and leading by example, supported by transparent institutional funding policies and systematic monitoring of Open Access implementation.
- **Transparency, costs:** Some interviewees called for greater transparency from traditional publishers regarding services, costs and remuneration across both Closed and Open Access publishing models, including the commercial reuse of scholarly content in AI applications.
- **Business models, funding:** Sustainable business models for Open Access publishing should be developed in collaboration with all relevant stakeholder groups.
- **Negotiating Open Access Agreements:** Libraries should negotiate Read & Publish agreements with Swiss legal publishers, combining access to licensed content with Open Access

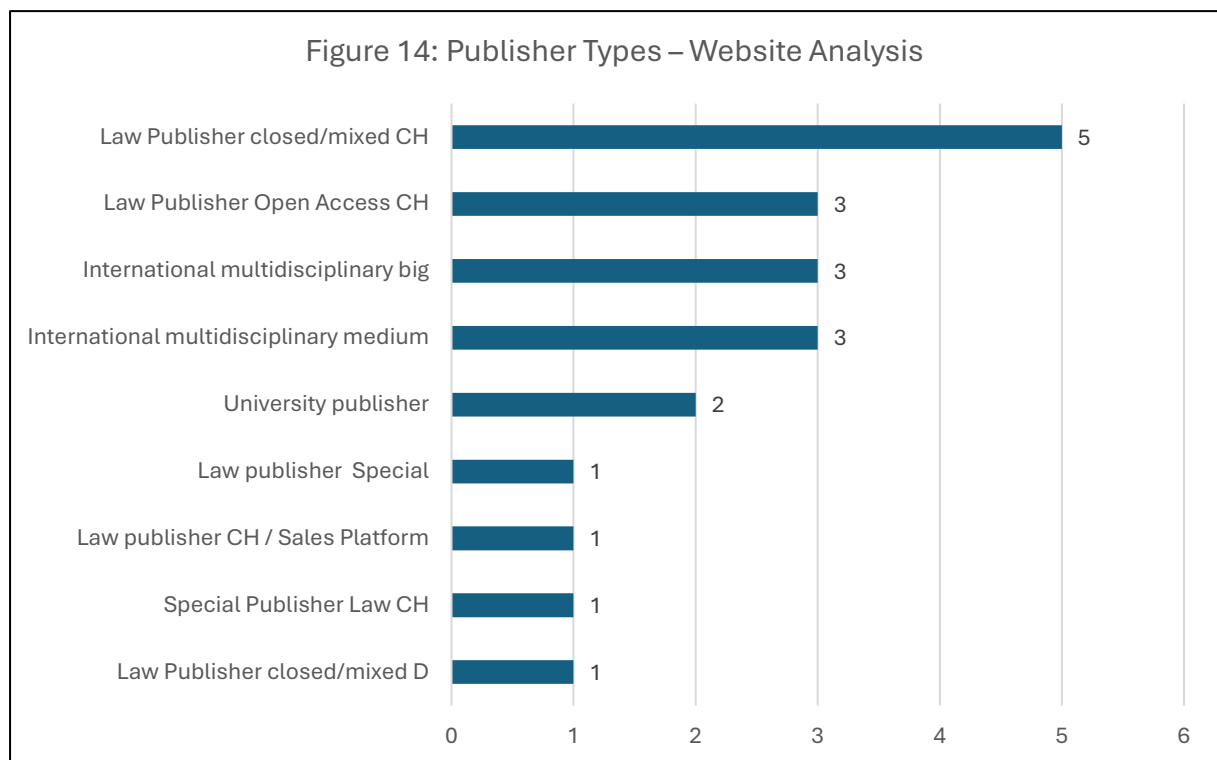
publishing opportunities for researchers affiliated with participating Swiss institutions, without additional publication charges.

- **Open Access Models for Legal Commentaries/textbooks:** Some Authors are committed to consider Open Access as a means of increasing the visibility and reach of their work and to explore new approaches for publication types in which Open Access remains difficult to implement, such as legal commentaries or textbooks (e.g. publishing updates to legal commentaries in Open Access). The first steps have been taken with the «Onlinekommentar», and the Swiss Administrative Law from Felix Uhlmann, for example.
- **Visibility:** Interviewees suggested different approaches to increasing the visibility of Open Access publications, including the establishment of a central Open Access platform for legal scholarship or the integration of more Open Access content including content of the Open Access publishers into established legal databases such as legalis and LEX campus.
- **Green Open Access:** Interviewees highlighted the role of university libraries in supporting Green Open Access, also for older publications.
- **«Open Access Literacy»:** Interviewees highlighted the need for clear, discipline-specific guidance for researchers on Open Access publishing options, funding, rights retention, and secondary publication rights. Open Access literacy, including how to identify and find Open Access publications, should also be integrated into curricula and adapted to the needs of students.
- **SNSF workflows, efficient peer review and publishing procedures:** Quality assurance and publishing processes should be practice-oriented, timely and efficient, while taking into account the specific characteristics of the disciplinary culture.
- **Open Access Information Platform:** The Interviewees involved would welcome a central source of information that provides reliable, practical details on Open Access and covers both the publication and the discoverability of specialized legal literature. The information and support services should be tailored to diverse target groups—ranging from introducing students and practitioners to relevant Open-Access resources to providing researchers with practical guidance on publication options, funding, and the retention of usage rights.
- **Courts and law firms:** Non-academic stakeholders, such as courts, should also receive targeted information on Open Access publications and how to find and access them.

5 Assessment of Open Access Information on Publishers' Websites

In addition to the two main work packages – publication analysis and stakeholder interviews – a choice of websites of publishers and publishing platforms were reviewed regarding the information they provide and the services they offer for Open Access publishing. The publishers were selected based on their relevance to Swiss researchers, including the publishers with 10 or more book publications from Swiss researchers. In addition, all Swiss legal publishers, both Open Access and Closed Access, were included in the analysis. In total, the websites of 20 publishers and publishing platforms were reviewed. The analysis was conducted at the end of 2025 and subsequently reviewed and updated in May/June 2026.

The publishers analyzed present a rather mixed picture: alongside Swiss legal publishers, they include medium-sized and large international multidisciplinary publishers, foreign legal publishers, publishers with specialized niche offerings such as textbooks, and university presses/publications.



Of the websites examined, 85% (17 out of 20) websites contain at least some information on Open Access, while 15% (three publishers' websites) provide no information on the topic. Interestingly, one of the three publishers that does not provide any information on its website nevertheless offers Open Access publishing in specific cases, with some of its titles listed in the Directory of Open Access Books (DOAB). Among the 17 publishers' websites that provide information on Open Access, the information was easy to find in 15 cases, requiring no more than two clicks to get to the information. In two cases, a more extensive search was necessary to get to the information about Open Access. Fifteen of the publishers with information about Open Access have

a dedicated Open Access webpage. In at least two cases, these webpages were launched only recently, within the past few months.

Of the 17 publishers' websites containing information on Open Access, the information could be assessed as clear and comprehensive in approximately two-thirds of cases (11 websites). These websites provide information on whether Open Access publishing incurs fees, which licenses are used, and whether an embargo period applies. In approximately one-third of cases, the information was incomplete. This also applies to publishers that offer exclusively or extensively Open Access publishing. For example, it was not always clear from these websites whether authors are required to pay publication fees, whether the fees apply to Gold Open Access or to Closed publications, or which licenses are available.

Most of the publishers examined offer Open Access in some form, namely 18 out of 20. In one case, however, this is not communicated on the publisher's website as mentioned above.

Among the publishers/platforms that offer Open Access, all provide Gold (or Diamond) Open Access. Based on the information available on their websites, Gold Open Access therefore appears to be the preferred model by publishers. However, only 13 of these publishers have their titles listed in the Directory of Open Access Books (DOAB). The project did not assess whether the data provided to DOAB was complete.

By contrast, only 14 publishers provide information on Green Open Access (self-archiving), including the three publishers that exclusively offer Open Access, where self-archiving is regulated through the applicable Creative Commons license.

The situation regarding Green Open Access is particularly heterogeneous. Nine publishers provide information on self-archiving options for books, including four publishers that offer Green Open Access for books subject to a fee. The remaining publishers provide self-archiving information only for journal articles. Regarding the options for Green Open Access for books, the analysis shows that, where self-archiving is permitted free of charge, publishers generally allow only individual chapters or parts of a book to be archived. Some publishers explicitly exclude certain types of books, such as textbooks, from self-archiving altogether.

However, the experience of the institutions involved in the ROAL project in the past has shown that Green Open Access is more frequently possible upon request than is indicated on publishers' websites.

The review of publishers' and publishing platforms' websites shows that Open Access publishing is now widely available to legal scholars, with the vast majority of publishers offering Open Access options and providing at least some relevant information online. At the same time, the analysis reveals considerable variation in the transparency, completeness, and accessibility of this information. While Gold Open Access has clearly become the dominant model, information on Green Open Access remains fragmented and often difficult to interpret, particularly with regard to books. Overall, improving transparency and awareness of Open Access options and rights remains a key prerequisite for supporting informed publishing decisions by researchers.

6 Evaluation of Publisher Contracts

Finally, we examined how Open Access is addressed and regulated in publishing agreements. The analysis covered both agreements for traditional, closed publications, with a particular focus on provisions allowing authors to retain certain rights, and agreements specifically governing Open Access publications.

For this purpose, 15 publishers were contacted, five of which responded. In addition, standard publishing agreements from four large international publishers were publicly available on their websites and could therefore be included in the analysis. Overall, the analysis covered the agreements and contractual practices of nine publishers: four large international multidisciplinary publishers, two Open Access publishers or publishing platforms, and three medium-sized publishers. Given the small sample, the scope of the analysis was necessarily limited, and the findings presented in this section should be regarded as indicative rather than representative.

The analysis revealed considerable variation in contractual practices. Neither of the two Open Access publishers/platforms used formal publishing agreements although one was in the process of developing a digital toolbox for authors that would also include sample agreements. One further publisher governed the transfer and licensing of rights through its terms and conditions and detailed publication guidelines. Some of the other publishers relied on extensive and detailed publishing agreements.

6.1 Transfer of Rights

Regarding the transfer of rights, among the publishers that used agreements for Open Access publications, authors retained their rights in five cases. In one case, however, the author transferred all rights to the publisher even when the publication was published Open Access. The publication was subsequently made available under a Creative Commons license, which also applied to the author. It appears likely that in this case, an agreement originally designed for a Closed Access publication had been supplemented with an Open Access clause, potentially resulting in inconsistencies between the contractual provisions. Even where authors retained their rights, however, the agreements generally granted the publisher extensive non-exclusive rights of use.

In all agreements for traditional Closed Access publications, authors granted the publisher exclusive rights of use and distribution. Rights reversion for the purpose of secondary publication was provided only in the agreements of the large international publishers. In the other agreements, secondary publication was either not addressed or explicitly excluded.

6.2 AI Clause

Although the use of AI was not a focus of the present report, the topic arose frequently in interviews and was also addressed in three of the publishing agreements examined. AI was addressed in the publishing agreements in two different contexts: first, regarding authors' use of AI, and second, with regard to publishers' use of authors' content for AI-related purposes.

In the first case, the agreements specified how authors were permitted to use AI in preparing their work. Where such provisions existed, the use of AI was generally permitted as long as it remained supportive in nature and the author retained responsibility for the work. Some agreements also imposed transparency requirements regarding the use of AI.

In the second case, publishers reserved rights to use the authors' work for AI-related purposes. These provisions could include the use of content for AI training, data analysis, the creation of abstracts, and the training or development of machine-learning models. Some agreements went further by granting publishers rights to commercially exploit AI systems, outputs, or products resulting from such uses.

6.3 Conclusion

The short analysis reveals considerable variation in publishing agreements, particularly regarding authors' rights. While Open Access agreements generally allowed authors to retain their rights, publishers were often granted extensive non-exclusive rights of use, and individual agreements contained potentially inconsistent provisions. By contrast, Closed Access agreements consistently required the exclusive transfer of rights, while options for secondary publication were limited.

The emerging AI clauses add a further dimension to rights management, regulating authors' use of AI while, in some cases, granting publishers extensive rights to use published content for AI-related purposes. Overall, the findings highlight the importance of clear and transparent contractual provisions that safeguard authors' rights in both Open Access publishing and self-archiving. Furthermore, these findings highlight the need to strengthen researchers' negotiating position by providing direct support in contract negotiations and promoting rights retention strategies.

7 Overall Findings and Next Steps

Our analyses revealed a high degree of consistency across the different parts of the project. The literature review already identified many of the issues subsequently raised in the interviews, including the importance of books in legal scholarship, the relatively small market, and the involvement of legal practitioners as both users and authors of legal literature. It also highlighted issues related to quality assurance and funding, as well as the need to raise awareness and provide researchers with better information about Open Access. The results of our research reveal a publishing landscape undergoing broader transformation, driven not only by Open Access but also by digitalization and changing market conditions.

Both the quantitative findings and the interviews indicate that Open Access has become established in legal scholarship and is now an integral part of the publishing landscape – although not across all publication types, Open Access models and publishers. Alongside dedicated Open Access publishers, some traditional Swiss and international publishers also play an important role in this area.

Many measures introduced over the past years and decades to promote Open Access have contributed to this progress. These include funding provided by the SNSF and higher education institutions, the emergence of scholar-led Open Access publishers and journals in legal scholarship, Open Access options offered by traditional publishers, repository infrastructure, training and information initiatives, and, to some extent, Read & Publish agreements.

Our findings, however, also indicate that some aspects of legal publishing warrant further discussion and reflection, both within the legal community and beyond. These include the extent to which public funds should be used to create content and infrastructures that may subsequently be exploited by private companies and large technology firms. Further questions concern transparency regarding costs, publishing services, and remuneration, as well as the more fundamental issue of who should be responsible in the future for providing publishing infrastructures, content and discovery platforms.

A further topic that emerged prominently from the interviews was artificial intelligence. While AI is by no means an issue specific to Open Access, some of the underlying tensions become particularly apparent in this context. AI may offer new opportunities to increase the visibility and accessibility of legal scholarship, but it also raises concerns regarding the reliability of information and a sustainable openness of scholarly communication.

Alongside these broader questions, however, significant practical challenges remain. Further measures are therefore needed to strengthen and advance Open Access in legal scholarship:

- Targeted Open Access information tailored to legal researchers, authors, students, and practitioners
- Open Access information beyond academia, particularly for courts and other legal practitioners
- Improved discoverability of Open Access content through its systematic integration into legal databases and platforms, and through the inclusion of publication metadata in swisscovery / juscovery.
- Transparent and practicable quality assurance and peer review processes

- Stronger support for Green Open Access, including institutional assistance with rights retention and secondary publication
- Greater transparency regarding publishing costs and services
- Sustainable funding for Open Access books and journals including supporting and strengthening Diamond Open Access initiatives in legal scholarship
- Inclusive and sustainable funding and business models, developed with all relevant stakeholders rather than universities alone
- Better leverage the Open Access potential of journals through agreements with major legal publishers, stronger support for Green Open Access, and the promotion of Diamond Open Access.
- Negotiating Read & Publish agreements with Swiss legal publishers
- Implement Open Access models for publication types where Open Access has so far been difficult to achieve, such as legal commentaries and textbooks

As initial implementation measures for the extension of the ROAL project, we recommend therefore the following realistic and feasible actions within the next few months:

- Develop recommendations for publishers on providing targeted Open Access information, including information on available funding opportunities, in coordination with the SNSF.
- Develop targeted Open Access information campaigns for courts.
- Develop training materials for early-career researchers, including a toolbox on rights retention.
- Develop short introductory Open Access materials for law students.
- Expand the existing Open Access information page for legal scholarship on <https://open-access.network/> with practical information on publishing options and available funding.

Our analyses revealed a wide range of attitudes towards Open Access, including conflicting perspectives. At the same time, they showed that the successful implementation of Open Access in legal scholarship requires the involvement and collaboration of all relevant stakeholders, including researchers, publishers, law firms, courts, and public administration.

Bibliography

- Alabi, R. (2026). Legal Information Management in an Open Access Ecosystem. *Alexandria: The Journal of National and International Library and Information Issues*, <https://doi.org/10.1177/09557490251414718>.
- Arasteh-Roodsary, S. L., Gaillard, V., Garbuglia, F., Mounier, P., Pölönen, J., Proudman, V., Rooryck, J., Saenen, B., & Stone, G. (2025). *Diamond Open Access Recommendations and Guidelines for Institutions, Funders, Sponsors, Donors, and Policymakers*, <https://doi.org/10.5281/ZENODO.15518744>.
- Ayeni, P., & Willson, R. (2022). Investigating Open Access Publishing Practices of Early and Mid-Career Researchers in Humanities and Social Sciences Disciplines. *Proceedings of the Association for Information Science and Technology*, 59, 398–403, <https://doi.org/10.1002/pra2.641>.
- Bayer, F., Gorraiz, J., Gumpenberger, C., Iturbide, A., Iribarren-Maestro, I., & Reding, S. (2019). Investigating SSH Research and Publication Practices in Disciplinary and Institutional Contexts. A Survey-Based Comparative Approach in Two Universities. *Frontiers in Research Metrics and Analytics*, 4 (1), <https://doi.org/10.3389/frma.2019.00001>.
- Beatty, J. R. (2023). Open Access without Open Access Values: The State of Free and Open Access to Law Reviews. *Law Library Journal*, 115 (1), 41–121.
- Boehm, F., Euler, E., Klimpel, P., Rack, F., & Weitzmann, J. (2025). *Creative Commons Public License (CCPL): Kommentar und Handbuch für die Rechtspraxis*. Carl Grossmann, <https://doi.org/10.24921/2025.94115974>.
- Brehm, E. (2021, October 26). Juristische Publikationskultur im Wandel – neue qualitätsgesicherte Publikationsformen. *TIB-Blog*, <https://blog.tib.eu/2021/10/26/juristische-publikationskultur-im-wandel-neue-qualitaetsgesicherte-publikationsformen/>.
- Breidenstein, G., Hirschauer, S., Kalthoff, H., & Nieswand, B. (2015). *Ethnografie: Die Praxis der Feldforschung* (2. überarbeitete Auflage). UVK Verlagsgesellschaft mbH.
- Burri, S. (2021). *E-Medien in juristischen Bibliotheken der Schweiz, eine Ist- und Soll-Analyse der E-Medien-Angebote auf dem rechtswissenschaftlichen Publikationsmarkt und deren Nutzung in juristischen Bibliotheken in der Schweiz* [Abschlussarbeit MAS Bibliotheks- und Informationswissenschaft eingereicht an der Philosophischen Fakultät der Universität Zürich und an der Zentralbibliothek Zürich]. Universität Zürich.
- Chiofalo, Valentina, & Milas, Max. (2023). Die geschlossene Gesellschaft der Rechtswissenschaft: Chancen und Grenzen von Open Educational Resources. *Zeitschrift für Didaktik der Rechtswissenschaft*, 10(2).
- Danner, R. A. (2012). Open Access to Legal Scholarship: Dropping the Barriers to Discourse and Dialogue. *Journal of International Commercial Law and Technology*, 7, 65–79.
- Demeter, M., Jele, A., & Major, Z. B. (2021). The International Development of Open Access Publishing: A Comparative Empirical Analysis Over Seven World Regions and Nine Academic Disciplines. *Publishing Research Quarterly*, 37(3), 364–383, <https://doi.org/10.1007/s12109-021-09814-9>.

- Dengg, B. (2017). Juristische Informationsversorgung in der Schweiz – Never change a running system. *Recht Bibliothek Dokumentation. Mitteilungen Der Arbeitsgemeinschaft Für Juristisches Bibliotheks- und Dokumentationswesen*, 46, 85–95.
- Dengg, B. (2019). Der offene Zugang als Zukunft der juristischen Informationsversorgung? Das Projekt Swiss Open Law Online (SOL-Online). In H. Hamann & D. Hürlimann (Eds.). *Open Access in der Rechtswissenschaft, Sonderheft «Rechtswissenschaft»*, Baden-Baden, 223–230, <https://doi.org/10.5771/9783748903659-229>.
- Eisentraut, N. (n.d.). *Handbuch Open Science/ Rechtswissenschaft*. Retrieved https://de.wikibooks.org/wiki/Handbuch_Open_Science/_Rechtswissenschaft.
- Eisentraut, N. (2020). Die Digitalisierung von Forschung und Lehre – auf dem Weg in eine «öffentliche» Rechtswissenschaft? In R. Greve, B. Gwiasda, T. Kemper, J. Moir, S. Müller, A. Schönberger, S. Stöcker, J. Wagner, & L. Wolff (Eds.). *Der digitalisierte Staat– Chancen und Herausforderungen für den modernen Staat*, Nomos, 63–84, <https://doi.org/10.5771/9783748907497-63>.
- Eisentraut, N. (2025). Open Access zu Kommentaren. In N. Eisentraut & M. Petras (Eds.). *Von Open Access zu Open Science*, Nomos, 45–67, <https://doi.org/10.5771/9783748950318-45>
- Eisentraut, & Petras, M. (Eds.). (2025). *Von Open Access zu Open Science: Das transformative Potenzial der Digitalisierung für eine Öffnung der Rechtswissenschaft*. Nomos, <https://doi.org/10.5771/9783748950318>.
- Euler, E. (2020). Open Access in der Wissenschaft und die Realitäten des Rechts. *Recht und Zugang*, 1(1), 56–82, <https://doi.org/10.5771/2699-1284-2020-1-56>.
- Euler, E., & Falkenburg, P. (2026). *Forschungsbewertung in der Rechtswissenschaft: Lösungen jenseits von Proxys*, <https://doi.org/10.17176/20260309-114602-0>.
- Eve, M. P. (2015). Open Access Publishing and Scholarly Communications in Non-Scientific Disciplines. *Online Information Review*, 39(5), 717–732, <https://doi.org/10.1108/OIR-04-2015-0103>.
- Ferwerda, E., Snijder, R., Arpagaus, B., Graf, R., Krämer, D., & Moser, E. (2018). *OAPEN-CH – The Impact of Open Access on Scientific Monographs in Switzerland. A Project Conducted by the Swiss National Science Foundation (SNSF)*. Zenodo, <https://doi.org/10.5281/ZENODO.1220607>.
- Fischer, G. (2022). Im Ringen um Erkenntnis und Anerkennung: Wie Rechtswissenschaftler*innen das eigene akademische Publizieren im Zuge von Open Access sehen. *Recht und Zugang*, 3(1), 19–49, <https://doi.org/10.5771/2699-1284-2022-1-19>.
- Flick, U., Kardorff, E. von, & Steinke, I. (Eds.). (2022). *Qualitative Forschung: Ein Handbuch* (14. Auflage, Originalausgabe). Rowohlt Taschenbuch Verlag.
- Früh, A., & Koch, R. (2024). Ein neuer Blick auf Open Access: Wissenschaftliches Publizieren aus Sicht des öffentlichen Beschaffungsrechts. *sui generis*, <https://doi.org/10.21257/sg.253>.
- Geissbühler, G. (2021). L'Open Access dans le Code des obligations. *Jusletter*, (1067), <https://doi.org/10.38023/d77719d4-56ad-40ff-b18f-191f3d9c957d>.

- Girard de Barros, F. (2017). Open Access, Open Law: La guerre de Troie aura-t-elle lieu ? *Lexbase*, 688, <https://www.lexbase.fr/article-juridique/38024637-open-access-open-law-la-guerre-de-troie-aura-t-elle-lieu->.
- Gjon, D. (2022). Fachbücher auf Kosten der Steuerzahler. *Plädoyer*, 5, <https://www.plaedoyer.ch/artikel/artikeldetail/fachbuecher-auf-kosten-der-steuerzahler>.
- Goller, M. (2019). Open Access für die Rechtswissenschaft: Pflicht oder Privatsache? In H. Hamann & D. Hürlimann (Eds.), *Open Access in der Rechtswissenschaft*, Nomos, 231–238, <https://doi.org/10.5771/9783748903659-237>
- Graf, F. S., & Haux, D. H. (2017). Verpflichtung zu Open Access – universitäres Publizieren der Zukunft? *sui generis*, <https://doi.org/10.21257/sg.46>.
- Hadad, S., Aharony, N., & Raban, D. R. (2024). Unlocking Scholarly Realms: Revealing Discipline-Specific Publication and Citation Benefits in Open Access. *Proceedings of the Association for Information Science and Technology*, 61, 925–927, <https://doi.org/10.1002/pra2.1142>.
- Hamann, H. (2016). Freier Zugang zur juristischen Fachliteratur im Spiegel der Open-Science-Bewegung. *sui generis*, <https://doi.org/10.21257/sg.28>.
- Hamann, H. (2019). Lizenzmodelle rechtswissenschaftlicher Internetzeitschriften. In H. Hamann & D. Hürlimann (Eds.). *Open Access in der Rechtswissenschaft*, Nomos, 85–111, <https://doi.org/10.5771/9783748903659-91>.
- Hamann, H. (2023). Urheberrecht als Ermöglichungsinfrastruktur für Open-Access-Publikationen? *Zeitschrift für Urheber- und Medienrecht*, 410–419.
- Hamann, H., & Hürlimann, D. (Eds.). (2019). *Open Access in der Rechtswissenschaft: Sonderheft «Rechtswissenschaft.»* Nomos, <https://doi.org/10.5771/9783748903659>.
- Hantow, J. (2025). KidRewi – Offene Infrastrukturen für juristische Lehrbücher. In *Von Open Access zu Open Science*. Nomos, <https://www.nomos-elibrary.de/document/download/pdf/uuid/90e94638-708c-3d97-8c82-f2fdd14b6cf3>.
- Hartmann, T. (2017). Zwang zum Open Access-Publizieren? Der rechtliche Präzedenzfall ist schon da! *LIBREAS. Library Ideas*, 32, <http://dx.doi.org/10.18452/19097>.
- Hartmann, T. (2025). Open Science – eine Selbstverständlichkeit der (neuen) Guten Wissenschaftlichen Praxis und ihres rechtlichen Rahmens? In N. Eisentraut & M. Petras (Eds.). *Von Open Access zu Open Science*, Nomos, 7–25, <https://doi.org/10.5771/9783748950318-7>.
- Haux, D., & Fischer, G. (2023). Zugang zum Recht: Ein Überblick über die offenen und (noch) verschlossenen Türen auf dem langen Weg zu Justitia. *sui generis*, <https://doi.org/10.21257/sg.234>.
- Haux, D. H. (2021). *Die digitale Allmende*. Dike Verlag, <https://doi.org/10.3256/978-3-03929-012-3>.
- Helfferrich, C. (2009). *Die Qualität qualitativer Daten: Manual für die Durchführung qualitativer Interviews* (3., überarbeitete Auflage). VS Verlag für Sozialwissenschaften, <https://doi.org/10.1007/978-3-531-91858-7>.

- Hellmund, P. (2021). Online-Workshop: Open Access und Wandel der Publikationskultur in der Rechtswissenschaft. *Recht und Zugang*, 2(2), 164–170, <https://doi.org/10.5771/2699-1284-2021-2-164>.
- Hilty, R. M., & Seemann, M. (2009). *Open Access: Zugang zu wissenschaftlichen Publikationen im schweizerischen Recht*, <https://doi.org/10.5167/UZH-30945>.
- Huffman. (2006). Symposium: Open Access Publishing and the Future of Legal Scholarship. *Lewis & Clark Law Review*, 10(4), 733–924.
- Hürlimann, D. (2021a). Open Access in der Schweizer Rechtswissenschaft. *Verfassungsblog*, <https://verfassungsblog.de/open-access-in-der-schweizer-rechtswissenschaft/>.
- Hürlimann, D. (2021b). Open Access in der Schweizer Rechtswissenschaft. *Verfassungsblog*, <https://doi.org/10.17176/20211223-124219-0>.
- Hürlimann, D., & Grossmann, A. (2017). Open Access als Utopie? *Informationspraxis*, 3(1), <https://doi.org/10.11588/IP.2017.1.33687>.
- Jiménez-Gómez, C. E., & Gascó-Hernández, M. (Eds.). (2017). *Achieving Open Justice through Citizen Participation and Transparency*: IGI Global, <https://doi.org/10.4018/978-1-5225-0717-8>.
- Hantow, J., & Heinemann, Y. (2025). *Offene Tools und Services für das juristische Publizieren*. *Bibliothek Forschung Und Praxis*, 49(3), 321–331, <https://doi.org/10.1515/bfp-2025-0033>.
- Kaden, B. (2022). OA Takeaways: Open Access in den Rechtswissenschaften. *Open Access Brandenburg*, <https://open-access-brandenburg.de/oa-takeaways-open-access-rechtswissenschaften/>.
- Kaier, C., & Lackner, K. (2019). Open Access aus der Sicht von Verlagen. *Bibliothek Forschung und Praxis*, 43(1), 194–205, <https://doi.org/10.1515/bfp-2019-2008>.
- Kunz, R. (2024). Opening the Access to International Legal Scholarship – an Introduction. *Zeitschrift Für Ausländisches öffentliches Recht und Völkerrecht / Heidelberg Journal of International Law*, 84(2), 219–230, <https://doi.org/10.17104/0044-2348-2024-2-219>.
- Maurel, L. (2017). Quelles perspectives pour l'Open Access en sciences juridiques après la loi «République numérique»? *JOAL – Journal of Open Access to Law*, 5(1), <https://ojs.law.cornell.edu/index.php/joal/article/view/60/69>.
- Meyer, L., & Probst, C. (2025). *Regulierungsfolgeabschätzung zur Einführung eines Zweitveröffentlichungsrechts*. econcept / swissuniversities.
- Ostendorff, M., Blume, T., & Ostendorff, S. (2020). Towards an Open Platform for Legal Information. *Proceedings of the ACM/IEEE Joint Conference on Digital Libraries in 2020*, 385–388, <https://doi.org/10.1145/3383583.3398616>.
- Poulin, D. (2004). Open Access to Law in Developing Countries. *First Monday*, 9(12), <https://doi.org/10.5210/fm.v9i12.1193>.
- Radtke, T. (2022). Die Hintertür zu mehr Open Access? *Gewerblicher Rechtsschutz Und Urheberrecht*, 124, 1562–1568.

- Retteen, A., & Hall-Retteen, M. (2024). Persistent Identifiers and the Next Generation of Legal Scholarship. *Law Library Journal*, 5, <https://scholarship.law.tamu.edu/facscholar/1994>.
- Rocholl, D. (2025). Open Science disziplinspezifisch betrachtet: Entwicklungen in der Rechtswissenschaft. *Gewerblicher Rechtsschutz Und Urheberrecht*, 127(7), 475–478.
- Rosenbaum, K. (2016). Von Fach zu Fach verschieden. Diversität im wissenschaftlichen Publikationssystem. In P. Weingart & N. Taubert (Eds.), *Wissenschaftliches Publizieren*. De Gruyter, <https://doi.org/10.1515/9783110448115-002>.
- Rücknagel, J., Renziehausen, A.-K., & Strauß, H. (with Dellmann, S., & Tullney, M.). (2023). *Wahrnehmung von Open Access: Erhebung zu Anforderungen und Hindernissen in den Rechtswissenschaften*. Zenodo, <https://doi.org/10.5281/ZENODO.7535165>.
- Schweizer Buchhandels- und Verlagsverband. (2025). *Das zwingende Zweitveröffentlichungsrecht Hintergrund, Ziele und Auswirkungen*.
- Severin, A., Egger, M., Eve, M. P., & Hürlimann, D. (2020). Discipline-Specific Open Access Publishing Practices and Barriers to Change: An Evidence-Based Review. *F1000Research*, 7, 1925, <https://doi.org/10.12688/f1000research.17328.2>.
- Solum, L. B. (2006). Download It While It's Hot: Open Access and Legal Scholarship. *Lewis & Clark Law Review*, <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?&httpsredir=1&article=1866&context=facpub>.
- Thouvenin, F., Früh, A., & Bächler, F. (2023). *Regulatory Framework: Zweitveröffentlichungsrecht und Open Access als regulatorische Herausforderung*. Universität Zürich et al, <https://www.swissuniversities.ch>.
- Van Dijck, G. (2016). Legal Research when Relying on Open Access: A Primer. *Law and Method*, <https://doi.org/10.5553/REM/000017>.
- Van Gestel, R., Byland, K., & Lienhard, A. (2018). Evaluation of Legal Research: Comparison of the Outcomes of a Swiss and Dutch National Survey. *Tilburg Law Review*, 23(0), 3, <https://doi.org/10.5334/tilr.6>.
- Van Geuns-Rosch, C.-M. (2019). Open Access in der Rechtswissenschaft – Pflicht oder Privatsache? *JuristenZeitung*, 74(13), 666, <https://doi.org/10.1628/jz-2019-0120>.
- Verfassungsblog | On Matters Constitutional. (n.d.). *Verfassungsblog*. Retrieved September 1, 2025, <https://verfassungsblog.de/ozor/>.
- Virkar, S., Udokwu, C., Novak, A.-S., & Tsekeridou, S. (2019). Facilitating Public Access to Legal Information. In P. Haber, T. Lampoltshammer, & M. Mayr (Eds.), *Data Science – Analytics and Applications* Springer, 77–82, https://doi.org/10.1007/978-3-658-27495-5_10.
- Wildgans, J. (2019). Zuckerbrot oder Peitsche? Ein Plädoyer für Open Access im juristischen Publikationswesen. *Zeitschrift für Urheber- und Medienrecht*, (1), 21, <https://doi.org/10.31228/osf.io/9z6xw>.
- Zhu, Y. (2017). Who Supports Open Access Publishing? Gender, Discipline, Seniority and other Factors Associated with Academics' OA Practice. *Scientometrics*, 111(2), 557–579, <https://doi.org/10.1007/s11192-017-2316-z>.

List of Interviews

Interview conducted by Amanda Arnold with Prof. Dr. iur. **Gian Paolo Romano**, Full Professor at the University of Geneva, on 8 February 2026.

Interview conducted by Amanda Arnold with President of the Gruyère District Court, on 16 February 2026.

Interview conducted by Amanda Arnold, Prof. Dr. iur. **Nicolas Bueno**, assistant Professor at UniDistance, on 24 February 2026.

Interview conducted by Amanda Arnold with Prof. Dr. iur. **Jacques Dubey**, Dean of the Faculty of Law at the University of Fribourg, on 11 March 2026.

Interview conducted by Amanda Arnold with Ms **Laurine Bloch**, Court Clerk at the Bernese Jura–Seeland Conciliation Authority, on 18 March 2026.

Interview conducted by Amanda Arnold with Prof. Dr. iur. **Laurent Moreillon**, Professor Emeritus at the University of Lausanne, on 20 March 2026.

Interview conducted by Amanda Arnold with Prof. Dr. iur. **Anne-Sylvie Dupont**, Full Professor at the Universities of Geneva and Neuchâtel, on 25 March 2026.

Interview conducted by Amanda Arnold with Ms **Pilar Gimeno**, Head of the Migration Service of the Canton of Neuchâtel, on 26 March 2026.

Interview conducted by Amanda Arnold with Ms **Leonore Leresche**, Deputy Head of the Editorial Services Unit, Federal Chancellery, on 1st April 2026.

Interview conducted by Amanda Arnold with Ms **Annelot Perdijk**, Academic Trainee at the Federal Chancellery, on 1st April 2026.

Interview conducted by Amanda Arnold with a Co-founder and CEO of a Swiss SME active in digital solutions and considering a strategic position in legal scholarly publishing, on 27 April 2026.

Interview conducted by Barbara Berchtold with a Professor of a Swiss University, on 20 February 2026.

Interview conducted by Barbara Berchtold with a Professor of a Swiss University, on 20 March 2026.

Interview conducted by Barbara Berchtold with **Tobias Baumgartner**, Dr. iur., LL.M. (Eur.) Rechtsanwalt, Stv. Direktor Europa Institut der Universität Zürich, on 18 February 2026.

Interview conducted by Barbara Berchtold with a practicing attorney as well as a research assistant at a Swiss University, on 19 February 2026.

Interview conducted by Barbara Berchtold with a Post Doc at a Swiss University, on 3 December 2025.

Interview conducted by Barbara Berchtold with Dr. iur. **Andreas Thier**, M. A. Professor of legal history, canon law, legal theory, ecclesiastical law and private law, on 11 February 2026.

Interview conducted by Barbara Berchtold with a Swiss Attorney as well as a lecturer in the Department of Public Law at the University of Zurich, on 25 February 2026.

Interview conducted by Barbara Berchtold with **Mirko Meurer**, Publishing Director of Helbing Lichtenhahn Basel, as well as Dike Zurich; and **Jérôme Voumard**, Program Manager at Helbing Lichtenhahn, on 6 March 2026.

Interview conducted by Teona Kvirikashvili with Dr. **Monika Plozza**, senior research associate (postdoc) at the Institute of Public Law at the University of Bern, on 26 February 2026.

Interview conducted by Barbara Berchtold with **Tim Willmann** MLaw, research assistant at the Institute of Criminal Law and Criminology at the University of Bern, 4 March 2026.

Interview conducted by Barbara Berchtold with Dr. iur. **Marc Thommen**, LL.M, Professor of Swiss Criminal Law and Criminal Procedure Law as well as Founding member of *sui generis* Verlag, on 26 March 2026.

Interview conducted by Barbara Berchtold with a substitute judge and a court clerk at a District Court, on 1st April 2026.

Interview conducted by Barbara Berchtold with Dr. iur. LL.M. (Duke) **Nicolas Diebold**, Professor of Public and Economic Law at the University of Lucerne, on 18 March 2026.

Interview conducted by Barbara Berchtold with Dr. iur. **Apollo Dimitri Dauag**, Post Doc at the University of Basel as well as Academic Managing Director of the Research Center for Digitalization in State and Administration, on 2nd April 2026.

Appendix 1: Interview Guidelines Researchers and Practitioners

Fragenkatalog zum Projekt «Report on Open Access in Law» (ROAL) Fragebogen für Forschende und Praktikerinnen

1. Fragen

- a. Können Sie sich bitte kurz vorstellen? Was ist Ihr Bezug zu den Rechtswissenschaften?
- b. Können Sie uns bitte kurz beschreiben, in welchem Bereich Sie publizieren bzw. mit Publikationen zu tun haben? Z.B. auch bei der Recherche?

2. Fragen

- a. Haben Sie bisher Erfahrungen mit Open-Access-Publikationen gemacht, z.B. beim Publizieren, bei der Recherche oder auf strategischer Ebene?
Wie waren Ihre Erfahrungen?
Wieso haben Sie sich so entschieden?
Haben Sie sich beraten lassen?
Auf welche Herausforderungen sind Sie gestossen?
- b. Haben Sie sich bei der Publikation oder auf strategischer Ebene für oder gegen OA entschieden?
Können Sie uns Gründe dafür nennen?

3. Fragen

Betrachten wir die rechtswissenschaftliche Publikationslandschaft im grossen Ganzen:

- a. Welche Gründe sprechen Ihrer Meinung nach gegen oder für eine OA-Publikation?
- b. Welche Chancen und Risiken sehen Sie beim OA-Publizieren?
- c. Wo sehen Sie Verbesserungspotential zu Gunsten von OA-Publikationen; haben Sie Ideen dazu?

4. Fragen

- a. Was ist Ihnen wichtig, wenn es um die Wahl eines Verlages bei einer Publikation geht? Oder beim Recherchieren?
- b. Welches Verlagsangebot oder Publikationsangebot ist für Sie wichtig?

5. Frage

Haben Sie sich bereits mit den OA-Richtlinien oder mit Förderangeboten auseinandergesetzt? Was ist Ihnen aufgefallen, sowohl positiv als auch negativ?

6. Frage

Welche Informationen und/oder Beratungen wünschen Sie in Bezug auf OA?

7. Frage:

Nach allem, was wir jetzt diskutiert haben:

Wie sehen Sie die Zukunft von Open Access?

Ist das etwas, was weiterverfolgt werden sollte?

Haben Sie eine Meinung dazu?

Gibt es neuere Entwicklungen, zu denen Sie sich Gedanken machen?

8. Abschluss:

- a. Was möchten Sie abschliessend noch zum Thema Open Access sagen?
Haben wir einen Themenbereich noch nicht abgedeckt?
- b. Dürfen wir Sie gegebenenfalls für Rückfragen nochmals kontaktieren?

Vielen Dank!

Appendix 2: Interview Guidelines Publishers

Fragenkatalog zum Projekt «Report on Open Access in Law» (ROAL). Fragebogen für Verlage

1. Fragen

- a. Können Sie sich bitte kurz vorstellen? Was ist Ihr Bezug zu den Rechtswissenschaften?
- b. Können Sie uns bitte kurz beschreiben, in welchem Bereich Sie publizieren bzw. mit Publikationen zu tun haben? Z.B. auch bei der Recherche?

2. Fragen

- a. Haben Sie bisher Erfahrungen mit Open-Access-Publikationen gemacht, z.B. beim Publizieren, bei der Recherche oder auf strategischer Ebene?
Wie waren Ihre Erfahrungen?
Wieso haben Sie sich so entschieden?
Haben Sie sich beraten lassen?
Auf welche Herausforderungen sind Sie gestossen?
- b. Haben Sie sich bei der Publikation oder auf strategischer Ebene für oder gegen OA entschieden?

Können Sie uns Gründe dafür nennen?

3. Fragen

Betrachten wir die rechtswissenschaftliche Publikationslandschaft im grossen Ganzen:

- a. Welche Gründe sprechen Ihrer Meinung nach gegen oder für eine OA-Publikation?
- b. Welche Chancen und Risiken sehen Sie beim OA-Publizieren?
- c. Wo sehen Sie Verbesserungspotential zu Gunsten von OA-Publikationen; haben Sie Ideen dazu?

4. Fragen:

- a. Wie schätzen Sie das ein: Ist die Wahl des Verlags bei einer Publikation ein entscheidender Faktor? Warum denken Sie, wird bei Ihnen publiziert?
- b. Welches Verlagsangebot oder Publikationsangebot ist für Sie wichtig?

5. Frage:

Haben Sie sich bereits mit den OA-Richtlinien oder mit Förderangeboten auseinandergesetzt? Was ist Ihnen aufgefallen, sowohl positiv als auch negativ?

6. Frage:

Welche Informationen und/oder Beratungen wünschen Sie in Bezug auf OA?

7. Frage:

Nach allem, was wir jetzt diskutiert haben:

Wie sehen Sie die Zukunft von Open Access?

Ist das etwas, was weiterverfolgt werden sollte?

Haben Sie eine Meinung dazu?

Gibt es neuere Entwicklungen, zu denen Sie sich Gedanken machen?

8. Abschluss:

a. Was möchten Sie abschliessend noch zum Thema Open Access sagen?

Haben wir einen Themenbereich noch nicht abgedeckt?

b. Dürfen wir Sie gegebenenfalls für Rückfragen nochmals kontaktieren?

Vielen Dank!