

Legal Proceedings

According to the 2008 Global Competitiveness Report of the World Economic Forum, Germany occupies top slot in the "Efficiency of Legal Framework" and "Judicial Independence" categories. Hence, companies and entrepreneurs can count on a reliable legal system. Numerous international law firms are represented in Germany.

Attorneys at Law

All attorneys at law are members of the bar council (*Rechtsanwaltskammer*) of the region. The Federal Bar Council (*Bundesrechtsanwaltskammer*) is the professional umbrella association of the different bar councils.

The largest private association is the Deutscher Anwaltverein, in which around half of all attorneys at law are organized on a voluntary basis.

- [Federal Bar Council \(Bundesrechtsanwaltskammer\) - in German only](#) ▶
- [German Bar Association \(Deutscher Anwaltverein\)](#) ▶

The Courts

In Germany, ordinary courts which hear civil and criminal disputes are organized at different levels. There are:

- local courts (*Amtsgericht*)
- regional courts (*Landgericht*)
- higher regional courts (*Oberlandesgericht*)
- and the Federal Court of Justice (*Bundesgerichtshof*) at the highest level

A right of appeal is usually permitted against initial decisions. Under these circumstances, higher courts up to the level of the Federal Court of Justice settle the case.

Jurisdiction

In principle, local courts have jurisdiction in civil disputes if the monetary value of the dispute does not exceed EUR 5,000 and if the regional court does not have exclusive jurisdiction. There is normally no requirement to retain the services of an attorney in civil cases brought before the district courts.

However, representation by an attorney at law is necessary for all proceedings before the regional courts, the higher regional courts, the Federal Court of Justice (Bundesgerichtshof), and for a range of family matters in the district courts.

Besides the ordinary courts there are also specific courts for administrative, social, labor and fiscal matters. The labor courts (*Arbeitsgericht*) are responsible for disputes arising from industrial relations; especially those relating to collective agreements or the termination of contracts of employment. The fiscal courts (*Finanzgericht*) rule on disputes relating to taxes and charges subject to federal legislation.

The Order of Payment Procedure

In principle, the order for payment procedure is applicable to all claims relating to the payment of a specific sum of money. A small fee is charged for this procedure, and a lawyer doesn't need to be involved.

A written reminder is followed by an application to the local court for an order for payment procedure (Mahnbescheid). A standardized application form must be used. The competent court for the purposes of the order for payment procedure is the district court at which the applicant has his general jurisdiction.

The court issues the order for payment to the defaulting payer. The defendant can file an objection within two weeks. If no objection is filed, the court issues an enforcement order on application which is provisionally enforceable.

Notice of appeal can be filed against the enforcement order within two weeks. If the defendant disputes the claim within this period, it is no longer possible to issue an enforcement order for the compulsory enforcement of the claim asserted under the order for payment.

However, the procedure is not automatically transferred to normal (i.e. "adversary") proceedings. This requires a specific application for the contested procedure to be implemented - this can be submitted by either the order for payment procedure applicant or defendant. The applicant may also submit an application as soon as he becomes aware of the objection, or can link the application to the order for payment as a precaution.

Alternative Dispute Resolution

Arbitration agreements are often a means of settling disputes - particularly in the trade and industry sectors. The chambers of industry and commerce can act as arbitrators in these cases. The procedure is non-bureaucratic. The chambers of industry and commerce have created a number of different arbitration institutions for consumer complaints such as arbitration boards or courts of arbitration (*Schiedsgericht*).



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