

HOW TO ENFORCE A JUDGMENT IN AUSTRIA

(A) What is the applicable law?

- (a) Domestic judgments: Enforcement Regulations
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary, Act 29/2015 30 July on international legal cooperation in civil matters.

(B) What international conventions and agreements is your jurisdiction a party to?

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties
- New York Convention

(C) What types of judgments in commercial matters are enforceable?

In principle, all judgments are enforceable after the expiration of the time limit for appeal.

General outlines:

(D) Are the lawyers and procurator needed?

In principle, there is no obligation to hire a lawyer. For a legal remedy there is a need for a lawyer.

(E) Is a security for costs needed?

Not needed, but if an administrator acts, his minimum remuneration must be paid in advance as well as the court fees.

(F) Which court is the competent court?

- (c) monetary claims, which are based on the movable property: general jurisdiction of the obligated party.
- (d) immovable property: District court in which the immovable property is located

(G) Can the debtor oppose to the enforcement?

The debtor has the right to file an appeal to the execution order within 14 days; the filing of the appeal does not suspend the execution of the granted execution.

Measures to secure the effectiveness of enforcement:

(H) Is it possible to obtain an automatic freezing order of bank accounts?

Yes, it is possible to obtain a block on an account based on a lien.

(I) How do you secure the effectiveness of an immovable property?

- Appointment of an administrator
- Note in the land registry

(J) Is there a Bailiff in your jurisdiction?

Yes, there are court bailiffs.

(K) Can one freely choose the person of the bailiff?

No, the specific person is ordered by the competent court. The enforcement/execution must be first granted by the judge. But the actual enforcement actions like attachment are not the responsibility of the judge or judicial officer, but of the enforcement bodies (bailiffs). The competent court is the District Court at the place of residence of the obligated party (or District court in which the immovable property is located).

(L) How much does this cost?

A fee must be paid at the beginning for the action of the court (and thus of the bailiff). The costs are claimed from the debtor.

(M) In which field with they work?

The Bailiff must execute the execution order at the place that is specified in the application for execution authorization. Their field of application is mainly the execution of movable property, eviction (for example of a flat) and the execution for restitution, but they are also used in the compulsory auction of real estate.

(N) How do they work?

The bailiff is allowed to search the flat of the debtor if it's necessary. There is also the possibility to instruct the opening of locked doors or locked boxes. If there is resistance, police assistance can be requested. The bailiff defines where the items are sold (on the internet, at the auction house, in the auction hall or at the place where the seized objects are located).

(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?

Yes, according to the legal or agreed interested rate.

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