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### Court fees concerning Small Claims procedure

Austria

This page provides information on Austrian court fees.

#### Introduction

Under Regulation (EC) No 861/2007 establishing a European Small Claims Procedure, the document instituting proceedings is referred to as a claim (*Klage*), as is also provided for in national law. Therefore, the Austrian law on court fees does not contain a separate national provision for claims under this Regulation. The claim and the subsequent proceedings at first instance come under **Fee Item 1 (Tarifpost 1)** of the **Austrian Court Fees Act (Gerichtsgebührengesetz (GGG))**, which applies to all national civil proceedings.

#### What fees are applicable?

In proceedings related to claims under the European small claims procedure at first instance, **Fee Item 1** of the **Court Fees Act** applies, in accordance with Note 1 to Fee Item 1 of the Court Fees Act. This flat fee is payable regardless of whether the proceedings are completed. Reductions are available only: in the event of immediate withdrawal or rejection of the claim before service on the opposing party (fee reduced to one quarter; Note 3 to Fee Item 1 of the Court Fees Act); or in the case of withdrawal of the claim after service on the opposing party, before or at the first hearing (fee reduced to half; Note 4(a) to Fee Item 1 of the Court Fees Act); or if the case is settled in the first hearing or at the beginning of the second hearing as a result of mediation initiated at the latest at that hearing, and that settlement becomes legally effective (fee reduced to half; Note 4(b) to Fee Item 1 of the Court Fees Act).

Under the Austrian court fees system, only the application instituting the proceedings (in this case, the claim under the European small claims procedure) is subject to a fee in civil proceedings at first instance. There are no additional court fees for further proceedings at first instance.

Under Section 2(1)(a) of the Court Fees Act, the obligation to pay fees arises when the claim under the European small claims procedure is lodged with the court. (If the action is subsequently extended, the obligation to pay fees arises with the submission of written pleadings. In negotiations, the obligation to pay fees arises with the recording of the claim extension or a settlement that goes beyond the subject matter of the claim). The fee must be paid at this time. Applications for exemption from the payment of court fees must also be lodged by way of legal aid (in Austria: *Verfahrenshilfe*) by this time at the latest, provided the conditions are met.

Applications for review under Article 18 of the Regulation are free of charge.

#### How much shall I pay?

The calculation of court fees for proceedings at first instance depends on the value of the subject matter of the claim (the amount in dispute as indicated in the claim or later in the claim extension) and the number of parties. For illustration, see below the full table of rates under Fee Item 1 of the Court Fees Act (as at 1 May 2021; click [here](#) for the current wording of the Court Fees Act):

Fee Item 1	Value of the subject matter of the claim			Fee payable	
	does not exceed	EUR 150		EUR 25	
	more than	EUR 150 but does not exceed	EUR 300	EUR 48	
	more than	EUR 300 but does not exceed	EUR 700	EUR 68	
	more than	EUR 700 but does not exceed	EUR 2 000	EUR 114	
	more than	EUR 2 000 but does not exceed	EUR 3 500	EUR 182	
	more than	EUR 3 500 but does not exceed	EUR 7 000	EUR 335	
	more than	EUR 7 000 but does not exceed	EUR 35 000	EUR 792	
	more than	EUR 35 000 but does not exceed	EUR 70 000	EUR 1 556	
	more than	EUR 70 000 but does not exceed	EUR 140 000	EUR 3 112	
	more than	EUR 140 000 but does not exceed	EUR 210 000	EUR 4 670	
	more than	EUR 210 000 but does not exceed	EUR 280 000	EUR 6 227	
	more than	EUR 280 000 but does not exceed	EUR 350 000	EUR 7 783	
	more than	EUR 350 000		1.2% of the amount in dispute plus EUR 4 203	

If there are more than two parties, a multiparty surcharge of between 10% and 50% may be added under Section 19a of the Court Fees Act.

#### What happens if I do not pay the court fees on time?

In the event of late payment, a fixed penalty, currently of EUR 23 (as at 1 May 2021), is payable under Section 31 of the Court Fees Act. However, the late payment of the court fee has no influence on the execution of the civil proceedings themselves. Court proceedings are not dependent upon the payment of court fees – they are conducted in a completely independent manner.

The recovery of court fees by the judicial authority is governed by the Court Payments Recovery Act (*Gerichtliches Einbringungsgesetz (GEG)*). If, as a result of non-payment, a payment order (an enforcement title for the recovery of court fees) must be issued by the judicial authority under Section 6a of the Court Payments Recovery Act, an additional fee, currently of EUR 8 (as at 1 January 2014), applies.

#### How can I pay the court fees?

The method of payment is laid down in Section 4 of the Court Fees Act. This provides that the fees can be paid by bank card with a **Bankomat function** or by **credit card**, by **paying** or **transferring** the amount into the account of the competent court, or in **cash** at the competent court. The bank details of the court are available on the website of the Federal Ministry of Justice ([Bundesministerium für Justiz](#), in the 'Courts' (*Gerichte*) tab).

Furthermore, all fees may also be paid by **direct debit** if the court (or, in general, the Austrian judicial system) has been authorised to collect the court fees from an account notified by the party owing the fees, and to deposit them in a court account. In this case, the application (the claim under the European small claims procedure) must **indicate the account** from which the fees are to be collected and the **authorisation to collect them**, for example by including the reference 'Gebühreneinzug!' (Collection of fees) or 'AEV!' ('Direct Debiting Ordinance'). For a limited authorisation, the application may also indicate the maximum amount to be debited (Sections 5 and 6 of the Direct Debiting Ordinance (*Abbuchungs- und Einziehungs-Verordnung*)).

When lodging the claim under the European small claims procedure using the **Austrian e-Justice system** (*Elektronischer Rechtsverkehr (ERV)*), the fees must be paid by direct debit. In this case, the maximum amount to be debited cannot be specified.

#### What shall I do after the payment?

If the federal authorities are entitled to claim court fees on submission of the application (the claim under the European small claims procedure) and there is no direct debit authorisation, then proof of payment of the fees (proof of transfer) must be attached to the application (Section 4 of the Court Fees Act). If payment is made by bank card, credit card, deposit into or transfer to the account of the competent court, or by direct debit from the party's account, the Austrian Federal Accounting Agency (*Buchhaltungsagentur des Bundes*) informs the judicial authority about the crediting of payments to the court account only at a later stage. The procedure related to the notice of court fees ends when proof of (full) payment is provided.

In the event of overpayment, a claim for the repayment of overpaid court fees (Section 6c(1)(1) of the Court Payments Recovery Act) can be made within 5 years.

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