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tyska

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Online processing of cases and e-communication with courts

Tyskland

1 Is it possible to initiate court proceedings via the internet?

In principle the law does allow this. However, in practice it is not yet possible everywhere, across all the federal states (*Länder*) and in all kinds of proceedings. The question whether it is permitted depends on whether and to what extent the state concerned has chosen to introduce regulations providing for it. More information is available from the court services (*Landesjustizverwaltungen*) of the federal states.

2 If so, for what types of cases is it available? Are any proceedings available exclusively via the internet?

Whether it is permitted depends on whether and to what extent the relevant federal state has introduced regulations providing for it. More information is available from the court services of the federal states. Some proceedings can be conducted entirely electronically. Examples include registration proceedings, the payment order procedure (*Mahnverfahren*) and, in some cases, proceedings for misdemeanours (*Ordnungswidrigkeiten*).

3 Is the facility available at all times (i.e. 24 hours a day, 7 days a week) or just during specific hours? If so, what are those hours?

Where the federal states have introduced regulations providing for electronic legal procedures (see question 1), electronic documents can be filed at any time.

4 Should the details of the claim be provided in any particular format?

The technical requirements are specified by the federal state regulations (see question 1).

5 How is transmission and storage of data secured?

The technical requirements are specified by the federal state regulations (see question 1). Generally they require that documents be sent using the OSCl format (online services computer interface), which is a component of the software solution used, known as EGVP (electronic courts and administration mailbox).

6 Is it necessary to use any kind of electronic signature and/or time record?

The message itself does not necessarily have to be signed. The individual applications submitted require whatever type of signature is specified in the relevant procedural rules. Generally, this is a qualified electronic signature.

7 Are court fees payable? If so, how can they be paid and are they different to those for non-electronic procedures?

There may be court fees; it depends on the type of case. There are various ways to pay: invoice, direct debit and electronic payment.

8 Is it possible to withdraw a claim that has been initiated via the internet?

This can be done. The usual rules apply.

9 If the claimant initiates proceedings via the internet is it possible and/or compulsory for the defendant to respond using the internet as well?

There is no obligation to use the internet. The usual rules apply.

10 In terms of the electronic procedure what happens if the defendant responds to the claim?

The usual rules apply.

11 In terms of the electronic procedure what happens if the defendant does not respond to a claim?

The usual rules apply.

12 Is it possible to submit documents to a court electronically and if so in what type of proceedings and under what conditions is it possible?

In principle the law does allow this. However, in practice it is not yet possible everywhere, across all the federal states and in all kinds of proceedings. The question whether it is permitted depends on whether and to what extent the state concerned has chosen to introduce regulations providing for it. More information is available from the court services of the federal states.

13 Can judicial documents, and particularly judgments, be served via the internet?

Section 174(3), first sentence, of the Code of Civil Procedure (*Zivilprozessordnung*) provides that decisions may be served on lawyers, notaries, bailiffs and tax advisers in electronic form. Decisions may be served on other parties in electronic form only if they have expressly consented to receiving electronic documents.

In practice, this happens mainly in registry proceedings.

14 Can judicial decisions be given electronically?

Yes, transmission of a judgment of the court in electronic form is generally possible. In practice, it happens mainly in registry proceedings.

15 Can an appeal be made and its decision served via the internet?

It is possible to file an appeal by this route if a federal state regulation has provided for electronic legal procedures at the court in question. Section 174(3), first sentence, of the Code of Criminal Procedure provides that decisions may be served on lawyers, notaries, bailiffs and tax advisers in electronic form. Decisions may be served on other parties in electronic form only if they have expressly consented to receiving electronic documents.

16 Is it possible to initiate enforcement proceedings via the internet?

No, this is not possible.

17 Can the parties or their legal representatives consult on-line cases? If so, how this can be done?

This is not generally possible. However, some federal states do provide for it, at least in cases before the administrative and revenue courts (*Verwaltungsgerichte, Finanzgerichte*). Some federal states also provide for it in land registry and other registry cases.

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