



(Map source : Europa)

Germany



Population: 82 000 000 inhabitants
Surface area: 356 854 Km²
Capital: Berlin
Currency: Euro
Official language: German
Political regime: Republic
Membership in the EU: 1958 (Founding Member)
Membership in the UIHJ: 1957

The Gerichtsvollzieher

Who are the professional officers charged with the enforcement of court judgments, the service of documents, or with debt collection?

The judicial officers do not exercise a monopoly with respect to the service of writs; their monopoly is restricted to the enforcement of court rulings. They do not engage in formulating legal findings or observations and do not proceed to valuations and the public sale of possessions and moveable effects except within the context of the enforcement of a judgment. They do not engage in the process of amicable collection of debts. They do not represent their clients before the courts.

What is the status of these professional officers?

The judicial officers are functionaries in the service of the Land rather than of the Federal State. At present (September 2005), reforms are underway towards according them a liberalised status, but these reforms have not as yet been finalised. The profession and admission to it are strictly regulated and the number of vacancies is restricted.

How are the judicial officers organised ?

There are approximately 4 600 judicial officers in Germany, of whom circa 1150 are women. They must conduct their assignments as single individuals but are nonetheless allowed to occupy office space

together. The profession employs some 3000 collaborators in total.

The judicial officers are extremely limited in the extent of their territorial competences. A judicial officer's competence is restricted to a territorial entity.

The '**Deutscher Gerichtsvollzieherbund - DGVB**' (the German Association of Judicial Officers) represents the profession on the national level. Nevertheless, membership in the association is not obligatory for the judicial officer. **Contact:**

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How can one join the profession?

The judicial officers are customarily recruited from amongst functionaries employed by the judiciary, yet, outside third parties can also gain admission. To be admitted, no academic schooling is required. Teaching institutions organised by the justice ministries in the various 'Laender' offer candidates preparatory courses in the exercise of the profession. The judicial officer is appointed by the Justice Ministry of the Land in question.



The enforcement of court judgments

Who is charged with the enforcement of court judgments in Germany?

Only the judicial officers are entitled to execute and enforce court decisions. The Ministry of Finance and the municipalities employ their own enforcement officers.

Can one contact a judicial officer directly to have a court order enforced?

Yes, but it is necessary to select the judicial officer with the proper territorial competence (only 1 officer per territorial entity).

Is the judicial officer empowered to enforce execution against the entire debtor estate?

The judicial officer is limited to compulsory enforcement against the debtor's estate of movable property. Seizure for claims and attachment of immovable property are not part of his competences.

Is the judicial officer responsible for carrying out the enforcement procedure?

In principle, the judicial officer directs the enforcement act, with the proviso that the execution remain conform to his client's instructions.

Is it possible for the judicial officer to obtain personal information about the debtor and his estate?

Not at all. To all intents and purposes, the judicial officer is denied access to any data of that nature. Nevertheless, he is empowered to order the debtor to make a declaration under oath as to his holdings and possessions. Refusal to make such a declaration or the act of making a false statement is a criminal offence and as such liable to prosecution. Possible coercive detention is a provision.

Who pays for the judicial officer's intervention costs?

The debtor is required to compensate the judicial officer for his intervention. In the event of debtor's default, the creditor is required to assume the cost.

The service of documents

Are judicial officers entitled to proceed to the service of documents?

Yes, but they do not have a monopoly on this procedure.

What are the physical steps involved in serving a writ?

The copy of the writ is physically presented to the addressee by the judicial officer. It is also possible to leave this copy with a person present on the premises (parent, friend, employee, ...). If there is nobody to accept the writ, it is then left under closed cover at the address of the addressee or with the Court Clerk.

What is the force in law of a writ?

It is a document of administrative import.

Does the judicial officer's intervention fall within the framework of the Council regulation (EC) N° 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters?

No, not at the present time. Nonetheless, such kind of intervention is anticipated after the switch to liberalised status has become finalised and come into effect.



Debt collection

Is the judicial officer empowered to proceed towards the collection of debts?

Yes, indeed, but uniquely within the context of a judicial order for collection. Moreover, this intervention is limited to 6 to 12 months. Furthermore, the judicial officer does not intervene in the amicable collection of a debt.

Is it possible to contact a judicial officer directly for the purpose of collecting a debt?

Yes, indeed, but uniquely within the context of the enforcement of a judgment. And one has to select the judicial officer who has territorial competence (only 1 officer per territorial entity).

Other areas of intervention

May the judicial officer arrange for sales by auction?

Yes, but uniquely within the context of enforcement of a judgment. He does not become involved in voluntary auction sales.

May the judicial officer engage in formulating legal findings and observations, such as statements of facts?

No.

May the judicial officer represent the parties before the courts?

No.

Is the judicial officer entitled to offer legal advice?

No.

Is the judicial officer entitled to engage in other activities?

No.

