



(Map source : Europa)

Austria



Population: approx. 8 100 000 inhabitants
Surface area: 83 858 Km²
Capital: Vienna
Currency: Euro
Official language: German
Form of government: Democratic Republic
Membership in the EU: 1995
Membership in the UIHJ: 1967

The Gerichtsvollzieher

Who are the professional officers charged with the enforcement of court judgments, the service of writs, 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 and do not proceed to valuations and the public sale of furniture 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 State. At present, no reforms are planned to accord them a liberalised status.

How are the judicial officers organised ?

There are approximately 370 practising judicial officers in Austria, amongst whom circa 10 to 15% are women. They can act only individually and have their offices at the court house. They are not employing any staff.

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 **Österreichischer Gerichtsvollzieherbund** (Austrian Association of Judicial Officers) represents the profession at the national level. Nevertheless, membership in the association is not obligatory for the judicial officer.

Contact:

ÖGVB - Österreichischer Gerichtsvollzieherbund
Vorderhaberberg 6a
A-6382 Kirchdorf i.T.
Tel.: +43 535265732
Fax: +43 535265732
Internet Site: www.gerichtsvollzieher.at
E-mail: praesident@a1.net

How can one join the profession ?

The judicial officers are either recruited from amongst functionaries employed by the judiciary or from amongst outside third parties that are interested in the profession. No academic schooling is required. Candidates must follow a 4 months training programme at the Court's enforcement office, followed by a 2 months period where the candidate is required to accompany a judicial officer on his tour of duty. The appointment of a judicial officer is made by the justice administration.



The enforcement of court judgments

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

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

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

No, one is obligated to pass through the Court.

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 competence.

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

In principle, the judicial officer is in charge of 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 (except for the population register). 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 writs

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

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, ...) or at the addressee's place of business. If there is nobody to accept the writ, a notice is left on location and the document is deposited under closed cover

with the municipal administration offices where it is available for collection by the addressee.

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.



Debt collection

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

Yes, indeed, but uniquely within the context of the collection of judgment debts. Moreover, this intervention is limited. Furthermore, the judicial officer does not at

all 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.

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.

