

International Comparative Legal Guides

Litigation & Dispute Resolution 2026

A practical cross-border resource to inform legal minds

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Contributing Editor:
Greg Lascelles
Hausfeld



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Austria



Holger
Bielez



Emanuel
Peschek



Felix
Langergraber

CERHA HEMPEL Rechtsanwälte GmbH

1 Litigation – Preliminaries

1.1 What type of legal system does your jurisdiction have? Are there any rules that govern civil procedure in your jurisdiction?

Austria follows a civil law system. The rules governing civil proceedings are primarily laid down in the Austrian Code of Civil Procedure (“*Zivilprozessordnung*”; ACCP) and the Austrian Act on Jurisdiction (“*Jurisdiktionsnorm*”), the latter of which regulates, among other things, the allocation of jurisdiction between district courts and regional courts. Certain civil law matters, such as specific inheritance disputes and family law cases, are subject to the Non-Contentious Proceedings Act (“*Außerstreitgesetz*”). The enforcement of judgments, as well as the granting and execution of interim measures, is regulated by the Austrian Enforcement Code (“*Exekutionsordnung*”). Furthermore, as Austria is a member of the European Union, various aspects of international civil procedure are also governed by EU regulations, including, for example, the Brussels Ia Regulation on jurisdiction and the recognition and enforcement of judgments.

1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

The Austrian court system is structured in three levels of instance. At first instance, civil cases are heard by district courts (“*Bezirksgerichte*”) and regional courts (“*Landesgerichte*”). District courts are competent to hear civil matters where the amount in dispute does not exceed EUR 15,000, as well as specific family law and tenancy matters regardless of the value in dispute. Civil cases exceeding a value of EUR 15,000 fall within the first-instance jurisdiction of the regional courts, except for the matters assigned to district courts. For certain fields of law, such as corporate law, labour law and social security law, specialised courts are located in Vienna, while outside Vienna these matters are handled by the ordinary district and regional courts.

Appeals against decisions of district courts are decided by the regional courts, whereas appeals against decisions of regional courts are heard by the Higher Regional Courts (“*Oberlandesgerichte*”). The Supreme Court (“*Oberster Gerichtshof*”) constitutes the third and final instance in Austrian civil litigation, although not all cases are admissible for review by the Supreme Court.

In addition, the Supreme Court has first and final-instance jurisdiction over applications to set aside arbitral awards and over certain other issues related to arbitration proceedings, such as challenges based on the alleged bias of arbitrators.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

Austrian civil proceedings commence with the submission of a statement of claim to the court having jurisdiction. Following service of the claim, the defendant is granted a four-week period to submit a statement of defence. In employment law disputes and in proceedings before the district courts, the court schedules a preparatory hearing after the claim has been filed.

The preparatory hearing constitutes the parties’ first appearance before the court. During this hearing, the court seeks to facilitate an amicable settlement and addresses the organisation and further conduct of the proceedings. In the hearings that follow, the court hears and examines the evidence before closing the proceedings. First-instance proceedings usually conclude with the issuance of a written judgment, while oral decisions are permitted but uncommon.

For claims seeking solely monetary relief with a value not exceeding EUR 75,000, a simplified and expedited procedure is available. In such cases, the court issues a payment order solely on the basis of the claimant’s submission, without initially hearing the defendant. The defendant may file an objection within four weeks; failing such objection, the payment order becomes final and enforceable. Comparable accelerated mechanisms are also provided under applicable EU regulations, such as the European Payment Order and the European Small Claims Procedure.

Based on the most recent statistical data, proceedings before district courts take on average 9.4 months, whereas cases before regional courts have an average duration of 17.3 months.

1.4 What is your jurisdiction’s local judiciary’s approach to exclusive jurisdiction clauses?

The parties to a legal dispute may agree to submit their dispute to a different forum and, subject to certain limitations, may also opt for alternative dispute resolution methods such as arbitration or mediation. Both the Austrian Act on Jurisdiction and, in the context of cross-border disputes within the EU, the Brussels Ia Regulation permit parties to enter into jurisdiction

agreements, including agreements providing for exclusive jurisdiction. In the event of a dispute, the claimant must be able to demonstrate the existence of such an agreement in written form (or, in EU cross-border disputes, the forum clause must comply with the formal requirements of the Brussels Ia Regulation).

However, the freedom of the parties to determine the forum is not unlimited. For example, the parties cannot validly agree to confer jurisdiction on a regional court in matters that are legally assigned to the jurisdiction of a district court. Moreover, certain statutory places of jurisdiction are compulsory. Consumers are afforded enhanced protection in this respect: a choice of forum agreement involving a consumer is only valid if it is concluded after the dispute has arisen or if the agreed forum is located at the consumer's place of domicile. The Brussels Ia Regulation contains comparable protective provisions for consumer-related claims.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

The costs of civil litigation in Austria generally consist of court fees as well as fees for lawyers, witnesses, experts and interpreters. Initially, each party bears its own expenses for conducting the proceedings. Ultimately, the prevailing party is entitled to reimbursement of its costs according to its degree of success under the "loser pays" principle. Compensation is calculated in accordance with the statutory Lawyers' Tariff ("*Rechtsanwaltstarifgesetz*") and usually does not cover the full amount of fees actually incurred by a party under an hourly fee arrangement.

If no separate fee agreement exists, the lawyer's remuneration is determined by the aforementioned Lawyers' Tariff, taking into account both the value of the claim and the complexity of the procedural act performed.

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are claimants and defendants permitted to enter into contingency fee arrangements and conditional fee arrangements?

Contingency fee arrangements, under which a lawyer receives a portion of the amount in dispute in case of success, are not allowed in Austria. It is, however, permissible to conclude conditional fee agreements, for instance, providing for a higher hourly rate if the case is won. In such agreements, a minimum fee must also be established to cover the lawyer's services in the event of an unsuccessful outcome.

1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

The assignment of merely the right to pursue litigation on behalf of another person is not permitted in Austria. However, an entire claim may be assigned to a third party, subject to any valid contractual restrictions on assignment. The assignment of claims to a designated entity, which then pursues the claims in court, is a method repeatedly used in Austria to bundle actions, which would otherwise be filed as a collective action. The practical relevance of this claim-assignment model was driven by the long absence of a statutory collective-action regime in Austria. Only in summer 2024, Austria enacted a

collective-action regime implementing the EU collective directive on collective actions. Nonetheless, the mentioned assignment model remains a viable alternative means in Austria to bundle numerous (including small) claims together in one court case.

Parties involved in a dispute are free to engage a third-party funder to finance the proceedings. While the funder cannot act directly in the case, they are typically consulted on strategic decisions in accordance with the funding agreement. The Austrian Act on Qualified Entities partially implementing the EU directive on collective actions explicitly permits third-party funding subject to certain conditions. The funder must not be a competitor of the defendant of the contemplated collective action. Further, the Qualified Entity must ensure that the funder does not gain inappropriate influence over decisions affecting the collective action. Finally, the Qualified Entity must notify the court that it is using third-party funding to pursue the collective action (without being obliged to disclose the funding agreement).

1.8 Can a party obtain security for/a guarantee over its legal costs?

If the claimant is neither an Austrian nor an EU national, the defendant may request security for costs, unless the claimant is resident in Austria, has sufficient assets in Austria to cover any potential obligation to reimburse the defendant, or unless an international treaty provides otherwise.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

No formal prerequisites are required before initiating civil proceedings, other than submitting the claim to the court. However, for claims exceeding EUR 5,000 and before any court above the level of a district court, legal representation by an attorney is mandatory, and the claim must either be filed by the lawyer (which is common practice) or include the lawyer's signature. Additionally, it is advisable to send a demand letter prior to filing the claim, as failure to do so may result in the claimant not being reimbursed for the costs of filing if the defendant acknowledges the claim.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

Austrian civil law distinguishes between a general long limitation period of 30 years and a special short limitation period of three years. The limitation period for a right due to non-use starts from the moment the right arises. Many commercial civil claims are subject to the three-year limitation period. Similarly, claims for damages are governed by the three-year period, which begins when the injured party becomes aware of both the damage and the party responsible. Numerous exceptions to the general rule exist. For example, claims against (former) directors of a stock corporation or a limited liability company are subject to a five-year limitation period, while claims for damages against (former) employees may become time-barred after just six months. These limitation periods are considered part of substantive law.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Civil proceedings are initiated by filing a claim. This is followed by a preliminary review of the court's jurisdiction and the transmission of the claim to the defendant.

The delivery of court documents in Austria is governed by the Austrian Delivery of Documents Act ("*Zustellgesetz*"). If personal service is not possible, the document is deposited at the post office for a period of two weeks, and the addressee must be notified accordingly. The document is considered delivered on the first day it can be collected, although this presumption may be challenged (if the addressee cannot see the notice of the postal services due to extended absence).

When a party is represented by a lawyer, service is carried out through the lawyer using electronic legal communication ("*Elektronischer Rechtsverkehr*").

For service of judicial documents in another EU Member State, Regulation (EC) no. 2020/1784 applies and significantly simplifies the process. It allows courts to serve documents directly via postal services in other EU countries without the need to involve local authorities, thereby accelerating service considerably.

For other international service of process, the availability of simplified procedures depends on multilateral or bilateral treaties between the countries involved, typically requiring assistance from the judiciary in the destination country. In the absence of such treaties, service must be conducted through international diplomatic channels, which can take several months.

3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

Interim injunctions are available before commencing civil proceedings. Under certain conditions, injunctions can be used to secure monetary claims, the right to a particular service or a right or legal relationship. A reasonably strong *prima facie* case and the risk of irreversible harm, if the injunction is not granted, are the main conditions for an injunction.

3.3 What are the main elements of the claimant's pleadings?

Section 226 ACCP specifies the essential elements of a claim. A claim must include the specific relief sought, the facts on which the claim is based, and a statement explaining why the court has jurisdiction. If a claim is incomplete or deficient, the court is required to order its correction.

3.4 Can the pleadings be amended? If so, are there any restrictions?

A claimant may introduce additional factual arguments provided they do not alter the essence of the claim. Legal arguments may also be modified, as Austrian law does not obligate the claimant to assess the legal consequences of the facts.

Amendments to the claim are permitted at any time before it is served on the defendant. Once service has taken place, amendments require either the defendant's consent or the court's approval and may be made up until the end of first-instance proceedings. Courts are generally inclined to allow amendments that help prevent further disputes and do not cause undue delays. Without the defendant's agreement, the court may only authorise amendments that do not transfer jurisdiction to another court.

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

With respect to the withdrawal of a claim, two scenarios must be distinguished. In the first, the claim may be withdrawn without abandoning the underlying right. This is only possible if the claim has not yet been served on the defendant, or if the defendant consents to the withdrawal without waiving the claim. Once the claim has been served and the defendant does not agree to a withdrawal without waiver, the claimant may only withdraw the claim by waiving it.

This differs from the scenario in which the action is withdrawn with a waiver of the claim. In this case, withdrawal is possible up to the conclusion of the first-instance hearing and does not require the consent of the defendant.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

Section 239 ACCP also regulates the content of the statement of defence. According to this provision, a statement of defence must include a specific request for relief, an explanation as to why the facts asserted in the statement of claim are incorrect, and, if the defendant disputes the court's jurisdiction, an objection to such jurisdiction.

The defendant may submit a counterclaim ("*Widerklage*") if it is related to the original claim or if the claim and counterclaim are eligible for set-off (for example, two reciprocal monetary claims). A counterclaim constitutes an independent claim through which the defendant seeks a judicial decision on the matter. In cross-border cases, the conditions for bringing a counterclaim are governed by Article 8(3) of the Brussels Ia Regulation.

A set-off defence ("*Aufrechnungseinrede*") does not require the court to have jurisdiction over the underlying set-off claim. In such cases, however, the court will only consider the counterclaim if the original claim is valid and only to the extent that the counterclaim does not exceed the amount of the claim.

4.2 What is the time limit within which the statement of defence has to be served?

A written statement of defence is required only in proceedings before the regional courts, where the defendant has a period of four weeks to submit their defence.

In proceedings before the district courts, as well as in employment and social law cases, a written statement of defence is not required. Instead, the parties may submit written arguments prior to the preparatory hearing or present their defence orally during the hearing.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

The ACCP does not allow for the “joining” of additional claimants or defendants to ongoing proceedings. Instead, the parties’ roles as claimant(s) and defendant(s) are determined in the claim initially submitted to the court. If the claimant wishes to bring an additional defendant into the case after the claim has been filed, a separate claim must be submitted. Depending on further conditions and the court’s discretion, the claims may subsequently be joined.

One exception is the possibility for a consumer to join a pending collective action within three months following publication of the initiation of a collective action for redress. The joinder has the effect that the claim of the joining consumer is pending with the court and the effects of a future judgment in the collective action also extend to the joining consumer. However, the Qualified Entity – which is the formal claiming party – can reject the joinder without giving any reasons (Section 628 ACCP).

4.4 What happens if the defendant does not defend the claim?

The court may issue a default judgment (“*Versäumnungsurteil*”) if the defendant fails to submit a defence in the proceedings or, where applicable, does not file the written statement of defence within the prescribed time, and the claimant requests that a default judgment be rendered.

4.5 Can the defendant dispute the court’s jurisdiction?

Before addressing the merits of the case, the defendant may challenge the court’s jurisdiction by raising a plea of lack of jurisdiction (“*Unzuständigkeitseinrede*”). In any proceedings requiring a written statement of defence, this objection must be included in that submission. If the defendant does not raise the objection in time, the court’s jurisdiction can no longer be contested, subject to certain limited exceptions.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

Austrian procedural law permits third parties to intervene in ongoing proceedings (“*Nebenintervenient*” or “*Streitgenosse*”) in support of either the claimant or the defendant. Intervention may occur either on the initiative of the third party itself or through a third-party notice (“*Streitverkündung*”) served by one of the parties, if that party believes the third party has a legal interest in the outcome. The third party, however, is under no obligation to intervene. If it chooses not to do so, it cannot later challenge adverse factual findings in the court’s judgment. A common scenario for intervention arises when the defendant has a potential recourse claim against a third party that depends on the outcome of the litigation. By involving the third party, the defendant seeks to prevent the third party from later arguing that certain objections should have been raised, which could have resulted in a successful defence.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

Multiple cases may be joined if they involve the same parties and are pending before the same court. Whether to consolidate the proceedings is left to the judge’s discretion. In practice, judges sometimes consolidate cases when they are presiding over all of them and it is efficient to hear the evidence for all cases together. By contrast, consolidation is uncommon when different judges are responsible for the individual cases.

5.3 Do you have split trials/bifurcation of proceedings?

The court may also choose to split the case. In such instances, the claims contained in the same statement of claim are addressed in separate hearings, or the proceedings are limited to specific issues. For example, the court may first determine whether a claim is well-founded on the merits, while deferring the assessment of the amount (“quantum”) to a later stage. In this scenario, the court may issue an interlocutory judgment (“*Zwischenurteil*”). Alternatively, the court may issue a partial judgment (“*Teilurteil*”) concerning a specific quantitative portion of the claim. Both types of judgments can be appealed independently.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

In Austria, the principle of fixed case allocation (“*Prinzip der festen Geschäftsverteilung*”) applies. Its purpose is to prevent the parties from influencing the selection of judges. Cases are assigned according to a fixed schedule determined one year in advance. Deviations from this allocation are only permitted in exceptional circumstances and require the approval of the competent staff senate of the respective court. Justifiable reasons for such a change may include, for example, an excessive workload or the judge’s prolonged inability to handle the case.

6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The judge is responsible for opening, conducting, and closing the oral hearing. It is the judge’s duty to ensure that all relevant material for the decision is fully presented and discussed. This includes questioning and instructing the parties, requesting clarifications or corrections, ordering the submission of documents, and taking evidence in court, among other measures.

Parties may submit various interim applications, for instance, to present (expert) evidence, to request an adjournment, or to extend procedural deadlines.

For information on costs, see question 9.3.

6.3 In what circumstances (if any) do the civil courts in your jurisdiction allow hearings or trials to be conducted fully or partially remotely by telephone or video conferencing, and what protocols apply? For example, does the court – and/or may parties – record and/or live-stream the hearings and may transcriptions be taken? May participants attend hearings remotely when they are physically located outside of the jurisdiction? Are electronic or hard-copy bundles used for remote hearings?

Section 132a ACCP permits civil courts to conduct hearings via video conference if the parties consent and it is deemed necessary for procedural efficiency. Witnesses may give testimony, expert opinions may be presented, and settlements can be concluded during such video hearings. These hearings are neither recorded nor live-streamed. Instead, the judge prepares a concise transcript (not a verbatim record) using a Dictaphone, in the same manner as during regular in-person hearings. Participants, such as lawyers and witnesses, join the hearing remotely (e.g., via Zoom). While a digital format is not mandatory, an increasing number of cases are being handled digitally in practice.

6.4 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court's orders or directions?

Maintaining order in the courtroom is the responsibility of the court. To achieve this, the court may impose fines or exclude parties from the courtroom. Lawyers, however, cannot be excluded; instead, the court notifies the relevant Bar Association if a lawyer disregards the court's authority.

6.5 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

As noted above, a claim must be complete and properly substantiated. If it is not, the court will point out the deficiency to the parties and provide them with an opportunity to amend the pleading. If the party fails to correct the claim within the prescribed time frame, the court is obliged to dismiss it. The court itself cannot amend a statement of claim. Only when issuing a judgment may the court partially or fully dismiss the claim. Additionally, the court has the authority to modify the relief sought in its judgment to the extent necessary under the law or to ensure enforceability.

6.6 Can the civil courts in your jurisdiction enter summary judgment?

Austrian law does not allow for summary judgments.

6.7 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

Once civil proceedings have been initiated, the courts cannot discontinue them. However, the parties may agree to suspend the proceedings, for example, to engage in settlement negotiations. The court may also order a stay of proceedings in specific situations, such as when the outcome

of the case depends on other ongoing proceedings. In certain cases, proceedings are automatically stayed by operation of law, for instance, if a party becomes insolvent.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

There is no general provision for taking evidence before a trial in Austria. Under certain conditions, evidence may be collected prior to filing a case if it is at risk of being lost or if it is necessary to establish the current state of affairs, provided the applicant can demonstrate a legal interest. In practice, such preliminary evidence gathering primarily concerns the inspection of defects in buildings or machinery and plays a minor role with regard to documents.

Austrian civil procedure has traditionally been guided by the principle that each party must prove its own case and cannot rely on the opponent to produce evidence beyond what the opponent is willing to disclose. The court may, however, order the opposing party or a third party to produce specific documents. The ordered party cannot refuse if the request relates directly to the document, if civil law provisions require its production, or if the document qualifies as a joint document. The practical impact of these rules is limited, as the applicant must describe the requested documents with reasonable precision, making it difficult to obtain previously unknown documents.

However, the law is evolving under EU influence. For example, in cartel damages cases, additional measures exist to request the disclosure of evidence to assist claimants in proving their claims. Attorney–client privileged information and documents are generally exempt from disclosure. There are currently no specific rules governing the disclosure of electronic documents.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Under Austrian law, certain individuals – such as family members – and professionals who are bound by statutory confidentiality obligations (e.g., lawyers, auditors) are not required to testify as witnesses or to produce confidential documents. Employees of a lawyer are also protected by attorney–client privilege.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

See question 7.1.

7.4 What is the court's role in disclosure in civil proceedings in your jurisdiction?

It is for the court to decide on applications for disclosure of certain documents. The court may also order the parties to provide further evidence. Failure to do so will adversely affect the court's conclusions.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

If a document could reveal business or trade secrets and if requested by a party, the court may order that the document be produced in redacted form. The court may also order that the document will only be shown to a court expert for review and assessment, who must not disclose it to the court and the parties. The practical relevance of these rules appears to be limited.

Other than that, there are no restrictions by operation of civil procedural law to use documents presented by another party in a court case in a specific way. Private and commercial law rules of confidentiality and obligations to protect personal data do, however, still apply, when a document is introduced in a court case.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

Each party is responsible for proving the statements it makes. This obligation applies to both the factual claims and the legal arguments on which the party relies. The court evaluates the facts and legal arguments presented by the parties based on a free assessment of the evidence.

8.2 What types of evidence are admissible, and which ones are not? What about expert evidence in particular?

All sources of knowledge can generally be considered as evidence. The ACCP explicitly mentions the classic types of evidence such as documents, witnesses, experts, inspection and examination of the parties.

8.3 Are there any particular rules regarding the calling of witnesses of fact, and the making of witness statements or depositions?

Witnesses may be called by both the court and the parties. If they reside in Austria, they are obliged to comply with the summons. Witnesses located abroad cannot be compelled to appear in court. Witnesses are first questioned by the court regarding their duty to tell the truth and the potential criminal consequences of violating this duty. The court then poses its questions, followed by questions from the parties. Written testimony is not admissible in Austrian courts; only oral testimony given in the direct presence of the judge is allowed. Lawyers may contact and communicate with witnesses, but they are prohibited from attempting to influence their testimony.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Are there any particular rules regarding concurrent expert evidence? Does the expert owe his/her duties to the client or to the court?

The parties are free to engage their own experts, if they deem fit to make their case more convincing. However, if the court deems it necessary, it will appoint a court expert. The

opinion of the court-appointed expert generally carries more weight than that of a “private” expert engaged by the parties. Questions for the court expert are formulated by both the court and the parties. After the court expert’s report is completed, the parties may question the expert regarding the content of the report. Overall, the court expert plays a significant role in Austrian proceedings. A discrepancy between the findings of a court expert and those of a private expert, by itself, does not constitute grounds for a challenge.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

Austrian civil courts issue decisions either as a judgment or as an order. Unlike a judgment, an order in civil proceedings does not address the merits of the case but deals solely with specific procedural matters.

There are several types of judgments, typically determined by the nature of the claim. Examples include performance judgments, declaratory judgments, and judgments aimed at modifying or terminating a legal relationship. Additionally, the court may split the subject matter of the proceedings either qualitatively, by issuing an interlocutory judgment (“*Zwischenurteil*”), or quantitatively, by issuing a partial judgment (“*Teilurteil*”). Alternatively, the court may resolve the entire dispute immediately through a final judgment.

9.2 Are the civil courts in your jurisdiction empowered to issue binding declarations as to (i) parties’ contractual or other civil law rights or obligations, (ii) the proper interpretation of wording in contracts, statutes or other documents, (iii) the existence of facts, or (iv) a principle of law? If so, when may such relief be sought and what factors are relevant to whether such relief is granted? In particular, may such relief be granted where the party seeking the declaration has no subsisting cause of action, and/or no party has suffered loss, and/or there has been no breach of contract/duty?

(i) Austrian courts may determine the existence or non-existence of a right through a declaratory judgment. (ii) However, questions regarding the correct interpretation of contract terms, articles of association, or other documents cannot form the basis of a declaratory judgment. (iii) A declaratory judgment cannot be used to decide the existence of facts, the legal characterisation of facts, or (iv) general legal principles.

A prerequisite for bringing an action for declaratory relief is that the plaintiff has a legal interest in obtaining such relief. Furthermore, a declaratory action can only be initiated if the plaintiff is not yet in a position to enforce a claim for performance, as claims for performance take precedence over declaratory actions.

It is also possible to file an interlocutory application for a declaratory judgment if the matter concerns a question that is a prerequisite for deciding the main claim and if the resolution of this question has significance beyond the current dispute. In such cases, the court may decide the question separately through a partial judgment or address it within the final judgment.

Certain qualified entities, such as consumer protection organisations or the Chamber of Labour, are legally entitled to bring actions against companies to cease and desist (“*Unterlassungsklage*”), for instance, when a company uses

non-transparent or unlawful general terms and conditions in its contracts with consumers. As a result, the defendant company may be ordered to refrain from using contractual clauses that the courts have deemed unlawful. Since the EU collective actions directive has been implemented in summer 2024, such cease-and-desist actions in support of consumers' rights can be filed by any Qualified Entity pursuant to the Act on Qualified Entities.

9.3 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

The court may never award more than what has been requested. Accordingly, damages, including interest, can only be granted if specifically claimed. Punitive damages are not permitted; only the actual loss suffered may be compensated. The losing party is generally required to bear the costs of litigation in proportion to the extent of its defeat. Lawyers' fees are calculated in accordance with the Austrian Lawyers' Fees Act (*"Rechtsanwaltstarifgesetz"*). Upon request, the court may also award interest to compensate a successful claimant for delayed payment. For entrepreneurial claims between business parties, the interest rate is 9.2 percentage points above the Austrian base rate per year, while in other cases, the general interest rate is 4% per year.

9.4 How can a domestic/foreign judgment be recognised and enforced?

Judgments issued by Austrian civil courts are enforceable in Austria as soon as they become final. Judgments from other EU Member States are recognised and enforced in Austria under the Brussels Ia Regulation (Council Regulation 1215/2012) without the need for any special procedure.

Judgments from non-EU countries are recognised and enforced in Austria provided that they are enforceable under the law of the country of origin and that reciprocity is ensured either by Austrian law or by international treaties between Austria and the foreign state.

9.5 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

Appeals against decisions of a district court are heard by the competent regional court, while appeals against decisions of a regional court are decided by the respective higher regional court.

If the amount in dispute does not exceed EUR 5,000, no appeal may be filed against decisions of the appellate courts. An appeal to the Supreme Court, as the third and final instance, is only permitted if the amount in dispute exceeds EUR 30,000, or if it is between EUR 5,000 and EUR 30,000 and the appellate court declares the appeal admissible. Furthermore, the legal issue to be resolved must be of significant importance for maintaining legal unity, ensuring legal certainty, or furthering the development of the law.

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

At the preparatory hearing, the court inquires about the

parties' willingness to settle and assists them in reaching a settlement. This is provided for by law (Section 258 para. 1 no. 4 ACCP). A settlement reached in the first court hearing reduces the court fees to be paid.

11 Alternative Dispute Resolution

11.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

Arbitration can be initiated through a valid arbitration agreement, with arbitrators appointed by the parties issuing an enforceable award.

The parties may also voluntarily engage in mediation, where a trained mediator assists them in resolving their dispute.

It is additionally possible to seek an expert determination regarding the factual and legal aspects of a case. However, such determinations are not enforceable; an enforceable title can only be obtained through court or arbitration proceedings.

In general, for example via <https://www.verbraucherschlichtung.at>, or in specific sectors such as banking or telecommunications, dispute boards have been established to facilitate the amicable resolution of disputes between consumers and businesses. These procedures are voluntary and operate outside the Austrian judiciary. The parties may bring their case before a court at any time.

11.2 What are the laws or rules governing the different methods of alternative dispute resolution?

Sections 577–618 ACCP contain rules applicable to all arbitral tribunals in Austria. In addition, the Vienna International Arbitral Centre (VIAC) has established an international arbitration institution, which is particularly well known for handling disputes in Central and Eastern Europe.

Mediation is regulated by the Austrian Civil Law Mediation Act, the EU Mediation Directive, and the Vienna Mediation Rules of the VIAC.

Moreover, the Austrian Act on Alternative Dispute Resolution (*"Alternative-Streitbeilegung-Gesetz"*; AStG) sets out general rules for the various dispute boards designed to facilitate the amicable resolution of disputes prior to any court proceedings.

11.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

According to Section 582(2) ACCP, family law matters, as well as disputes governed by the Austrian Tenancy Act (*"Mietrechtsgesetz"*), the Austrian Condominium Act (*"Wohnungseigentumsgesetz"*), or the Austrian Non-Profit Housing Act (*"Wohnungsgemeinnützigkeitsgesetz"*), cannot be submitted to arbitration. Arbitration agreements in employment matters and in disputes involving consumers are subject to strict limitations. Otherwise, any matter on which the parties can reach a legally valid settlement may be referred to arbitration.

Similarly, the parties may use mediation for any dispute in which they are entitled to agree on a settlement.

By contrast, the competencies of the various dispute boards established under the AStG (see above) are limited to the specific businesses for which they were created. The *Schlichtung für Verbrauchergeschäfte* serves as a residual forum for any other disputes between consumers and companies.

11.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

Austrian courts uphold valid arbitration clauses and therefore decline jurisdiction over the substantive dispute. Nevertheless, under certain conditions, the courts may provide support to arbitral proceedings. These measures are regulated by Sections 577–618 ACCP. Austrian courts can assist in matters that fall outside the arbitral tribunal's authority. In addition, parties to arbitration often turn to the judiciary to obtain protection through interim injunctions, while the Austrian civil procedural rules for arbitration also empower arbitral tribunals to issue such injunctions.

The ACCP also sets out the grounds for setting aside an arbitral award (Section 611(2)), which must be raised through an appeal to the Supreme Court.

Parties cannot be compelled to mediate a dispute. However, it is notable that Austrian courts sometimes take the initiative and suggest mediation in cases they consider suitable. Parties are often hesitant to reject a proposal made by the presiding judge, which encourages them to at least attempt mediation.

11.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

As noted in question 11.1, an arbitral award is binding and enforceable. In contrast, the outcomes of other forms of alternative dispute resolution are not legally binding.

There are no legal consequences for a party that chooses not to participate in an alternative dispute resolution procedure.

11.6 What are the major alternative dispute resolution institutions in your jurisdiction?

The primary international arbitration institution in Austria is the VIAC. In addition, the China International Economic and Trade Arbitration Commission and the Permanent Court of Arbitration maintain offices in Austria. Mediation within Austria is further supported by the Austrian Federal Association for Mediation (ÖBM).



Holger Bielez is a partner with CERHA HEMPEL. He studied in Vienna, Freiburg (CH) and Bruges (Belgium) and worked in Brussels with a renowned German law firm. For more than 20 years, he has been specialising in commercial litigation and arbitration and advising companies on white-collar crime and compliance issues. His work focuses on the defence of financial institutions in investor liability litigation, disputes relating to construction contracts, corporate and distribution law disputes, as well as conflicts in insolvency and restructuring situations. Holger has many years of courtroom and arbitration experience both in civil and criminal matters, also before the European Court of Justice. He was a partner in the dispute resolution department of a Viennese law firm for 10 years and has been a partner in the dispute resolution team at CERHA HEMPEL since 2020. Holger is ranked in *Chambers* in the field of Litigation and listed in *The Legal 500* as key lawyer in the field of dispute resolution/commercial litigation.

CERHA HEMPEL Rechtsanwälte GmbH

Parking 2
1010 Vienna
Austria

Tel: +43 1 514 35 0
Email: holger.bielez@cerhahempel.com
LinkedIn: www.linkedin.com/in/holger-bielez-aa080610



Emanuel Peschek is an associate in the Contentious Business Team at CERHA HEMPEL. He studied Law at the University of Vienna. Emanuel has been with CERHA HEMPEL since 2021. Over the past four years, he has been continuously involved in the handling and negotiation of complex cases, often supporting them over extended periods of time. Previously, he worked in renowned commercial law firms in Vienna.

CERHA HEMPEL Rechtsanwälte GmbH

Parking 2
1010 Vienna
Austria

Tel: +43 1 514 35 0
Email: emanuel.peschek@cerhahempel.com
LinkedIn: www.linkedin.com/in/emanuel-peschek-066290270



Felix Langergraber is an associate in the Contentious Business Team at CERHA HEMPEL. He advises clients on contentious legal matters, including shareholder disputes, insurance issues, complex warranty cases and damage claims. He also advises on matters of inheritance law. Prior to joining CERHA HEMPEL, Felix worked in the Civil Law Department at Johannes Kepler University Linz and in renowned commercial law firms in Linz.

CERHA HEMPEL Rechtsanwälte GmbH

Parking 2
1010 Vienna
Austria

Tel: +43 1 514 35 0
Email: felix.langergraber@cerhahempel.com
LinkedIn: www.linkedin.com/in/felix-langergraber-a72aa9244

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