

Comparison of national jurisdiction and arbitration before the VIAC

	National jurisdiction	Arbitration before the VIAC															
General information	<ul style="list-style-type: none"> • Enforceability only for bilateral or multilateral agreements • Judge by virtue of the Rules of Procedure • Publicity of the procedure • Longer time frame • Train of instances • Fixed code of civil procedure • Fixed language of the case • Default judgment in the event of the opponent's failure to appear 	<ul style="list-style-type: none"> • Worldwide enforceability of the arbitral award pursuant to the NYC • Free choice and experience of arbitrators (specialists) • Confidentiality of the procedure • Time frame often shorter • Repeal procedure (under certain conditions) • Free design of the process • Language of procedure freely selectable • Arbitral award also in case of non-admission of the opponent 															
Procedural costs	<p>The costs of the procedure cannot be precisely determined in advance.</p> <p>Although <u>court fees</u> are fixed in <u>advance</u> (Court Fees Act), they may change with higher or lower value in dispute.</p>	<p>The procedural costs can simply be calculated according to the cost table in Annex 3 of the Vienna Rules: First registration fee:</p> <table border="1"> <thead> <tr> <th colspan="2">Litigation value in EUR</th> <th>Tariff in EUR</th> </tr> <tr> <th>by</th> <th>by the time</th> <th></th> </tr> </thead> <tbody> <tr> <td>0</td> <td>25,000</td> <td>500</td> </tr> <tr> <td>25,001</td> <td>75,000</td> <td>1,000</td> </tr> <tr> <td></td> <td>over 75,000</td> <td>1,500</td> </tr> </tbody> </table>	Litigation value in EUR		Tariff in EUR	by	by the time		0	25,000	500	25,001	75,000	1,000		over 75,000	1,500
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According to § 32 GGG, the following fee rate applies to the <u>first instance in civil proceedings:</u>			<u>2. administrative costs:</u>				
tariff post	subject		Level of fees		Litigation value in EUR	Tariff in EUR	
1	– Flat-rate fees in civil proceedings				by	By	
	I. of first instance for a value of the subject-matter of the dispute					the time	
		by 150 Euro	23 Euro		0	25,000	500
		by the time			25,001	75,000	1,000
		via 150 Euro to 300 Euro	45 Euro		75,001	100,000	1,500
		via 300 Euro to 700 Euro	64 Euro		100,001	200,000	3,000 + 1.875 % of the 100,000 exceeding amount
		via 700 Euro to 2,000 Euro	107 Euro		200,001	500,000	4,875 + 1.250 % of the 200,000 exceeding amount
		via 2,000 Euro to 3,500 Euro	171 Euro		500,001	1.000,000	8,625 + 0.875 % of the 500,000 exceeding amount
		via 3,500 Euro to 7,000 Euro	314 Euro		1.000,001	2.000,000	13.000 + 0,5 % of the 1,000,000 exceeding amount
		via 7,000 Euro to 35,000 Euro	743 Euro		2.000,001	5.000,000	18.000 + 0,125 % of the 2,000,000 exceeding amount
		via 35,000 Euro to 70,000 Euro	1,459 Euro			over	21,750 + 0.063 % of the 5,000,000 exceeding amount
		via 70,000 Euro to 140,000 Euro	2,919 Euro		5,000,000		total max. EUR 75,000 (21,750 + 53,250)
		via 140,000 Euro to 210,000 Euro	4,380 Euro				
	via 210,000 Euro to 280,000 Euro	5,840 Euro					
	via 280,000 Euro to 350,000 Euro	7,299 Euro					
	via 350,000 Euro to	1.2% of the respective amount in dispute					

		<p>Flat-rate fees in social court proceedings for the involvement of TWO. an interpreter provided by the Federal Ministry of Justice (Justice Support Agency)</p>	<p>plus 3,488 Euro 184 Euro per language</p>	<p>3. fees for single arbitrators:</p> <table border="1"> <thead> <tr> <th colspan="2">Litigation value in EUR</th> <th>Tariff in EUR</th> </tr> <tr> <th>by</th> <th>by the time</th> <th></th> </tr> </thead> <tbody> <tr> <td>0</td> <td>100,000</td> <td>6 %, at least 3,000</td> </tr> <tr> <td>100,001</td> <td>200,000</td> <td>6,000 + 3 % of the 100,000 exceeding amount</td> </tr> <tr> <td>200,001</td> <td>500,000</td> <td>9,000 + 2.5 % of the 200,000 exceeding amount</td> </tr> <tr> <td>500,001</td> <td>1,000,000</td> <td>16,500 + 2% of the 500,000 exceeding amount</td> </tr> <tr> <td>1,000,001</td> <td>2,000,000</td> <td>26,500 + 1% of the 1,000,000 exceeding amount</td> </tr> <tr> <td>2,000,001</td> <td>5,000,000</td> <td>36,500 + 0,6 % of the 2,000,000 exceeding amount</td> </tr> <tr> <td>5,000,001</td> <td>10,000,000</td> <td>54,500 + 0.4 % of the 5,000,000 exceeding amount</td> </tr> <tr> <td>10,000,001</td> <td>20,000,000</td> <td>74,500 + 0.2 % of the 10,000,000 exceeding amount</td> </tr> <tr> <td>20,000,001</td> <td>100,000,000</td> <td>94,500 + 0,1 % of the 20,000,000 exceeding amount</td> </tr> <tr> <td></td> <td>over 100,000,000</td> <td></td> </tr> </tbody> </table> <p>Please note! If VIAC is called as the appointing authority, the applicant shall pay a non-refundable fee of EUR 2,000 per application. The application will only be processed after payment has been made.</p>	Litigation value in EUR		Tariff in EUR	by	by the time		0	100,000	6 %, at least 3,000	100,001	200,000	6,000 + 3 % of the 100,000 exceeding amount	200,001	500,000	9,000 + 2.5 % of the 200,000 exceeding amount	500,001	1,000,000	16,500 + 2% of the 500,000 exceeding amount	1,000,001	2,000,000	26,500 + 1% of the 1,000,000 exceeding amount	2,000,001	5,000,000	36,500 + 0,6 % of the 2,000,000 exceeding amount	5,000,001	10,000,000	54,500 + 0.4 % of the 5,000,000 exceeding amount	10,000,001	20,000,000	74,500 + 0.2 % of the 10,000,000 exceeding amount	20,000,001	100,000,000	94,500 + 0,1 % of the 20,000,000 exceeding amount		over 100,000,000	
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In civil proceedings, the court determines in the decision on costs which court fees and costs (lawyer's fees, expert and interpreter's or translator's fees) the losing party must reimburse to the winning party.

This decision is based on the Law on Lawyers' Fees (for lawyers' fees) and the Law on Claims for Fees (for experts' and interpreters' or translators' fees). These costs are largely based on expenses and time spent.

Therefore, no precise amount can be fixed in advance. The fee, which the client has to pay to the lawyer, can in principle be freely agreed upon.

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	In execution proceedings, <u>execution fees are added to the court fees</u> . These depend on the type of execution and are regulated in the Execution Fees Act.	
Process duration	The average duration (calculated as a median) of the civil proceedings settled in 2016 "in dispute" was 6 months at the district courts and 13 months at the regional courts .	Average duration of proceedings: 11.5 months
Execution the claim in Austria	<p>The execution procedure comprises two stages: the <u>licensing procedure</u> and the <u>execution execution</u>. The procedure is based on that of the ZPO and insofar as the EO does not contain any special regulations, the provisions of the ZPO (subsidiary) are to be applied (§ 78 EO).</p> <p><u>Execution title</u></p> <p>The domestic execution titles are listed in § 1 EO. Acts and deeds on the basis of which execution may be carried out include judgments and orders of civil courts, orders for</p>	<p>In order to be able to use coercive measures, the creditor must first have a basic decision, a so-called "enforceable title".</p> <p><u>Arbitration award as an executory title</u></p> <p>An executory title also includes the decision of the arbitral tribunal ("arbitral award"). The arbitral award has the effect of a legally binding court decision (§ 607 ZPO) between the parties, whereby the question of the extension of legal force is controversial.</p> <p>Upon expiry of the performance period, the arbitral award shall become enforceable (§ 1 no. 16 EO). However, the arbitral tribunal itself has no power of execution.</p>

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	<p>payment, decisions of administrative authorities, court settlements, arbitration awards, enforceable notarial acts, extracts from the list of applications in bankruptcy proceedings, etc.</p> <p><u>Execution licence</u></p> <p>The execution proceedings are initiated by a (written or oral) execution petition of the enforcing creditor (§ 54 EO). In addition to the parties and all circumstances necessary to determine the jurisdiction, this application shall specify the claim and the execution title for which the execution is being held and the means of execution and the objects of execution (if these are not already derived from the title).</p> <p>This must be followed by a copy of the execution deed, a certificate of enforceability (except in the case of a court-settlement and an enforceable notarial deed) and any further documents required (cf. § 7 Paragraph 2 EO).</p>	<p>A domestic arbitral award is given if the seat of the arbitral tribunal is in Austria (§ 577 para 1 ZPO).</p> <p>The execution proceedings shall be conducted in accordance with the EO.</p>
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	<p>As a rule, the application for execution is decided solely on the basis of the files (i.e. the application) without hearing the obligated party by resolution (decision granting execution). The execution is carried out immediately and ex officio, without having to wait for the execution to become legally effective and for the execution order to be delivered to the obligated party. The debtor therefore often only learns of the approval of the execution after the execution has begun (surprise effect), for example by the bailiff delivering the approval decision in the case of the seizure.</p>	
<p>Execution the claim abroad</p>	<p>Enforceability is only possible under <u>bilateral</u> (e.g. Liechtenstein and Tunisia) or <u>multilateral</u> (e.g. LGVÜ) <u>conventions</u>. Otherwise, the recognition and enforcement of decisions of state courts is not possible in many third countries (e.g. USA, Russian Federation).</p> <ul style="list-style-type: none"> • <u>EuGVVO New</u>: automatic recognition • <u>European Enforcement Order</u> 	<p>On the basis of the <u>NY Convention</u>, practically all Austrian arbitral awards are recognised and declared enforceable abroad.</p> <p>Art V NYC explains when the enforceability of foreign arbitral awards is denied.</p> <p>While an arbitral settlement constitutes an executory title in Austria (§ 1 no. 16 EO), but is not enforceable everywhere abroad,</p>

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	<p>EuVTVO - "Europeanized" VT</p> <p>This gives creditors who already have an execution deed for their monetary claims in one Member State the possibility to access the debtor's assets in a simple form and without a declaration of enforceability in another EU Member State. The EuVT is the European Enforcement Order.</p> <p>Not all execution titles can be considered as EuVTs. Much more must be either judicial decisions on uncontested pecuniary claims, judicial settlements or authentic instruments. In Austria, this criterion is fulfilled, for example, by recognition judgments, orders for payment, (certain) default judgments; court settlements are those approved by the court or concluded in the course of the proceedings, and authentic instruments include enforceable notarial acts. Moreover, only those titles issued or established after 21.1.2005 are affected by the Regulation.</p> <p><u>European order for payment procedure - EuMahnVO - "genuine" EuVT</u></p>	<p>an arbitral award with agreed wording is an arbitral award like any other.</p>
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The purpose of Regulation (EC) No 1896/2006 is to quickly create an enforcement order for uncontested pecuniary claims which can then be enforced in all EU Member States (Denmark excepted) without further declaration of enforceability proceedings.

As secondary Community law, the EuMahnVO takes precedence over national procedural law.

Application for a European order for payment - using a standard form (Form A). If the conditions set out in Articles 2, 3, 4, 6 and 7 EuMahnVO are fulfilled, the court must issue a European order for payment as soon as possible and as a rule within 30 days of filing the application (Article 12 (1) EuMahnVO).

European Small Claims Procedure - EuBagatellVO - Formal Confirmation

The EuBagVVO represents the material scope of application. However, the Regulation only applies to cross-border civil and commercial matters if the amount in dispute,

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	<p>excluding interest, costs and expenses, does not exceed EUR 2000 at the time of receipt by the competent court.</p> <p>As a rule, an Austrian judgment is only enforced within the EU or if there is an enforcement agreement.</p>	
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Your key contacts for dispute resolution



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Julia Andras is a Managing Partner at LGP and specialises in damages, dispute resolution (litigation and arbitration), estate law, gambling law, labour and employment, medical malpractice. Julia Andras has been advising Austrian and international clients since the mid-2000s. After a two-year stay abroad, where she represented the Austrian Israeli Chamber of Commerce (AICC) as Country Manager Israel in Tel Aviv and simultaneously worked for two renowned, internationally active law firms, she returned to Vienna. Julia Andras is a member of the International Association of Jewish Lawyers and Jurists (IAJLJ), a prominent international organization based in Israel. She is a graduate of the University of Vienna (Dr. iur.).



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Managing Partner Gerald Ganzger has been active as a lawyer since the late 1980s and has made a name for himself as a media lawyer, conflict solver and expert in litigation PR. Industry rankings regularly place the lawyer at the top of their rankings. Away from the media spotlight, Gerald Ganzger advises well-known companies and public institutions on all aspects of business life. He is a lecturer at the Vienna University of Applied Sciences for Media Law and a member of the advisory board of the European Brand Institute. He also writes columns for the magazine "Horizont". In addition to his work as a lawyer, Gerald Ganzger is committed to expanding Austria's trade relations, for example as a delegate of ITKAM. Gerald Ganzger is a graduate of the Faculty of Law of the University of Vienna (Dr. iur.) and is admitted to the bar in Vienna and Bratislava.



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ABOUT LANSKY, GANZGER + PARTNER

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