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How to bring a case to court

 Germany

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European Judicial Network
(in civil and commercial
matters)

1 Do I have to go to court or is there another alternative?

In certain cases it may make sense to use alternative dispute resolution, such as consumer conciliation, mediation or arbitration. Arbitration is not permitted for all disputes, however. In the area of family law, claims not involving property rights (*nicht-vermögensrechtliche Ansprüche*) are not arbitrable, for example. For more information about mediation, please refer to the '[Mediation](#)' factsheet.

2 Is there any time limit to bring a court action?

There is no general procedural time limit to bring a court action. However, a time limit may be provided for in legally defined situations, e.g. for certain interim measures. Notwithstanding the above, there are time limits on when claims can be brought. If a claim has become time-barred and the defendant invokes this, the claim will be dismissed. The time limits depend on the substantive law of the case rather than on procedural law. They vary from case to case. To clarify the time limits that apply in an individual case, it may be useful to consult a legally qualified advisor, such as a lawyer.

3 Should I go to a court in this Member State?

See '[Which country's court is responsible?](#)'.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

See '[Which country's court is responsible? - Germany](#)'.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

See '[Which country's court is responsible? - Germany](#)'.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

The question of whether you can bring an action yourself or must be represented by a lawyer depends on which court has jurisdiction for the claim. In certain cases use of a lawyer may be obligatory due to the subject matter of the proceedings.

Parties to disputes before the regional courts (*Landgerichten*) and higher regional courts (*Oberlandesgerichten*) in Germany must be represented by a lawyer (Section 78(1) of the Code of Civil Procedure (*Zivilprozessordnung*)).

- ZPO)). Representation by a lawyer is also mandatory before the Federal Court of Justice (*Bundesgerichtshof*). However, only specially authorised lawyers are allowed to appear before this court. Use of a lawyer is also obligatory in most family matters (e.g. divorce, maintenance disputes, property disputes) that come before the local court (*Amtsgericht*).

In principle, in all other cases before the local court, you may bring an action and conduct the proceedings yourself, without being represented by a lawyer.

In the case of payment order proceedings (*Mahnverfahren*) (Section 688 et seq. of the Code of Civil Procedure), which are intended to simplify the enforcement of monetary claims, the court with jurisdiction in civil-law disputes is the local court. There are often central courts for payment order cases (*Zentrale Mahngerichte*) in the federal states where such proceedings can be brought. You may file an application for an order for payment at these courts yourself, without a lawyer.

Payment order proceedings can also be brought before a labour court (*Arbeitsgericht*). In this case, in contrast to civil-law proceedings, the application must be filed directly with the labour court with territorial jurisdiction. In principle, in proceedings at first instance before a labour court, you may bring an action and conduct the proceedings yourself, without being represented by a lawyer.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

Generally a claim must be filed in writing at the court that has jurisdiction. It may be sent by post or delivered by hand to the court's mailbox. Claims may also be filed electronically. Specific communication channels have been made available for electronic communication, which are described in more detail on the '[Digitalisation Regulation](#)' factsheet.

However, if the local court has jurisdiction for the proceedings, a claim can also be registered orally at the court office (*Geschäftsstelle des Amtsgerichts*). Claims can be registered in this way not only at the local court with territorial jurisdiction, but also at the court office of another local court in Germany. The office will send the record of the claim to the relevant court without delay.

The same applies to an action before the labour court. A claim before the labour court may also be registered orally at the office of any labour court.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

In principle, the language of the courts is German. So the claim must be filed in German. An exception applies in the home districts of the Sorbian population. In these districts Sorbs may also file claims in the Sorbian language. A further exception applies before specific panels of judges that may be established to hear defined commercial-law disputes at a regional court, higher regional court or supreme regional court (*Oberstes Landesgericht*) (commercial chambers, commercial courts). A claim may be filed in English before these panels.

Generally, a claim must be filed in writing. In an action before the local court or the labour court, claims may also be registered orally at the office of the court (see question 7). In addition, claims may be filed electronically. Lawyers are obliged to submit claims in electronic format.

A simple email does not meet the legal requirements for the electronic filing of claims and is therefore not permitted. Instead of email, various secure means of transmission are available for communicating electronically with the courts and can be used to send documents to the courts in a legally binding manner.

These secure means of transmission include the electronic mailbox for citizens and organisations (*elektronisches Bürger- und Organisationenpostfach* - eBO) and the mailbox and delivery service (*Postfach- und Versanddienst*) of a user account in accordance with Section 2(5) of the Act to improve online access to administrative services (*Gesetz zur Verbesserung des Onlinezugangs zu Verwaltungsleistungen* - OZG), in particular *Mein Justizpostfach* (My Judicial Mailbox - MJP).

Mein Justizpostfach is a free service for natural persons that is standardised throughout Germany. You set it up via your federal government user account (*BundID*), in which the online identification function must be activated, and can use it directly in your web browser without the need for any additional software.

The eBO is also a communication option that is available to citizens, as well as legal entities and organisations. It requires special software and secure identification.

Documents may also be duly submitted by fax. In this case the signature of the party concerned must be identifiable on the fax. It must be clear who has signed the statement of claim.

Lawyers have access to the special electronic mailbox for lawyers (*besonderes elektronisches Anwaltspostfach*) as a secure means of transmission.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

Official forms are required for payment order proceedings - in particular for the application for an order for payment (*Mahnbescheid*) or order for enforcement (*Vollstreckungsbescheid*) (Section 703c(2) of the Code of Civil Procedure in conjunction with Section 1(1) of the Regulation introducing forms for payment order proceedings (*Verordnung zur Einführung von Vordrucken für das Mahnverfahren*) or Section 46f of the Labour Court Act (*Arbeitsgerichtsgesetz*) in conjunction with Section 1 of the Regulation introducing forms for payment order proceedings before the labour courts (*Verordnung zur Einführung von Vordrucken für das arbeitsgerichtliche Mahnverfahren*)). These forms must be used. If they are not, the application may be rejected as inadmissible.

Standardised forms are not required to bring a claim. However, the statement of claim must comply with certain formal requirements and include certain content:

- The statement of claim must give the correct details of the parties and their legal representatives, as well as their addresses for service. The court with which the claim is being filed must also be indicated.
- The claim must state clearly and unambiguously what is being complained of and what the court is being asked to award the claimant (the order sought).
- The claim being brought and the facts on which it is based must also be comprehensively, coherently and clearly described.
- The statement of claim must be signed personally. If the party bringing the action is represented by a lawyer, the statement of claim must be signed by the lawyer or their representative (see question 8).

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Court costs are charged for proceedings before the courts that deal with civil and commercial matters. These charges are the fees and expenses of the court. After the statement of claim has been filed, the court charges an advance payment of court costs on account (*Gerichtskostenvorschuss*) corresponding to the amount of the statutory court fees. Generally, the claim will not be served on the opposing party until the party bringing the action has paid the advance payment of court costs on account.

The same applies to the payment order procedure.

There is no requirement to pay in advance in proceedings before the labour court.

If a lawyer is acting, lawyer's fees will also have to be paid. The principle is that lawyer's fees are not due until the end of the proceedings or after a court judgment on costs, but a lawyer may require a down payment for his work corresponding to the amount of his subsequent fees even before the claim is filed.

The costs of the proceedings, the court costs and the lawyer's fees, including costs already paid, must generally be borne, at the end of the proceedings, by the party that the court orders to pay the costs. This is often the party that loses the action. In proceedings where the judgment on costs is made under the Act on proceedings in family matters and in matters of non-contentious jurisdiction (*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit*), the court generally decides at its own discretion who

will bear which portion of the costs of the proceedings.

See [‘Legal aid - Germany’](#)

11 Can I claim legal aid?

Anyone who is unable to cover the costs of proceedings themselves on account of their personal and financial circumstances can apply to the competent court for legal aid (*Prozesskostenhilfe/Verfahrenskostenhilfe*) (Section 114 of the Code of Civil Procedure). The court checks whether the action/application has any prospect of success, that it is not malicious, and whether financial need exists. If the court awards legal aid, then the party bringing the action does not have to advance any costs for the service of the claim.

A statement describing the party’s personal and financial circumstances must be enclosed with the application. An official form must be used for this purpose (*‘Erklärung über die persönlichen und wirtschaftlichen Verhältnisse bei Prozess- oder Verfahrenskostenhilfe’* (‘Statement of personal and financial circumstances for legal aid’)), to which appropriate evidence must be appended (e.g. proof of income, bank statements, etc.).

If legal aid is awarded, the court costs and, if necessary, the fees for the party’s own lawyer, are covered by public funds. Depending on your financial means, the court may also award legal aid subject to the condition that you pay monthly instalments to contribute towards the costs. If you lose the case, however, you are generally required to cover the other party’s costs yourself (Section 123 of the Code of Civil Procedure).

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

If the statement of claim is complete and has been filed with the court in due form, and the advance payment that is often required has been settled, the court will arrange for the action to be served on the defendant. The action is deemed to have commenced when it is served on the defendant.

If the statement of claim is incomplete or contains errors, the court will generally give the party bringing the action the opportunity to correct it. If required corrections are not made, the claim may be rejected as inadmissible.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

Once the action has been served the court will inform the parties about the subsequent procedure and will make procedural arrangements. It can either schedule an early date for a first oral hearing or order written proceedings first.

In the written proceedings a time limit will be set for the defendant to notify the court of whether they wish to defend the claim. Further time limits may then be set for providing statements or submitting supplementary documents.

In preparation for an oral hearing, the court may require the parties to clarify certain points in more detail or submit documents. They may also be ordered to appear in person. The parties will be informed of all orders issued and all time limits set by the court.

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