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Judicial auctions

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1. Advertising and setting the price of seized assets

At the request of a petitioning creditor, the judicial auction of real estate, a building constructed temporarily on another person's land (*Superädifikat*) or building rights may be authorised by the enforcement court that has jurisdiction. Once the application has been examined, authorisation is granted by order of the court. The court usually appoints an expert to estimate the value of immovable property. In certain cases, the value need not be estimated (§ 142 of the *Exekutionsordnung* (EO – Enforcement Code)). The lowest bid generally amounts to half of the estimated value. The enforcement court with jurisdiction sets an auction date, which it makes public by entering it in the database of court decisions known as the *Ediktsdatei* (justiz.gv.at). As well as a summary of the valuation report and details of the property to be auctioned (address, registration number and cadastral municipality), the *Ediktsdatei* also indicates, among other things, the place and time of the auction and the minimum bid for the property.

Before the object of the sale is awarded, the highest bidder must provide a deposit (10% of the estimated value, but no less than EUR 1 000.00). The award is noted in the land register (*Grundbuch*) and published in the *Ediktsdatei*. The buyer thereby becomes the owner of the property without there being a formal entry in the land register.

The auctioning of movable property is usually carried out by the enforcement body or, in the case of an auction in an auction house, by an official of the auction house. Online auctioning via an auction platform is also possible (see point 6). The value of the items is estimated in most cases by an expert and in some cases also by the enforcement body or a second expert.

2. Third parties authorised to carry out the sale

Judicial auctions of immovable property are carried out exclusively by the enforcement court. Movable property may also be auctioned by an auctioneer or an auction house.

3. Types of judicial auction to which the rules may only partially apply

Special provisions apply to online auctions carried out as part of an enforcement procedure (§ 277 EO).

4. Information on the national property registers

The *Grundbuch* (land register) is a public register in which land and the associated *rights in rem* – such as ownership status, liens and building rights – are recorded. The district courts are responsible for keeping the land register. Anyone can consult the land register. However, a search for persons in the *Personenverzeichnis* (list of persons) is possible only if there is a legal interest.

Certain district courts (in particular the Inner City of Vienna District Court (*Bezirksgericht Innere Stadt Wien*)) keep a public shipping register, which also contains information on ownership status. However, the obligation to register applies only to certain ships.

The business register (*Firmenbuch*) is a public register kept by the regional courts (*Landesgerichte*). In Vienna it is kept by the *Handelsgericht Wien* (Vienna Commercial Court) and in Graz it is kept by the *Landesgericht für Zivilrechtssachen Graz* (Graz Regional Court for Civil Law Matters). It consists of the *Hauptbuch*, or main register, which contains the business register entries, and a collection of documents comprising the individual deeds that form the basis of each business register entry, such as articles of association. The business register can be accessed online (see [Firmenbuch \(justiz.gv.at\)](http://justiz.gv.at)).

5. Information on the databases that enable creditors to identify assets and a debtor's debt obligations

If there is a legal interest, a search can be carried out in the list of persons in the land register (see above).

The following information is published in the publicly accessible online database, *Ediktsdatei*(justiz.gv.at):

- Auctions ordered by the court
- Judicial receivership
- Edicts and announcements in criminal proceedings
- The manifest insolvency of a person: if, in enforcement proceedings, it becomes apparent that the obligated party is manifestly insolvent, the enforcement court establishes this fact by order, after hearing the parties. An enforcement application relating to movable property can then be granted only with restrictions.

The insolvency database (*Insolvenzdatei*) can also be accessed from this webpage.

6. Information about online judicial auctions

Online judicial auctions of immovable property are not allowed. Online auctions of movable property are carried out on the platform <http://www.justiz-auktion.at/>.

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