

[Home](#) > ... > [Taking Legal Action](#) > [European Judicial Atlas In Civil Matters](#) > [Brussels IIb Regulation - Matrimonial Matters and Matters of Parental Responsibility \(recast\)](#) > [Austria](#)

Brussels IIb Regulation - Matrimonial matters and matters of parental responsibility (recast)

Austria



Austria

FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

Article 103 (1) (a) (1st part) – Public authorities or other authorities authorized to establish an authentic instrument referred to in point (2)(b) of Article 2(2), and public authorities authorized to register an agreement referred to in point (3) of Article 2(2)

- Article 2(2)(2)(b):

In Austria, public documents within the meaning of the Regulation may originate from civil-status authorities, pursuant to Section 177(2) of the *Allgemeines Bürgerliches Gesetzbuch*, [Austrian Civil Code, ABGB], and from courts, pursuant to Section 190(1) ABGB (agreements concluded in court not requiring approval).

- Article 2(2)(3):

In Austria, no public authorities or other bodies are empowered to register agreements within the meaning of the Regulation.

Article 103 (1) (a) (2nd part) – Administrative authorities granting legal aid referred to in Article 74(2)

- Article 74(2):

In Austria, no administrative authority has competence within the meaning of Article 74(2).

Article 103 (1) (b) (1st part) – Courts competent to issue certificates for a decision pursuant to Article 36(1), and courts and authorities competent to issue a certificate for an authentic instrument or agreement referred to in Article 66

Article 103(1)(b):

- Courts and authorities pursuant to Article 36(1):

The district courts are competent for applications for the certificate pursuant to Article 36(1)

- under Section 76 of the *Jurisdiktionsnorm* [Austrian Court Jurisdiction Act, JN] (Article 36(1)(a)),
- under Section 109 JN (Article 36(1)(b)), or alternatively,
- under Section 109a JN (Article 36(1)(c)).

Courts and authorities pursuant to Article 66(1):

Article 66(1)(a): In Austria, it is not possible to divorce without a court ruling.

Article 66(1)(b): The district courts referred to in Section 109 JN are competent in the area.

Article 103 (1) (b) (2nd part) – Courts competent to rectify certificates referred to in Article 37(1), Article 48(1), and courts competent to issue a certificate specifying that the lack or limitation of a certified decision referred to in Article 49; and courts and authorities competent to rectify the certificate, issued under Article 66(1), referred to in Article 67(1);

Courts and authorities pursuant to Article 67(1):

The district courts referred to in Section 109 JN are competent to rectify the certificate pursuant to Article 66(1).

Courts pursuant to Article 37(1):

The district courts notified in accordance with Article 36(1) are competent to rectify the certificate pursuant to Article 37(1). See Sections 76, 109 and 109a JN.

Courts pursuant to Article 48(1):

The district courts referred to in Section 109 JN are competent to correct and revoke the certificate pursuant to Article 48(1).

Courts pursuant to Article 49(1):

The district courts referred to in Section 109 JN are competent for applications for the certificate of suspension or limitation of enforceability pursuant to Article 49(1).

Courts and authorities referred to in Article 66(3) in conjunction with Article 37(1):

The district courts referred to in Section 109 JN are competent to rectify the certificate pursuant to Article 66(3) in conjunction with Article 37(1).

Article 103 (1) (c) – Courts competent for recognition of a decision (Article 30(3)) and for the refusal of recognition (Article 40(2)), as well as the courts and authorities competent for refusal of enforcement, for challenge or appeal, and for further challenge or appeal referred to in 58(1), 61(2) and 62

Courts pursuant to Article 30(3):

The district courts referred to in Sections 76 and 109 JN are competent for applications to initiate the procedure pursuant to Article 30(3).

Courts pursuant to Article 52:

The district courts referred to in Section 109 JN are competent for applications for enforcement pursuant to Article 52.

Courts pursuant to Articles 40(2) and 58(1):

The district courts referred to in Section 114a JN and Section 109 JN are competent to process refusal of recognition pursuant to Article 40(2). The district courts referred to in Section 109 JN are competent to process refusal of enforcement pursuant to Article 58(1).

Courts and right of appeal pursuant to Article 61(2):

The higher Regional Court is competent for a challenge or an appeal (in Austria: *Rekurs*) against a decision on the application for refusal of enforcement; the appeal must, however, be lodged with the district court.

Courts and right of appeal pursuant to Article 62:

The Supreme Court is competent for any further challenge or appeal, if any (in Austria: *Revisionsrekurs*); the appeal must, however, be lodged with the district court.

Article 103 (1) (d) – Authorities competent for enforcement referred to in Article 52

Authorities competent for enforcement pursuant to Article 52:

The district courts referred to in Section 109 JN are competent for applications for enforcement pursuant to Article 52.

Article 103 (1) (e) – Redress procedures against a decision on the application for refusal of enforcement referred to in Articles 61 and 62

Courts and right of appeal referred to in Article 61(2):

The higher Regional Court is competent for a challenge or an appeal (*Rekurs*) against a decision on the application for refusal of enforcement; the appeal must, however, be lodged with the district court.

Courts and right of appeal referred to in Article 62:

The Supreme Court is competent for any further challenge or appeal, if any (*Revisionsrekurs*); the appeal must, however, be lodged with the district court.

Article 103 (1) (f) – Names, addresses and means of communication for the Central Authorities designated to assist with the application of the Regulation in matters of parental responsibility. In case more than one Central Authority is designated, geographical and functional jurisdiction of each Central Authority to be indicated as referred to in Article 76

Name and address of the central authorities referred to in Article 76:

Bundesministerium für Justiz, Museumstraße 7, A-1070 Wien

Organisational unit: Division I 10

E-Mail: team.z@bmj.gv.at

Tel.: +43 1 52152 2142

Fax: +43 1 52152 2829

Article 103 (1) (g) – If applicable, categories of close relatives, in addition to parents, with which the child may be placed within the territory of a Member State, without the prior consent of that Member State as referred to in Article 82

Categories of close relatives referred to in Article 82(2):

Consent for placements of relatives in addition to parents pursuant to Article 82(1) is not required for the following categories of close relatives:

- grandparents;
- brothers and sisters of the parents;
- adult siblings of the child.

Article 103 (1) (h) - Languages of the institutions of the European Union other than the own language of a Member State, in which communications to its Central Authorities can be accepted as referred to in Article 91(3))

Languages accepted for communications to the central authorities pursuant to Article 91(3):

English.

Article 103 (1) (i) - Languages accepted for the translations of requests and accompanying documents sent under Articles 80, 81, 82, and of the free text fields of the certificates as referred to in Article 91(2)

Languages accepted for translations pursuant to Article 80(3), Article 81(2), Article 82(4) and Article 91(2):

None (beyond the official languages accepted in Austria).

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