

Home>Money/monetary claims>Court fees concerning European Payment Order procedure
 Court fees concerning European Payment Order procedure

Austria

This page provides information on Austrian court fees.

Introduction

What fees are applicable?

How much shall I pay?

What happens if I do not pay the court fees on time?

How can I pay the court fees?

What shall I do after the payment?

Introduction

Article 25 of Regulation (EC) 1896/2006 creating a European order for payment procedure stipulates that the combined court fees of a European order for payment procedure and of the ordinary civil proceedings that ensue in the event of a statement of opposition to a European order for payment in a Member State shall not exceed the court fees of ordinary civil proceedings without a preceding European order for payment procedure in that Member State.

Proceedings concerning applications for a European order for payment are therefore subject to the flat fee under **Fee Item 1** (*Tarifpost 1*) of the **Court Fees Act** (*Gerichtsgesetz – GGG*), which is payable in all national order for payment procedures and civil proceedings.

What fees are applicable?

In proceedings related to applications for a European order for payment at first instance, **Fee Item 1** of the **Court Fees Act** applies, in accordance with Note 1 to Fee Item 1 of the Court Fees Act. This flat fee is payable regardless of whether the proceedings are completed. Reductions only apply if the application is immediately withdrawn or rejected before the opposing party is served (fee reduced to one quarter; Note 3 to Fee Item 1 of the Court Fees Act) or if the case is settled in a legally valid manner at the first hearing (fee reduced by half; Note 2 to Fee Item 1 of the Court Fees Act). Under the Austrian court fees system, only the application instituting the proceedings (in this case, the application for a European order for payment) is subject to a fee in civil proceedings at first instance. There are no additional court fees for further proceedings at first instance.

Under Section 2(1)(a) of the Court Fees Act, the obligation to pay fees arises when the application for a European order for payment is lodged with the court. The fee must be paid at this time. Applications for exemption from the payment of court fees must also be lodged by way of legal aid (*Verfahrenshilfe*) by this time at the latest, provided the conditions are met.

The application for review under Article 20 of the Regulation is free of charge (irrespective of whether it aims to achieve a legal remedy similar to *restitutio in integrum* (paragraph 1) or an examination of the substance (paragraph 2)).

How much shall I pay?

The calculation of court fees for proceedings at first instance depends on the value of the subject-matter of the claim (amount in dispute = level of the claim asserted) and the number of parties. For illustration, see below the full table of rates under Fee Item 1 of the **Court Fees Act** (as at 1 August 2017; click here for the current wording of the Court Fees Act):

Fee Item 1	Value of the subject-matter of the claim		Fee payable
	does not exceed	EUR 150	EUR 23
	exceeds	EUR 150 but does not exceed	EUR 45
	exceeds	EUR 300 but does not exceed	EUR 64
	exceeds	EUR 700 but does not exceed	EUR 107
	exceeds	EUR 2 000 but does not exceed	EUR 171
	exceeds	EUR 3 500 but does not exceed	EUR 314
	exceeds	EUR 7 000 but does not exceed	EUR 743
	exceeds	EUR 35 000 but does not exceed	EUR 1 459
	exceeds	EUR 70 000 but does not exceed	EUR 2 919
	exceeds	EUR 140 000 but does not exceed	EUR 4 380
	exceeds	EUR 210 000 but does not exceed	EUR 5 840
	exceeds	EUR 280 000 but does not exceed	EUR 7 299
	exceeds	EUR 350 000	1.2% of the amount in dispute plus EUR 3 488

If there are more than two parties, a multi-party surcharge between 10% and 50% may be added under Section 19a of the Court Fees Act.

What happens if I do not pay the court fees on time?

In the event of late payment, a fixed penalty of EUR 22 (as at 1 August 2017) is payable under Section 31 of the Court Fees Act. However, the late payment of the court fee has no influence on the execution of the civil proceedings themselves. Court proceedings are not dependent upon the payment of court fees – they are conducted in a completely independent manner.

The recovery of court fees by the judicial authority is governed by the Court Payments Recovery Act (*Gerichtliches Einbringungsgesetz – GEG*). If, as a result of non-payment, a payment order (an enforcement order for the recovery of court fees) has to be issued by the judicial authority under Section 6a of the Court Payments Recovery Act, an additional collection fee of EUR 8 (as at 1 January 2014) applies.

How can I pay the court fees?

The methods of payment are laid down in Section 4 of the Court Fees Act. Under Section 4, fees may be paid by bank card with **ATM function** or by **credit card**, by **deposit** into or **bank transfer** to the account of the competent court, or by **cash deposit** with this court. The bank details of the court are available on the website of the Federal Ministry of Justice (*Bundesministerium für Justiz*) at <http://www.justiz.gv.at/> under the 'Courts' (*Gerichte*) tab.

Furthermore, all fees may also be paid by **direct debit** if the court (or, in general, the Austrian judicial system) has been authorised to collect the court fees from an account notified by the party owing the fees, and to deposit them in a court account. In this case the application (application for a European order for payment) must **indicate the account** from which the fees are to be collected and the **authorisation to collect them**, for example by including the reference ' *Gebühreneinzug!* ('Collection of fees!') or ' *AEV!* ('Direct Debiting Ordinance!'). For a limited authorisation, the application may also indicate the maximum amount to be debited (Sections 5 and 6 of the Direct Debiting Ordinance (*Abbuchungs- und Einziehungs-Verordnung*)).

If the application for a European order for payment is lodged using the **Austrian e-Justice system** (*Elektronischer Rechtsverkehr – ERV*), the fees must be paid by direct debit. In this case, the maximum amount to be debited cannot be specified.

What shall I do after the payment?

If the federal authorities are entitled to claim court fees on submission of the application (the application for a European order for payment) and there is no direct debit authorisation, then proof of payment of the fees (proof of transfer) must be attached to the application (Section 4 of the Court Fees Act). If payment is made by bank card, credit card, deposit into or transfer to the account of the competent court, or by direct debit from the party's account, the Austrian Federal Accounting Agency (*Buchhaltungsagentur des Bundes*) only informs the judicial authority about the crediting of payments to the court account at a later stage. The procedure related to the notice of court fees ends when proof of (full) payment is provided.

In the event of overpayment, a claim for the repayment of overpaid court fees (Section 6c of the Court Payments Recovery Act) can be made within five years.

Related link

[Court Fees Act](#)

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