

Small claims - Germany

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Article 25 1 (a) Competent courts

The court with jurisdiction to give judgment in the European small claims procedure is the local court (*Amtsgericht*) determined by the rules on territorial jurisdiction.

Article 25 1 (b) Means of communication

The following means of communication are available everywhere: post including private courier, fax, delivery by hand, or lodging the claim at the court's claims filing office (*Rechtsantragstelle*).

In addition, written claims can be lodged in electronic form in all federal states (*Länder*) at certain courts and at all Federal courts, in which case the person responsible for submitting the electronic document must attach an authorised electronic signature. This requires signature software and a signature card with the corresponding card reader. The participating courts can also be contacted from other Member States via the eCODEX interface. Information about which courts allow electronic access can be found at <http://www.justiz.de/> and <http://www.egvp.de/> or on the websites of the individual courts.

As of 1 January 2018, it will be possible to submit electronic documents to all *Land* and federal courts, pursuant to Section 130a of the revised Code of Civil Procedure, provided the electronic document bears the authorised electronic signature of the person responsible for it, or is signed by them and transmitted by secure means. 'Secure means' will be considered to be:

1. the German e-government service 'DeMail' with authentication of sender (*absenderbestätigt*);
2. the special electronic mailbox for lawyers ('beA');
3. the special electronic mailbox for public authorities ('beBPo').

The technical parameters for the transmission of electronic documents are to be laid down in a Federal Government Regulation to enter into force by 1 January 2018.

Article 25 1 (c) Authorities or organisations providing practical assistance

The local courts are competent to provide practical assistance in accordance with Article 11 of Regulation (EC) No 861/2007 as amended. Practical assistance is provided by the relevant staff as per the organisation chart, primarily staff at the claims filing offices or information desks. Information on the competent local courts and the means of communication can be found in the European Judicial Atlas. Please refer to point (a) above.

Article 25 1 (d) Means of electronic service and communication and methods for expressing consent for thereof

Under Section 174(1) and (2) of the Code of Civil Procedure, a procedural document may be served by fax, against acknowledgement of receipt, on a lawyer, a notary, a bailiff (*Gerichtsvollzieher*), a tax consultant or any other person who enjoys particular trust by reason of their profession, a public authority, a corporation, or a body governed by public law.

Under Section 174(3), electronic documents may also be served on the same persons. The same applies to other parties to legal proceedings, provided they have expressly consented to the documents being transmitted in electronic form. The document must be signed electronically and must be protected against its becoming known to unauthorised third parties. Documents may also be transmitted by De-Mail.

With effect from 1 January 2018, it will be possible to send electronic documents via a secure transmission channel (*sicherer Untermittlungsweg*) within the meaning of Section 130a of the Code of Civil Procedure, instead of using an electronic signature. The persons mentioned above will have to set up a secure transmission channel for the service of electronic documents. Proof of electronic service will be by electronic acknowledgement of receipt in a structured, machinereadable format. To this end the court will provide a data set when it serves the document.

Acceptance pursuant to Article 13 and Section 174(3) of the Code of Civil Procedure can be expressed using the means described at point (b) above.

For more details see point (b).

Article 25 1(e) Persons or professions, obliged to accept service of documents or other written communications by electronic means

Following the introduction of Section 31a(1), first sentence, of the Federal Code governing the Legal Profession ('BRAO'), the Federal Bar is required to set up a special electronic mailbox for every lawyer in Germany. One of the goals of this Section 31a is to ensure that every lawyer in Germany can be reached through electronic channels. The special electronic mailbox for lawyers was set up on 28 November 2016.

However, there is not at present any obligation to use it. Rather, Section 31 of the Regulation governing the Lawyers' Directory and Mailbox (*Rechtsanwaltsverzeichnis- und -postfachverordnung*) provides that, up to 31 December 2017 inclusive, information received via the special electronic mailbox for lawyers must be taken into account only if the mailbox owner has agreed to its use in advance. This period of voluntary use is intended to give lawyers the opportunity to phase the new technology in and to ensure that the mailbox is operating smoothly prior to making its use obligatory. With effect from 1 January 2018, a new paragraph 6 is to be added to Section 31a BRAO, requiring all lawyers to take due cognisance of information sent to their special lawyer's electronic mailbox. A legislative amendment to that effect is included in the Bill to implement the Directive on the recognition of professional qualifications and to amend other provisions on the legal professions (ref. Bundestagsdrucksache 18/9521, pp. 9 and 107 et seq.).

This area is also governed by Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).

Article 25 1 (f) Court fees and the methods of payment

The court fees for the European small claims procedure are subject to the Court Costs Act ('GKG').

The court fees are charged by the court by way of a court fees invoice (*Gerichtskostenrechnung*). The fees fall due when the application commencing proceedings is lodged, although the proceedings may continue even if payment is not made.

Besides the applicant, anyone on whom such liability is imposed by the court, or anyone who assumes liability as part of a settlement, is also liable for the court fees.

The specific fees are laid down in a cost schedule annexed to the Court Costs Act ('KV-GKG'). Number 1210 KV-GKG sets a fee rate of 3.0 fee units for the European small claims procedure. In the event of early termination of the proceedings, the fee rate is reduced to 1.0 unit (number 1211 KV-GKG).

The fee is set in accordance with the amount at issue in the case, normally the same as the amount of the claim. If, in addition to the principal claim, ancillary claims (interest or costs) are also involved, the amount of the ancillary claims is not taken into account.

The following fees apply:

Amount up to €	Rate 3.0 €	Rate 1.0 €
500.00	105.00	35.00
1 000.00	159.00	53.00
1 500.00	213.00	71.00
2 000.00	267.00	89.00
3 000.00	324.00	108.00
4 000.00	381.00	127.00
5 000.00	438.00	146.00

Besides the fees, any expenses such as for witnesses, experts or interpreters are also due.

Payment can be made by bank transfer. Bank details are communicated with the request for payment issued by the court cashier's office.

Article 25 1 (g) Appeal procedure and courts competent for an appeal

An ordinary appeal (*Berufung*) can be brought against judgments given at first instance in accordance with the rules laid down in the Code of Civil Procedure, in particular Sections 511 et seq. thereof. Such appeals must be brought within one month; the period runs from the date of service of the full judgment. The court with jurisdiction to hear appeals against judgments in the European small claims procedure is the regional court (*Landgericht*) determined by the rules on territorial jurisdiction.

A ruling on appeal handed down by a regional court may be challenged on points of law, if allowed by the regional court in question. Such an appeal on points of law (*Revision*) must be allowed pursuant to Section 543(2) of the Code of Civil Procedure if the case is of fundamental significance or if such an appeal is required in order to develop the law or to ensure consistent case law.

Article 25 1 (h) Review of the judgment procedure and courts competent to conduct such a review

Pursuant to Section 1104(1) of the Code of Civil Procedure, if the requirements laid down in Article 18 are met, and upon application being made, the proceedings are continued and returned to the stage they were at before the judgment was handed down. The competent court is the one that heard the original proceedings.

Article 25 1 (i) Accepted languages

Only the German language may be used. In the homeland districts of the Sorbian population, Sorbs have the right to speak Sorbian in court.

Article 25 1 (j) Authorities competent for enforcement

For information on the authorities competent for enforcement see the summary at '[Proceedings for enforcing a judgment](#)'. The court with jurisdiction for decisions under Article 23 is the court responsible for hearing the main proceedings.

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Last update: 28/11/2018