

# An Overview of Dispute Resolution in Austria

Austria's justice system is known internationally for its robust rule of law and for the vital work of the Vienna International Arbitration Centre. Below, attorney Michael Ibesich provides a useful summary of the Austrian court system, delving into what makes the country's ADR offerings unique.

## Can you give a short overview on the Austrian civil court system? Which courts have jurisdiction?

As a rule, there are three instances in civil proceedings, and sometimes only two.

Civil proceedings are initiated before a district court or a regional court. This depends on the amount in dispute or the subject matter of the dispute. In general, district courts have jurisdictions in matters with an amount in dispute of up to €15,000. Furthermore, for example, in tenancy or family law issues, district courts have jurisdiction regardless of the amount in dispute.

If the amount in dispute exceeds €15,000, the regional courts have first-instance jurisdiction. They also have jurisdiction in special matters (such as public liability cases). The regional courts are not only a court of first instance but also have jurisdiction over appeals against decisions of the district courts. An appeal to the Supreme Court is possible against the appeal court's decision if a legal question of fundamental importance is concerned.

Appeals against decisions of the regional

*Arbitration plays a very important role in Austria, not least through the VIAC (Vienna International Arbitration Centre), one of the most recognised arbitration institutions.*

courts (in the first instance) are to be made to the Higher Regional Courts. The final appeal goes to the Supreme Court.

In Vienna alone, there are special courts for commercial matters: the Commercial District Court and the Commercial Regional Court. There are also special labour courts. Outside of Vienna, the district courts operate as commercial courts. In cartel matters the Vienna Higher Regional Court, as the cartel court, decides in the first instance. Appeals go

to the Supreme Court (as second and last instance).

## Who decides the outcome? Are jurors involved?

As a rule, a single judge decides in the first instance. In appeal cases, there is a panel of usually three judges. Deviating from this, in some proceedings expert and informed lay judges decide together with professional judges. This is the case, for example, in labour law cases or in antitrust law cases.

## What time and costs can generally be expected?

A typical civil dispute begins with the filing of the complaint with the competent court. The court reviews the complaint and then serves it to the defendant. If the dispute is one for which a regional court has jurisdiction in the first instance, the defendant has four weeks to respond to the complaint in writing. In the case of disputes before the district court, the first hearing is announced immediately. In cases in front of the regional court, the first hearing takes place after the

**Michael Ibesich** has been working as an independent lawyer in Vienna since 2020. He graduated in law from the University of Vienna with a stay abroad in London. After completing his court practice, he worked for several renowned Viennese law firms. Michael Ibesich represents clients in all phases of civil, administrative, and criminal proceedings.



[www.ibesich.at](http://www.ibesich.at)

**IBESICH** is a full-service law firm located in Vienna, Austria that serves private individuals, companies, and organisations, with a strong focus on dispute resolution and white-collar crime.

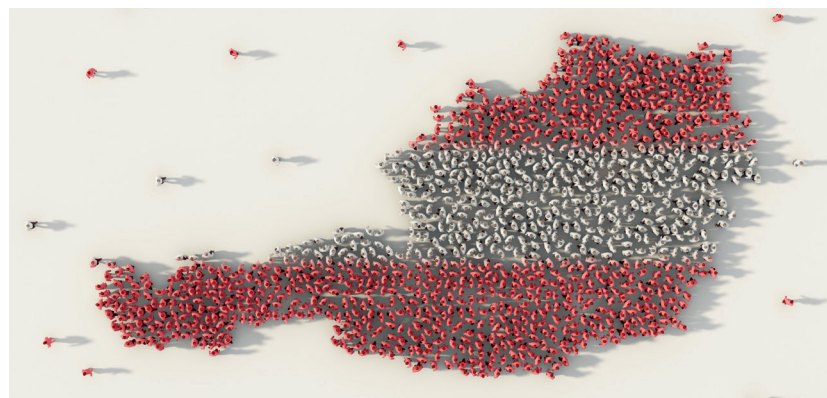
### Contact

Michael Ibesich, Attorney-at-Law, IBESICH  
Josefstädter Straße 11, 1st Floor, No. 16, A-1080 Vienna  
Tel: +43 1 505 37 05-0 | Fax: +43 1 505 37 05-10 | E: [office@ibesich.at](mailto:office@ibesich.at)

defendant has submitted his or her answer. In most cases, two to three months elapse between the filing of the complaint and the first hearing.

The purpose of the first hearing is to determine the course of the proceedings and to hold settlement discussions. After that, additional hearings are held. At these hearings, the parties and requested witnesses are heard and evidence is taken. The duration of this phase depends on the scope of the legal dispute and can last from about six months to a year, or even several years in complex cases if, for example, expert opinions have to be obtained. After the conclusion of the oral proceedings, it usually takes two to six months until the written judgment is issued. The losing party then has four weeks to appeal, and the winning party has four weeks to respond to the appeal. If legal issues of fundamental importance are to be assessed, an appeal may be filed with the Supreme Court, which then decides as the third and final court.

The costs consist of court fees and attorney's fees. Court fees are based on the amount in dispute. As an example, in the case of high amounts in dispute, fees amounting to approximately 1.2% plus €4,203 of the amount in dispute can be expected in the first instance. For the



time being, each party has to bear its own attorney's fees, the amount of which it agrees with its attorney. In most cases, either the Lawyers' Fees Act is used as a guideline or an hourly rate or a lump sum is agreed upon. The court decides who has to bear the costs or in what proportion the costs are divided between the parties. As a rule, the losing party in civil proceedings must reimburse the opponent for the legal fees incurred in accordance with the Lawyers' Fees Act.

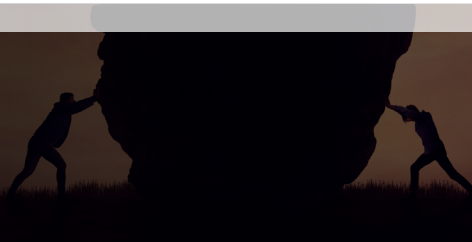
### Is there a class action option in Austria?

The Austrian Code of Civil Procedure (Zivilprozessordnung, ZPO) does not

provide for class actions. However, the Supreme Court has ruled that a so-called "Austrian-style class action" should be possible. Accordingly, a joint assertion of several claims by different claimants by way of assignment by a plaintiff is possible if there is essentially the same cause of action.

### What alternatives to litigation exist? Is arbitration possible?

When considering alternatives to litigation, arbitration might be an option. The Austrian Code of Civil Procedure (Zivilprozessordnung, ZPO) contains provisions for arbitration. The rules



substantially, with certain exceptions, reflect the UNCITRAL Model Law on International Commercial Arbitration.

An arbitration agreement must be concluded in writing. The formal requirements are found in the ZPO. Special provisions must be observed in the case of employees and consumers.

Arbitration plays a very important role in Austria, not least through the VIAC (Vienna International Arbitration Centre), one of the most recognised arbitration institutions.

### **Are there other common forms of Alternative Dispute Resolution (ADR) in Austria?**

There are various types of alternative dispute resolution in Austria, such as arbitration, mediation (e.g. in family law matters) or conciliation boards (e.g. in housing matters). Mediation is regulated by the Civil Law Mediation Act (Zivilrechts-Mediations-Gesetz, ZivMediatG).

In typical civil proceedings, however, ADR is not too prevalent in Austria. Unlike in other jurisdictions, there are no general requirements for mandatory settlements, and parties are generally not required to consider alternative dispute resolution before filing a lawsuit (exceptions may be found in neighbourhood law and tenancy law or in provisions related to apprenticeship contracts). As mentioned above, settlement negotiations are conducted in the first hearing, which are also supported by the judge. With respect

*“Unlike in other jurisdictions, there are no general requirements for mandatory settlements, and parties are generally not required to consider alternative dispute resolution before filing a lawsuit.”*

to mediation, it is important to note that an agreement reached in mediation is binding but not directly enforceable in court.

### **What are the advantages of resolving disputes in Austria compared to other European and non-European countries?**

In contrast to some other European countries, the Austrian judiciary is considered to be quite fast. Of course, this depends on the individual case, but on average, the duration of proceedings can be predicted well.

As far as arbitration is concerned, the VIAC is one of the leading arbitration institutions in Europe, as already

mentioned, and Vienna now has a long history as an arbitration location. The advantage of an arbitral award – as opposed to a state court judgment – is that it is enforceable virtually worldwide. Another advantage is that an arbitration court usually makes a decision quickly and the costs can also be calculated very well in advance. This means that the cost risk of a legal dispute can be easily estimated. The advantage of speed is primarily due to the fact that appeals against arbitration court decisions are only possible in exceptional cases. This can be both a disadvantage and an advantage compared to state courts, where there is always at least a second instance that can, for example, correct legal errors made by the first instance.

### **Other than knowledge of the law, what (if any) specialist technical knowledge is required to act for clients? Please elaborate.**

In addition to pure legal knowledge, it is an advantage if the lawyer is well versed in the respective subject matter. A good network is also important in order to be able to call on other specialists such as tax experts, notaries, forensic experts or detectives, if necessary. Thanks to my experience and my network, I am happy to be able to offer this to my clients.

# IBESICH