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National specialised courts

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Austria

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The following section is about specialised courts in civil and criminal matters in Austria.

Specialised courts

In principle, any ordinary court handles all civil and criminal justice matters that are assigned to its organisational level (District Court (*Bezirksgericht*) or Court of first or second instance).

The largest Austrian cities also have specialised courts:

- there are five in Vienna, namely the Vienna Regional Criminal Court (*Landesgericht für Strafsachen Wien*), the Vienna Regional Civil Court (*Landesgericht für Zivilrechtssachen Wien*), the Vienna Labour and Social Court (*Arbeits- und Sozialgericht Wien*), the Vienna Commercial Court (*Handelsgericht Wien*) and the Vienna District Court for Commercial Matters (*Bezirksgericht für Handelssachen Wien*); and
- two in Graz: the Graz Regional Criminal Court (*Landesgericht für Strafsachen Graz*) and the Graz Regional Civil Court (*Landesgericht für Zivilrechtssachen Graz*).

Employment cases essentially consist of civil disputes over employment relationships, as defined in Section 50 of the Labour and Social Courts Act (*Arbeits- und Sozialgerichtsgesetz (ASGG)*). They are governed by their own rules of procedure, which are similar to those of civil cases but with some special rules added.

Employment cases are brought at first instance before the Regional Courts or, in Vienna, before the Labour and Social Court; at second instance, before the Higher Regional Courts (*Oberlandsgerichte*) and at last instance before the Supreme Court (*Oberster Gerichtshof*). Decisions are taken by divisions (*Senate*) of the appropriate court, which are made up of one or more professional judges (*Berufsrichter(innen)*) and two lay assessors (*Laienrichter(innen)*), one supplied by employers' organisations and one by employees' organisations.

The appeals procedure in employment cases is similar to the appeals procedure in civil cases, but there are fewer restrictions on appeals. For example, an appeal on a point of law (*Revision*) may be brought before the Supreme Court without regard to the value in dispute, provided the question of law at issue is of considerable importance.

Commercial cases essentially consist of civil cases that involve a trader, as defined in Section 51 of the Law on Court Jurisdiction (*Jurisdiktionsnorm*). They are subject to the ordinary civil procedure, with few special rules. When a commercial case is heard by a division in a court of first or second instance, a lay assessor representing traders joins the division. (This is not the case in the Supreme Court.)

Cartel cases, as defined in the Cartel Act (*Kartellgesetz*), are brought before the Higher Regional Court in Vienna, which acts as the Cartel Court (*Kartellgericht*) of first instance. It has jurisdiction over the entire country. Appeals against the judgments of the Cartel Court are brought in second and last instance before the Supreme Court, which acts as the Higher Cartel Court (*Kartellobergericht*). Decisions are taken by divisions, which in both instances are made up of one or more professional judges and two qualified lay assessors. The Austrian Federal Economic Chamber (*Wirtschaftskammer Österreich*) and – save for a few exceptions – the Federal Chamber for Workers and Employees (*Bundeskammer für Arbeiter und Angestellte*) each select a lay assessor.

In non-contentious proceedings (*Verfahren außer Streitsachen*), courts decide on certain matters of private law which have special characteristics (generally settlements, questions of legal custody, and other cases where there are not typically two parties with opposing interests). These follow a similar procedure to that of voluntary jurisdiction.

The vast majority of such cases are first decided by the District Courts, in second instance by the Regional Courts and in the last instance by the Supreme Court. In the first instance, cases are decided by a single judge (*Einzelrichter(in)*) or by a specially qualified judicial official (*Rechtspfleger(in)*). In the second and third instances, they are decided by divisions of three or five professional judges.

The appeals procedure in non-contentious proceedings is also similar to that in civil cases. In view of the special nature of the proceedings, however, there are fewer restrictions on appeals. There is also limited scope for bringing forward new matter at second instance, going beyond the arguments and submissions put forward by the applicant at first instance.

Because of the many different kinds of cases dealt with in non-contentious proceedings, there is often a wide variety of special rules governing particular areas.

Administrative courts

Austria has the following administrative courts:

- nine provincial administrative courts (*Landesverwaltungsgerichte*), one in each province;
- two federal administrative courts: the Federal Administrative Court (*Bundesverwaltungsgericht*) and the Federal Fiscal Court (*Bundesfinanzgericht*);
- the Supreme Administrative Court (*Verwaltungsgerichtshof*).

The administrative courts decide on, in particular, appeals against judgments and procedure-free administrative acts by administrative bodies, as well as on complaints against administrative authorities' failure to act within an established deadline (*Säumnisbeschwerden*).

The Federal Fiscal Court decides on appeals cases involving public taxes and charges (with a few exceptions) and criminal tax law, provided that these matters are handled directly by the federal fiscal or tax authorities. The Federal Administrative Court primarily decides on appeals against judgments that were otherwise issued by federal authorities in the context of direct federal administration. Otherwise, it is usually the Provincial Administrative Courts that decide on administrative appeal cases.

Judgments of the administrative courts may, under certain circumstances, be appealed before the Supreme Administrative Court. The Constitutional Court (*Verfassungsgerichtshof*) may be called upon in cases involving constitutional violation, especially violations of fundamental rights.

Other specialised courts

Constitutional Court (*Verfassungsgerichtshof*)

Along with the Supreme Court and the Supreme Administrative Court, the Constitutional Court is Austria's third high court. Like the two other high courts, the Constitutional Court is based in Vienna and has jurisdiction over the entire country.

The primary task of the Constitutional Court is to check compliance with the constitution. This also includes fundamental rights. It is specifically called upon to examine, upon request, the constitutionality of the following laws, regulations and judgments:

- federal and provincial laws;
- regulations issued by administrative bodies;
- judgments of the administrative courts.

If necessary, the court can strike such measures down.

Unlike other courts, the Constitutional Court does not have professional judges, but rather judges *honoris causa* (*Honoratiorenrichter(innen)*). These must be exceptional individuals who have already had a successful legal career in another function. Most of them exercise their office on a part-time basis and may continue to practise their previous profession (e.g. as judges or university professors, though not as civil servants – in this case they must be released from their official duties). The Constitutional Court convenes only for ‘sessions’, which are usually held four times per year.

Legal databases

The Austrian Justice homepage (link [here](#)) provides general information on the Austrian judicial system.

Is access to the database free of charge?

Yes.

Related links

[Jurisdiction of the courts – Austria](#)

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