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National specialised courts

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Germany



Germany

This section provides information about the specialised courts system in Germany.

Specialised courts

Labour courts

Labour courts deal with labour law disputes arising from contractual relationships between employees and employers (individual labour law). They also deal with disputes between parties to a collective agreement, such as those involving trade unions and employers' associations (collective labour law), or between an employer and a works council.

The labour courts (as courts of the *Länder*) are courts of first instance. Cases are heard in chambers by one presiding professional judge and two lay judges (one of whom is appointed from the employee's area and the other from that of the employer). Certain decisions that are not part of the oral proceedings are taken by the presiding judge without the involvement of the lay judges.

Higher labour courts (*Landesarbeitsgerichte*, which are also courts of the *Länder*) are responsible for handling appeals and complaints against labour court judgments. These court panels are also composed of one professional judge and two lay judges (one each from the employee's and the employer's area).

Decisions in the highest instance are taken by the [Federal Labour Court \(*Bundesarbeitsgericht*\)](#). The judging panels are composed of one presiding judge, two additional professional judges and two lay judges (one each from the employee's and the employer's area).

Administrative courts

Three different branches of the court system are responsible for examining administrative decisions: the general administrative courts, the social courts and the fiscal courts. A key feature of the general administrative courts and the social and fiscal courts is that they apply the principle of *ex officio* examination (*Amtsermittlung*). This means that the courts must investigate the facts of the case on their own initiative (that is, not merely at the request of either of the parties or on the basis of the evidence submitted by the parties), since the substantive truth of the judicial decision is a matter of public interest.

General administrative courts

General administrative courts have three levels of jurisdiction (instances).

1. In the first instance, the administrative courts (*Verwaltungsgerichte*).
2. In the second instance, the higher administrative courts for each *Land* (*Oberverwaltungsgericht* or *Verwaltungsgerichtshof*).
3. In the highest instance, the [Federal Administrative Court \(*Bundesverwaltungsgericht*\)](#).

The administrative courts usually have jurisdiction in the first instance. The higher administrative courts are primarily appeal tribunals; their task is to examine the decisions of the courts of first instance from a legal and factual point of view. With very few exceptions, the Federal Administrative Court is an appeal court that examines points of law only (*Revision*).

The general administrative courts are, in principle, responsible for all disputes between organs of the administration and private persons concerning the correct application of administrative laws and regulations. In lieu of the administrative courts, the ordinary courts have jurisdiction when the administration has been involved in the case not as a government entity, but as a private company. This applies for all disputes arising from such activities. Furthermore, disputes that are assigned by law to another court (such as the fiscal courts, the social courts or the ordinary courts) are exempted from general administrative jurisdiction.

Decisions of the administrative courts are taken by panels of judges. The administrative courts are usually composed of three professional judges and two lay judges. The higher administrative court tribunals are usually made up of three professional judges. The Federal Administrative Court panel usually comprises five professional judges. In the administrative courts, cases may be delegated to a judge sitting singly.

Social courts

The social courts, like the general administrative courts, have three levels encompassing an appropriate division of tasks. The social courts generally have first instance jurisdiction. The 14 higher social courts for each of the *Länder* (*Landessozialgericht*) are appeal courts; with very few exceptions, the [Federal Social Court](#) (*Bundessozialgericht*) is an appeal court that examines points of law only (*Revision*)

The social courts are primarily responsible for hearing disputes in matters relating to social security (pensions, accident and sickness insurance, and long-term care insurance), unemployment insurance, basic provision for jobseekers, and social welfare (particularly social assistance, benefits under the Asylum Seekers' Benefits Act (*Asylbewerberleistungsgesetz*) and certain issues relating to the Disabled Persons Act (*Schwerbehindertenrecht*)). The tribunal panels of the social courts are composed of one professional judge and two lay judges. The panels sitting in the higher social courts of the *Länder* and the Federal Social Court comprise three professional judges and two lay judges.

Fiscal courts

The fiscal court system consists of fiscal courts of first instance and the [Federal Finance Court](#) (*Bundesfinanzhof*), which acts as the supreme court of appeal on points of law (*Revision*). The jurisdiction of the fiscal courts mainly covers disputes on public levies, taxes and customs. The panels sitting in the fiscal courts are made up of three professional judges and two lay judges; the Federal Finance Court panel generally comprises five professional judges. In the fiscal courts, cases may be delegated to a judge sitting singly.

Other specialised courts

Federal Constitutional Court

The [Federal Constitutional Court](#) (*Bundesverfassungsgericht*) exercises jurisdiction over constitutional matters at national level. Its decisions are based on the provisions of Germany's constitution, the Basic Law (*Grundgesetz*). Most of the proceedings before the Federal Constitutional Court are constitutional complaints. These complaints are filed by citizens claiming that a judgment, government action or legislative act violates their constitutional rights. A constitutional complaint is generally admissible only after recourse through all other competent courts has been exhausted (that is, against decisions in the highest instance). Only in exceptional cases is it possible to bring a constitutional complaint directly against a legislative act.

There are several other types of proceedings. These include, in particular, the abstract and specific judicial review of the constitutionality of a law, and procedures to examine whether constitutional authorities have exceeded their mandate. Certain decisions of the Federal Constitutional Court can acquire the force of law. The court consists of two divisions (*Senate*), composed in each case of eight members. The court decides in chambers, each of which is composed of three judges, or by a division, mostly without oral hearings.

Regional constitutional courts (*Landesverfassungsgerichte/Staatsgerichtshöfe*)

Regional constitutional courts are constitutional courts of the respective *Länder*. They mainly settle constitutional disputes regarding *Land* law (*Landesrecht*), which also governs their practical composition, administrative procedures and scope of competence.

Related links

[Federal Labour Court](#)

[Federal Administrative Court](#)

[Federal Social Court](#)

[Federal Finance Court](#)

[Federal Constitutional Court](#)

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