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## National ordinary courts

Německo

This section provides you with information on the organisation of ordinary courts in Germany.

### Ordinary courts - introduction

#### Jurisdiction in civil matters

**Local courts** (*Amtsgerichte*) as courts of first instance deal with civil cases – mainly those where the value of the claim is up to €5 000. They also deal with some cases, such as rental disputes and family and maintenance matters, irrespective of the value of the claim.

Cases in local courts are heard by a single judge.

**Regional courts** (*Landgerichte*) as courts of first instance deal with all civil cases which do not fall within the jurisdiction of local courts. These are usually disputes where the value of the claim is more than €5 000.

In principle, cases before regional courts are also heard by a single judge. However, complex cases and cases of fundamental importance are decided on by a chamber made up of three professional judges.

Regional courts as courts of **second instance** deal with appeals against rulings on civil matters by local courts. Appeals are heard by a chamber usually made up of three judges.

Furthermore, **chambers dealing with commercial matters** can be established at regional courts. They examine commercial disputes at first and second instance. These chambers are composed of one presiding judge and two business people acting as lay assessors.

**Higher regional courts** (*Oberlandesgerichte*) are usually courts of second instance. In civil cases, they rule on appeals against judgments by regional courts and by local courts in family matters.

The divisions (*Senate*) of **higher regional courts** are usually made up of three professional judges. However, civil cases that present no particular difficulties and are not of fundamental importance can also be transferred to a single judge.

The highest ordinary court is the **Federal Court of Justice** (*Bundesgerichtshof*), which is the court of last resort and deals with appeals on points of law only.

The divisions of the Federal Court of Justice are made up of five professional judges.

#### Jurisdiction in criminal matters

##### Courts of first instance

**The Judiciary Act** (*Gerichtsverfassungsgesetz – GVG*) sets out the jurisdiction of the courts in criminal matters. The local court is the court of first instance in criminal matters, unless the jurisdiction of the regional court or the higher regional court is established (§ 24(1)(1) to (3) GVG). A criminal court judge rules on an offence (§ 25 GVG) if:

the matter is pursued by private prosecution

or a penalty of more than two years of imprisonment is not to be expected.

In all other cases, a court with lay assessors (*Schöffengericht*) is set up (§ 28 GVG); this is composed of one professional judge and two lay assessors.

This court deals with crimes of intermediate gravity for which the local court has jurisdiction (§ 24(1) GVG), unless they have been transferred to a criminal court judge (§ 25 GVG). These are cases where the expected penalty is imprisonment for two to four years. The court can be enlarged at the request of the public prosecutor's office (§ 29(2) GVG) if the public prosecutor's office and the court consider that there is a need to involve a second judge because of the scope of the case.

The jurisdiction of the **regional court** is governed by § 74(1) GVG. This states that the regional court deals with all crimes which do not fall within the jurisdiction of the local court or the higher regional court, i.e. where a longer term of imprisonment is expected.

The German Criminal Code (*Strafgesetzbuch*) distinguishes between an offence (*Vergehen*) and a crime (*Verbrechen*). A crime is an act for which the law lays down a minimum penalty of one year of imprisonment. Crimes are therefore more serious than offences.

The regional court deals with all criminal acts where the expected penalty exceeds four years of imprisonment (§ 74(1), first part of second sentence, GVG). It also has jurisdiction if the public prosecutor's office decides to bring a case before the regional court because of its particular significance, even though the local court would normally have jurisdiction.

Criminal cases in the regional court are heard at first instance by the large criminal division (*Große Strafkammer*), which is generally composed of three judges and two lay assessors. Under § 76(2) GVG, a large criminal division can decide at the opening of a trial or when the date of a trial is fixed that the case will be heard by two judges and two lay assessors only.

The **higher regional court** has jurisdiction at first instance for the criminal acts listed in § 120(1) and (2) GVG, most of which involve a threat to the security or existence of the Federal Republic of Germany. The criminal division (*Strafsenat*) of the Federal Court of Justice may be composed of five judges, including the presiding judge. However, when the trial opens, it may decide that the case can be heard by three judges, including the presiding judge, unless the scope or complexity of the case makes the involvement of two further judges necessary (§ 122(2), first and second sentences, GVG).

##### Appeals

The **regional court** hears appeals against judgments of the local court (§ 312 of the Code of Criminal Procedure [*Strafprozessordnung*, StPO]), where the appeal is heard by the 'small criminal division' (*Kleine Strafkammer*) (§ 76(1) GVG), composed of one professional judge and two lay assessors. In the case of appeals against a judgment by an enlarged court with lay assessors, a second professional judge is brought in (§ 76(6) GVG). In addition, under § 335 StPO, it is possible to challenge a judgment on a point of law rather than by ordinary appeal ('leap frog appeal', *Sprungrevision*).

An **appeal on a point of law** (*Revision*) can be lodged against any judgment of the regional court or the higher regional court at first instance (§ 333 StPO).

The Federal Court of Justice is the court of appeal (*Revisionsinstanz*) for all rulings of the higher regional court and the large criminal divisions of the regional court (§ 135(1) GVG). The divisions of the Federal Court of Justice rule on appeals with five professional judges, including the presiding judge. Appeals against (other) judgments of the regional court are decided by the higher regional court.

##### Related links

[Federal Court of Justice](#)

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