



Austria

Specialised courts - Austria

This section provides you with information on the organisation of specialised civil and criminal courts in Austria.

Specialised courts

In principle all courts deal with all types of case.

But in the largest Austrian cities certain courts are specialised:

- in Vienna there are five such courts, dealing with civil cases, criminal cases, commercial cases (two courts), and employment and social welfare cases;
- in Graz there are two, one dealing with criminal cases and the other with other cases.

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

Employment cases are brought at first instance in the regional courts (*Landesgerichte*), whose judgments may be appealed at second instance before the higher regional courts (*Oberlandsgerichte*) and ultimately at third instance before the Supreme Court (*Oberster Gerichtshof*). Decisions are taken by a division (*Senat*) of the appropriate court made up of one or more professional judges (*Berufsrichter*) and two lay assessors (*Laienrichter*), 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 substantial importance.

Commercial cases consist essentially of the civil cases to which a trader is party that are defined in Section 51 of the Code of Jurisdiction (*Jurisdiktionsnorm*); with a few exceptions, they are handled by the ordinary civil procedure. A lay assessor representing traders sits with the professional judges when the case is heard by a division of one of the courts of first or second instance, but not in the Supreme Court.

In **non-contentious proceedings** (*Verfahren außer Streitsachen*) courts have to consider matters of private law that are assigned to them in view of their special character (certain settlements, questions of legal custody, and other cases where there are not usually two parties with opposing interests).

As a general rule such cases have to be brought in the first place in the district courts (*Bezirksgerichte*), whose judgments may be appealed to the regional courts and ultimately to the Supreme Court. At first instance cases are dealt with by a judge sitting alone, or by magistrates known as *Rechtspfleger*, who are specially qualified officials; at second and third instance they are considered 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 some scope for bringing forward new matter on appeal, going beyond the arguments and submissions put forward by the applicant at first instance.

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

Administrative courts

Since 1 January 2014 the decisions of administrative bodies are no longer open to appeal within the administrative structure. They may be challenged by bringing a complaint (*Beschwerde*) before the regional or federal administrative court. The administrative

court decides the case itself, rather than referring it back to the authority that took the contested decision. Judgments of the administrative courts may under certain circumstances be appealed on a point of law to the High Court of Administration (*Verwaltungsgerichtshof*).

Other specialised courts

Special position

The Constitutional Court and the High Court of Administration hold a special position within Austria's judicial system: they are known as the 'courts of public law' (*Gerichtshöfe des öffentlichen Rechts*). They are independent courts, but they — and the administrative courts introduced on 1 January 2014 — are outside the sphere of responsibility of the Ministry of Justice. They are organisationally independent. Both of them are located in Vienna and have jurisdiction over the entire country.

Their jurisdiction is distinct from that of the ordinary courts. They do not rule on civil and criminal matters (not even on appeals), but have special functions in the area of public law. Since 1 January 2015, however, it is possible on certain conditions for parties to a case decided by an ordinary court to bring an application in an administrative court seeking the annulment of a statute or regulation.

The Constitutional Court

The primary task of the Constitutional Court (*Verfassungsgerichtshof*) is to check compliance with the constitution and fundamental rights. It is specifically called upon to examine the constitutionality of:

- federal and provincial laws,
- regulations (*Verordnungen*) issued by administrative bodies
- final decisions (*Bescheide*) taken by administrative bodies.

If necessary the court can strike such measures down.

Unlike the judges of other courts, the judges of the Constitutional Court are not professional judges (*Berufsrichter*) but rather judges *honoris causa* (*Honoratiorenrichter*). They are outstanding personalities who have already completed 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, who must be released from their official duties). The Constitutional Court convenes only for sessions that are usually held four times per year.

The High Court of Administration

The High Court of Administration (*Verwaltungsgerichtshof*) is called upon to **review the lawfulness of all acts of public administration**, with the exception of regulations (*Verordnungen*), which can be examined and if necessary struck down only by the Constitutional Court. The High Court of Administration rules mainly on appeals on points of law against judgments of the administrative courts.

Legal databases

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

Is access to the legal database free of charge?

Yes.

Related links

[Jurisdiction of the courts – Austria](#)

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