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### National justice systems

#### Austria

This section of the Portal provides an overview of the courts in Austria.

#### Organisation of justice - judicial system

Alongside the legislative and executive branches, the judiciary is considered to be the third pillar of government in a country under the rule of law. The judiciary ensures that laws are enforced, together with the executive branch. The judicial system is kept separate from the executive at all levels. The courts are State institutions established by law and are made up of independent and impartial judges who cannot be removed or transferred from office and who make their decisions on the basis of the law only, subject to a formal procedure and free from outside influences.

The judicial system consists of the **ordinary courts** (*ordentliche Gerichte*) that adjudicate on civil-law claims and on criminal charges, administrative courts (*Verwaltungsgerichte*) and the Constitutional Court (*Verfassungsgerichtshof*). The ordinary courts include the district and regional courts (*Bezirks- und Landesgerichte*), higher regional courts (*Oberlandesgerichte*), and the Supreme Court (*Oberster Gerichtshof*) for final appeals in civil and criminal cases. Each province has an administrative court. In addition, there is a Federal Administrative Court (*Bundesverwaltungsgericht*) in Vienna with federal jurisdiction (and offices in Graz, Linz and Innsbruck) and a Federal Fiscal Court (*Bundesfinanzgericht*). The Supreme Administrative Court (*Verwaltungsgerichtshof*) hears final appeals from the Administrative Courts.

**Public prosecutor's offices** (*Staatsanwaltschaften*) are special bodies that are separate from the courts. Their main task is to represent the public interest in the administration of criminal justice. They direct the preliminary investigation in criminal proceedings, bring charges and conduct the prosecution. Public prosecutors are regarded as forming part of the ordinary court system, but are subject to the instructions of their superiors. At the top of the instructions hierarchy is the Minister for Justice, who must answer to Parliament when carrying out their duties. Instructions must be reasoned and issued in written form, as they will be included in the file. **Prisons** (*Justizanstalten*) are responsible for the enforcement of custodial sentences and other orders for detention. They are responsible for pre-trial detention, enforcement of custodial sentences and any orders for preventive detention (*Maßnahmenvollzug*). Prisons may take the form of regional facilities for pre-trial detention (*Landesgerichtliche Gefangenenhäuser*), correctional centres for enforcing custodial sentences (*Strafvollzugsanstalten für den Vollzug von Freiheitsstrafen*) or secure psychiatric centres (*Forensisch Therapeutische Zentren*) for enforcing orders for preventive detention. Correctional centres include special correctional centres (*Sonderanstalten*) for adolescents, and for women. The principle behind the modern correctional centre is to deprive the inmates of liberty but with the aim of helping them to become law-abiding citizens capable of adapting to the needs of life in a community, and to prevent them from giving in to criminal leanings (social rehabilitation). In addition, the centre should help them understand why the behaviour leading to their sentence was socially unacceptable.

**Probationary services** (*Bewährungshilfeeinrichtungen*) take care of persons with conditional sentences and prisoners released on probation. For the most part, these tasks have been transferred to private associations, which, nevertheless, are under the supervision of the Federal Ministry of Justice. Strictly speaking, the judiciary in Austria is made up of the ordinary courts, public prosecutors, prisons and probationary services. The Federal Minister for Justice heads the judicial system as the supreme authority. They are in charge of the **Federal Ministry of Justice**. The Federal Minister for Justice is a member of the federal government, and is in charge of political management and coordination in the ministry and the overall supervision of all the associated bodies and departments.

#### The ordinary courts can be divided into several levels:

District courts (*Bezirksgerichte*)

Regional courts (*Landesgerichte*), also known as courts of first instance (*Gerichtshöfe erster Instanz*)

Higher regional courts (*Oberlandesgerichte*), also known as courts of second instance (*Gerichtshöfe zweiter Instanz*)

The Supreme Court (*Oberster Gerichtshof*)

#### Legal databases

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

#### Is access to the database free of charge?

Yes, access to the [Austrian Justice Portal](#) is **free of charge**.

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