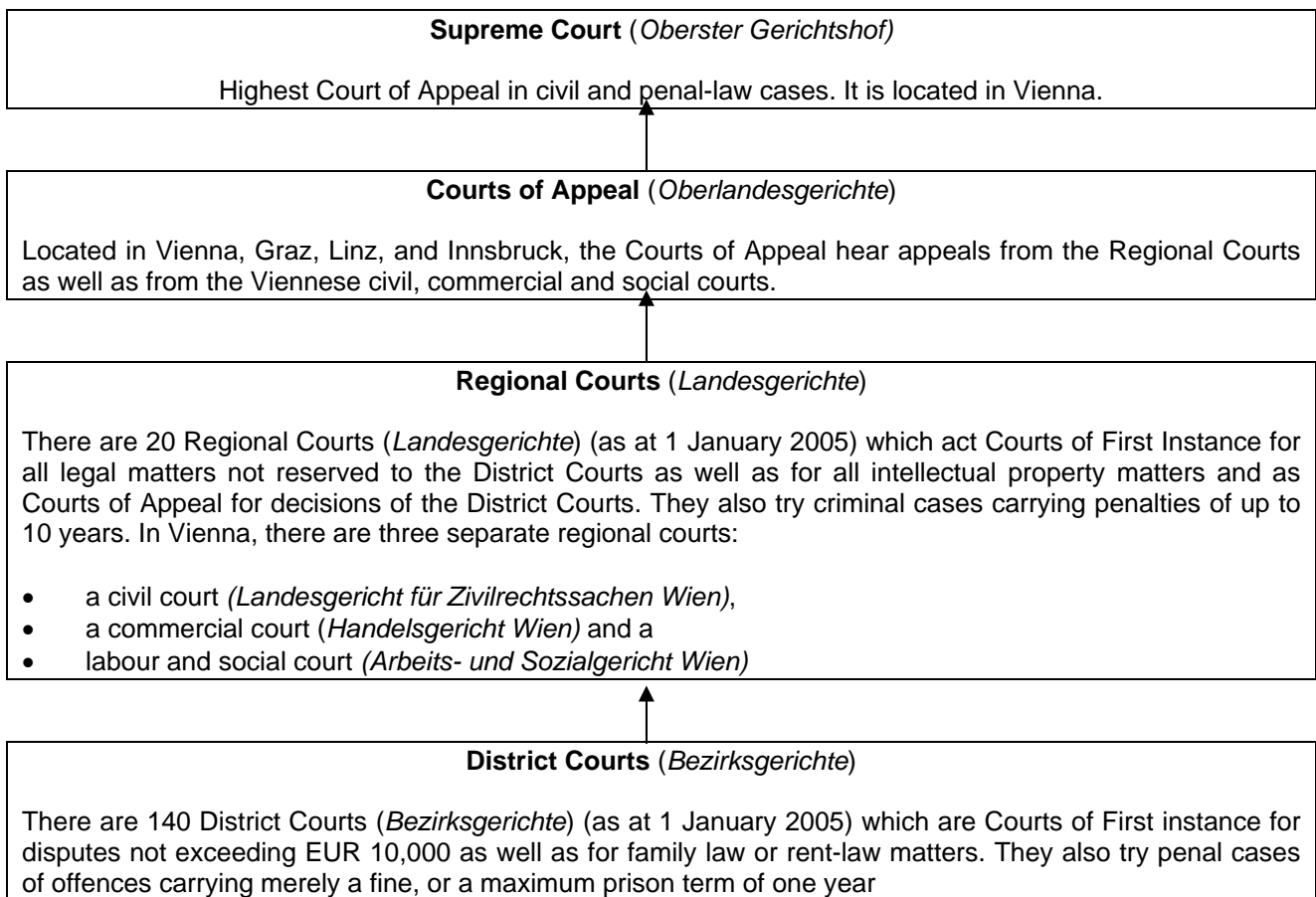


THE AUSTRIAN JUDICIAL SYSTEM

Austria is a civil law country with a legal system based on Roman law. The Austrian judiciary functions only at the federal level, and thus there is no separate court system at the provincial level. There is judicial review of legislative acts by the Constitutional Court as well as separate administrative and civil/penal supreme courts.

1. Courts of General Jurisdiction

Jurisdiction over all civil, commercial and criminal disputes lies with the “ordinary courts”, which are organised in a four-tier system:



2. The Constitutional Court (*Der Verfassungsgerichtshof*)

The Constitutional Court decides the legality of treaties and the constitutionality of laws and decrees passed at the federal, provincial, and local levels. Cases involving courts and administrative agencies of the Administrative Court and the Constitutional Court are heard in the Constitutional Court. Individuals can present cases to the court if they believe a decision of an administrative agency has violated their constitutional rights. Monetary claims against the State, provinces, administrative districts, or local communities that cannot be settled by a regular court or an administrative agency are brought to the Constitutional Court, as are claims regarding disputed elections. The Court also decides questions of impeachment and hears cases charging the President with breaking a constitutional law or cases charging members of federal or provincial governments with breaking a law.

3. The Administrative Court (*Der Verwaltungsgerichtshof*)

The Administrative Court, located in Vienna, is the court of final appeal for cases involving administrative agencies. The Court's specific purpose is to determine whether an individual's rights have been violated by

an administrative action or omission. Individuals can also appeal to this Court if an administrative agency fails to grant a decision in a case. The Administrative Court may not rule on matters that come under the competence of the Constitutional Court.

4. Special Courts

Cases outside the jurisdiction of the above courts are heard in special courts:

Labour courts

These decide civil cases concerning employment. Both employers and employees are represented in labour court hearings.

Court of Arbitration

This special court hears cases involving the *Stock and Commodity Exchange* and the *Exchange for Agricultural Products*. It is composed of members of the exchanges.

Provincial Commissions for Social Insurance

These hear social insurance cases.

Patent Court

This Court decides appeals of patent cases.

There is no right of appeal from these courts to the general courts of appeal, with the exception of claims involving constitutional rights.

5. The People's Attorney

The Office of the People's Attorney, which was created in 1977 and granted constitutional recognition in 1981, functions in a manner similar to an ombudsman's office. It is designed to assist citizens who believe that they have been improperly treated by government administration. The office can also initiate its own investigations if it suspects that particular government offices are engaged in corruption or fraud. After concluding its investigations, the office has the authority to issue binding recommendations to government offices to rectify abuses.

<http://www.ris.bka.gv.at/>

This is a legal database provided by the Austrian Federal Chancellor which allows free on-line searches of Austrian Statutes and Case law in German.

Many thanks to: Ms Charlotta Jull for the draft, and Mr Martin Adensamer, Federal Ministry of Justice, Vienna, Member of the UNIDROIT Governing Council, for the review of the draft