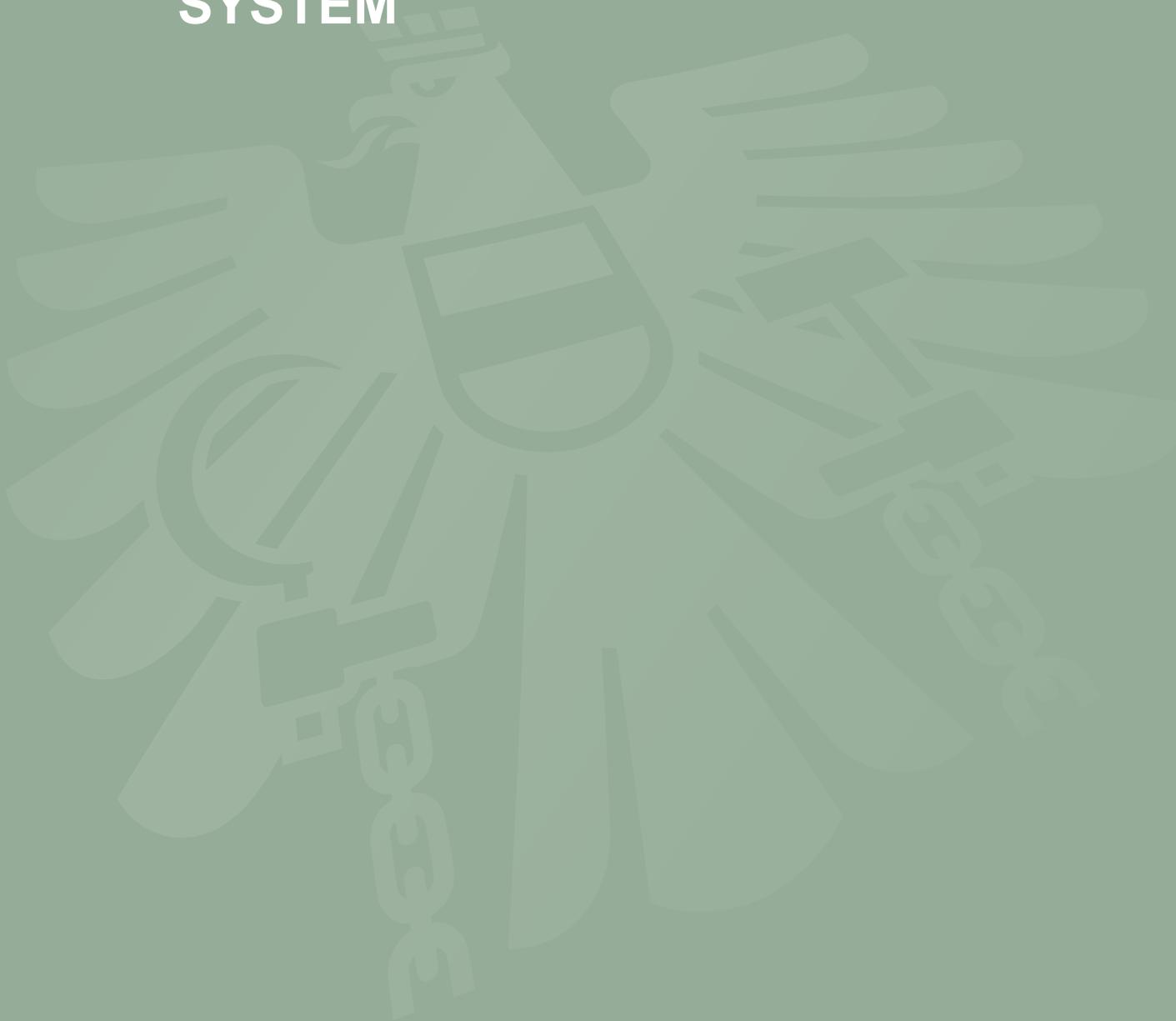




THE REPUBLIC OF AUSTRIA  
FEDERAL MINISTRY OF JUSTICE

# THE AUSTRIAN JUDICIAL SYSTEM



issued by  
The Federal Ministry of Justice, Museumstrasse 7, 1070 Vienna

# **THE AUSTRIAN JUDICIAL SYSTEM**





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A functioning and reliable judiciary is the business card of every State under the rule of law. The judiciary engenders legal certainty and legal peace in Austria, and therefore is a cornerstone of our democracy.

The judiciary is very important for each and everybody of us; it provides for our rights to be enforced, for that matter. Not only in cases of conflict, but also in everyday life, will we more frequently encounter the judicial system than we might be aware of. This happens, whenever there is a case of inheritance in the family, property has to be entered, or a guardianship for a family member has to be appointed. Therefore, it is very important to understand which tasks the judiciary is responsible for and which judicial authorities exist. So you will find the most important pieces of information about the institutions and services of our judicial system on the following pages of the brochure “The Austrian Judicial System”.

I wish that this brochure will be read by as many interested readers as possible, who will certainly benefit greatly from such reading.

A handwritten signature in blue ink, consisting of a series of fluid, connected loops and strokes, characteristic of a cursive script.

Minister of Justice Dr. Wolfgang Brandstetter

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# 1. THE REPUBLIC OF AUSTRIA

The Republic of Austria is a Federal State consisting of the nine Federal Provinces Vienna, Lower Austria, Upper Austria, Salzburg, Tyrol, Vorarlberg, Carinthia, Styria and Burgenland. The form of government is a parliamentary democracy. Austria covers an area of 83,358.3 km<sup>2</sup>. About 8.5 million people live in Austria (2013). The gross domestic product in 2013 amounted to about 323 billion euros (i.e. about 38,050 euros per inhabitant).

<b>Federal Provinces</b>	Vienna Lower Austria Upper Austria Salzburg Tyrol Vorarlberg Carinthia Styria Burgenland
<b>Government System</b>	Parliamentary Democracy
<b>Area</b>	83,358.3 km <sup>2</sup>
<b>Inhabitants *</b>	8.5 million
<b>Gross Domestic Product *</b> per Inhabitant *	323 billion euros 38.050 euros

\* Status according to Statistics Austria in March 2013

## 2. THE AUSTRIAN JUDICIAL SYSTEM

In addition to the legislative and the administrative branches, the judiciary is considered to be the third pillar in a country under the rule of law. The Federal Constitutional Act assigns the tasks of regular jurisdiction in civil and criminal matters (including prosecution in criminal matters, penal services and judicial administration) exclusively to Federal competence. For the area of administration there are administrative courts both on a Federal and on a Provincial level. The judicial system is separate on all levels from the administrative system.

Austria's judicial system includes ordinary courts, the public prosecution offices, the prisons (institutions for penal service, as well as court prisons), the probationary facilities, the Federal Cartel Prosecutor and the Supervisory Authority for Collecting Societies.

Courts are state institutions which decide in a formal procedure on civil law claims and criminal law charges. They are set up by law and managed by judges, who are independent, cannot be removed or transferred from office, and are impartial and only bound by the legal system.

The public prosecution offices are special bodies separate from the courts. They mainly safeguard the public interests in the administration of criminal justice by heading preliminary proceedings, deciding on indictments and acting as prosecutors in criminal proceedings before the courts. In exercising their function, they are independent of the courts.

Prisons are responsible for enforcing penal sentences. The probationary facilities are also part of the judicial system. They take care of persons with conditional sentences and prisoners released on probation. These tasks have mostly been transferred to private organisations, which are under the supervision of the Federal Ministry of Justice, however.

The Federal Cartel Prosecutor was established by the amended Cartel Act 2002 within the Federal Ministry of Justice, and represents public interests in matters of competition law before the Cartel Court.

On 1 October 2010, the Supervisory Authority for Collecting Societies was established as an independent agency reporting to the Federal Ministry of Justice. The Supervisory Authority for Collecting Societies shall mainly ensure that collecting societies properly fulfil their tasks and meet their obligations under the 2006 Collecting Society Act.

The judicial administration is headed by the Federal Minister of Justice; the Federal Ministry of Justice reports to the Federal Minister of Justice. The Federal Minister of Justice is one of the supreme administrative organs of the Federal State and a member of the Federal Government. He is responsible for the political management, coordination and supreme supervision of the Ministry and of all associated service units.



### 3.1. THE JUDICIARY

#### 3.1.1. Tasks

It is the task of courts and public prosecutors to enhance legal certainty and to increase satisfaction with the legal system in Austria. They perform these duties with impartiality, fairness and on a high level of quality.

A reasonable length of court proceedings and the conformity of court decisions with the law are of central significance for the protection provided by the legal system. This requires an effective organisation that can handle its tasks efficiently, a balanced distribution of the work load among the decision-makers and maintenance of a high rate of cost recovery from service revenues.

Austrian courts are primarily responsible for civil law cases (such as legal disputes over contractual claims, claims for damages, property litigation), labour and social law matters, non-litigious matters (such as inheritance cases, custody arrangements, maintenance claims of minor children), execution matters, bankruptcy and debt composition cases, as well as criminal matters.

Maintaining the land and the Company Registers, which are very important for Austria's quality as a business location, are also in the responsibility of the courts.

#### 3.1.2. Principles

##### 3.1.2.1. *The Right to a Trial before a Judge of Law*

The Austrian Federal Constitution Act (Article 83 (2) B-VG) grants every citizen the right to a trial before a judge of law. In addition to subject matter and local criteria (such as the defendant's domicile), the law determines which of the 166 Austrian courts shall have jurisdiction over a specific matter. At every competent court, the objective and material criteria of the so-called distribution of court business determines the assignment of cases to the individual judges. A panel of judges always establishes the distribution of court business one year in advance. This process prevents any third-party influence on the selection of the judge actually responsible for a specific case.

##### 3.1.2.2. *Court Decisions may be contested in Appellate Proceedings*

Ordinary courts are organised on several levels. In the exercise of his/her judicial function, a judge is independent, free from any instructions and only bound in his/her decisions by the legal system. Our laws make sure that everybody can trust the courts. As a matter of principle, every court decision may be contested. Such legal remedies are various types of appeal (e.g. ordinary appeal, recourse or nullity appeal/complaint).

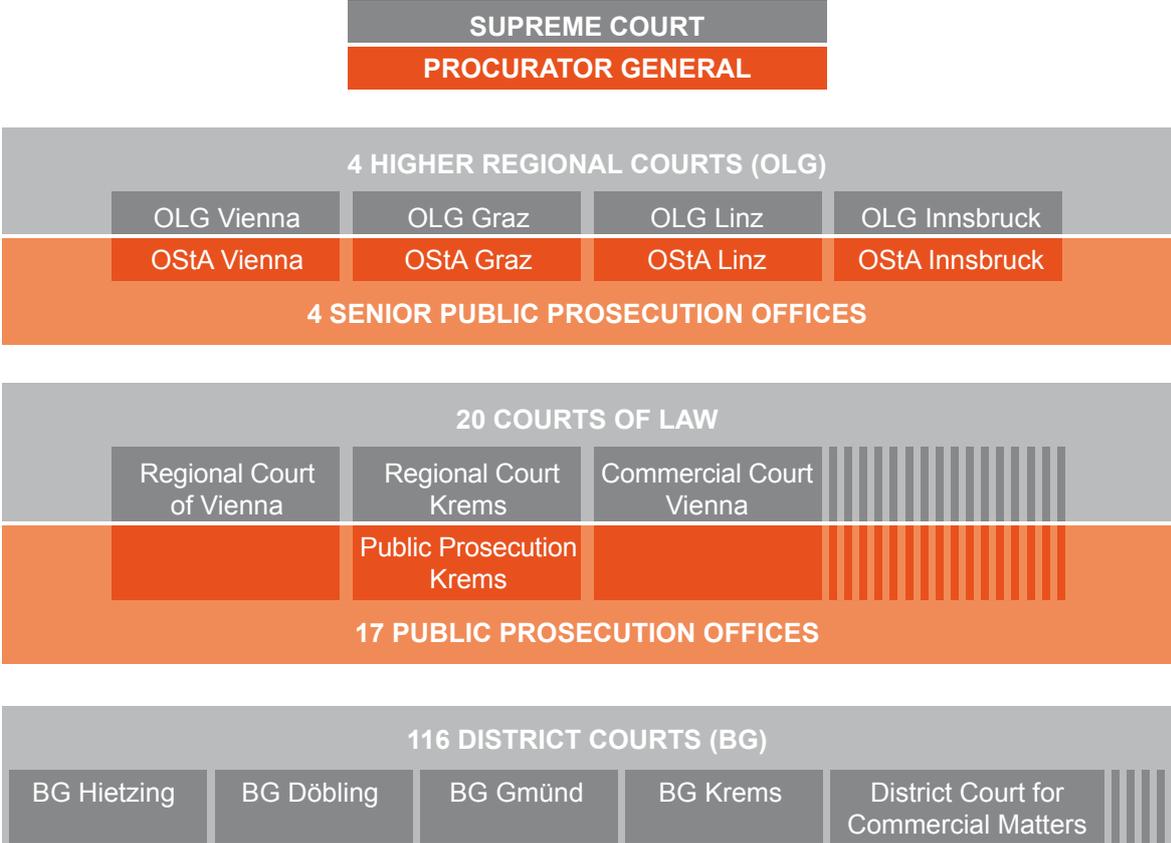
In principle, the higher court decides on legal remedies. Under certain circumstances, a further appeal in civil law cases against the ruling of an appellate court is possible to the Supreme Court. In criminal law matters, there is generally only a two-tier procedure. Whenever all legal remedies are being raised, a case may take up considerably more time, which must be accepted, however, in the interest of correct court decisions.

In addition to decisions by professional judges, Austria's Federal Constitution also provides that the population should participate in the administration of justice. In criminal proceedings, lay judges

rule on cases with maximum penalties exceeding five years. Lay juries are responsible for offences carrying a life sentence, or a prison term of minimum five years and maximum more than ten years (e.g. murder), as well as for political offences (e.g. offences under the Prohibition Statute banning National Socialist activities). In civil law cases, lay judges are active in labour and social law matters, as well as in commercial law disputes; they form panels with professional judges and take joint decisions.

**3.1.3. Courts and Public Prosecution Offices – Structure and Organisation**

**COURT ORGANISATION**



Regular courts are organised on four levels. At present (01 July 2014), 116 district courts, 20 regional courts, four higher regional courts of appeal and the Supreme Court are responsible for adjudicating legal cases, 17 public prosecution offices, four senior public prosecution offices and the Procurator General's Office take care of public interests. 27 prisons are in charge of enforcing penal sentences.

#### **3.1.4. District Courts**

District courts are the first instance to decide civil law cases with a maximum amount in dispute of 15,000 euros, as well as to rule on certain types of cases (irrespective of the amount in dispute, mainly family and rent law cases). In addition, the district courts rule on criminal law matters in case of minor offences carrying merely a fine or a maximum prison term of one year (e.g. physical injury by negligence, theft).

#### **3.1.5. Regional Courts (Courts of First Instance)**

Regional courts (courts of first-instance) are responsible for first-instance rulings on all legal matters not assigned to district courts. In addition, they are responsible to rule on appeals against district court decisions as second-instance courts.

#### **3.1.6. Higher Regional Courts of Appeal (Courts of Second Instance)**

Four higher regional courts of appeal have been set up as a third organisational level. They are located in Vienna (covering Vienna, Lower Austria and Burgenland), Graz (covering Styria and Carinthia), Linz (covering Upper Austria and Salzburg), as well as Innsbruck (covering Tyrol and Vorarlberg). These courts of second instance are appellate courts for all civil and criminal law cases. In addition, these courts play a specific role in the administration of the judicial system: presidents of higher regional courts are heads of administration for all courts in their jurisdiction. In this function, their only and immediate superior is the Federal Minister of Justice.

#### **3.1.7. The Supreme Court**

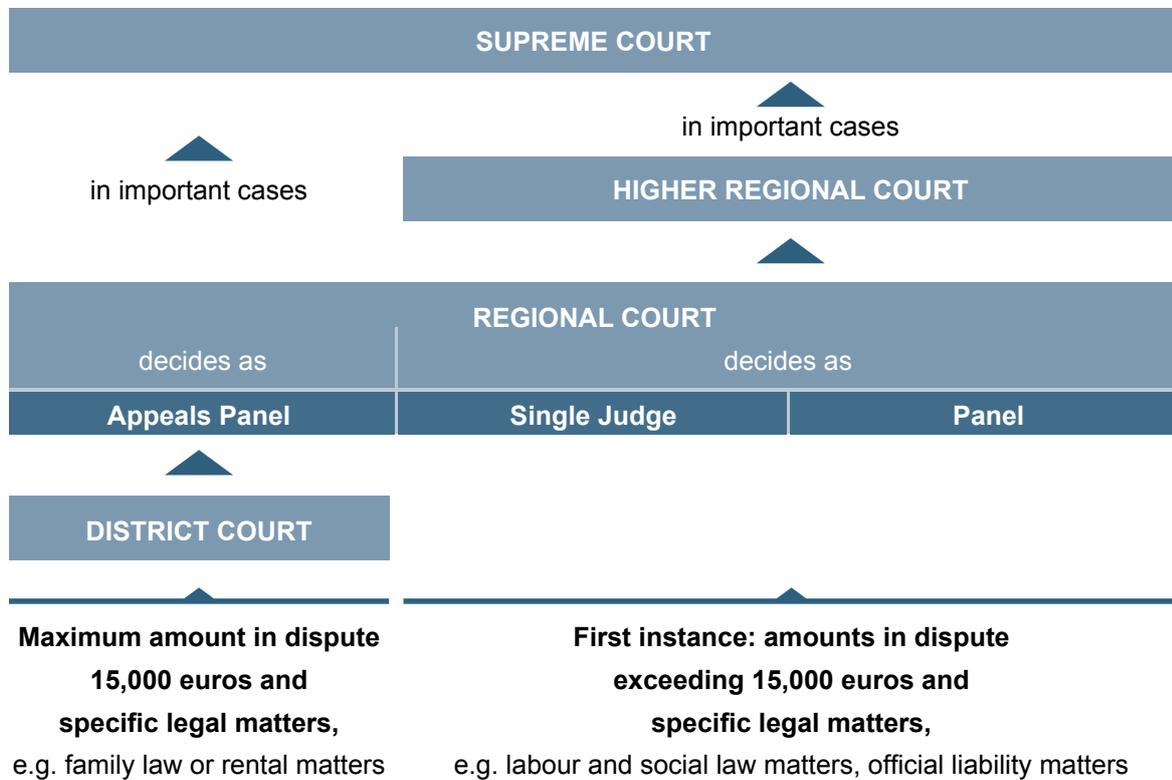
The Supreme Court in Vienna is the highest instance in civil and criminal law cases. Together with the Constitutional Court and the Administrative Court it is referred to as the “Highest Court“. This means that no further (domestic) remedy is possible against its decisions. The case law of the Supreme Court is a major contributor towards preserving the uniform application of the law throughout the national territory. Although lower courts are not legally bound by its decisions, as a rule they will be guided by the case law of the Highest Court.

#### **3.1.8. Successive Stages in Civil Law Cases**

In cases where the district courts are the courts of first instance, appeals are lodged with the higher-level regional court. There, an appeals panel will rule as second instance body. Whenever regional courts act as courts of first instance (either through a single judge or a panel), appeals against their rulings will be handled by the higher regional court of appeal as second instance.

In cases requiring a decision on legal issues of fundamental importance, a further appeal is also possible to the Supreme Court. So there are three successive stages in civil law cases.

## SUCCESSIVE STAGES IN CIVIL LAW CASES

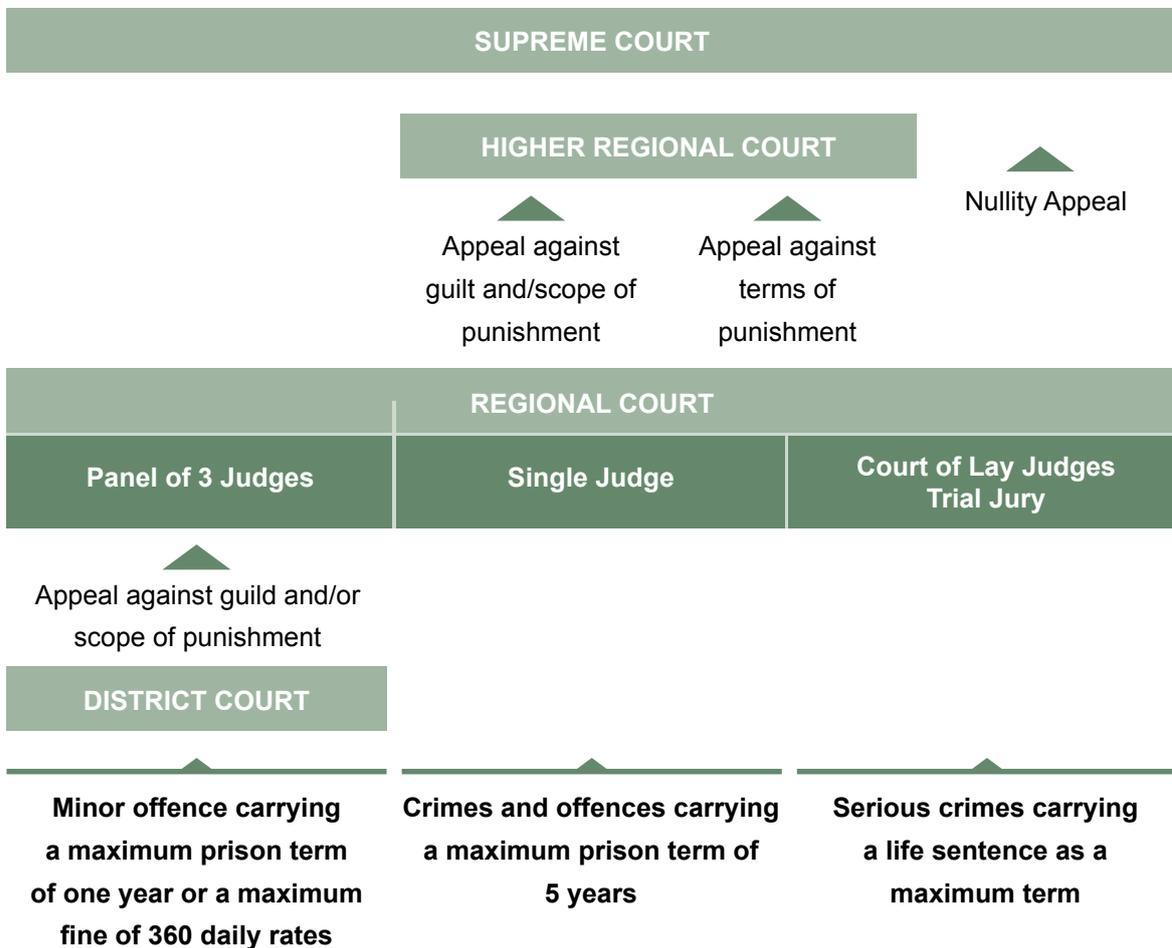


### 3.1.9. Successive Stages in Criminal Law Cases

Whenever a district court has ruled as court of first instance, a nullity appeal, an appeal against scope and terms of the punishment, or against claims under private law may be lodged with the higher-level regional court, where a panel of three judges will take a decision. Whenever a regional court through a single judge has ruled as court of first instance, i.e. on all crimes and offences carrying a maximum prison term of five years (e.g. giving false testimony in court), nullity appeals, appeals against scope and terms of the punishment or against claims under private law are assigned to the superior regional court of appeal.

Whenever a panel of lay judges or a trial jury at a regional court as court of first instance is responsible, a nullity appeal for material or formal mistakes must be lodged with the Supreme Court. If the appeal only relates to the terms of the punishment, or to a decision on claims under private law, the superordinate higher regional court will issue a ruling. So there are two successive stages in criminal law matters.

## SUCCESSIVE STAGES IN CRIMINAL LAW CASES



### 3.1.10. Courts of Enforcement

The regional court which acts in criminal matters and in whose jurisdiction the prison sentence is being enforced, will decide as court of enforcement in particular on the contribution of convicts towards the costs of penal services, on non-deduction of day-release or house arrest times from the time in prison, on maintaining certain security measures, on involuntary detention of prisoners in solitary confinement, if such confinement lasts longer than four weeks, on subsequent postponement of penal services, on the temporary abstaining from penal enforcement because of an existing entry or residence ban, and a release on parole. A complaint against the decision by the court of enforcement may be lodged with the respective higher regional court. Complaints against decisions, orders or for violating an individual right by the conduct of a prison director, as well as concerning an obligation of a prison director to make a decision, are decided upon by the court of enforcement at the higher regional court in whose jurisdiction the prison sentence is being enforced. A complaint against such decisions for unlawfulness may be lodged with the Higher Regional Court Vienna.

### **3.1.11. Public Prosecution Offices**

Public prosecution offices are special bodies separate from the courts, safeguarding the public interests in the administration of criminal justice. This primarily involves bringing in charges against persons and raising and representing indictments in criminal proceedings.

Public prosecution offices are judicial authorities, but in contrast to the courts, they are not independent. They have a hierarchical structure and are bound by instructions of senior public prosecution offices and ultimately of the Federal Minister of Justice. There are precise statutory rules for the right to issue instructions. Instructions by a senior public prosecution office or by the Federal Minister of Justice may only be issued in written form and must contain a statement of reasons. Moreover, any instruction received has to be recorded in the criminal case file. The Federal Minister of Justice bears ministerial responsibility and is thus accountable and obliged to provide information to the Parliament. The staff members of the individual public prosecution office must comply with instructions given by the office director. However, if they consider an instruction to run contrary to the law, they may demand a written order concerning the instruction and may even ask to be released from dealing with the criminal matter in question. The public prosecution offices are therefore organised in subordinate and superordinate levels. This is also necessary because – contrary to court rulings – their decisions cannot be contested by any legal remedy. Basically, the organisational levels of the prosecution offices correspond to the levels of court organisation.

A public prosecution office is set up at every regional court in charge of criminal cases. The public prosecutors of these courts are in charge of raising and presenting indictments, both before regional courts and district courts of the respective regional court district. As a rule, district prosecutors will present indictments at district courts. They are public officials with special expertise, but do not require university training.

The Austrian judiciary has been confronted over more than ten years with an increasing number of most voluminous economic criminal matters with multiple international ramifications. The increased complexities of such proceedings require new concepts and structures for achieving efficient and successful interventions by the investigative bodies. With the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (WKStA), a new prosecuting body was established on 1 September 2011, in which the necessary competence and know-how for prosecuting large-scale economic crimes and corruption are concentrated in a qualified and efficient manner.

Senior public prosecution offices are one level above public prosecution offices and have been established with the regional courts of appeal in Vienna, Graz, Linz and Innsbruck. In addition to acting for the prosecution before higher regional courts, they are also responsible for supervising all public prosecution offices in their district and report directly to the Federal Minister of Justice.

The Procurator General's Office, set up with the Supreme Court, holds a special position. The Procurator General reports directly to the Federal Minister of Justice, but does not have the right to

issue any instructions to public prosecutors or senior public prosecutors. Nor does he raise any indictments, but is in charge of supporting the Supreme Court. In order to comply with this task, he is especially authorised to lodge so-called “nullity appeals in observance of the law” in criminal matters, in which parties have no (further) possibility of appeal to the Supreme Court. He thus serves an important function in preserving the uniformity of the law, as well as in providing legal certainty in matters of criminal law.

## **3.2. PUBLIC LAW COURTS OF JUSTICE**

### **3.2.1. Special Position**

The “public law courts of justice”, i.e. the Constitutional Court and the Administrative Court, hold a special position within Austria’s judicial system. Although they are also independent courts, they are not part of the Ministry of Justice, but enjoy organisational autonomy. Both have their seat in Vienna and have nation-wide jurisdiction. They are also separate from ordinary courts with regard to their functions, as they do not rule on civil and criminal law matters (not even as appellate court), but have specific responsibilities in the public law field. The decisions of ordinary courts are therefore not subject to the supervision by the public law courts of justice; rather, the Supreme Court, as the highest instance in civil and criminal law cases, must also monitor court rulings for compliance with the Constitution.

### **3.2.2. The Constitutional Court**

The primary task of the Constitutional Court is to examine compliance with the Constitution, which also includes fundamental rights. It is particularly called upon to review constitutionality of Federal and Provincial laws, as well as to examine the lawfulness of ordinances by administrative bodies or the constitutionality of highest-instance decrees by administrative bodies, and repeal them, if necessary. Moreover, elections may also be contested with the Constitutional Court.

In contrast to the other courts, the judges at the Constitutional Court do not serve on a professional, but on an honorary basis. Only outstanding personalities who already completed a successful legal career in another function may be appointed members of the court. Most judges at the Constitutional Court exercise their office on a part-time basis and may continue to exercise their previous professions (e.g. as judges or university professors, however not as civil servants, who must be released from their official duties). The Constitutional Court only convenes for “sessions”, which are usually held four times a year.

### **3.2.3. The Administrative Court**

The Administrative Court is called upon to review the lawfulness of public administration as a whole, with the exception of ordinances, which only the Constitutional Court may examine and repeal. It mainly rules on complaints against last-instance decrees by administrative bodies. It checks these for their lawfulness and may repeal those that are deemed unlawful.

### **3.2.4. Administration Courts**

Since 1 January 2014, administration courts pursuant to Section 130 B-VG decide particularly on complaints for unlawfulness against decrees of an administrative body (complaint against a decree) or for violation of an obligation by an administrative body to decide, i.e. if such administrative body has failed to issue a decree within the statutory deadline (complaint of delay) and on complaints for unlawful exercise of power of command or power of enforcement by administrative bodies (measures complaint). By creating two levels of jurisdiction in administrative matters through the amended Administrative Jurisdiction Act 2012, BGBl. I No. 51/2012, and the Administrative Court Proceedings Act – VwGVG, BGBl. I No. 33/2013, the successive stages of appeal in administrative matters, i.e. the right to lodge a complaint against a decree issued by an administrative body with the superordinate authority, have been abolished to a large degree.

### **3.3. ARBITRAL TRIBUNALS**

Arbitral tribunals must also be distinguished from ordinary courts. They are not state agencies, but private judicial institutions. They are based on private law agreements, so-called arbitration agreements, by means of which the parties involved accept the ruling of an arbitral tribunal in a specific litigation case. The advantages of private arbitral adjudication are that the parties may nominate arbiters, that decisions can be taken by special experts, that equity-based decisions may be taken, as far as applicable and procedural law is concerned, and that such proceedings can be conducted with expediency. Arbitration plays a major role especially in commercial transactions.

The decisions of arbitral tribunals (“awards”) are binding for the parties involved. However, in case of grave procedural mistakes, a complaint to repeal an award may be lodged with ordinary courts. Furthermore, the jurisdiction of arbitral tribunals is limited to the extent that they have no powers of sanction or enforcement. In other words, arbitral tribunals cannot impose any sanctions and cannot enforce their rulings by applying coercive measures. This remains reserved exclusively to the State, i.e. the ordinary courts.

### **3.4. THE PENAL SYSTEM**

#### **3.4.1. General Comments**

The Federal Minister of Justice is also responsible for the penal system. The Federal Constitution distinguishes between the Federal responsibilities for legislation and enforcement. The primary legal basis for the penal system in Austria is the 1969 Penal Services Act. Among the general provisions based on this law, the Enforcement Regulation for prisons must be particularly highlighted.

#### **3.4.2. Prisons – Numbers and Types**

There are 27 prisons in total:

- seven prisons for men to enforce prison sentences of more than 18 months;
- one prison for juveniles;

- one prison for women;
- three institutions for involuntary forensic placement;
- 15 court prisons at the site of regional courts in charge of criminal cases.

In addition, there are a number of prisons annexes which are partly run as agricultural enterprises.

### **3.4.3. Imprisonment – Types and Purpose**

The Austrian legal system distinguishes three types of imprisonment imposed by criminal courts, namely pre-trial detention, penal service and preventive measures in connection with detention.

Pre-trial detention must be imposed if a person is urgently suspected of having committed a punishable act and if one of the reasons for detention stipulated by law (risk of absconding, risk of collusion, and risk of committing and/or perpetrating an offence) prevails. The foregoing is governed by the 1975 Code of Criminal Procedure.

The Penal Services Act governs any penal service imposed by a court. According to Section 20 of that Act, serving a prison sentence is intended to assist the convicted person to regain a righteous attitude towards life that is adapted to the needs of living in a community, as well as to prevent him/her from following criminal inclinations. Moreover, the enforcement of a sentence is to demonstrate the negative value of the conduct underlying the conviction.

The Criminal Code distinguishes two types of punishments: imprisonment and fines. Punishment is a reaction to a preceding culpable conduct of the person convicted. In addition, the Criminal Code provides for preventive measures in connection with detention. These are determined by the particular danger posed by the offender. They are also used whenever they serve to obtain better results with regard to re-socialising the offender and protecting society, or when no punishment can be administered in the absence of guilt (e.g. for lack of criminal responsibility).

The most important of these measures is the placement of persons in institutions for mentally disturbed offenders. This measure is imposed for an unlimited period. The court must examine, at least on an annual basis, whether such placement is still necessary. Preventive measures are administered in prisons, specialised departments or in certain public psychiatric hospitals.

### **3.4.4. Detainees**

About 8,800 persons are detained in Austrian prisons. Thereof, about 6,200 serve a prison sentence, 1,700 are pre-trial detainees, and 900 persons are detained in involuntary forensic placement.

About six per cent of prisoners are women, less than two per cent are juvenile delinquents and about six per cent are young adults (persons between the ages of 18 and 21 years).

Approximately 4,400 prisoners, i.e. about 50 per cent, hailing from more than 100 nations, have no Austrian nationality.

Every prisoner capable of work is obliged to work. The work environment is an important area of technical and social learning. Different workshops and enterprises in about 50 branches are available in Austrian prisons. For their work, prisoners earn remuneration which they may use to buy basic daily necessities, but also to build up reserves, which are to help them to return to an orderly life after serving their prison term.

#### **3.4.5. Managing the Penal System**

For supporting and counselling the Federal Minister of Justice, a Directorate General for the Administration of Custodial Sentences and Measures involving Deprivation of Liberty was established on 1 July 2015. It is the highest operational authority of the Austrian penal system, exercises strategic management functions and serves as prison staff and technical supervision body in the enforcement of penal services and involuntary forensic placements.

#### **3.4.6. Number of Penal Services Employees**

Approximately 3,600 Federal civil servants work in Austria's prisons, plus staff provided by the Judicial Service Agency, in particular for the provision of support services. About 3,100 are members of the prison guards. The job profile of members of the prison guard is that of all-rounders. They do not only work as guards and in different prison departments, but also in workshops and enterprises, and formal vocation training is required for being hired. In the so-called support services, there are pastoral workers, prison physicians, psychiatrists, psychologists, sociologists and teachers (pedagogues). In addition, there are social workers, nurses and department assistants, as well as other prison staff with special qualifications.

Regular training activities, especially in facilities belonging to the prison as well as by third-party providers are provided for the further education of prison staff.

#### **3.4.7. Budget Resources for the Penal System**

In 2015, the total budget for providing penal services was about 406.3 million euros, 202.3 million euros thereof for staff resources. Revenues for 2015 were budgeted at about 55.7 million euros.

#### **3.4.8. A New Start after Serving a Prison Sentence**

The Republic of Austria has entrusted nation-wide probationary services to a private entity, i.e. the organisation "Neustart" – (A New Start – Probationary Services, Conflict Solution and Social Work). "Neustart" operates throughout Austria. In addition to providing probationary services, they also offer services in connection with out-of-court settlement of offences, assistance to persons released from prison, and they provide housing facilities. "Neustart" has facilities in all Federal provinces. The initiatives also comprise advice and help upon release from prison, as well as communication centres, training for work, finding community service, clearing, crime prevention, drug counselling, family support, social work in schools, assistance to juveniles and assistance to crime victims.

## **3.5. THE FEDERAL MINISTRY OF JUSTICE**

### **3.5.1. The Federal Minister of Justice as Supreme Administrative Body**

The judicial administration is headed by the Federal Minister of Justice. The Federal Ministry of Justice reports to the Federal Minister of Justice. The Federal Minister of Justice belongs to the supreme administrative organs of the Federal State and is a member of the Federal Government. He is responsible for the political management, coordination and supreme supervision of the judicial system (including the penal system), together with all associated service units.

### **3.5.2. Organisation**

The Federal Minister of Justice heads the Federal Ministry of Justice. At present, the Ministry has a staff of about 250 working in five administrative departments (“Directorates”) and one staff unit:

- Staff Unit for European and International Judicial Matters
- Directorate General (co-ordination, auditing, public relations, information technology, legal informatics, managing the judicial system, and budget),
- Directorate for Civil Law,
- Directorate General for the Administration of Custodial Sentences and Measures involving Deprivation of Liberty,
- Directorate for Personnel, and
- Directorate for Criminal Law.

### **3.5.3. Tasks**

#### *3.5.3.1. Preparing Legislation*

An important task of the Federal Ministry of Justice is to prepare legislative acts. This primarily involves civil and the criminal law. Civil law includes family and inheritance law, contract law, company law, copyright law, as well as rules on conducting civil proceedings, foreclosures and insolvencies. The Federal Ministry of Justice also prepares proposals for legislation regarding criminal and criminal procedural law, penal services, as well as partly regarding media law.

Judicial legislation affects many personal and private spheres of life. It has been a longstanding tradition to keep judicial legislation separate from day-to-day politics as much as possible, and to reach a consensus among all the parties represented in Parliament, irrespective of its political composition. The broad consensus on arrangements relating to these personal spheres of life ensures a high level of acceptance among the population.

#### *3.5.3.2. Ensuring Independence of the Judiciary*

Court rulings in civil and criminal law matters are the exclusive responsibility of independent judges in Austria. Some court business is handled by “Diplomrechtspflegers”<sup>2</sup>, who are court officials with special training.

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<sup>2</sup> Court officials comparable to British court bailiffs

Independence of judges is enshrined in the Constitution. It covers independence from instruction, as well as the practice that a judge may be removed from office or transferred to another position only upon a judicial ruling. A judge is only bound by the legal system. No entity inside or outside the judiciary can issue any instructions to a judge in connection with a decision on a specific subject matter, not even the Federal Minister of Justice or the Federal Ministry of Justice. Judges are appointed by the Federal Minister of Justice on the basis of an objective selection process. The appointment of senior judges is reserved to the Federal President.

The Federal Ministry of Justice is responsible for maintaining and developing the activities of the courts and other judicial institutions. This particularly means that staff and organisational resources for the operation of ordinary courts, public prosecution offices, prisons and probationary services must be ensured.

#### *3.5.3.3. The European Union*

Austria's accession to the European Union necessitated a large number of adaptations in the very area of legislation. It is therefore also part of the tasks of the legislative departments of the Federal Ministry of Justice to prepare implementation of new EU-Directives into national law.

It is essential already in the preliminary stages to participate in the preparation of legal instruments within the institutions of the European Union. The Federal Ministry of Justice is permanently represented in Brussels to ensure a swift and continuous flow of information to Austria. The Staff Unit for European and International Judicial Matters is the hub for the participation of the Federal Ministry of Justice in the legislation processes of the European Union:

This is where cooperation with other Austrian Ministries is being coordinated. Furthermore, the participation of the Federal Ministry of Justice in on-going proceedings of EU institutions is coordinated, and the development of case law of the Court of Justice of the European Union is monitored and documented.

By consistently seconding experts from the Federal Ministry of Justice to attend council working groups, and in particular by the Federal Minister participating in the justice and home affairs councils, which convene six times a year, the Republic of Austria's voice is being heard in the proceedings to prepare and adopt legal instruments of the European Union.

Moreover, the Federal Ministry of Justice participates actively in the consolidation of the European Union as a space of freedom, security and justice, of respect for human dignity, liberty, democracy, equality, rule of law and upholding human rights, including the rights of persons belonging to minorities.

#### *3.5.3.4. International Cooperation*

The Federal Ministry of Justice participates in international civil and criminal law cooperation efforts also on other levels such as the Council of Europe and the United Nations. Major objective of such cooperation is to safeguard the provision of international mutual assistance.

More detailed information on international cooperation can be found in Chapter 8.

### **3.6. THE FEDERAL CARTEL PROSECUTOR**

By an amendment of the Cartel Act adopted in 2002, the Federal Cartel Prosecutor was set up within the Federal Ministry of Justice. He represents public interests in matters of competition law before the Cartel Court. His competencies do not only relate to cartel law cases in the narrower sense, but also to cases of abuse of a market dominating position, or to merger procedures. The Federal Cartel Prosecutor has an official function – in addition to the Federal Competition Office, which is part of the Federal Ministry for Science, Research and Economy: as a result, for the purpose of protecting public interests, the prosecutor also becomes a party in cartel court proceedings which he has not filed himself.

### **3.7. THE SUPERVISORY AUTHORITY FOR COLLECTING SOCIETIES**

Effective as of 1 October 2010, the supervisory authority for collecting societies was established as a separate agency reporting to the Federal Ministry of Justice. It is made up of three members: one supervisor, one deputy and one staff member to handle office work.

Among the most important tasks of this authority is the granting and delimitation of licences to collecting societies, as well as the monitoring of observance of such licences, adopting supervisory measures in the case of violations against the Collecting Societies Act, and mediating in the case of disputes among collecting societies, or between collecting societies and their members. A major part of the work consists in participating in organisational meetings of collecting societies.

The desire of the Legislator to create transparency is manifested by the collecting societies having to submit to the supervisory authority *inter alia* all changes of their organisational rules, the contractual conditions for concluding collection agreements with their members, reciprocal agreements with their foreign affiliates, their fee schedules and overall agreements, as well as their annual financial statements, situation and audit reports, and the annual reports on distribution of their income from the so-called levy on blank tapes. In terms of transparency *vis-à-vis* the public, the collecting societies are also obliged to publish comprehensive information on their websites; the supervisory authority also monitors observance of such obligations.

Against decisions of the supervisory authority there is the legal remedy of a complaint to the Federal Administrative Court.

## 4. THE LEGAL PROFESSIONS

### 4.1. WORKING FOR THE JUDICIAL SYSTEM

At present, there are about 1,800 professional judges in Austria. In addition, lay persons are assigned to cases and work on a voluntary basis. They act as lay judges or trial jury members in criminal cases, as well as associate judges with special expertise in commercial, as well as labour and social law cases, where they act together with professional judges. Moreover, there are about 380 public prosecutors. About 4,800 civil servants and contract employees help to maintain the proper operation of the courts and the public prosecution offices. About 3,600 staff members (including about 3,100 prison guards) are on duty in the penal system.

<b>Federal Ministry of Justice (Central Authority):</b>	
A-level civil servants, plus judges and public prosecutors (including secondments)	118,75
Other employees (including secondments)	102,35
<b>Supreme Court and Procurator General:</b>	
Judges (including judges in the registry of the Supreme Court)	68,25
Public prosecutors	16,00
Other employees (including secondments)	32,50
<b>Judicial authorities in the Federal Provinces: 4 Higher Regional Courts, 4 Senior Public Prosecutors, 20 Regional Courts, 16 Public Prosecutors, WkStA, 116 District Courts</b>	
Judges	1.662,85
Public prosecutors	362,50
Candidate Judges	219,00
Other employees	4.804,60
<i>thereof Rechtspflegers (1.7.2014)</i>	666,82
Legal trainees (no service, only training relationship)	665,00
<b>Prisons: Penal Service Directorate, 27 Prisons</b>	
Total employees	3.625,93
<b>Probationary service (outsourced):</b>	
Civil servants expiring	42,50

*Number of personnel (full-time equivalents) as per 1 July 2014*

## 4.2. GENERAL REMARKS

As the term judiciary is primarily understood as meaning implementation of the law by courts, judges are seen as playing the leading role when legal professions are being considered. Judges perform the task of determining the law and adjudicating civil and criminal law cases on behalf of the State. However, the judiciary not only comprises (independent) jurisdiction, but also the function of public prosecutors who are under instruction, penal services and all other elements that ensure full operation of the judicial system, including administrative services. Such judicial services also cover providing legal certainty and securing legal peace in terms of the rule of law, including extra-judicial proceedings and services, such as care and custody cases, and offices open to the public.

In order to ensure proper jurisdiction, which on the one hand is fully functional, and on the other hand adequately safeguards citizens' rights, the participation of additional judicial organs is necessary. Therefore, public prosecutors have the main task to introduce criminal proceedings on behalf of the State. Following a comprehensive reform of criminal procedure, as from 1 January 2008 public prosecutors have become responsible also for conducting preliminary criminal proceedings. As a matter of principle, no criminal proceedings may be initiated in Austria without a public prosecutor proposing such proceedings (principle of public indictment, principle of public prosecution). Exceptions are the so-called offences subject to private charges, which are only prosecuted upon request by the injured party.

"Diplomrechtspflegers" are another group of employees equally important, although not considered as belonging to the legal professions in the narrower sense. Rather, they are court employees with special training who have been assigned to perform certain tasks, clearly defined by law, in first-instance civil law jurisdiction (e.g. default actions, certain execution cases, Land Register, inheritance matters, Company Register).

In addition to judicial professions, the activities of lawyers count among the classic legal professions. It is one of the essential tasks of a lawyer to comprehensively safeguard the interests of the accused in criminal proceedings, or of a party in civil law cases. Lawyers represent their clients before other authorities, and also act as general legal advisors. For the benefit of persons not familiar with the law, as well as for the purpose of accelerating proceedings, representation by a lawyer before all higher courts and generally also before district courts are statutory requirements, whenever higher amounts in dispute are involved. Any party involved has the right to be represented by a legal or a defence counsel, for that matter.

Notaries Public also have limited authority to represent their clients in court. In the framework of the judicial system, however, notaries serve a special mission when acting as court commissioners. In this function they act in conducting inheritance proceedings or public auctions. As certification and authentication functions have been delegated to notaries public, the courts are relieved of actions that are actually not part of jurisdiction in the proper sense. Nevertheless, certifications may also be carried out before a court.

The activities of the different legal professions have been developed in such a way that the professions complement each other. In each case, the respective competences and duties have been clearly defined. It is only through such interaction that the judiciary has become the instrument envisaged by the law. It follows from this approach that theoretical training is identical for all legal professions, with the exception of Diplomrechtspflegers and penal services officers. Although practical training differs for the various legal professions, traineeships make it possible to gain some insight into the respective other legal professions. Candidate judges, for example, must work for a lawyer or a notary public or at the Financial Procurator's Office during their training, and candidate lawyers or candidate notaries must spend some practical work at court. Candidate lawyers are also given credit for working for notaries, and vice versa. Whereas judges, public prosecutors and Diplomrechtspflegers are in a public law employment relationship to the Federal State; lawyers work as members of a liberal profession. Notaries also belong to the liberal professions, in the sense that they – like lawyers – bear the economic risk for running their offices. However, there is one major difference, due to the public law character of a notary's official work. When acting as a court commissioner, a notary public is an agent of the court.

In the European Union, the self-employed liberal professions are free to establish themselves wherever they wish, and to provide their services in all Member States. However, activities related to the exercise of public power do not come under the freedom of establishment and service provision. Judges, public prosecutors, notaries public, as well as Diplomrechtspflegers exercise public duties, these activities therefore continue to be reserved to Austrian nationals, even after Austria's accession to the EEA and the EU. However, under certain circumstances, lawyers and notaries, who are nationals of another Member State under the EEA agreement and are admitted to the bar in their home state, may exercise their profession in Austria.

#### **4.3. LEGAL EDUCATION**

It is a common feature of all legal professions (with the exception of Diplomrechtspflegers) that one must first study law at one of the universities in Austria (law faculties exist in Vienna, Graz, Linz, Salzburg and Innsbruck). This is followed by a five-month traineeship at court and then by specific professional training, which differs for the individual legal professions.

#### **4.4. STUDYING AUSTRIAN LAW**

The school-leaving examination ("Matura") from a higher secondary school and proof of knowledge of Latin are requirements for studying law. The curriculum consists of a diploma course and a doctorate course. For the exercise of any of the legal professions, the diploma course is sufficient. Other than for a career at the university, the doctorate is no requirement for working in a legal profession. However, the training periods for future lawyers and notaries are shorter if they have obtained a law doctorate.

The academic degree of a “Master of Law“ is awarded at the end of the diploma course. Completion of the diploma course is the requirement for commencing the doctorate course in law. Its purpose is to further develop the skills for independent scholarly work in the law field. The academic degree of a “Doctor of Law” is awarded at the end of the doctorate course.

#### **4.5. PRACTICAL COURT WORK**

Every graduate of a university diploma course is legally entitled to continue his/her preparation for a career by working as a trainee at court, provided such training is legally required to be appointed or registered for such profession. In practice, almost all law students perform a traineeship at court after completing their studies. Admission to a traineeship at court for a period of five months is obtained by means of a decree by the president of the higher regional court of appeal. Trainees are in a training relationship to the State and receive so-called traineeship remuneration as pay for their work. University graduates can begin practical work at court on every first day of a month, and they can interrupt their traineeship at any time by written notice. Trainees are expected to familiarise themselves with court activities as comprehensively as possible. To this end, they are assigned to various courts. Trainees are assigned to perform conceptual work, but are also employed to draw up the minutes of court proceedings.

Austrian citizenship is not a requirement for performing a traineeship at court. Persons who have successfully completed a law course at a foreign university may also be admitted to a traineeship at court, if their German language skills allow them to follow the progress of such proceedings.

#### **4.6. JUDGES**

At present, there are about 1,800 professional judges in Austria.

Lay judges on the bench must be distinguished from professional judges, who do not need any legal training and work on a voluntary basis. They may either be lay judges or trial jury members in criminal proceedings, or associate judges with special expertise in labour and social law cases.

Professional judges have a public law employment relationship with the Federal State. In addition to the Federal Constitution Act, the Service Act for Judges and Public Prosecutors is the main legal source for the training and professional status of judges. Professional judges are appointed for an unlimited period of time, and retire at the end of the year in which they reach the age of 65.

Judges are responsible for adjudicating civil and criminal law cases, and in administrative and constitutional law matters they act as monitors of the administration and as guardians of the Constitution. According to Articles 87 and 88 of the Federal Constitution Act, judges act as independent agents of the State in determining the law and in adjudicating cases. Such independence finds expression in the freedom of judges from complying with any instructions (factual independence), as well as in their freedom from dismissal or transfer to another position (personal independence).

Judges are only bound by the law and decide on the basis of their own legal convictions. Nor are they bound by earlier decisions in similar legal issues by other courts (precedents).

One exemption is constituted by administrative matters within the judicial system (measures to maintain the operation of the judicial system). In this connection, judges are only independent if they deal with these matters on panels or in commissions (such as the distribution of court business, proposals for appointments to court positions). Otherwise, judges are bound by the instructions of their superiors in such matters. An established distribution of court business ensures the right to a judge under the legal system guaranteed by the Constitution.

Judges who are found guilty of violating their professional and ethical duties have to face disciplinary and possibly also criminal law sanctions. Under civil law, judges are liable only to the State. Parties having suffered damages on account of any unlawful and culpable conduct of a judge may only assert their claims against the State pursuant to the provisions of the law on official liability.

Persons wishing to become judges must apply for one of the vacancies of candidate judge announced by the president of a higher regional court of appeal. The Federal Minister of Justice appoints the candidate judge upon proposal by the president of the respective higher regional court. Completion of university studies, Austrian citizenship, aptitude regarding subject matter and character, physical fitness, the required social skills for the profession of a judge, as well as a five-month traineeship at court are prerequisites for being admitted to the preparatory service for becoming a judge. When deciding on admission, the training judges during the traineeship and the head of the trainee courses are also heard. Since 1986, written and oral examinations, and a psychological aptitude test, performed by an independent psychologist, are also required.

By their appointment as a candidate judge, the future judges are admitted to the preparatory service for becoming a judge. It generally lasts four years. The traineeship at court is included in this training period. The training period is spent at a district court and a court of first instance, with a public prosecution office, in a prison, as well as with a lawyer or notary public, or with the Financial Procurator's Office, and with a victim protection or public welfare institution. The judge's examination comes at the end of the training period. It is a written and oral examination. After having passed the examination and having completed four years of legal practice, candidates may apply for a vacant tenured judge's position. Upon proposal by the competent staff panels, applicants are appointed as judges for an indefinite period of time. The appointment is reserved to the Federal President, who has delegated this privilege to the Federal Minister of Justice for most of the judge's positions.

#### **4.7. PUBLIC PROSECUTORS**

Public prosecution offices are independent judicial authorities separate from the courts safeguarding the interests of the State in the administration of justice. The judicial function of public prosecutors is enshrined in the Constitution (Article 90a B-VG). The public prosecutor's most important tasks include conducting preliminary proceedings and initiating criminal proceedings and acting for the prosecution in such proceedings. Their tasks are governed by the Code of Criminal Procedure;

structure and organisation of public prosecution offices are governed by the Public Prosecution Act. In contrast to judges, public prosecution offices, as judicial bodies, are obliged to follow the instructions given by their superiors. At first-instance courts their responsibilities are vested in the public prosecutor, at the court of appeal in the senior public prosecutor and at the Supreme Court in the Procurator General. The senior public prosecution offices and the Procurator General's Office each report directly to the Federal Ministry of Justice. The Procurator General has no authority to issue instructions to senior public prosecutors or public prosecutors. At present, there are about 340 public prosecutors in Austria.

Only a judge who meets the requirements for being appointed as professional judge and has performed a minimum one-year traineeship as judge at a court or as prosecutor may be appointed public prosecutor. Just as tenured posts for judges, tenured posts for public prosecutors are also publicly advertised to applicants. The Federal President appoints public prosecutors upon proposal by a personnel panel. However, for most tenured public prosecutor posts, the right of appointment was delegated to the Federal Minister of Justice.

Public prosecutors are in a public law employment relationship to the Federal State and represent the public interests on behalf of the State in court as an independent entity of the administration of justice. In criminal proceedings, public prosecutors present indictments and are thus formally a party in the proceedings and obliged to observe full impartiality against all parties. Public prosecutors must follow up both aggravating and mitigating circumstances with equal diligence and care. The public prosecutor heads preliminary proceedings and in doing so may issue instructions to the criminal police; but any serious interference in fundamental rights requires approval by the court. Any party to the proceedings who regards a prosecutor's order as onerous may turn to the court. An accused person may request termination of the proceedings; the victim may oppose such termination by applying for continuation of the proceedings.

If a public prosecutor is found guilty of violating professional or ethical obligations, he/she is responsible to a disciplinary commission set up with the Federal Ministry of Justice. The sanctions such a commission may impose even include termination of employment. In addition, public prosecutors are also liable in criminal law. In terms of civil law, public prosecutors may only be held responsible by the State, similarly to judges, and not by the parties involved in a case, who may only bring in an action against the State for official liability.

## **4.8. LAWYERS**

### **4.8.1. General Remarks**

As distinct from judges or public prosecutors, lawyers work on a self-employed basis. They exercise their profession under their own economic responsibility and in their own offices or joint law offices, together with one or several colleagues. There is no need for any appointment by an authority; the only requirement is entry in the register of lawyers. The Lawyers' Act is the most important statutory

basis for the exercise of their profession. In addition, there are numerous guidelines which lawyers must observe.

There is one bar association in every Austrian Federal Province. On a Federal level, they belong to the Austrian Federal Bar Association. These associations are public law corporations and autonomous self-governing bodies which safeguard the interests of the profession against the State. In Austria there are currently more than 5,800 lawyers.

#### **4.8.2. Scope of Activities**

Lawyers are authorised to represent parties on a professional basis in all court and out-of-court cases, in all public and personal matters before all courts and authorities in Austria. In addition, they provide services as legal advisors in various legal matters, and draw up contracts or act as asset managers. Through electronic legal transactions with the courts, official documents can be submitted in automated form (for example default actions). Moreover, both Land Register and Company Register enquiries may be performed from a lawyer's office (as with notaries).

Lawyers are obliged to safeguard the interests of their clients. They are therefore subject to an obligation of secrecy, protected by law, and to strict disciplinary rules. When found guilty of violating their duties, lawyers are liable with all their personal assets. This liability is complemented by professional liability insurance, which they must prove to have taken out before being admitted to the bar. Whenever lawyers operate within a limited-liability company, the absence of the partners' personal liability is offset by a much higher minimum insurance sum.

Lawyers receive a fee for their services, which is subject to free agreement. However, the Lawyers' Fees Act stipulates rates for representation at court, which are primarily of importance for cost reimbursement in civil and criminal cases under private prosecution. Moreover, the Autonomous Fee Schedule is used as guideline and serves as a basis for such agreement. The fees' committees of the bar associations will examine whether invoiced fees are appropriate.

When working under the legal-aid scheme, lawyers will not receive any fees but can only claim reimbursement from the State for any necessary cash expense. For the work done by lawyers under the legal-aid scheme the State pays an appropriate annual lump sum to the Bar Association, which is used to finance retirement pensions for lawyers.

Five years of legal practice are required for the exercise of the lawyer's profession, of which a minimum of five months must be spent as a trainee at court, and a minimum of three years must be spent with an Austrian lawyer as a candidate lawyer. The bar examination may be taken after three years of practical work experience, if the candidate can prove that he/she participated in the training activities required by the bar associations.

#### **4.9. NOTARIES PUBLIC**

Notaries hold a public office. Appointment as a notary is a sovereign act and is restricted to a specific office location. However, notaries are not civil servants, as they are not in an employment

relationship to the Federal State. As they bear the economic risk of their office operations, they work on a self-employed basis. It is only when acting as court commissioners that they are employed as court agents.

The Federal Minister of Justice sets up notarial offices in specific locations. At present, there are 495 notarial offices in Austria. The notaries of a Federal province (sometimes also of several Federal provinces), together with the candidate notaries, form a board of notaries public. As with the bar associations, these are public law corporations. In addition, there is the Austrian Chamber of Notaries, which includes all Austrian chambers of notaries elected by the boards of notaries public. They are set up to safeguard the rights and interests of notaries in Austria, as well as to represent their profession.

The most important statutory basis for the exercise of the profession of notary public is the Notaries Regulation and the Court Commissioner Act. In addition, there are numerous guidelines which notaries must observe, with disciplinary actions threatening otherwise.

The scope of activity, as defined by law, comprises three types of activities:

- Executing public deeds, safekeeping of third-party objects and authenticating processes (e.g. lotteries and raffles, shareholders' meetings of stock corporations),
- Drawing up private deeds and representing parties, as well as
- Performing official acts reserved to notaries public upon instruction by a court in non-litigious proceedings.

In their function as court commissioners notaries are especially called upon to manage inheritance cases.

The main task of notaries as independent and impartial agents in the precautionary administration of justice is to assist individuals in legal transactions. Their involvement in legal transactions helps to secure legal certainty and to prevent litigation. Their official nature as authenticators is to ensure that the principle of public execution of deeds is maintained. At the same time, by assigning the authenticating responsibility to notaries public, judges are relieved of responsibilities that do not form part of jurisdiction in the proper sense of the word.

On account of their responsibility to draw up public deeds and as court commissioners notaries are subject to special supervision. Notaries public are subject to supervision by the Federal Minister of Justice, the judicial administration and, directly by the Chambers of Notaries.

In case of disciplinary offences, disciplinary powers are vested in the higher regional courts of appeal and the Supreme Court as disciplinary tribunals for notaries. In administrative offences, this function is exercised by the Chambers of Notaries and the Permanent Committee of the Austrian Chamber of Notaries. Moreover, notaries public may be held liable both under civil and criminal law. Before taking up their professional activities, notaries must prove to have taken out professional liability insurance.

Persons wishing to become notaries public must have completed their law studies, have worked as trainee at court for five months, and subsequently have been employed with a notary public. Their names must also have been entered into the register of candidate notaries, which is maintained by the Chambers of Notaries. Candidates may only be entered into such register if they were under the age of 35, when first registered.

A requirement for admission to the notaries' examination is attendance at training events, compulsory for candidate notaries. The notaries' examination consists of two parts, which are both in writing and oral. The first part of the examination may be taken after practical work as a candidate notary for one and a half years, the second part of the examination after another period of practical work for a minimum of one year. In addition to passing the notaries' examination, candidates must have worked in a legal profession for seven years, a minimum of three years thereof as a candidate notary after having passed the notaries' examination, before they are entitled to obtain a notarial office.

However, meeting all requirements does not provide any automatic entitlement to be appointed a notary public. Such appointment lies in the discretion of the Federal Minister of Justice, who will decide on the basis of appointment proposals. Vacant or newly established notarial offices must be advertised publicly prior to any appointment. Notaries may serve in their profession until they have reached the age of 70.

#### **4.10. DIPLOMRECHTSPFLEGER**

The about 685 Diplomrechtspflegers and 90 candidate Diplomrechtspflegers in Austria are indispensable pillars of the judiciary. More than three fourth of all decisions taken at district courts in Austria are already taken by Diplomrechtspflegers.

Diplomrechtspflegers are judicial officers with special training and special qualifications, assigned to handle certain first-instance transactions under civil law, on the basis of the Federal Constitution Act and the Rechtspfleger Act, in order to ease the work load of judges. They are bound by instructions from the judge responsible for the case according to the distribution of court business; this judge may also reserve the handling of the legal case, or take it over himself at any time and at any stage. Diplomrechtspflegers may only issue court orders. The Diplomrechtspflegers themselves may grant appeals against such orders under certain conditions; moreover, there is the legal remedy of submitting the case to a judge.

The scope of competence of a Diplomrechtspfleger covers, *inter alia*, default actions, confirming the legal effect and enforceability of rulings by judges in their field of work, decisions on applications for legal aid in legal maintenance proceedings and performing official acts on the basis of a request for judicial assistance by a domestic court or a domestic authority.

Diplomrechtspflegers have a particularly comprehensive workload in forced-collection proceedings and in personal bankruptcy cases. In addition, they maintain the Land and Company Registers. Other areas of responsibility are inheritance and custody proceedings (non-litigious matters).

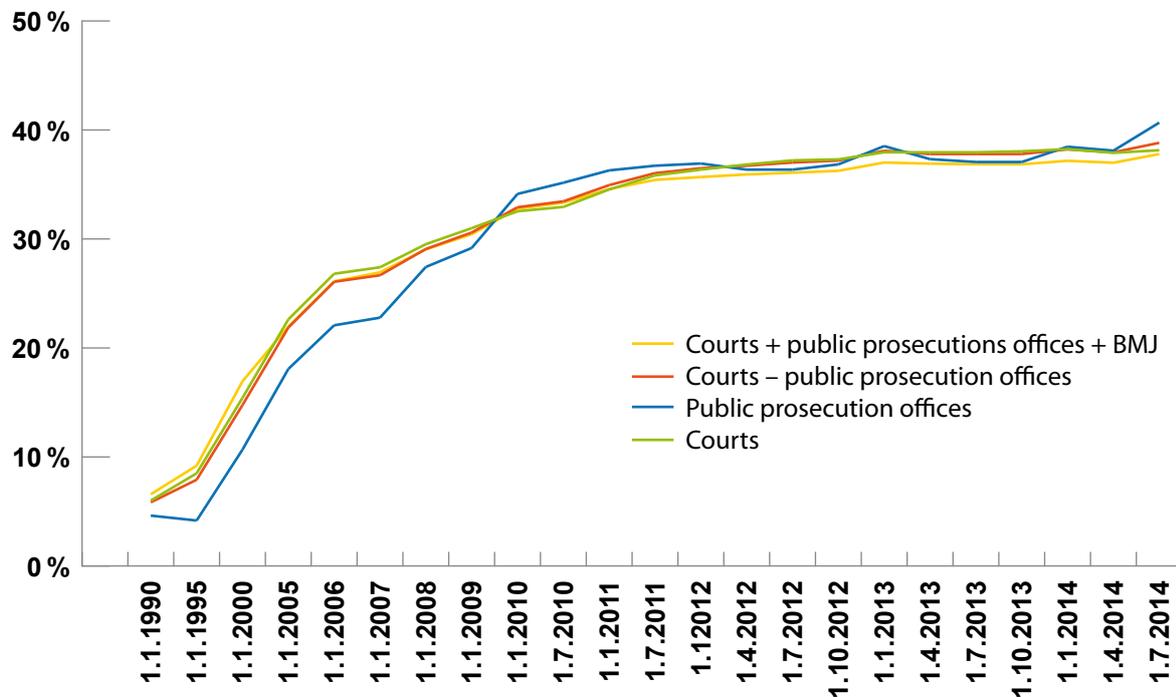
A Diplomrechtspfleger may be appointed for one or several of such working areas. Each field of work requires special training and a separate appointment as a Diplomrechtspfleger for such specific field.

Only court officers having passed the secondary-school leaving examination (Matura), or completed vocational training, are admitted to be trained as Diplomrechtspflegers. They must also have worked in a court office and passed the court-office and special service examination. The training lasts for three years and includes working at court, especially preparing dispositions in the targeted field of work, participating in a basic and special course in the specific field of work and passing an examination in such field. After passing the Diplomrechtspfleger examination, and if meeting the conditions laid down in Section 3 of the Rechtspfleger Act, the candidate Rechtspfleger is awarded a certificate (diploma) by the Federal Minister of Justice. With this certificate the judicial officers acquire the authority to perform matters of administration of justice falling in their scope of competence all over Austria, and can therefore perform their duties as Rechtspfleger.

#### **4.11. PROMOTING WOMEN**

For the purpose of expanding the participation of women, especially of university graduates, in the judiciary system, the Federal Equal Treatment Act, adopted in 1993, created a statutory basis for setting up equal treatment officers and female liaison officers throughout the Austrian civil service. This law also created the legal basis for further structural measures for the purpose of eliminating underrepresentation of women. The plans for promoting women describe the specific measures to implement equal treatment and promotion of women.

## Women in leadership positions



The percentage of female judges and public prosecutors already exceeds 50 per cent. The percentage of women in leading positions at courts, public prosecution offices and within the Federal Ministry of Justice has risen continuously over the last few years to more than 35 per cent. Among future judges such percentage amounts to almost 70 per cent.

## 5. SERVICES PROVIDED BY THE JUDICIARY

### 5.1. LEGAL CASES OF COURTS AND PUBLIC PROSECUTION OFFICES

Courts handle 3.5 million proceedings every year, 3 million thereof are seized by district courts, 350,000 by regional courts, 80,000 by higher regional courts of appeal and 10,000 cases are handled by the Supreme Court.

Public prosecutors have to deal with more than 500,000 charges filed, more than one third thereof having been committed by known perpetrators.

#### Legal cases 2013

	District Courts	Regional Courts	Higher Regional Courts	Supreme Court	StA, OStA Procurator General
Civil Matters	492,310	76,625			
Non-Litigious Matters	320,064	26,042			
Land and Company Registers	643,064	16,716			
Execution Matters	1.015,082				
Insolvency Matters	11,647	13,216			
Remedies in civil matters		20,692	8,474	2,397	
Criminal Matters	33,089	50,904			558,412
Remedies in criminal matters		4,084	7,563	842	12,288
Excerpts from Land Registers	160,793				
<b>Total (without Jud. Adm.)</b>	<b>2.676,049</b>	<b>208,279</b>	<b>16,037</b>	<b>3,239</b>	<b>570,700</b>
Matters of Judicial Administration	146,265	130,563	59,445	5,324	55,473
<b>Total (with Jud. Adm.)</b>	<b>2.822,314</b>	<b>338,842</b>	<b>75,482</b>	<b>8,563</b>	<b>626,173</b>

### 5.2. CRIMINAL CASES HANDLED BY COURTS AND PUBLIC PROSECUTORS

In 2013, the courts finalised about 61,580 proceedings (counted in terms of persons involved). More than one quarter (25.4%) of criminal court cases were not concluded not by passing a judgement, but by termination (10%) or diversion (15.4%; see point 5.2.1).

The criminal cases concluded by the public prosecution offices in 2013 involved a total of 254,626 persons. Against 69.111 thereof action was brought in (24.9%), in 2.2% of the cases an indictment was raised or in 0.1% of the cases an application for placement in an institution for mentally disturbed lawbreakers was made, so in 27.1% of the cases a main trial at court was initiated. In all other cases (72.8%) proceedings were concluded without involving criminal courts.

## Settlement of Proceedings by the Courts 2013

<b>FINAL SETTLEMENT TOTAL</b>	<b>61,580</b>	<b>100.0%</b>
<b>Total Acquittals</b>	<b>6,172</b>	<b>10.0%</b>
Section 108 CCP (during preliminary investigations)	36	0.1%
Section 215 (2) CCP	14	0.0%
Section 227 CCP	3,574	5.8%
Section 451 (2) CCP	261	0.4%
Section 485 (1), clause 3 CCP	170	0.3%
Section 6 Juvenile Court Act	14	0.0%
Section 191 CCP	2,103	3.4%
<b>Diversion (final withdrawal) total</b>	<b>9,497</b>	<b>15.4%</b>
Section 37 Narcotics Act total	1,472	2.4%
Section 198 (1), clause 1 CCP fine	3,543	5.8%
Section 198 (1), clause 2 CCP community service	873	1.4%
Section 198 (1), clause 3 CCP unconditional probation	1,738	2.8%
Section 198 (1), clause 3 CCP probation with duties	620	1.0%
Section 198 (1), clause 4 CCP offence resolution	1,251	2.0%
<b>Judgement (no previous conviction)</b>	<b>45,911</b>	<b>74.6%</b>
Conviction (no previous conviction)	35,184	57.1%
Acquittal (no previous conviction)	10,727	17.4%

## Proceedings handled by Public Prosecutors 2013

<b>FINAL SETTLEMENTS TOTAL</b>	<b>254,626</b>	<b>100.0%</b>
<b>Terminations total</b>	<b>152,111</b>	<b>59.7%</b>
Section 190 clause (1) CCP no crime committed	53,534	21.0%
Section 190 clause (2) CCP no grounds for prosecution	74,595	29.3%
Section 4 (1) Juvenile Court Act minors	4,446	1.7%
Section 4 (2) Juvenile Court Act juveniles	2,281	0.9%
Section 6 Juvenile Court Act	4,186	1.6%
Section 191 (1) CCP petty offence	13,069	5.1%
<b>Diversion (final withdrawal) total</b>	<b>33,404</b>	<b>13.1%</b>
Section 35 Narcotics Act total	10,815	4.2%
Section 198 (1) clause 1 CCP fine	7,715	3.0%
Section 198 (1) clause 2 CCP community service	1,547	0.6%
Section 198 (1) clause 3 CCP unconditional probation	8,530	3.4%
Section 198 (1) clause 3 CCP probation with duties	662	0.3%
Section 198 (1) clause 4 CCP offence resolution	4,135	1.6%
<b>Criminal charges, Indictment, Application for Placement</b>	<b>69,111</b>	<b>27.1%</b>
Criminal charges	63,296	24.9%
Indictment	5,657	2.2%
Application for Placement	158	0.1%

### 5.2.1. Diversion

In past years increasing efforts were made – especially with first-time offenders – to react to punishable acts by imposing alternative measures of benefit to society. As an alternative to punishment, by a diversion order the offender may provide community services, or an out-of-court offence resolution may be achieved.

The high level of acceptance of diversion measures is demonstrated by the fact that every year 45,000 persons are offered diversion and over 43,000 accept this option.

### 5.2.2. Penalties Administered

In total, courts administer about 34,000 penalties and alternative measures every year. In about one third of the cases a fine is payable, in almost two thirds of the cases a prison term must be served.

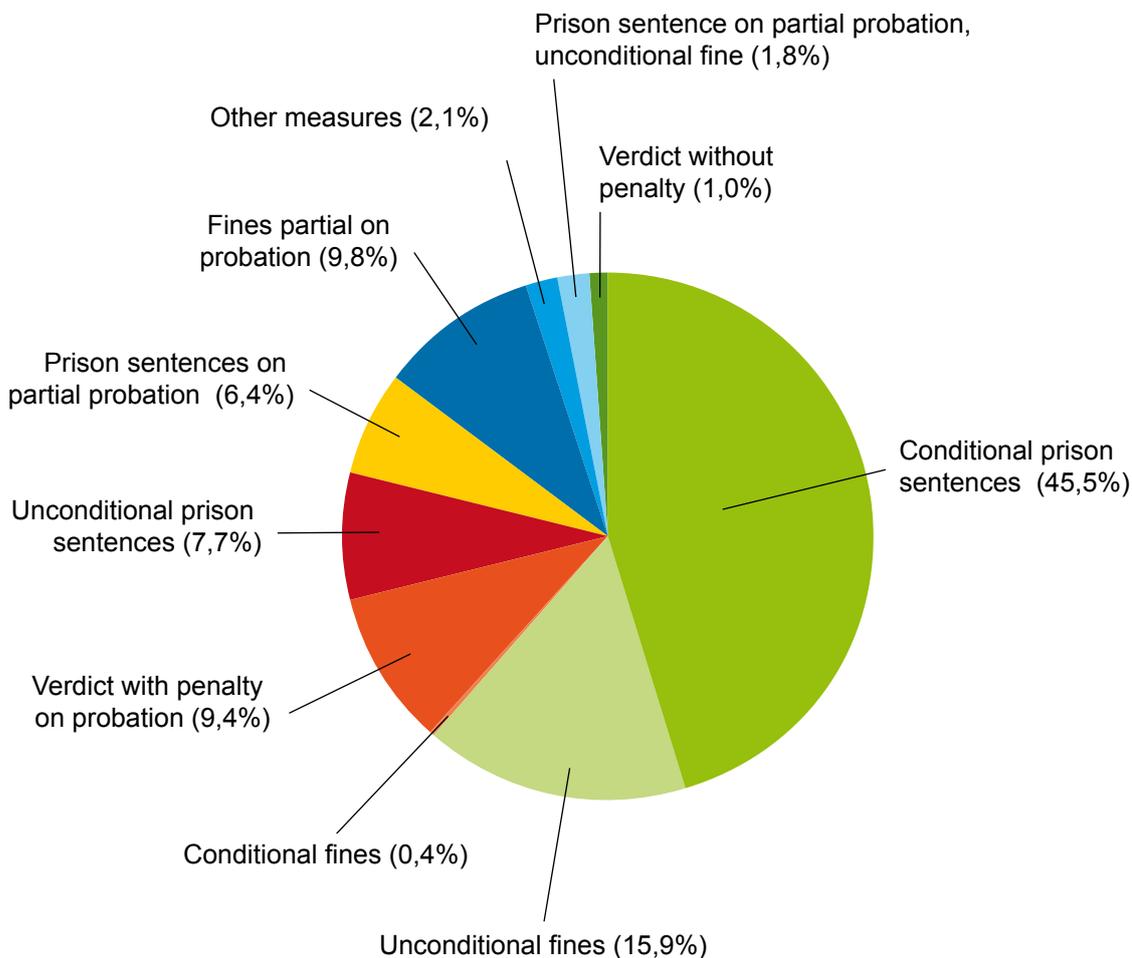
Other settlements apply to judgements under the Juvenile Court Act, in which penalties were waived altogether, or in which the accused was put on probation. The residual category is formed by “other measures”, meaning placement in institutions for mentally disturbed lawbreakers and lawbreakers receiving drug withdrawal treatment.

## Penalties and Measures 2013

<b>TOTAL</b>	<b>34,424</b>	<b>100%</b>
<b>Section 12 Juvenile Court Act</b>	<b>25</b>	<b>0.1%</b>
<b>Section 13 Juvenile Court Act</b>	<b>213</b>	<b>0.6%</b>
<b>Total fines</b>	<b>10,077</b>	<b>29.3%</b>
Entirely on probation	56	0.2%
Partial probation (Section 43a (1) Criminal Code)	2,031	5.9%
Unconditional	7,990	23.2%
<b>Unconditional fine, prison sentence on probation (§ 43a (2) Criminal Code)</b>	<b>1,063</b>	<b>3.1%</b>
<b>Total prison sentences</b>	<b>22,538</b>	<b>65.5%</b>
Entirely on probation	13,020	37.8%
Partial probation (Section 43a (3)/(4) Criminal Code)	3,268	9.5%
Unconditional	6,250	18.2%
<b>Other measures</b>	<b>508</b>	<b>1.5 %</b>

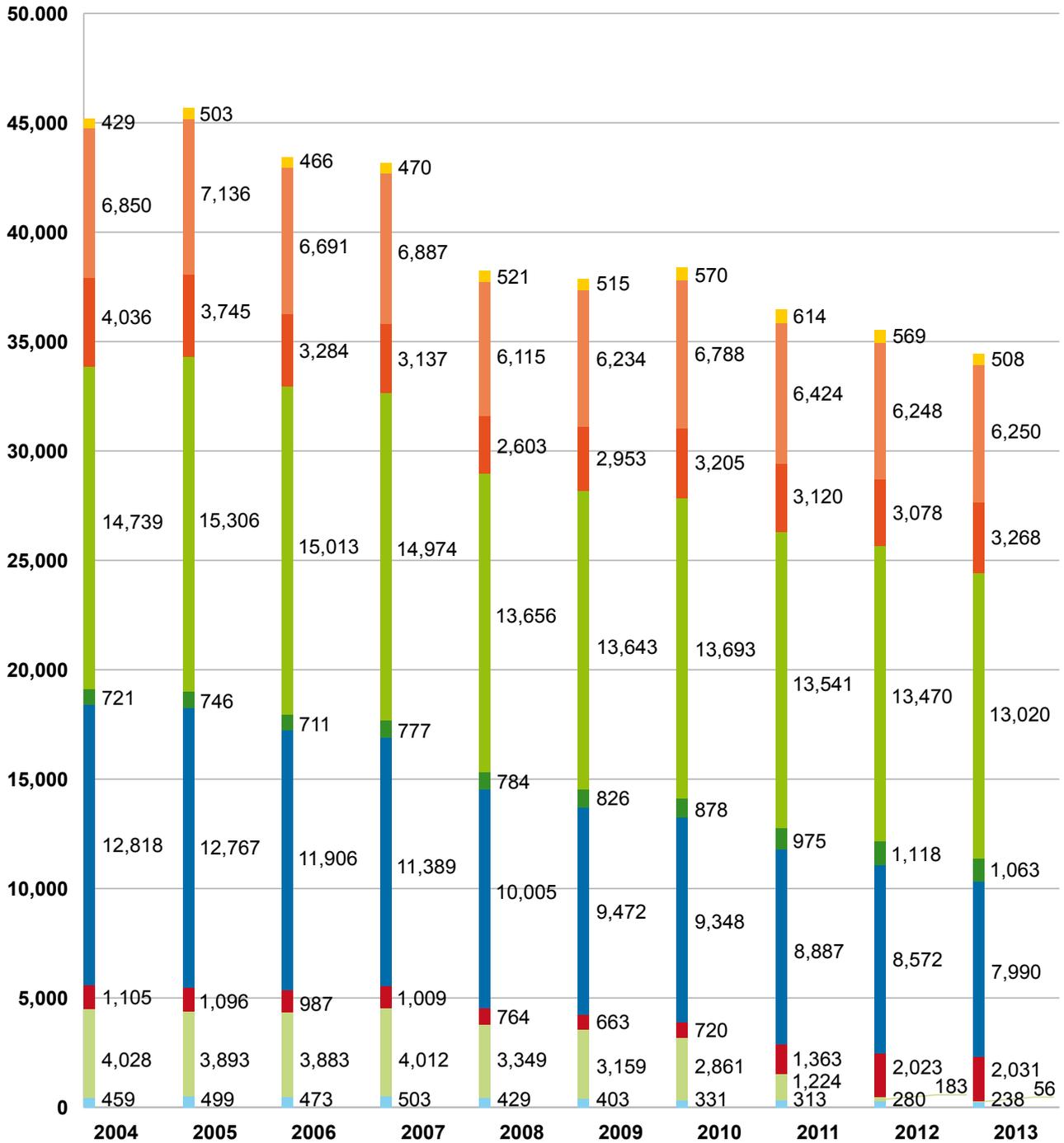
In relation to the total population of convicted persons, juvenile delinquents are less frequently subjected to the classic sanction of serving a prison sentence, are paying a fine. This is a reflection of the objective of the Austrian Juvenile Criminal Law to achieve reintegration by specific State measures tailored to the individual offence and to the personality of the juvenile delinquent. Any disproportionate criminalisation of young persons should be avoided as much as possible, for that matter.

### Penalties and alternative measures administered to juveniles in 2013



In the course of recent years, the total number of penalties and alternative measures has been slightly on the decrease. At the same time, the chart below reveals that fewer fines have been administered, whereas prison sentences have remained rather constant.

### Penalties and Alternative Measures over the last ten Years



- Other Measures
- Prison sentences unconditional
- Prison sentences on partial probation
- Prison sentences on probation
- Prison sentences on probation (fine unconditional)
- Fine unconditional
- Fine on probation
- Fine on partial probation
- Sections 12 and 13 Juvenile Court Act

A comprehensive description of the activities of public prosecutors and courts in criminal proceedings can be found in the Report on Internal Security in Austria, published every year by the Federal Ministries of Justice and of the Interior. This report is also freely accessible at the homepage of the Parliament ([www.parlament.gv.at](http://www.parlament.gv.at)).

### **5.3. DURATION OF PROCEEDINGS**

Long proceedings not only constitute financial and mental burdens for the parties; one consequence may also be that the outcome of a legal action becomes unattainable or uninteresting, for example if the defendant goes bankrupt in the course of the proceedings.

Austrian courts work expeditiously – most cases are settled after only a few months.

In criminal cases, the time required for adjudication has become longer in statistical terms since the provisions for diversion entered into force in 2000, because only more serious offences and crimes now require adjudication through judgments.

The members of the Austrian judiciary use their best efforts to achieve as prompt a conclusion of legal cases as possible, since long proceedings are apt to place financial and psychological strain on the parties involved.

More than three-fourths of all civil law cases are being concluded within only a few weeks, in a legally binding manner and by a written payment order being issued. Those about 10 per cent of civil cases, in which the parties have assumed controversial legal positions and “litigate” those positions in oral proceedings are generally called “litigious civil cases”.

The “litigated” civil law cases in 2013 with district courts lasted a median value<sup>2</sup> of 6.0 months, with regional courts 13.4 months. About half of the total of 49,980 litigious civil law cases with district courts took less than six months. Only 2.2 per cent of litigious proceedings took longer than three years. Although proceedings pending for any prolonged time period are an annoyance, Austrian courts generally score well in an international comparison with respect to the duration of proceedings.

But the duration of criminal proceedings are below the threshold of perception as well: e.g. the total duration of proceedings, meaning the aggregate of preliminary investigations by public prosecutors and main trial before a court in the year 2011 lasted a median value of 1.2 months both in district and regional jurisdiction.

In terms of continuous efforts of the judiciary to provide optimum conditions for a functioning jurisdiction, measures have been and will be taken to increase efficiency, in particular in the area of information and communication technology.

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<sup>2</sup> The median value means the exact middle figure of an ordered series of numbers (e.g. the median value of the number series 16, 70, 75 is 70). In certain constellations (only a few “outliers”) the median value can be used to correct the average value, which is slanted for that reason.

#### **5.4. THE USE OF INFORMATION TECHNOLOGY IN THE JUDICIAL SYSTEM**

Since the early eighties of the last century, a comprehensive IT network has been built up for Austria's judiciary system. This network supports the nation-wide use of IT applications. All courts, public prosecution offices, prisons and the Federal Ministry of Justice are able to cooperate electronically via interface at the Federal Computing Centre, where all judicial applications are supported. The Federal Computing Centre also handles communications with other Federal ministries and service units, as well as, in due course, with all citizens. The judicial IT network currently includes 165 routers, 246 servers and 12,600 computer work stations, 147 video conferencing systems, 6,000 VoIP telephone connections and 1,300 notebooks. In the period autumn 2012 until April 2014 all judicial applications were moved from the host to an AIX platform, which will result in future savings in computing services amounting to about 3.5 million euros per year.

In the course of many years, judicial process automation has proven to be most beneficial as electronic register. On account of its many additional functions, the successfully completed re-design facilitates even faster and easier handling of the about 50 different types of court processes. The system of Electronic Legal Transactions has contributed largely towards increasing work efficiency; it facilitates almost all types of electronic submissions to courts, and the service of documents by court through electronic means. The data base on edicts ([www.edikte.justiz.gv.at](http://www.edikte.justiz.gv.at)) can be accessed free of charge and publishes insolvency proceedings, court auctions, decrees derived from penal and civil cases, notifications, publications and documents served, coercive court administration, voluntary sales offers, company publications, a list of mediators, sequestrators and courts. Moreover, further legally mandatory publications are made available through the data base on edicts: recently, such edicts particularly concerned the Safekeeping and Seizure Act, as well as the publication of merger agreements and spin-off plans.

Documentation on judicial case law is also available free of charge on the Internet, as part of the Federal Legal Information System ([www.ris.bka.gv.at](http://www.ris.bka.gv.at)). By setting up the web site [www.sdgliste.justiz.gv.at](http://www.sdgliste.justiz.gv.at) it has become much easier to find court-certified experts, as well as court-certified interpreters/translators.

A central data base for storing documents has been set up, which can be used for all kinds of applications and proceedings, especially for the Land and Company Registers.

The "Integrated Administration of the Penal System" serves the goal of providing comprehensive IT support for the administration of prisoners. It includes a list of current prisoners, helps manage detention space, plan and manage transfers of prisoners, and automatically calculates the end of any prison term and any deadline associated therewith.

In the framework of the strategic initiative der Justiz 3.0 the Federal Ministry of Justice on the road to e-Justice in the meantime is also discussing the question – involving all professional groups and representatives, how to design future IT work stations for judicial staff, so that the services offered by the judiciary to citizens and corporations can be handled timely and efficiently, in the face of ever growing workloads and increasing challenges.

According to the overall report completed by the end of June 2014, considerable gains in time and quality will be achieved once digital images of files can be produced, and all accompanying measures such as workflow support and document management systems have been introduced. The further implementation of the measures is being advanced by initiating a plethora of individual projects.

Other IT activities include, inter alia, the functional and organisational expansion of the Land Register, the European Business Register, the European Land Information System, the Electronic Case File, the Master Plan eGovernment and the portal platform.

## **5.5. THE LAND REGISTER**

### **5.5.1. The Land Register**

The Land Register is a public register maintained by district courts for recording real-estate and associated object rights in rem. The following rights may be recorded in the Land Register: ownership, home ownership, pledges, construction rights, easements and land charges; in addition, notes and references may point to certain legally relevant facts and circumstances.

The primary importance of the Land Register lies in the fact that all object rights in rem may only be acquired when recorded in the Land Register (principle of recording rights), and that everybody may rely upon the correctness and completeness of the Land Register (principle of reliance).

The Land Register consists of a main ledger, which contains the current entries in the Land Register, a list of cancelled entries and a document depository (a collection of the documents that are at the basis of Land Register entries, for example, purchase contracts when acquiring real estate by way of purchase).

In addition, there are auxiliary registers, such as a register of real-estate parcels of land, a list of addresses, and a list of persons or names. All these registers indicate the entry number which was used to record the real-estate in question or the respective owner in the Land Register.

### **5.5.2. Cadastral Maps**

The cadastral maps are a public instrument, maintained by the surveyors' offices, which indicates certain actual real-estate conditions and – to the extent recorded – the binding evidence of real-estate boundaries. The new cadastral border maps have not yet been completed.

The cadastral maps comprise the list of coordinates, maps and aerial views, the cadastral file with drawings describing the real-estate plots, and the list of real-estate plots. The latter indicates a real-estate plot number, the type of use or the sections of use (such as construction site, garden area, etc.) and the size of the area.

### **5.5.3. Land Register Data Base**

The Land Register data base covers the Land Register and the cadastral maps, linking both data sources.

The main ledger, the list of cancelled entries and the auxiliary registers are maintained by storing entries in the Land Register data base. Since 2006, the document depository is also part of the Land Register data base and is being maintained electronically.

This IT supported management of the Land Register has proven to be absolutely reliable. A particularly strict liability of the Federal State has been stipulated for any damage from the use of IT support of the Land Register (the damaged party does not have to prove the fault of the Federal agency, which is different from the approach under the official liability law). So far, though, not a single case has occurred in which such liability was claimed.

The Land Register data bank contains all border posts, triangulation and other surveying points, as well as information on the map sheets, a digitalised form of the cadastral maps and references to changes (file number of the surveying office regarding changes in the cadastral maps). The list of real-estate parcels of land is also kept in the Land Register data base.

#### **5.5.4. Enquiries**

As a matter of principle, everybody is entitled to enquire about entries in the Land Register and its auxiliary registers from the Land Register data base. The same applies to the cadastral maps, including the Digital Cadastral Maps.

When entering the name of the cadastral community and the number of the real-estate parcel of land (so-called entry number or "EZ") or of the real-estate property, information may be obtained from the data base (excerpts from the Land Register, excerpts from the cadastral maps, and copies of maps). This information contains all currently recorded data. Upon request, data that have been previously cancelled may also be obtained (back to when the system was converted to IT).

It is not possible to obtain electronic information on persons. For this type of information, interested persons must turn to (any) Land Register Court and demonstrate a legal interest in such information.

Since mid-1999 enquiries to the Land Register data base (i.e. Land Register and cadastral maps) are possible via the Internet by accessing accounting centres. Access to the real estate data base is possible via the Internet addresses given at <http://www.justiz.gv.at> for the accounting centres (chapter "Grundbuch"). This is how Land Register and Cadastral Map enquiries can be made and copies from these registers may be obtained, which are completely identical with officially produced copies.

However, public documents on the status of the Land Register or the Cadastral Maps, for the purpose of submission to authorities, etc., may only be obtained by contacting (any) district court (Land Register department) or a notary public in matters of the Land Register, or by contacting any surveying office or civil engineer in surveying matters.

#### **5.5.5. Costs**

Enquiries to the land-register data base are subject to a fee. The fees are invoiced in keeping with the Fee Ordinance of the Federal Ministry of Finance via the above-mentioned accounting centres, where every customer must obtain an "account".

## **5.6. THE COMPANY REGISTER**

### **5.6.1. The Company Register**

The Company Register is a public register maintained by regional courts (in Vienna by the Commercial Court Vienna, in Graz by the Higher Regional Court for Civil Matters Graz). It serves to record and disclose facts that must be registered according to commercial law.

The Company Register consists of a main ledger, which contains the registry entries, and the document depository (i.e. the collection of documents that are the basis for registry entries, e.g. the articles of incorporation or the balance sheet).

The Company Register contains entries for all legal entities, i.e. Sole Proprietors, Open Partnerships, Limited Partnerships, Joint-Stock Companies, Limited Liability Companies, Commercial and Industrial Cooperatives, Mutual Insurance Companies, Savings and Loan Banks, Private Foundations, European Economic Interest Groupings, European Societies (SE), European Cooperative Societies (SCE) and other legal entities, whose registration is required by law.

Every legal entity is assigned a so-called Company Register Number in the Company Register.

### **5.6.2. Company Register Data Base**

The main ledger is maintained by storing entries in a central data base (Company Register data base) in the Federal Computing Centre in Vienna.

Since mid-2005, the document depositories of all Company Register Courts are maintained electronically.

Previous documents may be accessed at the court responsible for maintaining the local Company Register as before. Since 2001, electronically submitted balance sheets can be viewed on the Internet.

IT-supported management of the Company Register has also proven to be very reliable; So far, not a single case has occurred in which liability was claimed.

### **5.6.3. Enquiries**

As a matter of principle, everybody is entitled to access the Company Register data base to obtain information on entries in the Company Register. When entering the Company Register file number, an excerpt from the register may be retrieved from the data base. This excerpt contains the currently recorded data. Upon request, data that have been previously cancelled may also be obtained (only going back to the conversion to IT management).

Enquiries may also ask which legal entities were newly recorded recently, or amended, or deleted. Since mid-1999, the Company Register may be accessed via the Internet by way of accounting centres.

Access to the Company Register data base is provided via the Internet addresses of the accounting centres.

By using this facility, Company Register enquiries may be drawn up, and copies from the register may be generated, which are completely identical with officially produced excerpts from the Company Register. However, only regional courts (Company Register department) or notaries public may produce excerpts from the Company Register for the purpose of submission to an authority.

#### **5.6.4. Costs**

Company Register enquiries are subject to costs. The fees are calculated in keeping with the Fees Ordinance of the Federal Ministry of Justice and are handled by the accounting centres, where every customer must obtain an “account”.

#### **5.6.5. Access to the Data Base**

The Federal Ministry of Justice has made arrangements that this data base can be publicly accessed via the entities (accounting centres) listed at [www.justiz.gv.at](http://www.justiz.gv.at) under “Firmenbuch” (Company Register).

### **5.7. FAMILY COURT SUPPORT**

The amended Parent & Child and Name Right Act 2013 has created the legal basis for the so-called „family court support“. Since 1 July 2014 such support is available nationwide all over Austria. Under this scheme, family courts are supported in parent and child proceedings by a staff provided by the justice system and consisting of psychologists, pedagogues and social workers.

It is the objective of such family court support to contribute, by swift interventions (in the framework of the so-called “clearing”, to deescalating custody and contact litigations and to initiate amicable agreements, to broaden the basis for court decisions through most succinct inquiries and statements and thereby to improve quality and sustainability of court proceedings. For this purpose, family court support staff may investigate, summon and interrogate persons who might provide information about the living conditions of minors, and establish direct contact with the child.

Moreover, family court support staff may be employed as “visit mediators” in proceedings regulating or enforcing the right of personal contact. The visit mediator shall inform the parents about the importance of the child having contact with both parents, give advice of how to organise such contacts for the best benefit of the child, and mediate in cases of conflict. Moreover, they may occasionally monitor the orderly transfer or return of the child. Ultimately, they shall report their findings to the family court.

### 6.1. EXPENSES AND COST COVERAGE

Expenses in 2013 amounted to 1,311 million euros (of which 655 million euros were personnel expenses and 656 million euros material expenses), while revenues amounted to 1,013 million euros. The judiciary can therefore claim a high rate of cost recovery of about 77 per cent.

Efficiency improvements of recent years have resulted in expenses incurred by courts being covered by revenues from court fees. It is only for prisons that tax money is needed, as costs of about EUR 107 per prisoner and day can only partly be recovered from the sale of products and services generated at the prisons.

A system of cost and performance accounting, guided by business management considerations, is currently being developed. In the future, such system will facilitate optimising the use of resources within legal requirements.

### 6.2. BUDGET RESPONSIBILITY (BUDGET IMPLEMENTATION)

The Federal Constitution Act governs the preparation and implementation of the budget in great detail.

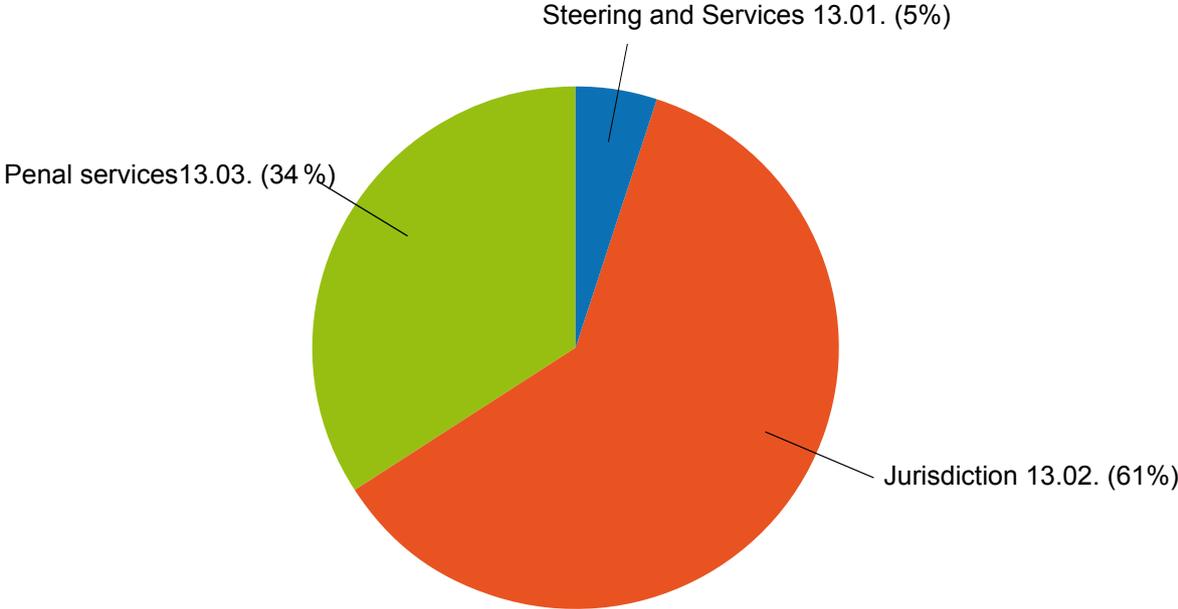
The Federal Budget Act 2013, which was adopted by a simple majority, determines the organisation and management of the budget, the planning of the budget, the preparation of the budget, as well as budget implementation (revenue and expenditure management, asset and debt management, payment transactions, clearing), as well as invoicing and internal revision procedures. The Federal Minister of Justice is responsible for managing the budget of the entire justice system.

A Federal Finance Act is required for every budget year (calendar year), to provide the legal basis for all administrative acts associated with revenues and expenditures. Annexes to the annual Federal Finance Act are the Federal Budget (for financial resources) and the staffing plan (for personnel resources).

In the Federal Finance Act, the subdivision 13 “Justice System” is broken down in three global budget items, which in turn are broken down in detailed budgets (parentheses indicate the respective percentages of the total expenses of the judiciary):

- Global budget 13.01 Steering & Services: this item also includes subsidies, such as for guardians and patients’ ombudspersons, representatives of home residents and aid to victims (5%)
- Global budget 13.02 Jurisdiction (61%)
- Global budget 13.03 Penal Services (34%)

**Expenses 2013**



## 7. SERVICES FOR AUSTRIAN CITIZENS

New forms of work organisation and communication make the often seemingly abstract judiciary institutions more comprehensible, bringing them closer to the citizens. By setting up service centres at various courts, central contact points for requests raised by persons in pursuit of justice have been established. Such service centres, e.g. at the regional courts Vienna (for criminal matters), and (for civil law matters), Graz, Linz, Innsbruck and Leoben have considerably facilitated contacts with courts for those persons. In addition, the drop-down menu “Bürgerservice” (service for citizens) at [www.justiz.gv.at](http://www.justiz.gv.at) provides interactive information on legal subjects of general interest.

### **7.1. ACCESS TO THE JUDICIAL SYSTEM FOR SOCIALLY DISADVANTAGED PERSONS**

Persons, who cannot pay the cost of proceedings, without risking to their daily subsistence, will receive legal-aid support – upon application. This means that they are fully or partly (temporarily) exempt from paying fees and are (temporarily) assigned a lawyer free of charge. As a result, socially disadvantaged persons also have access to the law. They must pay these costs only to the extent and as soon as their financial situation has improved.

Every year, the Federal Ministry of Justice transfers a lump sum to the Bar Association in order to cover the services provided by lawyers as legal-aid counsels. This money is used for pension payments to retirees and surviving dependants.

### **7.2. JUDICIAL OMBUDSPERSONS**

On 1 November 2007, the Austrian judiciary introduced ombudspersons to offer Austrian citizens an improved information and complaint service. All persons involved in court proceedings may turn to the Ombudspersons if they have questions or complaints concerning the work of the courts. Ombudspersons are experienced judges located at the higher regional courts. The Judicial Ombudspersons explain court decisions, clarify misunderstandings and follow-up complaints in a competent, independent and expeditious manner, and subsequently directly inform the citizens. Ombudspersons, however, must not interfere with pending proceedings, nor do they constitute another type of appellate instance.

Effective on 1 January 2012 the function of the Judicial Ombudsperson has been consolidated on a legal basis.

## 8. INTERNATIONAL COOPERATION

The goal of international cooperation is the general exchange of ideas and opinions with representatives of foreign judiciary systems, as well as the support of other countries when building up a legal system based on the rule of law and democratic principles. Austria's judicial system, which is held in high esteem abroad, makes valuable contributions in this direction. Austrian expertise is also applied to projects that receive international support.

Also on an EU level, Austria stands up for the interest of the judiciary, but also of its citizens. One of the major priorities of the EU today is providing security and the rule of law in a Europe without internal borders. An essential element to achieve such objectives and to create a clear and easily comprehensible legal framework in the interest and on behalf of the citizens of Europe is the strengthening of mutual trust.

Austria's judicial policy is committed to the strategic guidelines adopted by the European Council on 26 June 2014 for a space of freedom, security and justice (= post-Stockholm Programme). In particular, the approach contained therein of evaluating and consolidating the achievements so far and to strengthen operative cooperation has proven an efficient instrument for protecting and enforcing private rights of citizens across borders, and to facilitate and accelerate cooperation in criminal matters among Member States.

Austria has actively participated in the design of the e-Justice portal (<https://e-justice.europa.eu>) established in 2010 by the European Commission to support EU citizens and legal operators with legal issues. At present, this portal offers numerous informative details on important legal issues in the EU and its Member States, but will be expanded in the future with a plethora of additional functions. As a case in point, the project e-CODEX under development will provide an opportunity to exchange information between Member States online in a secure manner, aimed at facilitating cross-border access of citizens and corporations to legal tools, and at improving the interoperability of judicial authorities with the EU. Austria plays a leading role in such development, and is also committed to the interconnection of insolvency registers and criminal records, which are included in the portal together with Company Registers, Land Registers and national registers of wills. Moreover, Austria encourages European propagation of video conferencing technologies and an IT-solution for the European Order for Payment procedure, jointly developed with Germany.

## 9. SOURCES

[www.justiz.gv.at](http://www.justiz.gv.at)

Marcus Hrnčíř, Sigrid Urbanek: JustizRechtStaat, Forum Political Education

## 10. LIST OF ABBREVIATIONS

AIX	Special operating system
BG	District court
BGBI.	Federal Legal Gazette
BMJ	Federal Ministry of Justice
B-VG	Federal Constitutional Act
CCP	Code of Criminal Procedure
EU	European Union
EEA	European Economic Area
FS	Prison sentence
GS	Fine
HG	Commercial court Vienna
JA	Prison
JGG	Juvenile Court Act
LG	Regional court
LGZ	Regional court for civil law matters
OGH	Supreme Court
OLG	Higher regional court of appeal
OStA	Senior prosecution office
SMG	Narcotics Act
StA	Public prosecution office
StGB	Criminal Code
UN	United Nations
VoIP	Voice over IP (Internet telephone connection)
WKStA	Central Public Prosecutor's Office for Combating Economic Crimes and Corruption