



Austrian
Supreme Administrative Court



VW
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As one of Austria's supreme courts of law, the Supreme Administrative Court (VwGH) safeguards the right of citizens to legal certainty when dealing with government authorities.

As a court of last resort, it ensures that public administration is conducted in accordance with the law, thus strengthening people's trust in the institutions of our democratic society. When giving its rulings, the Supreme Administrative Court is subject only to the law.

The Supreme Administrative Court is engaged in constructive dialogue with other courts, in particular with the lower administrative courts and the Constitutional Court, as well as the Court of Justice of the European Union and the European Court of Human Rights.

Independence

Reliability

Legal expertise



The actions of public authorities are subject to review by the administrative courts at Federal and Regional level. The rulings of these courts (or, indeed, their failure to give rulings) are, in their turn, subject to appeal to the Supreme Administrative Court, against whose decisions no further domestic remedy is available. Austria's Supreme Administrative Court is therefore the highest court in the country guaranteeing people's rights vis-à-vis government authorities. In ensuring the uniform interpretation of administrative law and resolving new legal issues, the Court is a key institution in a democratic state governed by the rule of law.

This publication provides an overview of the tasks and organisation of the Supreme Administrative Court.

Rudolf Thienel

President of the Supreme
Administrative Court



Our mission

The tasks of the Supreme Administrative Court are laid down in Austria's Federal Constitution:

Those affected by the decisions of lower administrative courts can petition the Supreme Administrative Court to review these decisions. It is then up to the Supreme Administrative Court to check whether the lower court's decision is lawful. If not, it can annul or amend this decision. In the case of annulment, the lower court must issue a new decision based on the ruling of the Supreme Administrative Court.

The Supreme Administrative Court can only review a case if the decision depends on a legal issue of fundamental importance. A legal issue is considered to be of fundamental importance if the lower court's decision departs from the relevant rulings of the Supreme Administrative Court, if there is no case law on the issue in question, or if this issue has not been dealt with consistently in the Court's past rulings.

This shows that the main focus of the Supreme Administrative Court's work is, as a rule, on points of law, and that it rarely has to establish the facts of a case.

In addition, those concerned may also apply to the Supreme Administrative Court if a lower administrative court fails to issue a timely decision. Furthermore, the Supreme Administrative Court decides on conflicts of jurisdiction among lower administrative courts, or between one of these and the Supreme Administrative Court itself. Finally, ordinary (i.e. civil/criminal) courts may, in certain cases, request a declaration on the legality of a particular decision by an administrative authority or one of the administrative courts at Federal or Regional level.

More details on proceedings before the Supreme Administrative Court, as well as the Court's Annual Reports, are available (in German) at www.vwgh.gv.at.

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SUPREME ADMINISTRATIVE COURT



LOWER ADMINISTRATIVE COURT

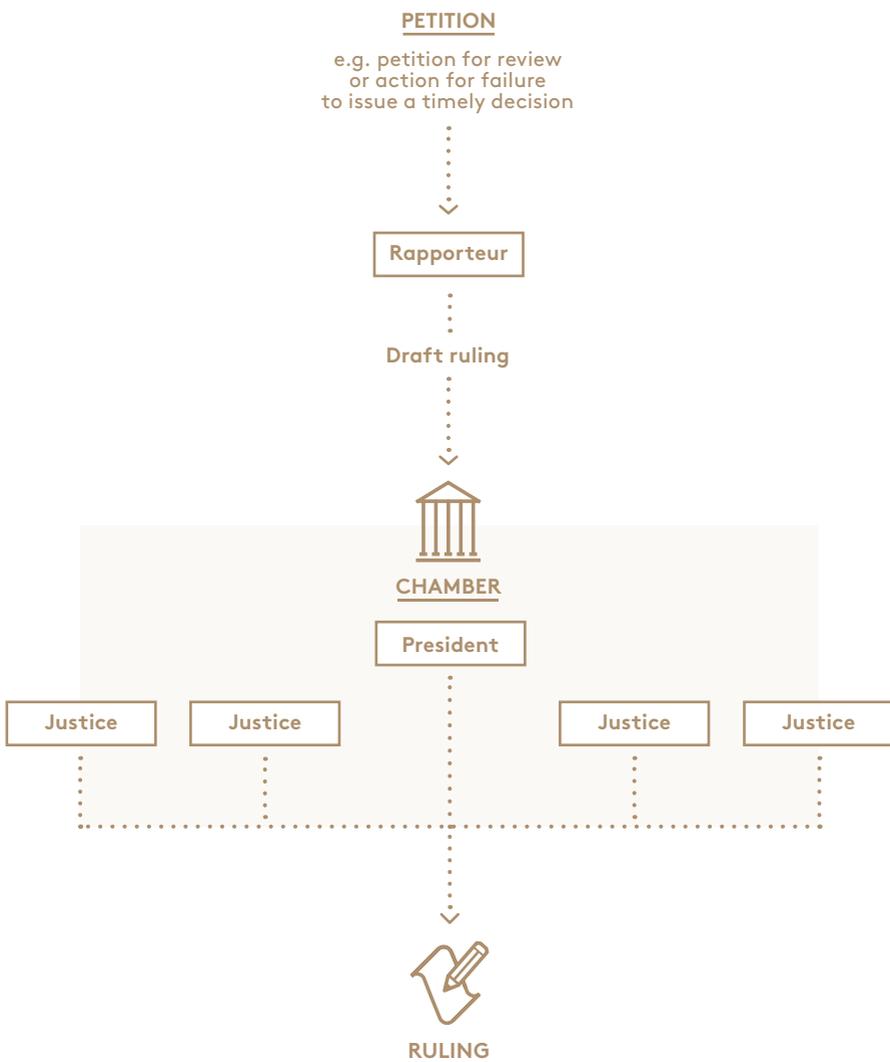
9 Regional Administrative Courts

Federal Administrative Court

Federal Fiscal Court



GOVERNMENT AUTHORITY



A case is assigned to one of the Supreme Administrative Court's 21 chambers under a system adopted each year by its Plenary Assembly (consisting of the President, the Vice President and all other justices). Each of the Court's 68 justices belongs to at least one chamber.

From petition to ruling

As a rule, petitions to initiate proceedings before the Supreme Administrative Court (specifically, petitions for review or actions for failure to issue a timely decision) are to be filed with the competent Federal or Regional Administrative Court. This court passes the petition, together with a record of the proceedings, on to the Supreme Administrative Court. The Supreme Administrative Court's **Registry** opens a file and assigns a reference number to the petition, which it then transmits to the President. The **President** allots each new case to the proper chamber and appoints a member of this chamber as rapporteur.

The **rapporteur** prepares a **draft ruling** and presents it to the remaining members of his/her chamber. The justices are supported in their work by approximately 40 **legal assistants**. For research purposes the Court's library provides roughly 55,000 books and 100 specialist journals.

Chambers regularly meet behind closed doors to deliberate on draft rulings. The composition of chambers depends on the cases before them. Typically, a chamber has five members. One of these (i.e. the President, the Vice President or a Chamber President) presides over the chamber's deliberations. Some types of cases, such as administrative penal matters, petitions for review which are to be dismissed on formal grounds, or cases whose underlying legal issues are particularly straightforward or have been resolved in past rulings, are decided by chambers of

three justices. Occasionally, however, a decision may be taken by a so-called enlarged chamber consisting of nine justices. This is required if the decision would mean a departure from the Court's past rulings, or if the issue in question has not been dealt with consistently in the Court's rulings so far.

In certain cases **public hearings** are held in order to clarify the matter at hand. A record of hearings and chamber meetings is kept by legal assistants.

Once a chamber has adopted a ruling, it is written up and the required number of copies are produced by the Court's **Printing Department** and sent to the parties by the Registry, unless service is carried out by electronic means.

The Documentation Office collects, registers and processes the Supreme Administrative Court's rulings. This is an important contribution to the smooth functioning of the Court, as is the work of its IT and Facility Management Units.

The members of the Supreme Administrative Court

The **President** is in charge of managing the Supreme Administrative Court. He/she ensures the highest possible degree of consistency in the Court's rulings while taking account of judicial independence and assigns new cases to the appropriate rapporteur in accordance with the relevant rules. The **Vice President** substitutes for the President when he/she is unavailable.

All members of the Supreme Administrative Court are **professional justices**. Not bound by any instructions and subject only to the law, they are **independent** in exercising their judicial office. What is more, they are not subject to dismissal or transfer.

Justices are appointed by the Federal President based on a proposal by the Federal Government. Unless the post to be filled is that of President or Vice President, this proposal must correspond to a list of three candidates drawn up by the Plenary Assembly of the Court.

Each member of the Supreme Administrative Court must have completed a law degree and have at least ten years' practical legal experience. A quarter of all justices should be drawn from relevant institutions in Austria's nine Regions.

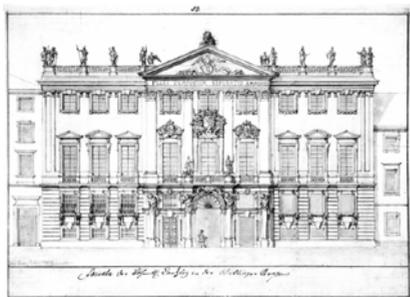
Furthermore, strict incompatibility rules are in place: members of the Federal Government or a Regional Government, of the Federal or a Regional Parliament, the European Parliament or any other political representative body (such as a local council, for example) are not eligible to become justices of the Supreme Administrative Court. The President and the Vice President are not permitted to have held such elected office within the five years preceding their appointment.

1876

The Administrative Court of the former Austrian Monarchy is **founded** on 2 April, the day the relevant law enters into force.

1918

The **Administrative Court for the Republic of Austria** is established under the country's new republican constitution.



1940

The Federal Court of Justice is integrated into the administrative justice system of the German Reich.

1995

Austria joins the European Union, making the Administrative Court part of the **European justice system**. On 18 September 1996 the Court makes its first reference for a preliminary ruling to the European Court of Justice.



1934

The Administrative and Constitutional Courts are merged to form the so-called Federal Court of Justice; a number of justices are retired for political reasons.

1936

The Federal Court of Justice moves into the former **Bohemian Chancellery** at No. 11, Judenplatz, in the centre of Vienna.

1945

The Austrian Administrative Court is **re-established** and resumes its work on 7 December.

2014

Following a comprehensive **reform of Austria's system of administrative justice**, new administrative courts of first instance at Federal and Regional level take up operations. The Supreme Administrative Court is empowered to review the rulings of the lower administrative courts, thus retaining final jurisdiction in all administrative matters.



Service

Our legal assistants are available to assist you at our Service Centre.

You can also visit us online:
www.vwgh.gv.at

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