

## Labour Jurisdiction in Austria

1. At present civil - law matters are adjudicated on four levels. These are the district courts, the courts of the federal provinces (courts of original jurisdiction), the higher regional courts (courts with appellate jurisdiction) and the Supreme Court in Vienna.

The courts of the federal provinces, also act as courts of original jurisdiction for cases under labor and social security law. When adjudicating these cases they are „acting as labour and social - security courts“ and have to express this in the judicial decisions concerning former matters. Vienna is the only federal province that has a separate court of original jurisdiction for labor and social security law, namely the, Labour and Social-Security Court.

2. Labour and social - security claims are dealt with by panels.

With the Labour and Social - Security Court or court of the federal province, acting as labour and social security courts (= first instance), there are a presiding professional judge and two lay judges with expertise (honorary function) one formally from the employer`s side, one formally from the employee/worker`s side (who are elected by bodies of the employers and the employees/workers for five years and may be reelected).

With the higher regional courts acting as, labour and social security court, ( = second instance ) and the Supreme Court there are three professional judges and two lay judges. The Supreme Court has two panels (also but not exclusively) for labour - law cases.

3. An appeal ( Berufung ) may be launched against decisions of a court of original jurisdiction acting as labour and social security court, within four weeks upon service of the decision. An appeal to the Supreme Court (Revision ) is only admissible if the decision depends on solving a legal issue of substantive law or procedural law, which is of major significance.

4. According to the Labour and Social-Security Courts Act labour law cases are disputes under civil law:-

a. between employers and employees in connection with employment relationships;

b. between employers/employees and members of the bodies representing employees, in connection with the latter's activities on these bodies ;

c. between employees in connection with their common work ;

d. between legal entities providing retirement benefits, pension benefits or similar benefits deriving from a former employment relationship, but are no social-security companies, and persons claiming such benefits;

e. concerning claims according to the Building -Workers Holiday Act (Holiday Fund), according to the Building Workers Bad Weather Compensation Act, or against the salary funds in relation with emoluments due under the Salary Funds Act;

f. on rights or legal relationships that derive from Part II of the Work Constitution Act, or similar federal -law provisions (industrial constitution: the company, the works council, protection against termination of employment, dismissal, etc.):

g. Moreover, within their responsibilities, employees that may become a party in lawsuit, as well as the respective employers may either file an action or be sued in connection with a declaratory judgement as to whether or not rights or legal relationship exists, if a minimum of three employees are involved .

h. Corporations with collective bargaining powers, may bring an action against another corporation before the Supreme Court in order to obtain a declaratory judgement as to whether or not rights or legal relationships exist, which concern facts being of importance for at least three employers or employees.

5. The proceedings in matters under labour and social -security law are governed by the Labour and Social-Security Courts Act ( enforced in 1987). Whenever the foresaid Act does not stipulate otherwise ,the general provisions on adjudicating civil-law cases also apply to proceedings under labor and social security law ( in particular the Jurisdiction Standards, the Rules of Civil Procedure and the Regulations of Enforcement Procedures).

6. Parties in labour law actions before courts of original jurisdiction need not be represented at all by another person. They can be represented by a suitable person of their choice such as a member of the works council, a senior employee etc. There are also so called „ qualified persons, (staff members of statutory professional associations or voluntary professional associations with collective bargaining powers) that are allowed to represent even in proceedings before the higher regional courts. There is an absolute obligation to be represented by a lawyer in proceedings before the Supreme Court.

7. Up to a claim of euro 1.450 and in some cases when a declaratory judgement is made or the termination of an employment - relationship is declared invalid by judgement, there is no court fee. Parties who cannot pay the costs of proceedings without causing a risk to their daily subsistence ,will receive legal aid support upon application. This means that they are fully or partly exempt from paying fees (Court fees, fees for experts used by court) and if necessary assigned a legal council free of charge.

8. The decision of the first instance can be given orally at the end of the hearing , followed by a short written judgement. In most cases there is nevertheless a formally written judgement, giving full reasons of the decision. The decisions of the higher regional courts and the Supreme Court are always in writing.