

AUSTRIAN DELEGATION TO THE
HUMAN DIMENSION SEMINAR
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Upholding the Rule of Law and Due Process in Criminal Justice Systems

Written Contribution by the Austrian Delegation

The training of judges in Austria

a) What professional training to judges receive? Is this training given at a school reserved for judges or else at an institution attended by other legal professionals, such as barristers?

The training of prospective judges (“Richteramtsanwärter”, “judicial trainees”) in legal and non-legal matters takes four years. In this period, prospective judges work and receive training at different courts and the public prosecution office, also they will attend internships in a law office, at a public notary, or in detention centres. Further on, they have to attend courses, which are given in – among others – judicial training centres. However, there is no special school reserved for judges.

The presidents of the four courts of appeal, the professional representations of judges and public prosecutors, and the Federal Ministry of Justice provide for further education of judges. However, there is nothing like a “judicial academy” as a central institution of further education, in Austria.

The Federal Ministry of Justice and the “Fortbildungsbeirat” (“Advisory Board on Further Education”) organise a yearly program of further education on the basis of evaluation of educational programmes and needs and the constant observations by the competent departments of the Courts of Appeal. The “Fortbildungsbeirat” is an advisory board with members from the Supreme Court, the Courts of Appeal, the “Oberstaatsanwaltschaft” (“High Senior Public Prosecution Offices”), and the professional representations of judges and public prosecutors. This board will organise a program of further education considering current needs and interests in the legal and non-legal fields. Also, the board will see that there is a balance of subject matters and regional coverage. All judges and public prosecutors will receive a copy of the program of further education. In addition, further seminars or conferences will be organised at short notice if there is a justified need due to current events.

The program of further legal education comprises seminars on changes and developments in civil law, civil procedure, criminal law, labour law, social security law, non-contentious proceedings, law of inheritance, laws of family and domestic relations, laws of tenancy and condominium, commercial law, laws on execution and insolvency, traffic law, insurance law, financial crime etc. Also, matters of

European Law will be covered in the context of each subject. Further on, further legal education comprises fundamental and human rights, anti-discrimination etc.

Non-legal seminars will usually cover topics like rhetoric, communication skills, psychology, conflict resolution, citizen based behaviour and attitudes, mediation, time- and human resources-management, procedural economy, public relations, media training, information technologies and foreign languages.

Usually, it is assumed that judges and public prosecution have a broad knowledge about the circumstances and living conditions of the people that appear in court. Still, it is an important concern of further education programmes to deepen the knowledge and understanding about these issues. Thus, seminars and workshop on violence (with a special focus on sexual violence against/abuse of women and children), human trafficking, organised crime, unstated xenophobia and other issues on the social context of cases before court supplement the educational program.

It is to be noted, that judges and public prosecutors have the opportunity to take professional supervision/counselling and that the Federal Ministry of Justice will pay a part of the fees.

Apart from the seminars and trainings mentioned before, the Federal Ministry of Justice organises special courses, i.e. a course for judges in non-contentious proceedings or family law. This course shall improve the qualifications of judges who have to deal with particularly difficult situations of conflict, e.g. child custody. A new course on human resource management was just launched, and a course for judges and public prosecutors concerned with juvenile crimes is in preparation.

The lecturers in the above mentioned seminars and courses are mainly judges and public prosecutors. The non-legal topics are covered by external experts.

In addition to the educational activities of the judiciary, the Federal Ministry of Justice and the professional representations encourage judges and public prosecutors to attend courses and conferences at universities, private institutions or foreign judicial institutions.

Judges are not obliged to attend further educational programs. However, the general duties of a judge as laid down in the RDG comprise an order to study further. Thus, about 73 % of all judges active in Austria attended programs of further education in 2004.

b) Are judges dealing with cases of under-age victims specialised in this field? Assuming that they are specialised judges, how many of them are there and how is this specialisation acquired?

In Austria, there is a special competence for sex crimes (including under-age victims) and a special competence for juvenile delinquents respectively “young adults” in criminal courts. However, the age of the victim is no specific criteria for judicial competence.

c) Do public prosecutors and judges belong to one and the same body or to two separate bodies?

Public prosecutors and judges receive the same training and belong to the same salary class, though they are subject to different public services laws ("Dienstrecht"). In the performance of their duties, public prosecution offices are independent from the courts in all instances. Though, public prosecution offices and courts will often occupy the same building. Note, that nobody can be a public prosecutor and a judge at the same time. However, it is possible, that a judge applies for the office of a public prosecutor after a certain time of professional practice and vice versa.

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