

Austrian Labour Law

- 3 Forms of organisation to represent employee interests
 - Chambers of labour – all employees
 - Competences: political process, advice and assistance
 - Trade unions – Members
 - Competences: bargaining tariffs, advice and assistance
 - Works council-
 - Competences: bargaining works council agreements; advice

Austrian Labour Law

- 5 Levels of managing labour relations
 - A. Parliament – legislation
 - B. Trade unions – Federal Economic Chamber - tariffs
 - C. Works council – employer - works council agreements
 - D. Employmentcontract
 - G. Service directives by the employer
- A-C are applied compulsory in favour of employees

Diamond standard of Austrian Social Partnership

- **Comprises all employers and employees**
- **Clear competences for agreeing on statutes, tariffs and works council agreements**
- **Compulsory minimum standards**
- **Conflicts are settled effectively**

Diamond standard of Austrian Social Partnership

- No strikes
- 100 percent employees are protected by statutes
- 98 percent by tariffs related to branches of industry
- many by works council agreements
- Within this frame of minimum standards in favor of employees – freedom of contract.

Settlement of Conflicts

Works council – information – negotiation -
assistance

Chambers of labour – Trade unions:
information – assistance

Labour courts - decisions

The Austrian Labour Court System History

- 1869 Trade Courts – group parity
- 1946 Labour courts– at the level of district courts
- 1987 Labour and Social Security Courts Act
Ordinary Courts adjudicating labour and social
Security cases
- Integration of
 - Labour Courts
 - Conciliation Boards
 - Social Security Arbitral Boards

The Austrian Labour Court System

Labour cases three stages

- **First instance – regional** court (Vienna - Labour and Social-Security Court)
 - 1 professional judge + 2 lay judges
- **Second** instance – courts of **appeal**
 - 3 professional judges + 2 lay judges
- **Third** instance – **Supreme** Court
 - 3(7) professional judges + 2(4) lay judges

The Austrian Labour Court System

- **Lay judges** – elected by bodies of employers and employees for five years
- **Professional judges**
 - Degree of law +
 - 4 years of +
 - Judge examination+
 - Proposal (non binding) of courts personel bench+
 - Appointment - Federal President/Minister
 - Independent – removeable only by formal court decision

The Austrian Labour Court System

- Competences in labor cases
 - employee – employer
 - bodies representing employees – employer/employees
 - retirement benefits....
- Local jurisdiction – place of the defendant
 - Optionally
 - residence of the employee during employment
 - working place
 - Place where remunerations were paid

The Austrian Labour Court System

principles of procedural law

- initiation by the parties
- Presentation of facts/evidence by the parties (except expert opinion)
- Oral public hearing
- Evidence is taken in the hearing by the court
- Free consideration of evidence

The Austrian Labour Court System

principles of procedural law

- Special instructions of parties who are not represented by qualified persons
- Appeal against first instance decisions within four weeks
 - reasons of nullity, defects in proceeding, wrong statement of facts, incorrect legal evaluation
- No new material at the second instance, except the party has not been represented by qualified persons

The Austrian Labour Court System

principles of procedural law

- Oral hearing at the court of appeal only on special request
- Repeating taking of evidence – oral hearing mandatory
- Against the decision of the court of appeal an appeal to the Supreme Court is only admissible to solve legal issues of major significance in order to safeguard legal uniformity, the stability of law or the evolution of law
- Supreme Court - no oral hearing

The Austrian Labour Court System

specific collective actions

- Works council/employer can file a claim for declaratory judgement of rights
- Associations able to be partner of a collective agreement can apply for a declaratory decision of the Supreme Court
- It must be relevant for a minimum of 3 employees
- The time of prescription is stopped during these procedures

The Austrian Labour Court System

- Representation
 - No mandatory representation at first instance
 - Before the court of first and second instance - representation by officers and employees of professional associations (trade unions, chamber of commerce...) is possible
- Legal aid for persons without means to claim their rights
- Costs of the winning party have to be refunded by the other party. 9,2 % interest/year has to be paid after the date of maturity

The Austrian Labour Court System Statistics

- 15- 20.000 labour cases/year at the first instance
 - Pending appr. for 0,5-1,5 year until final judgement
- 800-1000 second instance
 - 6 month
- 300 third instance
 - 6 month

The Austrian Labour Court System

- Additional information
 - <http://www.ogh.gv.at>
 - <http://www.ris.bka.gv.at>

Supreme Court Vienna

