









Different Instances – Different Tasks

- **Higher Administrative Courts**
  - Also: Courts of First Instance
  - administrative and exclusive set of types of cases
  - s. 40, etc.
  - government regulation on measures to fight the COVID-19 pandemic
  - development plans under the Federal Building Code
  - various planning decisions (private approvals to highways, public railway routes etc.)

Administrative Law  
Report of the  
Administrative Law  
Committee  
of the  
Administrative Law  
Committee  
of the  
Administrative Law  
Committee











# Judicial System in India

Exchange between  
Delhi High Court  
and  
Higher Administrative Court  
of Baden-Württemberg

*Video Conference on Friday, January 15th, 2021*

**Chief Justice DN Patel**  
High Court of Delhi at New Delhi





# Overview of Legal System in India

01

India is governed by a written Constitution which envisages three organs of the State i.e. Legislature, Judiciary and Executive.

02

Preamble of Indian Constitution guarantees social, economic and political Justice to all Citizens.

03

The Constitution has created a single integrated and independent Judiciary.

04

The Indian Judiciary administers a common law system in which customs, securities and legislation all codify the law of the land.



# Overview -

05

The Judicial system of India is classified three levels with subsidiary parts.

06

Article 124 of Constitution establishes The Supreme Court of India.

07

The Chief Justice of India who is head of Judiciary is appointed by the President of India.

08

SC has a strength of 34 Judges including the Chief Justice.

# High Courts

High Courts are Courts of Record

India has 25 High Courts as the top judicial bodies in States established under Article 214 of Constitution.

They are controlled and managed by Chief Justices of States. Bombay, Madras and Kolkata HCs were established in 1862.

HCs have a sanctioned strength of 1079.



# District Courts

District Courts are Courts of first instance for Citizens

Article 233 of the Constitution establishes District Courts, also known as Subordinate Courts presided over by District and Sessions Judges.

District Courts are also the seat of Metropolitan Magistrates and Civil Judges.

District Courts in India have a sanctioned strength of 24,246 Judges working from around 3000 Court Complexes.



# Hierarchy of Courts in India

**Supreme Court of India**

**01**

**Chief Justice of India and 33 SC Judges**

**High Courts**

**02**

**25 High Courts with 1079 HC Judges**

**District & Sessions Courts**

**03**

**India has 672 District Courts with 3000 Court Complexes**

**Magistrates & Civil Judges**

**04**

**India has a sanctioned strength of 24,246 Judges**

# COVID-19 Pandemic – Response of Indian Judiciary



**Virtual Courts heard 9,35,000 Cases in Pandemic times**

**Judiciary in India geared up for providing unhindered Access to Justice for its Citizens at all Levels**



## **Virtual Hearings**

Judiciary used Video Conferencing to continue to hear Cases during Lockdown.



## **E-Filing of Cases**

Litigants and Lawyers can e-File Cases before all 24x7



## **Digital Access to Files**

All Courts are providing digital access to Court files to Litigants and Lawyers



## **CIS & NJDG**

All 3.95 Crore Cases pending in India are managed under Case Information System and data is available for public view under National Judicial Data Grid



## **E-Courts Services App**

Litigants and Lawyers can e-File Cases before all 24x7

# Functioning of Courts during COVID-19 period -



**The Supreme Court had nearly 30,000 hearings during the lockdown period**

01



**The High Courts heard 13,74,048 cases using video conferencing only**

02



**The District Courts heard 35,93,831 cases using Video Conferencing**

03



**Collectively Courts in India heard around 5,00,000 Cases during Pandemic period**

04



**14, 500 VC enabled Courts being established in India**

05



# Delhi High Court's Response to COVID-19



Contrary to popular perception, Delhi High Court looked upon COVID-19 related lockdown as an opportunity instead of a problem and provided unhindered access to justice.



## Dedicated link

For mentioning listing and hearing, dedicated online/VC links have been provided.



## Relaxed Parameters

Requirements of filing affirmed affidavits and Court fees have been relaxed.



## Physical Hearing

Restricted physical hearing has been allowed to ensure access to justice to those who are not techno-savvy.



## Online Training

More than 100 training sessions have been conducted for the stakeholders.



## Facilitation Counters

E-Seva Kendras have been made functional in all the districts to facilitate digital activities of lawyers and litigants.

# Technology and Digitisation -

E-Committee of Supreme Court of India is leading Technological innovation in India Judiciary

Wide Area Network  
(WAN) Connectivity



National Judicial  
Data Grid



E-Sewa  
Kendras



Virtual Courts



Covid-19 Software Patch



E Payment

## Wide Area Network (WAN) Connectivity -

- Under the Wide Area Network (WAN) Project under eCourts project is aimed at connecting all District and Subordinate court complexes, spread across the country using various technologies like OFC, RF, VSAT.
- So far, 2931 sites (98%) have been commissioned out of 2992 sites with 10 Mbps to 100 Mbps bandwidth speed.
- This forms the backbone for the eCourts project ensuring data connectivity in courts across the length and breadth of the country.

## • National Judicial Data Grid –

- Case Information Software (CIS) which forms the basis for the e court services is based on customized Free and Open Source Software (FOSS) which has been developed by NIC.
- Currently CIS National Core Version 3.2 is being implemented in District Courts and the CIS National Core Version 1.0 is being implemented for the High Courts.
- Every single case has been provided a Unique Identification code which is called CNR number and QR Code.

## E-Sewa Kendras -

- E-Sewa Kendras have been rolled out to bridge the digital divide by providing e filing services to lawyers and litigants.
- Currently covering all High Courts and one District court as pilot project, it is being expanded to cover all court complexes.
- E-Sewa Kendras have been set up at the entry point of the court complexes with the intention of facilitating the lawyer or litigant who needs any kind of assistance ranging from information to facilitation and e filing.

## Virtual Courts -

- Nine virtual Courts have been set up at Delhi (2 courts), Faridabad (Haryana), Pune & Nagpur (Maharashtra) Kochi (Kerala), Chennai (Tamil Nadu), Gauhati (Assam) and Bengaluru (Karnataka) to try traffic offences.
- The concept is aimed at reducing the footfalls in the court by eliminating the presence of the violator or advocate in the court.
- Virtual court can be managed by a virtual judge (which is not a person but an algorithm) whose jurisdiction can be extended to the entire state and working hours can be 24X7.
- As on 08.12.2020, these courts have handled 35,02,896 cases and realised Rs.130.72 Cr in fines.

## Covid-19 Software Patch –

- A new software patch and court user manual for COVID-19 management has also been developed.
- This tool will help in smart scheduling of cases thereby enabling judicial officers to retain urgent cases and adjourn cases not urgent on cause list.
- A user manual for this patch has also been issued for the ease of the stakeholders.

## E Payments –

- e-Filing of cases requires facilities for ePayments of Court Fees which includes court fees, fines and penalties which are directly payable to the Consolidated Fund.
- e-Filing of cases requires facilities for ePayments of court fees. Online payment of court fees, fines, penalties and judicial deposits has been initiated through <https://pay.ecourts.gov.in>.
- Introduction of electronic collection of court fees and other civil payments requires appropriate amendments in the existing Court Fees Act enacted by the various State Governments besides opening a bank account in a Nationalized Bank or in other bank suitable to receive, hold and disburse such payments electronically.
- 21 States have already amended the Court Fees Act.



## Digital Negotiable Courts Act Courts in Delhi –

- In November 2020, Delhi High Court has issued “Digital NI Act Courts-Project Implementation Guidelines.”
- 34 Digital NI Act Courts have already been operationalized for dealing with Negotiate Instruments Act cases.
- Besides being environmentally friendly as cases are adjudicated in a paperless manner, it has led to saving of judicial manpower and added to convenience of citizens.
- Within few weeks of their working, more than 8,000 Cheque Dishonour Cases have already been e-Filed and several Cases have been disposed as well.

# Alternative Dispute Resolution Mechanisms in India –

Historically, ancient and medieval India always believed in mediated settlements of disputes.

## Lok Adalat

Legal Services Authorities Act, 1987 established Lok Adalat as an institutional ADR method for amicable settlement of disputes at pre-litigation and pending stage. It also settles criminal compoundable cases.

## Mediation

Mediation was added in Section – 89 Civil Procedure Code. Mediation is provided free of cost for pending cases.

1899



## Arbitration

Right from 1899 to 1940 and now 1996, legislature in India has reposed faith in arbitration as a robust ADR.

1987



## Lok Adalat

Legal Services Authorities Act, 1987 established Lok Adalat as an institutional ADR method for amicable settlement of disputes at pre-litigation and pending stage. It also settles criminal compoundable cases.

1996



## Conciliation

Arbitration and Conciliation act, 1996 promotes it as a viable ADR option.

2002



## Mediation

Mediation was added in Section – 89 Civil Procedure Code. Mediation is provided free of cost for pending cases.

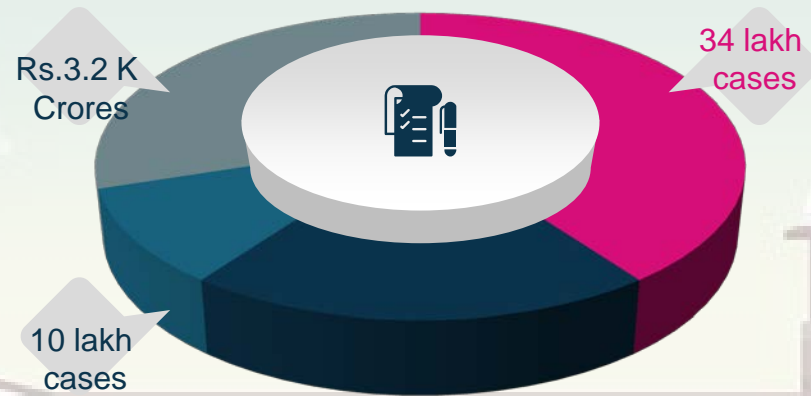
2015



## Mandatory Pre-Institution Mediation

Commercial Courts Act, 2015 and MSME Act, 2006 mandate pre-institution mediation of Commercial Disputes.

# Disposal of Cases by ADR-Lok Adalat -



National and periodical Lok Adalats are being organized by National Legal Services Authority, NALSA. E-Lok Adalats were organized during lockdown.

- ◆ Cases taken up
- ◆ Cases Settled
- ◆ Unsettled
- ◆ Settlement Value

# Laws governing Commercial Disputes



**Commercial Courts Act, 2015**

**Commercial Courts (PIMS) Rules, 2018**

**Establishment of Dedicated Commercial Courts**

**Mandatory Pre-Institution Mediation**

**Expedited time-bound trial procedure**

**Expert Mediators help parties settle disputes**

# Ease of Doing Business : Improvement in India's Ranking

EoDB Report is published by World Bank relying on 11 parameters indicating business-friendly environment.



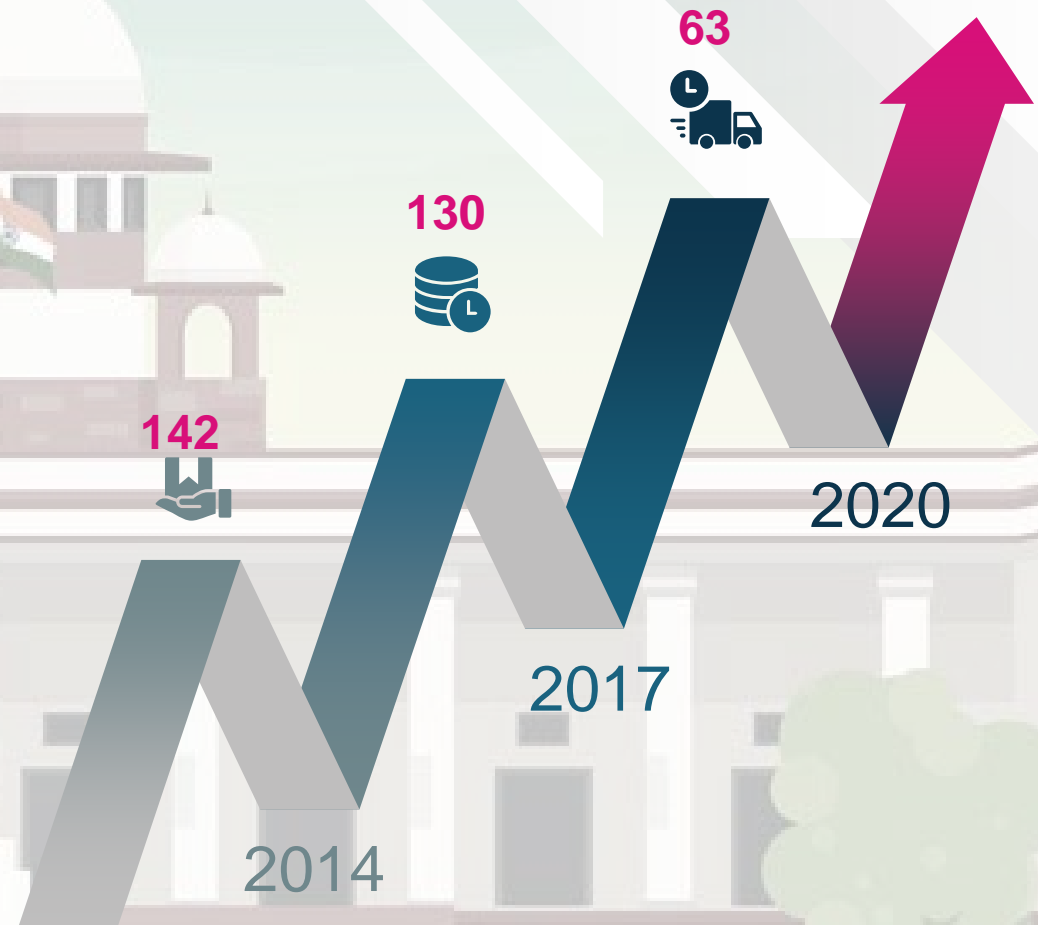
Starting Business, Construction Permits, Getting Electricity



Getting Credit, Property Registration, Tax Payments, Protection to Minority Investors



Enforcing Contracts, Resolving Insolvency, Trading across Borders



# INVESTMENT FRIENDLY INDIA

## Robust Commercial Dispute Resolution



### Dedicated Courts

Across India, Dedicated Commercial Disputes Trial and Appellate Courts have been established.



### Fast Track Trials

Newly enacted law and rules mandate completion of trial in time-bound manner.



### Use of Technology

Huge impetus is given for use of electronic case management tools, e-Payment, e-Summons and Digital Paperless Courts.



### Use of ADR

2018 amendment of Commercial Courts Act, 2015 mandates Pre-Institution Mediation for 90 days with the help of expert Mediators

EFFICIENT  
ENFORCEMENT  
OF CONTRACTS



Thank you





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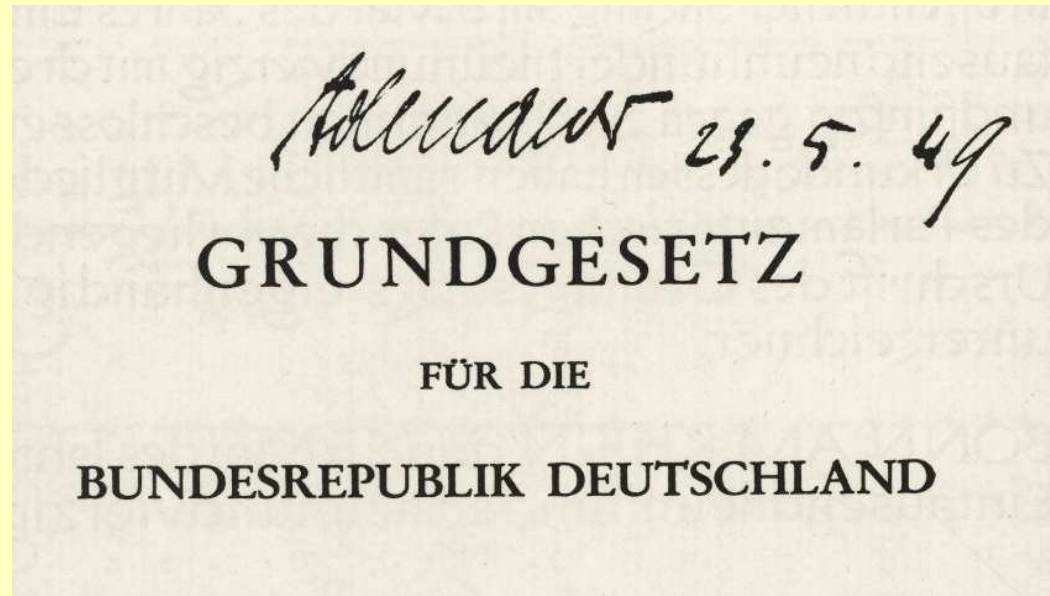


**Baden-Württemberg**  
Verwaltungsgerichtshof





# Judicial System in Germany



***Basic Law (Federal Constitution),  
signed by Federal Chancellor Konrad Adenauer***



# Judicial System in Germany



Basic Law for the  
Federal Republic of  
Germany

## Article 92 - Court organisation

The judicial power shall be vested in the judges; it shall be exercised by the **Federal Constitutional Court**, by the **federal courts** provided for in this Basic Law and by the **courts of the *Länder*** (Federal States).

## Article 95 - Supreme federal courts

The Federation shall establish the **Federal Court of Justice**, the **Federal Administrative Court**, the **Federal Finance Court**, the **Federal Labour Court** and the **Federal Social Court** as ordinary, administrative, financial, labour and supreme courts of social jurisdiction. ...



# Judicial System in Germany

## Constitutional Court (Bundesverfassungsgericht – BVerfG)

**Federal Court of Justice**  
Bundesgerichtshof (BGH)  
*Civil, Criminal, and Family Sections*

**Federal Administrative Court**  
Bundesverwaltungsgericht (BVerwG)

**Federal Labour Court**  
Bundesarbeitsgericht (BAG)

**Federal Social Court**  
Bundessozialgericht (BSG)

**Federal Financial Court**  
Bundesfinanzhof (BFH)

**Higher Regional Court**  
Oberlandesgerichte

**Higher Administrative Courts**  
(OVG / VGH)

**Higher Labour Courts**  
(LAG)

**Higher Social Courts**  
(LSG)

**Finance Courts**  
(FG)

**Regional Courts**  
Landgerichte

**Administrative Courts**  
Verwaltungsgerichte

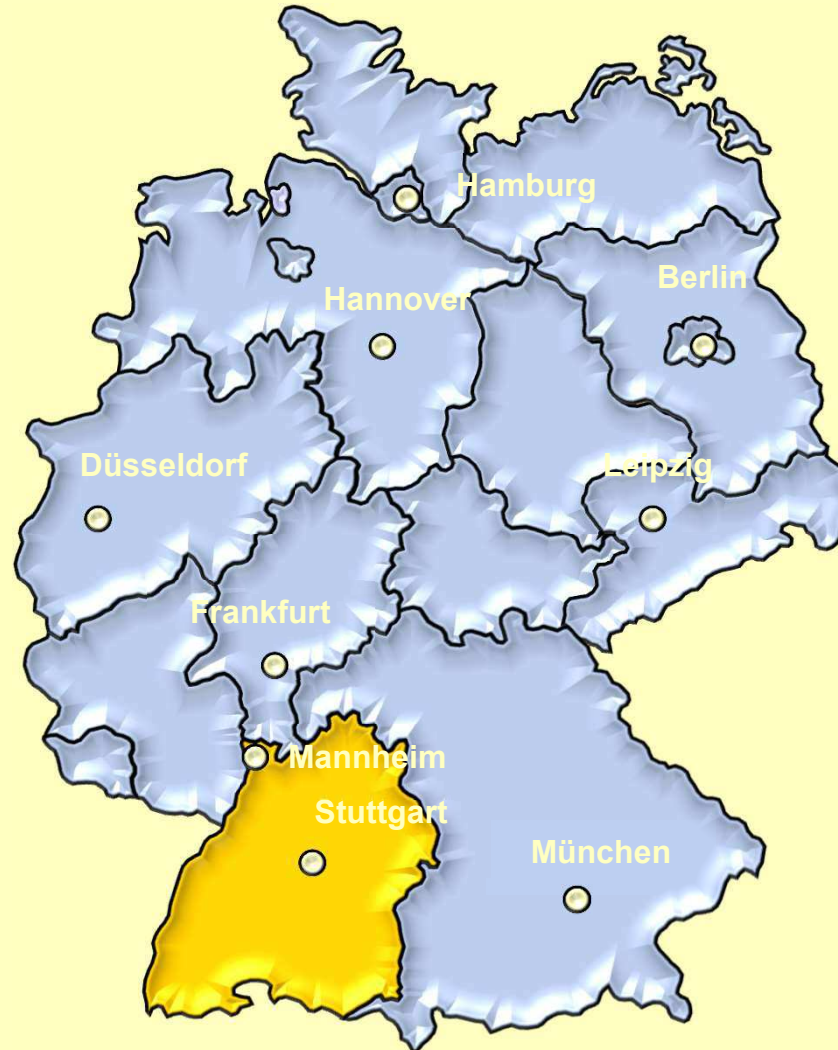
**Labour Courts**  
Arbeitsgerichte

**Social Courts**  
Sozialgerichte

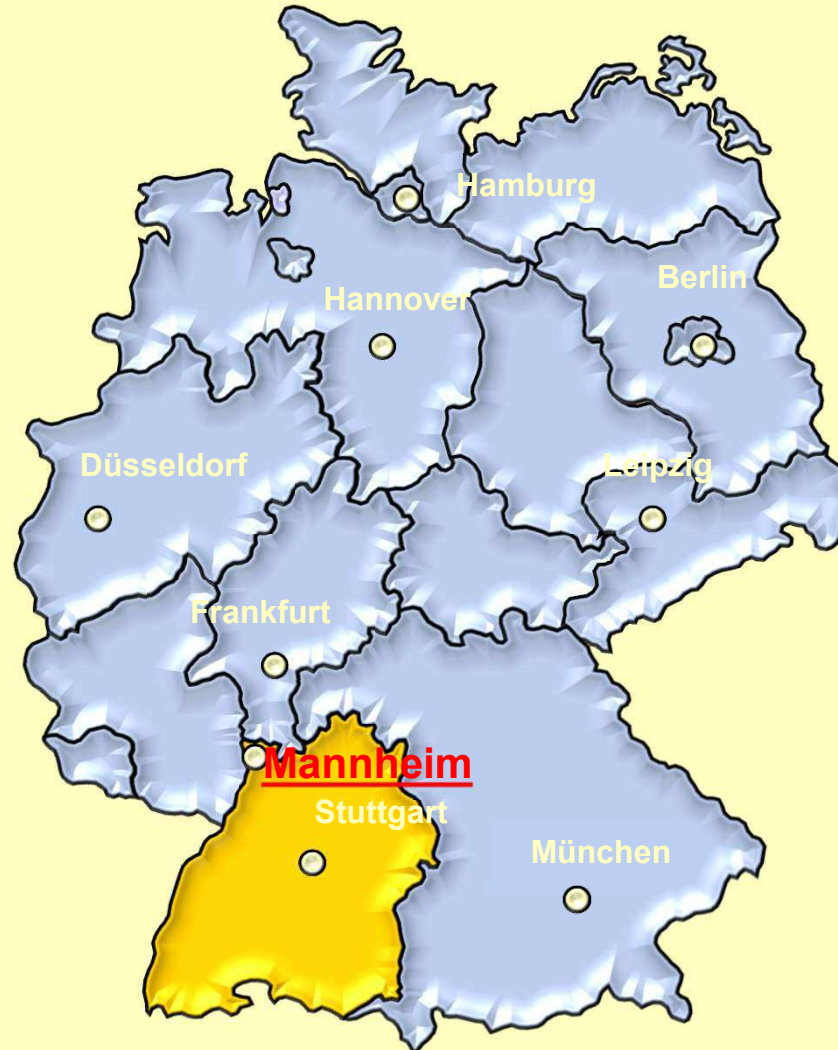
**Local Courts**  
Amtsgerichte



# The Federal Republic's 16 *Länder* (States)



# The Federal Republic's 16 *Länder* (States)



# Administrative Courts in Baden-Württemberg

Verwaltungsgerichtshof  
Baden-Württemberg  
**Mannheim**

Verwaltungsgericht  
**Karlsruhe**

Verwaltungsgericht  
**Stuttgart**

Verwaltungsgericht  
**Freiburg**

Verwaltungsgericht  
**Sigmaringen**



**Baden-Württemberg**  
Verwaltungsgerichtshof

# Administrative Courts in Baden-Württemberg



## *„Higher Administrative Court“*

The first independent administrative court in Germany was the Grand Duchy of Baden's „Verwaltungsgerichtshof“, established in 1864.



# Code of Administrative Court Procedure

## Bundesgesetzblatt<sup>17</sup>

Teil I

1960	Ausgegeben zu Bonn am 25. Januar 1960	Nr. 4
Tag	Inhalt:	Seite
21. 1. 60	Verwaltungsgerichtsordnung (VwGO) ..... <i>Ändert Bundesgesetzbl. III 300-1, 300-2, 368-1.</i>	17
21. 1. 60	Gesetz über die Beschränkung der Berufung im verwaltungsgerichtlichen Verfahren .....	44
11. 1. 60	Entscheidung des Bundesverfassungsgerichts zu § 8 des Strafreihheitsgesetzes 1954 .....	45
15. 1. 60	Entscheidung des Bundesverfassungsgerichts zu § 157 Abs. 3 Satz 2 der Zivilprozeßordnung <i>Betrifft Bundesgesetzbl. III 310-4</i>	46
	Hinweis auf Verkündungen im Bundesanzeiger .....	47

### Verwaltungsgerichtsordnung (VwGO)

Vom 21. Januar 1960

Inhaltsübersicht

TEIL I

Gerichtsverfassung

§§

1. Abschnitt: Gerichte .....	1 bis 14
2. Abschnitt: Richter .....	15 bis 18
3. Abschnitt: Ehrenamtliche Verwaltungsrichter .....	19 bis 34
4. Abschnitt: Vertreter des öffentlichen Interesses .....	35 bis 37
5. Abschnitt: Gerichtsverwaltung .....	38 und 39
6. Abschnitt: Verwaltungsrechtsweg und Zuständigkeit .....	40 bis 53

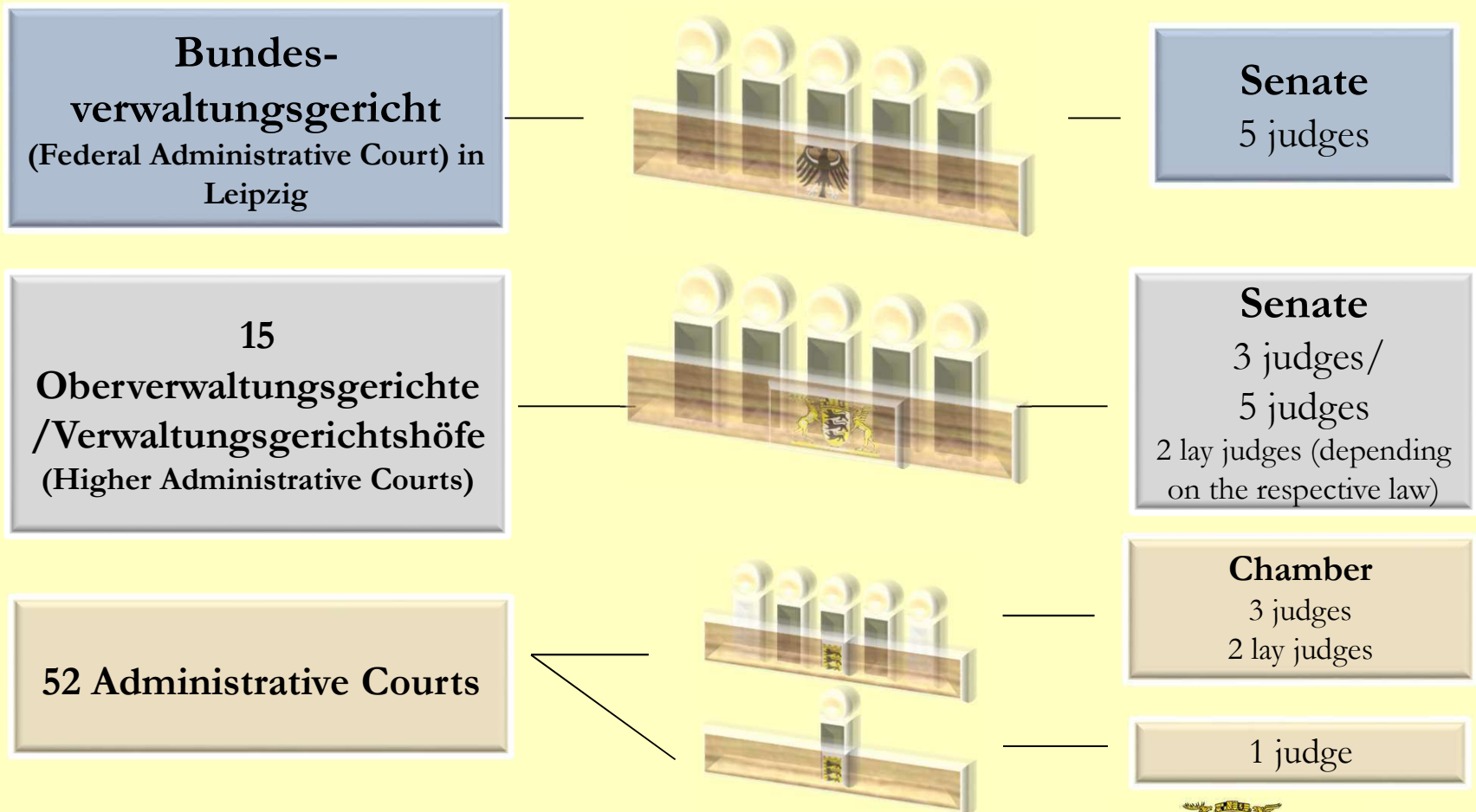
*Code of Administrative Procedure,  
published in the Federal Law Gazette  
(„Bundesgesetzblatt - BGBl.“)*



Baden-Württemberg  
Verwaltungsgerichtshof



# Administrative Courts and their composition





# Different Instances – Different Tasks

- **Administrative Courts**
  - First judicial instance
  
- **Higher Administrative Courts**
  - Court of Appeal
    - appeal against (mostly all) decisions of Administrative Courts
    - full second instance, re-examination of first instance decisions as to the facts and to the law; not restricted to judicial review





# Different Instances – Different Tasks

- **Higher Administrative Courts**

- *Also: Courts of First Instance*

- enumerative and exhaustive list of types of cases
- f. ex.:
  - government regulations on measures to fight the COVID-19 pandemic
  - development plans under the Federal Building Code
  - complex planning decisions (project approvals to highways, public railway routes etc.)





# Different Instances – Different Tasks

- **Federal Administrative Court**

- **Final Instance**

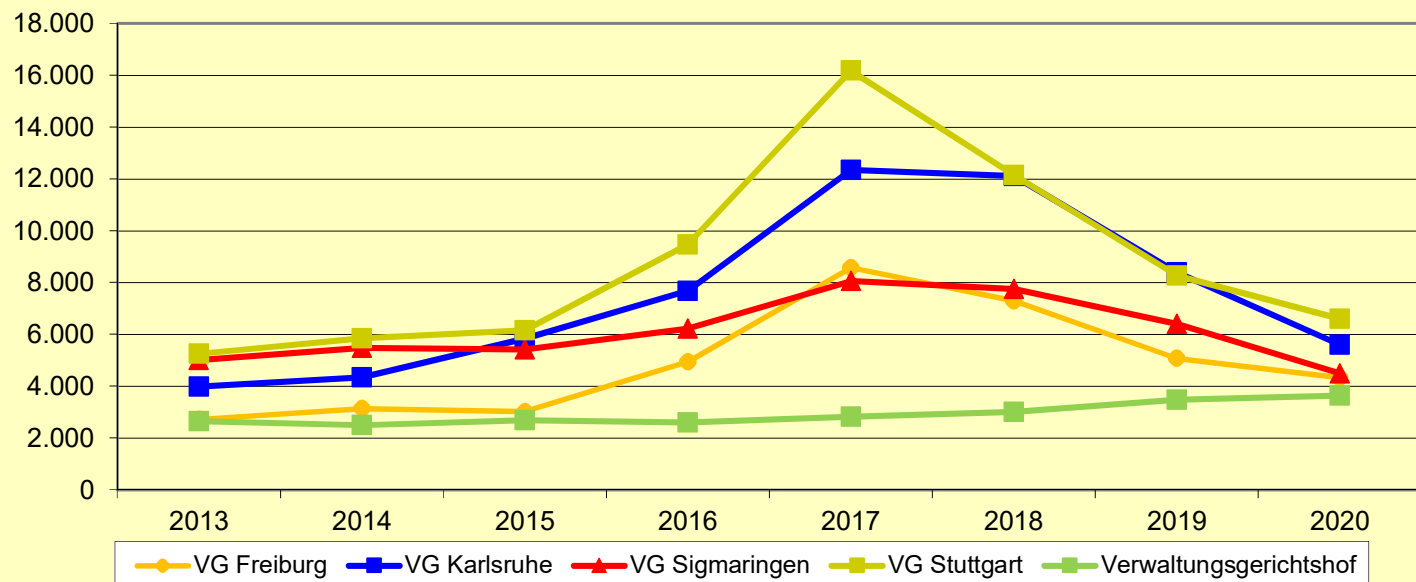
- Judicial Review of judgments of the 15 Higher Administrative Courts;
- Appeals on points of law only (not on points of fact)

- **First and Final Instance**

- actions concerning the Federal Intelligence Service
- major infrastructure programmes



# New Cases Administrative Courts in Baden-Württemberg

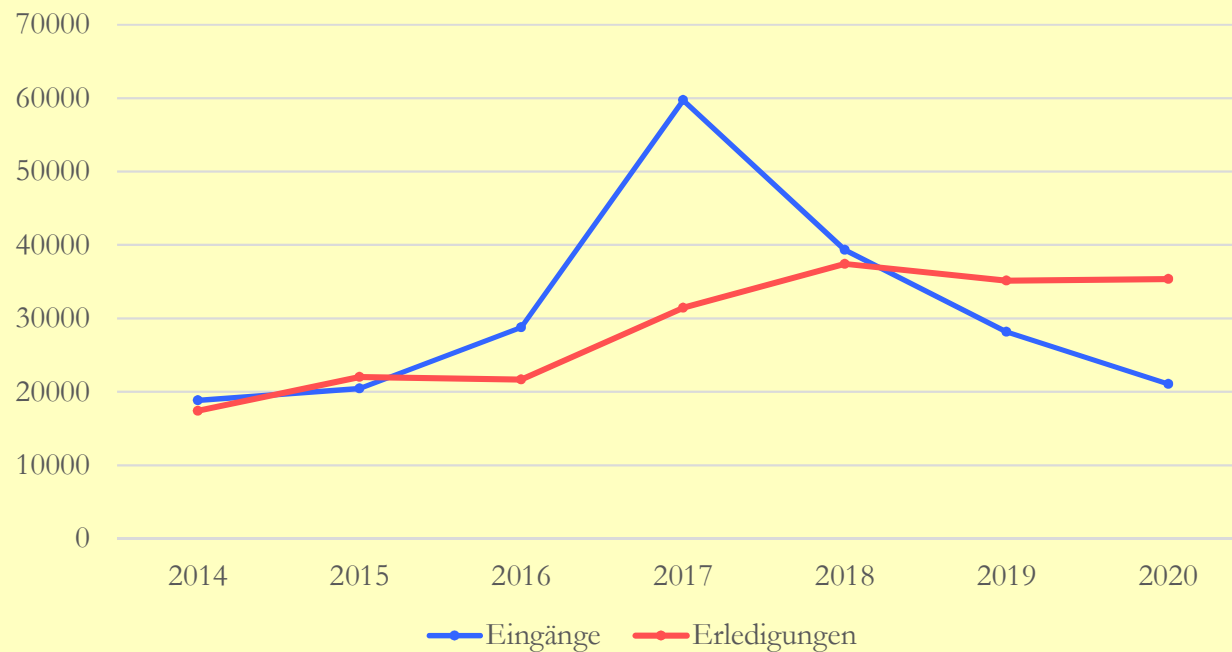


“VG ...“ = *Administrative Courts of first instance*

“Verwaltungsgerichtshof” = *Higher Administrative Court*



# New and completed Cases Administrative Courts of first instance

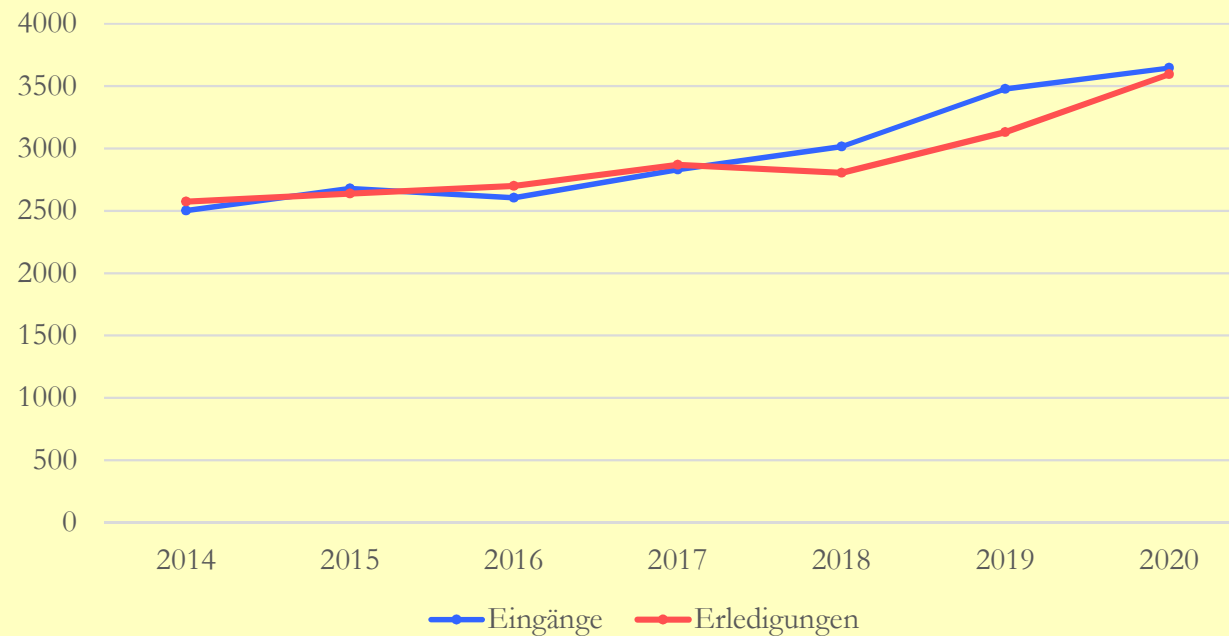


*“Eingänge“ = new cases*

*“Erledigungen“ = completed cases*



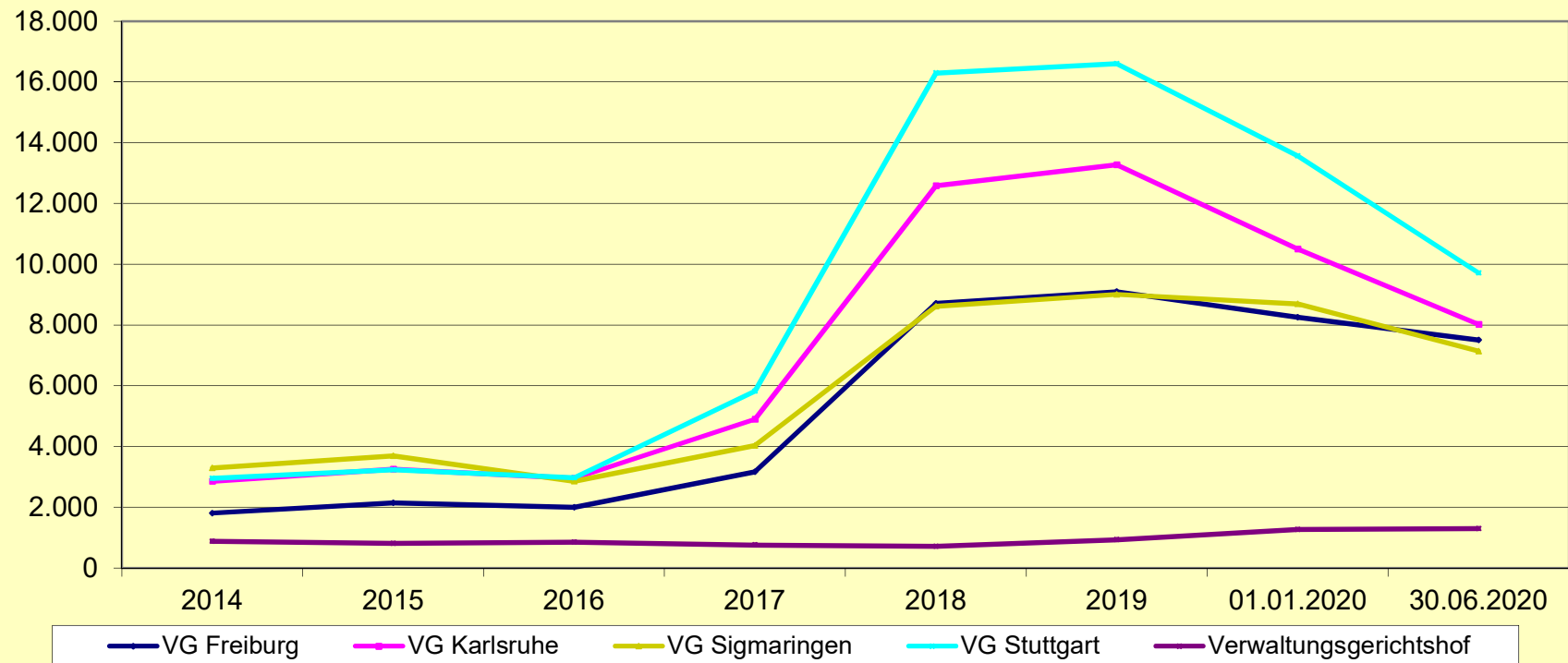
# New and completed Cases Higher Administrative Court



*“Eingänge“ = new cases*  
*“Erledigungen“ = completed cases*



# Pending Cases Administrative Courts in Baden-Württemberg



*“VG ...“ = Administrative Courts of first instance*

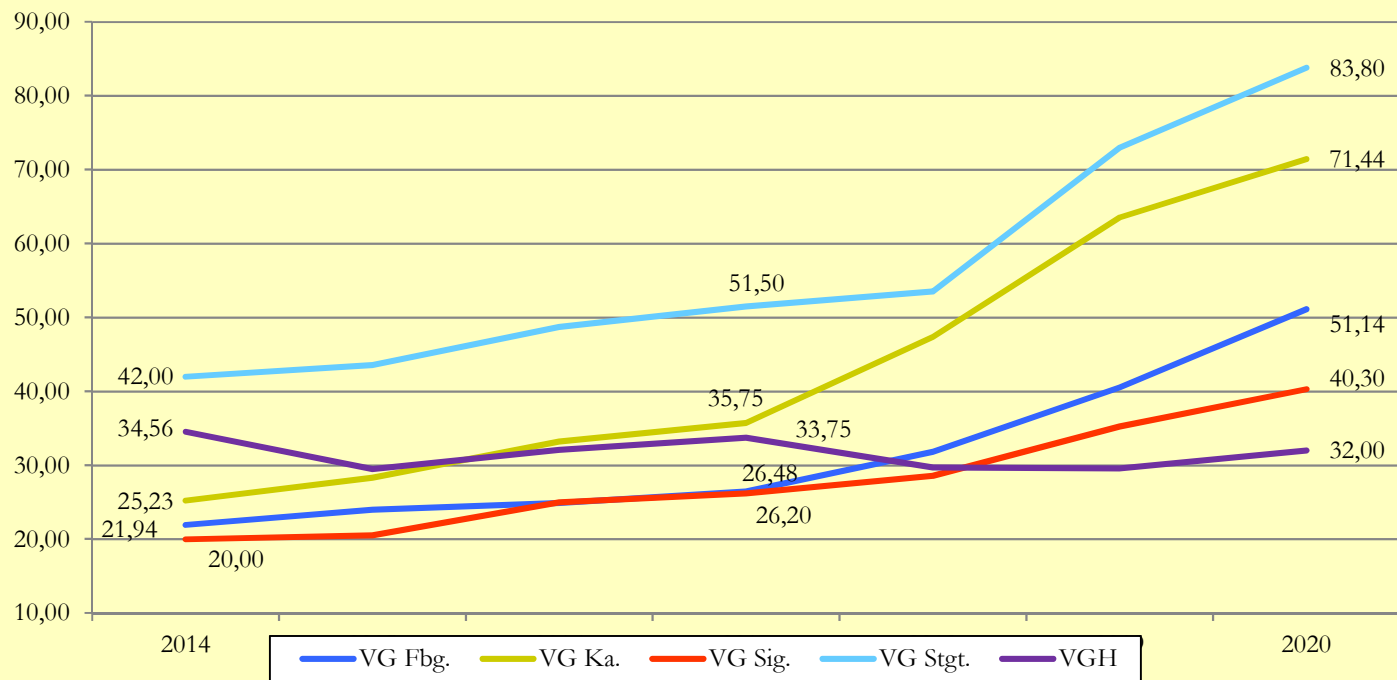
*“Verwaltungsgerichtshof“ = Higher Administrative Court*



Baden-Württemberg  
Verwaltungsgerichtshof



# Number of judges Administrative Courts in Baden-Württemberg



“VG ...“ = *Administrative Courts of first instance*

“*Verwaltungsgerichtshof*” = *Higher Administrative Court*





# Average pendency of cases

## Administrative Courts of first instance

### **Court (main) proceedings (except for asylum law)**

**11,6 months (2019: 11,7 months)**

### **Court (main) proceedings concerning asylum law**

**26,8 months (2019: 18,3 months)**

### **Urgent preliminary ruling procedures (except for asylum law)**

**3,1 months (2019: 3,0 months)**

### **Urgent preliminary ruling procedures concerning asylum law)**

**4,2 months (2019: 3,9 months)**





# Average pendency of cases Higher Administrative Court

## Appeals

**14,5 months** : court (main) proceedings (except for asylum law) (2019: 14,7 Monate)

**16,9 months** : court (main) proceedings concerning asylum law (2019: 9,5 Monate)

## Applications for appeals

**5,9 months** : cases except for asylum law (2019: 5,8 months)

**2,9 months** : cases concerning asylum law (2019: 1,6 months)

## Procedures of first instance

**10,8 months** (2019: 14,0 months)

## Complaints (= preliminary ruling procedures)

**3,3 months** (2019: 2,7 months)





# Access to Administrative Courts

## Code of Administrative Court Procedure

### Section 40

- (1) Recourse to the administrative courts shall be available in **all public-law disputes** of a **non-constitutional nature** insofar as the disputes are **not explicitly allocated to another court** by a federal statute. ...





# Access to Administrative Courts

## Code of Administrative Court Procedure

### Section 40

- (1) Recourse to the administrative courts shall be available in **all public-law disputes** of a **non-constitutional nature** insofar as the disputes are **not explicitly allocated to another court** by a federal statute. ...





# Access to Administrative Courts

- **Examples:**

- Act on the Prevention and Control of Infectious Diseases
- Police law
- Public building law; planning law (highways etc.)
- Public services law
- Public commercial law
- Law on schools and universities
- Animal protection law, nature conservation law
- Law concerning soil and noise pollution
- Asylum and (Im-)Migration law





## Access to Administrative Courts

- **Not, however (roughly speaking...):**
  - fiscal law → Finance (Fiscal) Courts
  - social welfare / social security law → Social Courts
  - (private) labour law → Labour Courts
  - disputes when the state acts in the sector of private law
  - public liability law → ordinary courts





## Main Kinds of Actions

- **Recission actions**
  - Recission (annulment) of an administrative act
- **Enforcement actions**
  - Sentencing to issue a rejected/omitted administrative act
- **General actions for performances (reformatory actions)**
  - Directed at other actions than administrative acts
- **Action for a declaratory judgment**
- **Requests for interim court orders**
  - Safeguarding effectiveness of judicial protection





# Main Principles of Administrative Court Procedures


- **Inquisitorial**

- not bound by evidence presented by the parties
- ex officio investigation of the facts

- **Disposable**

- litigant has the right to terminate proceeding by withdrawal of the actions
- parties may end proceedings by amicable settlement





# Main Principles of Administrative Court Procedures

- **Proceedings are...**
  - oral (hearings)
  - direct (taking of evidence)
  - open (public, accessible hearings)
- **Free Evaluation of Evidence**
  - no statutory rules giving superiority to one kind of evidence over another





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