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2025 Rule of Law Report - targeted stakeholder consultation

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About you

* I am giving my contribution as

Other



If "Other", please specify

National Human Rights Institution and Ombudsman

* Organisation name

250 character(s) maximum

Austrian Ombudsman Board

24 out of 250 characters used.

Main Areas of Work

- ☐ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☐ Checks and Balances
- ☒ Other

If "Other", please specify

Please see above.

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

<https://volksanwaltschaft.gv.at/en>

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Transparency register number

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Austrian Ombudsman Board Submission 2025 Rule of Law Report – targeted stakeholder consultation

Reference to recommendation in the 2024 Rule of Law Report 2024

The European Commission wrote in the last Rule of Law Report “*Considerable delays in the appointments to high-level positions in independent authorities have continued.*”¹ The Austrian Ombudsman Board (AOB) is a constitutionally established independent organ. Among other mandates, it has the obligation to monitor the public administration of Austria. Since the AOB is enshrined as independent organ in the Austrian Constitution (Chapter IX) the function of the three members is a “high-level position”.

In 2024, the AOB can report that a smooth and swift transition between Ombudspersons has occurred. On 24 October, one of the three has resigned. On 7 November, a new Ombudsperson was nominated and elected by the parliament on 20 November. She was sworn into office on 27 November. Therefore, the vacancy of one member in the Ombudsman Board lasted merely one month.

I. Justice System

C. Efficiency of the justice systems

Developments related to efforts to improve the efficiency of the justice system (e.g. as regards length of proceedings).

5000 character(s) maximum

The AOB continuously receives complaints about the length of proceedings of the Federal Administrative Court, especially when it comes to the judicial proceedings concerning asylum seekers.² Between January and November 2024, the AOB identified maladministration in 23 cases caused by prolonged appeal proceedings of asylum seekers.³

II. Anti-corruption framework

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any **changes** as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the

¹ European Commission, ‘2024 Rule of Law Report Country Chapter on the rule of law situation in Austria’, S. 1 <[bcfe8b8e-4c42-461d-b560-efc91f29e87_en](#)> Accessed 10 January 2025

² [Missstandsfeststellungen der Volksanwaltschaft - Bundesverwaltung - 2024](#) S. 1, [Missstandsfeststellungen der Volksanwaltschaft - Bundesverwaltung - 2023](#) S.1, [Missstandsfeststellungen der Volksanwaltschaft - Bundesverwaltung - 2022](#) S. 1, [Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2023: Band 1 - Kontrolle der öffentlichen Verwaltung](#) S. 131, 109, [Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2022: Band 1 - Kontrolle der öffentlichen Verwaltung](#) S.114-115

³ [Missstandsfeststellungen der Volksanwaltschaft - Bundesverwaltung - 2024](#)

cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.

5000 character(s) maximum

On 22 January 2024, the new “Investigation and Complaints Office for Allegations of Maltreatment” (EBM) began its work. The office investigates allegations of ill-treatment of law enforcement officers. Although the investigations into police action have little to do with anti-corruption work as such, the EBM is an independent sub-organization of the Federal Bureau of Anti-Corruption (BAK).

The AOB is critical of the fact that the EBM is anchored in the BAK, which is in turn a department of the BMI. Since the police is also situated in the BMI, this organizational structure could suggest that investigations are conducted “in their own ranks”. This criticism is in line with international guidelines, for instance of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which recommends independent investigations into complaints of mistreatment by the police.

Nevertheless, the AOB welcomes the establishment of the EBM. Particularly, some aspects of the organizational setup are evaluated positively by the AOB. For instance, the EBM must immediately inform the prosecution office should there be a suspicion that a complaint constitutes an act under criminal law. Moreover, the EBM is nationally responsible for all police complaints. Therefore, all expertise is pooled in one central authority. Employees at the EBM are experts from various fields resulting in interdisciplinary and multi-professional teams. Additionally, they receive special training to fulfil their duties at the EBM. Lastly, the AOB appreciates the establishment of an independent Advisory Board to which the EBM submits all instructions with justifications for review.⁴

Since the EMB started its work, the AOB can report that efforts have been made to cooperate. In October 2024, the EMB was invited to the AOB to report about its work and exchange experiences with the members of the commissions that monitor acts of direct administrative power and coercive measures. The meeting was productive.

IV. Other institutional issues related to checks and balances

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions (‘NHRIs’), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

5000 character(s) maximum

The AOB cannot report about any new developments regarding its capacity and independence compared to last year. The AOB continues to carry out the same mandates independently.

According to Art. 148a (6) of the Austrian Federal Constitution (B-VG), the Austrian Ombudsman Board (AOB) is an independent organ. The three Ombudsmen are elected by the National Council (Parliament) to represent the AOB independently and impartially. Each Ombudsman has a fixed tenure

⁴ [Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2023: Band 1 - Kontrolle der öffentlichen Verwaltung](#) S. 115-116

of six years that cannot be revoked by the parliament (Art. 148g (1) B-VG). The Constitutional Court can only decide on the loss of office in the event of a violation of the law (Art. 141 (e) B-VG).

Moreover, the AOB's financial autonomy underlines its independence. In line with Art. 148d (2) of the B-VG, the AOB discusses its own budget in the relevant committee and then in the plenary session of the National Council. Subsequently, the AOB's independence is ensured through direct discussions with the members of the parliament (MPs).

Since its establishment, the mandate of the AOB expanded and therefore its capacity to contribute to the rule of law increased. Originally, the AOB was entrusted with the task of investigating alleged maladministration of the national, regional, and local administration. It needs to investigate any complaint of alleged maladministration lodged by an individual (Art. 148a (1) B-VG). Additionally, it can start investigations on its own initiative if there are suspicions of maladministration (Art. 148a (2) B-VG).

Once the AOB identified maladministration, it can issue recommendations to the highest administrative authorities. Within a deadline of eight weeks, the authority concerned must either conform to the recommendations and inform the AOB accordingly or state in writing why the recommendations have not been complied with (Art. 148c B-VG). Recommendations as a way to enforce the rule of law have proven to be a successful method. The AOB enjoys the trust of the Austrian public authorities contributing to a high implementation level of the AOB recommendations.

Moreover, the AOB reports on its recommendations in the annual report⁵ and its activities annually to the National Council and the Federal Council (Art. 148d (1) B-VG). Next to the plenary discussions at the National and Federal Council, the reports and activities are also deliberated in a separate committee that has been specifically designed for the AOB only. This committee was designed by MPs who designate their resources to focus solely on the AOB. The efforts of the MPs to create a committee and subsequently discuss the reports and activities once more in the plenary illustrates their interests, cooperation, and trust in the AOB. This increases the capacity of the AOB to enforce the rule of law.

In addition to the annual reporting, the AOB can deliver special reports⁶ any time to the National Council and the Federal Council on its observations on specific topics (Art. 148d (1) B-VG). The AOB has also the right to speak in front of the National Council when assisting in the disposal of petitions and citizens' initiatives presented to the National Council (Art. 148a (5) B-VG).

The AOB can also apply for a ruling on the lawfulness of an federal, regional, or local ordinance at the Constitutional Court (Art. 139(1)(6) in conjunction with Art. 148i (1) B-VG).

In 2012, the mandate of the AOB broadened with Austria's ratification of the Optional Protocol to the Convention Against Torture (OPCAT) and the Convention on the Rights of Persons with Disabilities (CRPD). Consequently, Art. 148a (3) B-VG was amended to include a preventive monitoring mandate. The mandate permits the AOB and its special Commissions to visit and inspect locations of deprivation of liberty (Art. 4 OPCAT), watch and check organs authorized to exert direct administrative power and

⁵ [Annual Report 2022 \(volksanwaltschaft.gv.at\)](https://www.volksanwaltschaft.gv.at/jahresbericht-2022); [Annual Report of the Austrian Ombudsman Board to the National Council and the Federal Council 2022 - Monitoring Public Administration \(volksanwaltschaft.gv.at\)](https://www.volksanwaltschaft.gv.at/jahresbericht-2022)

⁶ [Sonderbericht der Volksanwaltschaft Terroranschlag 2. November 2020](#); [Bericht der Volksanwaltschaft an den Wiener Landtag 2021](#); [Bericht der Volksanwaltschaft an den Wiener Landtag 2021](#)

compulsion such as the police, and visit institutions for persons with disabilities (Art. 16(3) CRPD). The AOB makes use of this right as often as possible. Therefore, it conducted 481 preventive monitoring visits in 2022.⁷

In 2017, the constitutional provision “Pensions for Victims of Children’s Home Act” added to the AOB’s mandate. With the provision, an independent Pension Commission was set up by law within the AOB to accommodate the pension of persons who suffered from violence in a home operated by the Federal Government, the Laender, and the church (Art. 15 Pensions for Victims of Children’s Homes Act). A legislative amendment to the “Pensions for Victims of Children’s Home Act” in 2023, illustrates the impact of the AOB. On the initiative of the AOB, the mandate of the Pension Commission was extended to additional victim groups. The appreciation and interests of the MPs for the AOB contributed to the AOB’s capacity to advocate for the legislative amendment.⁸

Currently, the AOB has the same budget as last year amounting to 15.5 million Euros.

Statistics/reports concerning the follow-up to recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

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Public authorities comply with most of the recommendations of the AOB. The AOB did not observe a decrease in compliance.

For a detailed description of compliance with the AOB’s suggestions and recommendations, kindly consult last year’s submission.

⁷ [Annual Report of the Austrian Ombudsman Board to the National Council and the Federal Council 2022 - Monitoring Public Administration \(volksanwaltschaft.gv.at\)](#) p. 481

⁸ [Künftig Rente auch für Heimopfer, deren Partnerin bzw. Partner Einkommen bezieht - Artikel - Volksanwaltschaft](#)

E. Initiatives to foster a rule of law culture

If there have been developments related to initiatives to foster a rule of law culture, please specify, which (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives, etc.).

5000 character(s) maximum

The AOB can report that it successfully continued to run the same initiatives as last year to foster a rule of law culture, namely the lecture series “One Woman in Five”, the TV show “People’s Advocate”, the training of prospect prison guards and police officers as well as the presentation of the AOB’s annual reports in parliament in accordance with Art. 148d of the Federal Constitutional Law.

The following rule of law initiatives outline special developments during 2024.

Large-scale education initiative for schools

In 2024, the AOB made an active effort to reach adolescents and teach about the AOB’s mandate and the rule of law. The members of the board obtained a list of all education institutions for adolescents of the age of 14 and above from the Federal Ministry of Education. A letter was sent out to those institutions informing about the possibility for schools to visit the AOB.

Since then many school classes visited the AOB. The aim of this initiative is to increasingly reach the younger generation and raise awareness about maladministration and possible remedies.

Podium Discussion about hate speech and defamation against women online

In April 2024, the Ombudsperson Gaby Schwarz invited several stakeholders for a podium discussion to the AOB. Hate speech and defamation against scientists, journalists, and other experts online is a common reality. Especially these stakeholders carry an important responsibility for the rule of law. Their work is essential to the access to information, plurality, and transparency.

The podium discussion focused specifically on women. The goal of the event was to elaborate on ways to address hate speech and defamation collaboratively.⁹

Sounding Board

The initiative of the NGO Sounding Board continued in 2024 and will continue in 2025. The informal meetings with representatives of the AOB and NGOs is a way to coordinate their work and inform each other about new developments in the field. Next to efforts to coordinate media work, the NGOs and the AOB tried to bundle individual cases. In case people complained with NGOs, the NGOs encouraged them to submit a complaint with the AOB. The idea behind this approach was that NGOs usually do not handle individual complaints compared to the AOB. Additionally, if the AOB receives an increased volume of complaints about a particular issue, it gains stronger leverage to highlight systemic problems at the government.

Moreover, the NGO Sounding Board helped to prepare the NGO Forum. Together they agreed on a topic for the event. Members had also the opportunity to propose speakers and participants.

NGO Forum

⁹ [Gemeinsam gegen Hass und Diffamierung im Netz - Artikel - Volksanwaltschaft](#)

The topic of the NGO Forum in 2024 was “The Rights of the Child”. Around 70 participants representing various NGOs and experts of the AOB collaborated during the one and a half day-event. Representatives of several Federal Ministries, the *Länder* and children themselves gave input for the working groups.

These small working groups offered an opportunity for an exchange of experience about the following topics: child participation in environment protection, education and cultural inclusion, child poverty, health of children, and protection of children against violence. The discussions and suggestions in the working groups were summarized in minutes that are soon to be published in a public conference volume.

The NGO Forum closed with a discussion with Members of Parliament (MPs).

The interaction between NGOs and government representatives contributes to a rule of law culture. Due to their work on the ground, NGOs can report about the quality of the implementation of policies or the lack thereof.¹⁰

¹⁰ [NGO-Forum 2024: Kinderrechte vollständig umsetzen! - Artikel - Volksanwaltschaft](#)