



Annual Civic Space Report - 2022

Austria

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Summary

Key developments

- 🌀 Situation for CSOs positive, but funding and civic dialogue need improvement
- 🌀 Climate activists face harassment
- 🌀 Declines in press freedom concerning; independence of media questioned

Overall civic space in Austria is rated as “open”¹, with a significant shift in the environment for civil society taking place after the ÖVP and the Green party coalition government came to power at the end of 2019. Despite the European Commission's recommendation in its 2022 Rule of Law report on Austria to “advance with the reform on access to official information taking into account the European standards on access to official documents,”² this has not yet been implemented by the government. Civil society notes that there is room for general improvement, especially when it comes to transparency, access to information, the fight against corruption, civic dialogue and the recognition of the important role of civic actors, expressed in the amount of moral and financial support by public and private institutions. There are several other concerning developments which require attention. Police violence during protests has particularly affected climate activists staging actions. Additionally, there are concerns about press freedom: with the oldest newspaper Wiener Zeitung being forced to move online and investigations exposing collusion between government officials and editors-in-chiefs.

Institutional landscape, political and socio-economic

After the resignation of chancellor Sebastian Kurz, since the end of 2021 the former Minister of Interior Karl Nehammer (ÖVP) has led the coalition government with the ÖVP and the Green party. Austria is facing various challenges: Climate change, the still ongoing pandemic, the return of war to Europe, the highest inflation since the 1950s and never-ending allegations of corruption are affecting the political, socio-economic situation.

According to the Austrian Democracy Monitor³ the Austrian population is considerably losing trust in democracy. This is mainly but not only due to the “ÖVP-corruption affair” as 59 per cent of respondents to this representative survey agreed with the statement that “Politics and the media are in cahoots”. System trust plummeted in the middle and upper echelons of society. Satisfaction with the political system and trust in institutions have declined in all population groups. One question asked in 2022 was whether there should be a “strong leader” who doesn't have to worry about parliament or elections. Currently, only 46 per cent disagree, down 10 per cent from the previous year's survey.

¹ <https://monitor.civicus.org/country/austria/>

² https://commission.europa.eu/system/files/2022-07/46_1_194005_coun_chap_austria_en.pdf

³ <https://www.demokratiemonitor.at/>

Due to the various corruption scandals at federal (i.e. ÖVP-corruption-affair) or at the regional level (i.e. FPÖ-Graz⁴) defects have been identified by civil society actors⁵ and public institutions at the institutional level.⁶ While transparency is often being used as a catchword by politicians to tackle corruption, the Freedom of Information Act was not yet implemented in favour of official secrecy. Transparency and control of systems are the most urgent issues across all pillars. The situation of the past few months in particular makes it clear how important effective measures would be, states the Austrian Democracy-Monitor.⁷

Stronger measures against corruption are demanded by civil society, i.e. the Austrian "Antikorruptionsvolksbegehren" (popular petition against corruption) was signed by 307,629 voters for improvements in various fields to prevent corruption.⁸

The situation of independent media and quality-journalism seems to be deteriorating as well. Government plans to discontinue the oldest newspaper of the world Wiener Zeitung (publicly owned) and to reduce it to an online format⁹; while a public radio station known for its high-quality broadcasts has to make savings to the amount of 900,000 euros¹⁰. Additionally, the independence of media is being justifiably doubted by the public, since collusion between government officials and editors-in-chief¹¹ and owners of major media houses¹² have become public knowledge. In order to strengthen the democratic public sphere, independent journalism and civil society organisations should be enhanced through better funding opportunities. Recent drafts for new media funding have been criticised by NGOs and independent media.¹³

Rights and freedoms can be exercised independently from religion, gender, LGBTQI+ or ethnic background, whereas residence-title and citizenship matter for exercise of voting rights, access to the labour market and social services. The right to vote is dependent on Austrian citizenship, which leads to the fact that in Vienna almost 30 per cent of residents have no right to vote. Non-Austrian EU citizens can only vote in local elections.¹⁴

Another aspect concerning human dignity is the fact that asylum-seekers needed to sleep in tents during winter months 2022, which was criticised by NGOs, such as the Katholische Aktion

⁴ https://www.kleinezeitung.at/steiermark/graz/6104323/Neue-Erkenntnisse_Die-Causa-FPOeGraz-wird-zum-MillionenSkandal

⁵ <https://antikorruptionsbegehren.at/der-inhalt/>

⁶ <https://www.kleinezeitung.at/politik/innenpolitik/6217798/Insbesondere-von-der-OeVP-Rechnungshofpraesidentin-Margit-Kraker>

⁷ <https://demokratieindex.at/>

⁸ <https://antikorruptionsbegehren.at/>

⁹ <https://www.wienerzeitung.at/nachrichten/kultur/medien/2163974-Wiener-Zeitung-Regierung-stellt-Print-Produkt-weitgehend-ein.html>

¹⁰ https://www.falter.at/zeitung/20221005/erscheinung/_fdea0581be

¹¹ <https://www.derstandard.at/story/2000140754514/konsequenzen-aus-der-chat-affaere-rainer-nowak-verlaesst-die-presse>

¹² <https://www.derstandard.at/story/2000135263231/gericht-laesst-beschwerden-gegen-razzien-in-umfrageaffaere-abblitzen>

¹³ <https://www.suedwind.at/presseaussendungen/2022/medienfoerderung-neu-unabhaengige-medien-fordern-demokratiepolitische-kurskorrektur/>

¹⁴ <https://www.derstandard.at/story/2000120139512/wien-wahl-knapp-jeder-dritte-wiener-darf-nicht-waehlen>

Österreich.¹⁵ While Chancellor Nehammer and Minister of Interior Gerhard Karner (both ÖVP) justified their recent vetoing of the accession of Romania and Bulgaria to Schengen with an ongoing and increasing “asylum crisis”, CSOs active in the field argued in an open letter to the government that the issue was not an asylum crisis, but a “housing crisis”, caused by a lack of coordination between federal and provincial political and administrative entities.¹⁶

On a positive note, the government has issued several measures in order to mitigate the impact of inflation on the population and on the economy, e.g. by capping the unit cost of electricity and by the payment of subsidies in cash to every resident, including third-country nationals.¹⁷

The regulatory environment for and implementation of civic freedoms

In Austria, NPOs are of great importance to political culture and economic development, and they affect many peoples' lives. Compared to other more authoritarian countries, the legal framework conditions are rather NPO-friendly in Austria as civil rights and democracy are relatively well developed.¹⁸

Amnesty International and other civil society organisations (CSOs) are criticising the regular use of facial recognition technology that was introduced in 2020 to law enforcement operations. This raised concerns regarding its potentially discriminatory impact on ethnic and racial minorities, as well as the rights to privacy, freedom of expression and peaceful assembly.¹⁹

One result of the breadth of content and practice of NPOs is that large, traditional and established organisations stand in contrast to a large number of “small” ones, this also results in differences in the challenges faced by NGOs and NPOs.

No major changes in legal framework for association

The Austrian constitution's legal regulations guarantee the right to freedom of association. Freedom of association applies to natural persons and legal entities. An association, club or society is an association of two or more people with the objective of achieving a common, non-material goal. The registered office of the association has to be located inland. According to the Associations Act, an association may not be profit-oriented, and the association funds may only be used in pursuit of the associations' original purpose²⁰

If an association wants to acquire public-benefit status and associated tax benefits for the purpose of the federal tax code (“Bundesabgabenordnung” BAO), it has to pursue a public-benefit purpose

¹⁵ <https://www.katholisch.at/aktuelles/140888/asylwerber-in-zelten-scharfe-kritik-der-katholische-aktion>

¹⁶ <https://www.asyl.at/de/info/news/offenerbriefzurunterbringungskrisevonschutzsuchendenmenschen/>

¹⁷ <https://www.bmf.gv.at/public/informationen/energiekosten-abfederung.html>

¹⁸ https://gemeinnuetzig.at/wp-content/uploads/2018/06/Austria_CSI_RA_final_en.pdf

¹⁹ <https://www.amnesty.at/mitmachen/kampagnen/dein-gesicht-gehoert-dir-stoppt-gesichtserkennung-in-oesterreich/>

²⁰ RIS - Vereinsgesetz 2002 - Bundesrecht konsolidiert, Fassung vom 23.01.2023 (bka.gv.at).

and its statutes have to make sure that the association funds will be used exclusively for equal or similar non-profit purposes in the event of dissolution of the legal entity. As seen from the perspective of Austrian lawyers and CSO representatives, establishing associations or allying in another legal form is unproblematic in Austria.

There is a bureaucratic legal framework for the establishment of associations, foundations and other kinds of non-profit (NPO) or non-governmental organisations with social, political, cultural or other aims, but it is neither obstructive nor restrictive.²¹

A suggestion for improvement is to transfer the responsibility for keeping the register of associations from the Federal Ministry of Internal Affairs to the courts (where the commercial register is already kept). No major changes have been made in 2022.

Multi-faceted handling of peaceful assemblies

Freedom of peaceful assembly in Austria is regulated by law in the “Versammlungsgesetz”²². In 2017, however, some changes led to restrictions. The legal framework for spontaneous assemblies and counter-assemblies has deteriorated. The notification period for assemblies was increased from 24 to 48 hours. In addition, the possibility of prohibiting assemblies that serve other countries has been extended. There is a lot of room for interpretation here, which increases the possibility of arbitrary state action.

Further, protected areas for parallel assemblies have been identified. Amnesty International Austria suggested in its statement to refrain from a general minimum protection area and to establish protection areas only if necessary. Otherwise, assemblies could be prevented by the reporting of sham assemblies.²³

In practice, the handling of demonstrations during the pandemic in Austria was very multi-faceted and also strongly criticised. During the pandemic, several demonstrations were banned, but in some cases, they took place without permission. Amnesty International Austria criticised that it was not always comprehensible why some demonstrations were banned or restricted and others not. Thus, every intervention in the freedom of peaceful assembly needs a differentiated and transparent justification in each individual case. This must be clearly communicated in advance.²⁴

On the other hand, some COVID-19-demonstrations posed a threat to journalists. Asked by Georg Bürstmayr (member of national council / Green party) about the threat to journalists at these demonstrations, the Minister of the Interior informed that there had been a security conference with the media houses in December. In addition, the police had been instructed to intervene in cases of intimidation, threats or violence against journalists. In addition, media contact officers are deployed at demonstrations and training courses on threatening situations are held for media representatives. Representatives of the Social Democrats could not recognise any strategy of the

²¹ *ibid*, p.30

²² <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000249>

²³ https://www.parlament.gv.at/PAKT/VHG/XXV/SN/SN_00481/imfname_628592.pdf (quote according to: Simsa, R., Mayer, F., Muckenhuber, S., & Schweinschwaller, T. (2021). Framework Conditions of Austria's Civil Society. (Opuscula, 153). Berlin: Maecenata Institut für Philanthropie und Zivilgesellschaft. <https://nbn-resolving.org/urn:nbn:de:0168-ssaoar-73928-5>, page 40)

²⁴ <https://www.amnesty.at/presse/amnesty-fordert-klare-kriterien-und-einzelfallentscheidung-bei-demo-verboden/>

police against violence-ready COVID-19 demonstrators. The Minister of Interior emphasised that freedom of peaceful assembly is a high democratic good that must be protected. In principle, however, the operations are particularly challenging, because a wide variety of people, from violent groups to families with children, take part in the demonstrations.²⁵

In February 2022 the Green Party demanded an independent body to investigate allegations of police violence. While the government announced the establishment of such a body already in 2020, the implementation is still outstanding²⁶. One of the main reasons behind the demand is assumed police-violence at a climate protest in Vienna: activists of the climate protection movement "LobauBleibt" protested in Vienna Donaustadt against the clearing of trees for the construction of the city highway. The protest was cleared by police officers. In the course of this eviction, some activists were arrested and taken to the police detention center (PAZ) Rossauer Lände. As it became known afterwards, one activist was injured during his detention by external force of one or more police officers and sustained a broken rib. Unfortunately, too many cases of excessive police violence against climate activists were reported in the past few years.²⁷ An independent body to investigate police-violence was also demanded by the Social Democrats.²⁸ They were referring to the excessive use of pepper spray during the Vienna Pride in June 2022, during which a counter protest was also staged.²⁹

Concerns over declines in press freedom

The federal constitution and the Media Law of 1981 provide the basis for free media in Austria. Media ownership remains highly concentrated, particularly in the provinces, and the government exerts some influence on the state broadcaster, the Austrian Broadcasting Corporation (ORF).³⁰ CSOs raised concerns over a decline in press freedom in the end of 2021: Fifteen civil society organisations condemned the criminal prosecution of Julian Hessenthaler, who played a key role³¹ in the making of the so-called "Ibiza video" which exposed alleged high-level corruption. Hessenthaler was convicted in March 2022 of cocaine trafficking and receiving, passing on or possessing false or forged specially protected documents and document forgery. Hessenthaler is considered to be one of the producers of the Ibiza video showing then-FPÖ leader and vice-chancellor Heinz-Christian Strache and FPÖ parliamentary group chairman Johann Gudenus in a villa in Ibiza talking to an alleged oligarch niece. By going to the European Court of Human Rights, Hessenthaler now wants to appeal to a court outside of Austria, which is to examine the entire

²⁵ https://www.ots.at/presseaussendung/OTS_20220112_OTS0013/menschenrechtsausschuss-diskutiert-themenbereiche-antisemitismus-asylverfahren-sowie-corona-kontrollen

²⁶ <https://www.derstandard.at/story/2000142305993/versprochene-unabhaengige-beschwerdestelle-zu-polizeigewalt-bleibt-ausstaendig>

²⁷ https://www.ots.at/presseaussendung/OTS_20220223_OTS0098/gruene-fordern-von-polizei-volle-aufklaerung-im-fall-des-verletzten-klimaschutz-aktivisten (translated by DeepL)

²⁸ https://www.ots.at/presseaussendung/OTS_20220725_OTS0069/spoe-einwallner-unabhaengige-polizeibeschwerdestelle-muss-rasch-kommen

²⁹ <https://wien.orf.at/stories/3160386/>

³⁰ <https://freedomhouse.org/country/austria/freedom-world/2022>

³¹ <https://www.derstandard.at/story/2000140074376/ogh-wies-nichtigkeitsbeschwerde-von-ibiza-detektiv-zurueck>

investigation and court proceedings to determine whether Hessenthaler had a fair trial in the sense of the Human Rights Convention.³²

Safe Space

Climate activists threatened by SLAPPs

In December 2021, after long and intense protests by climate organisations and scientists, the 'Lobautunnel' project was put on hold by climate and transport minister Leonore Gewessler. The entire project, which is part of a larger traffic concept for a fast-growing Viennese district, will be re-evaluated in the light of its climate impact.³³

Nonetheless, the Municipality of Vienna threatened to initiate court proceedings against individual protesters - some of them minors - scientists and CSOs involved in the demonstrations against 'Lobautunnel'. Amnesty International, Greenpeace and other organisations called on the City of Vienna, Mayor Michael Ludwig and City Councilor Ulli Sima to immediately withdraw the intimidation letters and issue an apology to those affected.³⁴ The activists explained that they see such letters as an act of intimidation which aims to silence them.

The framework for civic organisations; financial viability and sustainability

Inflation worsens CSOs funding situation

CSOs in Austria have relatively good access to financing but are severely affected by inflation. Some associations have had to accept significant declines in donations due to economic crisis and inflation since springtime 2022. In particular, humanitarian hotspots outside Ukraine and other international issues have fallen by the wayside.³⁵

Many organisations are already facing precarious funding situations due to longstanding funding decreases, some of which threaten their very existence, as well as the consequences of COVID-19. Inflation is further worsening the situation. In many cases, there are no reserves and retention funds, as the accumulation of reserves by funding agencies or financial administration is prohibited by law or very severely restricted. Since current revenues cannot usually be reallocated by the organisations, they have little opportunity to counteract this themselves internally. In a recent

³² <https://www.amnesty.org/en/location/europe-and-central-asia/austria/report-austria/>

³³ <https://www.derstandard.at/story/2000139533260/lobautunnel-bleibt-trotz-pruefung-weiter-als-teil-der-s1-imstrassengesetz>

³⁴ <https://www.amnesty.at/presse/klimaschutz-und-menschenrechtsbewegung-sowie-wissenschaftlerin-verurteilen-klagsdrohungen-der-stadt-wien-als-menschenrechtsverletzung/>

³⁵ <https://www.fundraising.at/fva-spendenbericht-2022/>



survey by the civil society umbrella organisation Bündnis für Gemeinnützigkeit 4 out of 5 organisations said they were severely affected by inflation.³⁶

Bündnis für Gemeinnützigkeit developed proposals to the government with necessary measures for short-term support in the current crisis and a set of proposals for the necessary reduction of NPO-specific inflation.

- ⑩ Inclusion of non-profit organisations in the Corporate Energy Cost Subsidy Act (UEZG): Non-profit organisations must be explicitly included in the subsidy guidelines and eligibility criteria adapted to NPOs (for example, support from energy costs starting with minimum 1 per cent of annual turnaround, instead of 3 per cent for corporations). The term must be extended to 2023.
- ⑩ Further use of the support fund for non-profit organisations: Not all non-profit organisations will fall under the eligibility criteria of the first measure above. In addition, for many NPOs, general inflation is also difficult to sustain (see below for an explanation). Therefore, in addition to or instead of Measure 1, the continuation of the Support Fund for NPOs as it was established during the COVID-19 pandemic was recommended.³⁷
- ⑩ Short- and medium-term promotion of concrete projects for the ecological change of the non-profit sector.

The public sector plays a decisive role in the financing of CSOs. In the long-term development of funding, slightly more than half of the total income of NPO's has always been provided by the federal government, the provinces or the municipalities.³⁸

The right to participation and dialogue between the sector and governing bodies

More systematic approach needed for civic dialogue

After a severe deterioration in dialogue and participation under the ÖVP-FPÖ-government the "cooperation with politicians has in fact tended to improve since the change of government in

³⁶ https://gemeinnuetzig.at/wp-content/uploads/2022/09/Ergebnisse_Mitgliederbefragung_Teuerung270922.pdf

³⁷ <https://gemeinnuetzig.at/2021/12/npo-unterstuetzungsfonds-vorlaeufige-bilanz-und-ausblick/>

³⁸ Pennerstorfer, A., Schneider, U., and Badelt, C. (2013). 'Der Nonprofit Sektor in Österreich', in R. Simsa, M. Meyer, & C. Badelt (eds.), *Handbuch der Nonprofit Organisationen. Strukturen und Management*. Stuttgart: Schäffer-Poeschel Verlag, 55-75 quoted according to: Simsa, R., Mayer, F., Muckenhuber, S., & Schweinschwaller, T. (2021). *Framework Conditions of Austria's Civil Society*. (Opuscula, 153). Berlin: Maecenata Institut für Philanthropie und Zivilgesellschaft. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-73928-5>,

2020" according to CSO-representatives.³⁹ Particularly dialogue between Green Party politicians and civil society actors were emphasised as good.⁴⁰

CSOs are in dialogue with the government in various areas and they are involved in some legislative processes. Nevertheless, the dialogue is strongly dependent on the culture / openness of the respective departments in ministries in charge - a more systematic and regulated approach like a civil dialogue framework or civil dialogue legislation is desired. This lacking framework was also one of the reasons why usually well -established dialogue between ministries and CSO's deteriorated quickly under the Kurz I-government (end of 2017 to May 2019). Clear regulations are missing and the consultation of civil society depends on the goodwill of people in charge.

Five years ago, IGO conducted a survey together with the Vienna University of Economics and Business Administration on civil society's experiences and needs with participation processes in Austrian legislation. The focus was on the pre-parliamentary law-making process - the period from the draft law to the decision of the Council of Ministers. At that time 83.8 per cent of the organisations said that they are not satisfied with the current participation opportunities and almost 70 per cent do not feel integrated in the pre-parliamentary phase. Only one quarter of respondents rate the perceived deadlines in public reviews (Begutachtungsprozesse) as sufficient for careful processing of statements (Stellungnahmen). In the open part of the survey, the main demand expressed was for sufficient deadlines and transparent and, above all, timely information to be included in a functioning system that is accessible to all interested parties. Since then, no major changes in legislation or regulation have taken place.

After 2019, high hopes have been placed in the new government with the Green Party and according to the CSO representatives interviewed, cooperation with politicians has in fact tended to improve since the change of government in 2020. "Relations have improved, especially with those positions held by the Green government partner."⁴¹

Participation: climate assembly & stakeholder processes

Particularly the Climate-Ministry has set various initiatives for more participation. One of the most prominent ones was the "Climate Assembly" (citizen assembly). From January to June 2022, 100 randomly selected citizens from all regions of Austria and from all parts of society dealt with the question of what we need to do today to live in a climate-friendly future tomorrow. Together they formed the Climate Assembly. As a kind of "mini-Austria", they developed measures to actively shape the country's climate future. Over six weekends, the participants of the Climate Assembly developed answers to central questions about the future. The assembly participants were supported by experts from various disciplines who contributed to the current state of research.

³⁹ Simsa, R., Mayer, F., Muckenhuber, S., & Schweinschwaller, T. (2021). Framework Conditions of Austria's Civil Society. (Opuscula, 153). Berlin: Maecenata Institut für Philanthropie und Zivilgesellschaft. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-73928-5>, page 26

⁴⁰ *ibid*, page 27f

⁴¹ *ibid*.

The goal is a climate-friendly Austria - and thus net zero - by 2040. 93 proposals have been developed.⁴²

Stakeholder-processes were increasing, i.e., the Circular Economy Strategy in the Climate-Ministry⁴³ or the Corporate Sustainability Due Diligence Directive.⁴⁴ The Ministry of Social Affairs started a participatory stakeholder-process with volunteers and their coordinators, respectively organisations concerning the reform of the Austrian Volunteers Act, via an e-participation platform.⁴⁵

The City of Vienna has implemented the Vienna Climate Teams, a combination of crowdsourcing and citizen juries as well as participatory budgets for youth and various districts⁴⁶. Vienna is intensifying their work with digital tools. In general Austria has been - in comparison with other countries in the European Union - rather reluctant to work with innovative democratic tools like participatory budgeting.

Recommendations

To the government of Austria

- 🌀 Implement the Freedom of Information Act;
- 🌀 Implement the demands of the "Anti-corruption-petition"

Safe Space

- 🌀 Introduce an independent body to investigate allegations of police violence;
- 🌀 Refrain from harassing climate activists through legal and other means and respect the right to peaceful assembly
- 🌀 Ensure that public funding of media should not be at the disadvantage of quality (print) media and protect press and media freedoms.

The right to participation and dialogue between the sector and governing bodies

- 🌀 Develop a more systematic and regulated approach towards participation like a civil dialogue framework or civil dialogue legislation;

⁴² <https://klimarat.org/>

⁴³ https://www.bmk.gv.at/themen/klima_umwelt/abfall/Kreislaufwirtschaft/strategie.html

⁴⁴

https://wien.arbeiterkammer.at/interessenvertretung/eu/infobrief/Ausgabe22_2_Infobrief/IB22_2_Artikel01_EU-LieferkettengesetzAmStart.html

⁴⁵ <https://freiwilligenpolitik.mitgestalten.jetzt/>

⁴⁶ <https://mitgestalten.wien.gv.at/de-DE/>

- 🔗 Ensure that participation and consultation with civil society actors is open, transparent and inclusive

The framework for civic organisations' financial viability and sustainability

- 🔗 Routinely extend all inflation mitigation measures for the corporate sector to the non-profit sector, including all measures aiming at the short- and medium-term adaptation of the sector and its actors to ecological change.

**About the contributor:*

IGO - *Interessenvertretung Gemeinnütziger Organisationen* represents the interests of the non-profit sector and voluntary organisations in Austria.