

# **European Rule of Law Mechanism: 2024 Rule of Law Report**

## Austrian Input

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# I. Justice System

## 1. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

In the 2023 Rule of Law Report, it is recommended to Austria to:

*“Take forward the reform to establish an independent Federal Prosecution Office, taking into account European standards on the independence and autonomy of the prosecution, including to ensure the independent operation of the specialised anti-corruption prosecution.”*

Political negotiations are ongoing. See also the detailed answer in the AT Input 2023.

In the 2023 Rule of Law Report, it is further recommended to Austria to:

*“Address the need for involvement of the judiciary in the procedures for appointment of court presidents of administrative courts, taking into account European standards on judicial appointments and the selection of court presidents.”*

The Conference of chairpersons of the administrative courts is discussing the European Commission’s recommendation on the procedures for the appointment of court presidents.

The competencies for the organisational laws of the federal administrative courts (Federal Administrative Court [BVwG] and Federal Finance Court [BFG]) lie within different ministries, those for the 9 provincial administrative courts within the respective Federal provinces (*Länder*).

## A. Independence

### 2. Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

No substantial changes have occurred since the publication of the 2023 Rule of Law Report, regarding administrative courts see question 1.

### 3. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### 4. Promotion of judges and prosecutors (incl. judicial review)

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### 5. Allocation of cases in courts

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**6. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information**

As a result of the general salary negotiations, remunerations for the public sector have increased by 9.15 % on average as of January 2024.

It is not possible to trace the amount of rewards for judges and public prosecutors from the budget allocation system as these are not separately accounted for from rewards for other employees. There were no significant changes in the area of rewards for judges and public prosecutors.

**9. Independence/autonomy of the prosecution service**

See question 1.

**10. Independence of the Bar (chamber/association of lawyers) and of lawyers**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**11. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary**

On the subject of "Reduction of reporting obligations", it should be noted that the reporting obligations decree 2021 as amended in 2023, last announced for summer 2023, has entered into force on 10 December 2023 following further revision.

The instructions report for 2021, announced for the end of June 2023, was finalised in December 2023 and afterwards submitted to Parliament and published. It can be found on the Parliament's website ([https://www.parlament.gv.at/dokument/XXVII/III/1087/imfname\\_1603488.pdf](https://www.parlament.gv.at/dokument/XXVII/III/1087/imfname_1603488.pdf)) and on the website of the Federal Ministry of Justice (<https://www.bmj.gv.at/ministerium/organisation-und-aufgaben/weisungsberichte.html>).

The instructions report does not cover all the instructions given in 2021, but rather those in which the underlying proceedings were concluded in 2021. The instructions in the latest report therefore date from 2014 to 2021.

The instructions report for 2022 is being finalized and will soon be published as well.

## **B. Quality of justice**

### **12. Accessibility of courts (e.g. court/legal fees, legal aid, language)**

The situation caused by the corona pandemic has led to the need to avoid personal contact. Since then it has been partially possible to participate in oral hearings before courts by videoconference. Parts of this regulation have been transferred to permanent law via the Civil Procedure Amendment 2023 (Zivilverfahrens-Novelle 2023 – ZVN 2023; [Federal Law Gazette I No. 77/2023](#)). The legal act enables the holding of oral hearings and (to a limited extent) the taking of evidence using video technology in civil proceedings and in non-contentious proceedings. In proceedings under the Insolvency Act ([Insolvenzordnung](#) – IO) and the Enforcement Act ([Exekutionsordnung](#) – EO), the use of suitable technical means of communication for the transmission of words and images - with exceptions - is generally permitted, although the debtor or the parties can still appear in court in person.

#### **Administrative courts and VwGH:**

While for proceedings before the VwGH regulations on holding public hearings by videoconference have been incorporated into permanent law in 2021, regulations for proceedings before administrative courts on holding public hearings by videoconference have been incorporated into permanent law in 2023 ([Federal Law Gazette I No. 88/2023](#)). Similar regulations were already adopted during the corona pandemic, but the aim has shifted from restricting personal contact to avoid infections to increasing procedural efficiency, while at the same time taking precautions to ensure the right to a fair trial within the meaning of Art. 6 of the European Convention on Human Rights and Art. 47 of the EU Charter of Fundamental Rights.

Additionally, submissions by electronic communication are now regarded as being submitted in due time if they are submitted on the last day of a deadline but after office hours of the court having jurisdiction have ended.

### **13. Resources of the judiciary (human/financial/material)**

Following significant increase in the budgets for 2020-2023, resources for the justice system increased again considerably for 2024 (plus EUR 310.881 Mio. or plus 14.90 % compared to the year 2023).

The additional funds primarily cover the increased personnel costs due to the considerable wage increases and structural effects as well as the filling of vacant and new positions, which were made available in particular to strengthen specialist supervision in criminal investigation proceedings, to speed up large complex proceedings and to combat white collar crime.

The continuing inflation dynamic is reflected not only in higher salaries but also, in particular, in the area of non-personnel expenses (general price increases, numerous long-term contracts linked to the consumer price index).

Further expenses arise, for example, from an additional demand for health-related measures (for prisoners after conditional release), experts and interpreters in legal matters and legal counselling for refugees.

Furthermore, additional expenses result, for example, from the increase of the payments to legal trainees from the eighth month of their training, the increase in compensations according

to the Fee Claim Act ([Gebührenanspruchsgesetz](#) – GebAG) and the expansion of prevention measures for offenders in the prison system as part of the government’s package of measures to protect children and young people from violence with a focus on sexual violence.

Finally, the budget 2024 also takes into account the compensation payments for people who have been prosecuted, convicted or imprisoned for consensual same-sex sexual contact, as well as a significant increase in contributions to the costs of defense in criminal proceedings. The legal framework for the new reimbursement of costs in the event of discontinuation of preliminary proceedings and the increase in the reimbursement of costs in the event of acquittals is currently being developed.

Concerning the material resources in the area of the judiciary, necessary renovations of individual court buildings as well as safety-related adaptations will be carried out in the year 2024. The renovation of the Vienna Regional Court for Criminal Matters, which will take place over several years, deserves a special mention. Regarding the penal system, in addition to maintenance measures and the renewal of security systems, it will be possible to finance building adaptations in connection with the juvenile detention facilities on the one hand and the expansion of the prison Göllersdorf by around 100 places in the in the area of forensic commitment on the other.

As far as revenues are concerned, after significant increases in recent years, there has now been a significant decline and revenues are also expected to be lower in the coming years than in previous years. The main reason for this is the decline in land registry fees, which in turn is due to the cooling real estate market caused by rising interest rates and stricter lending guidelines.

In 2023, the judiciary received more than 100 additional posts, in particular to help ensure that complex and extensive commercial proceedings in civil and criminal matters can be conducted quickly and to uphold a high standard, as well as to cover the growing demand in the area of cybercrime. In addition to more posts for judges and public prosecutors, the number of candidate-judges and court staff for the data protection authority was increased significantly.

Following the successful implementation of a pilot project, research assistants are now being employed permanently in the judiciary in order to provide judges with specialized legal support, particularly in large commercial cases. In 2023, 12 posts could be created for this purpose. In addition, procedure managers shall in future relieve judges of administrative tasks in a high-quality manner across the board.

#### **VwGH:**

- 68 judges (President, Vice President, 13 posts of Panel Presidents, 53 posts of Judges)
- 130 administrative staff (including 45 research associates)
- Approved Budget 2024: EUR 26 126 000

#### **Administrative courts:**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### **14. Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)**

The focus on dealing with and preventing violence was maintained in 2023. The annual "Richter:innenwoche" (Judges' Week) was dedicated to this topic. The aim was not only to discuss legal issues, but also to shed light on the personal and sociopolitical aspects in an interdisciplinary discourse. It was possible to address a large audience and raise awareness of this extremely important topic in the daily work of judges.

In 2023 knowledge transfer through online trainings was intensified. The newly introduced basic training on cybercrime for prosecutors, judges, trainee judges and certain court staff working for the prosecution offices is held as an online seminar for example. This basic training, which consists of eight modules, is taught by experts from the Cybercrime Competence Center of the Federal Criminal Police Office, representatives from the academia as well as IT experts and members from the judiciary, and is accompanied by public prosecutors from the Cybercrime Competence units of the prosecution offices.

Also the Judges' Association offered for example a webinar series on "Artificial Intelligence and Judiciary" addressing topics as "Mathematical characteristics of AI and their compatibility with judicial requirements", "Ethical principles for the use of AI in the judiciary" and "Algorithmic discrimination and the limits of anti-discrimination law".

In the area of diversity education, the new seminar "People with disabilities - respect for rights and respectful treatment in everyday judicial life" is dedicated to dealing sensitively with the rights and needs of people with disabilities. Specific rights and needs of people with disabilities were highlighted based on the UN Convention on the Rights of Persons with Disabilities (UN CRPD), including current case law, and possible courses of action for implementation in everyday judicial practice were also developed.

As part of their basic training, all judicial candidates are required to complete a curriculum on legal and contemporary history, as well as a curriculum on fundamental rights. In the course of the implementation of the National Strategy against Antisemitism presented in 2021, several measures have been implemented to enhance the education and awareness of members of the judiciary regarding antisemitism. The working definition of antisemitism of the International Holocaust Remembrance Alliance (IHRA) has therefore been integrated in the fundamental rights lecture and script. Furthermore, relevant criminal offenses, such as incitement and those outlined in the Prohibition Act ([Verbotsgesetz 1947](#) – Verbotsg), are now being addressed in criminal law courses for judicial candidates, as well as in regularly held practical seminars for judges and prosecutors.

#### **Administrative courts and VwGH:**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### **15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)**

See question 12 and 16.

#### **Administrative courts:**

See question 12.

#### **VwGH:**

According to a provision of the Supreme Administrative Court Act ([Verwaltungsgerichtshofgesetz 1985](#) – VwGG) introduced in 2023 ([sec. 30c para. 2 second sentence](#)), if administrative files have been transmitted electronically to the Supreme Administrative Court, the relevant data must be deleted by the Supreme Administrative Court after the conclusion of its proceedings.

Decisions of the Supreme Administrative Court are anonymised and published online in the Legal Information System (RIS) (<https://www.ris.bka.gv.at/Vwgh>). A short summary of selected decisions is also published on the website of the Supreme Administrative Court (<https://www.vwgh.gv.at/>).

## **16. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)**

As of October 2023, civil, criminal and certain administrative proceedings at 160 courts and public prosecutor's offices are conducted completely digitally using "Justice 3.0" ("*Justiz 3.0*"). More than 1.4 million files were processed exclusively digitally and more than 420 000 hearings were held digitally. Over 700 courtrooms are equipped and available for conducting hearings digitally (touch screens, media control and digital interrogation stand).

Since the beginning of 2023, the internal audit strategy at the courts and public prosecutor's offices has switched to an internal control system (ICS)-based, impact-oriented and more risk-oriented approach.

### **Administrative courts and VwGH:**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

## **17. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

## **C. Efficiency of the justice system**

### **18. Length of proceedings**

#### **Ordinary and administrative courts:**

No further update available (since statistical information is not required by the Commission).

#### **VwGH:**

The average length of proceedings at the Supreme Administrative Court in the year 2023 was 5.2 months (compared to 6.1 months in 2022).



## II. Anti-corruption framework

### **19. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)**

In the 2023 Rule of Law Report, it is recommended to Austria to:

*“Introduce effective rules on assets and interests’ declaration for Members of Parliament, including effective monitoring and sanctioning mechanisms.”*

The parliamentary working group (consisting of officials of both the parliamentary groups and the parliamentary administration; cf. 2023 Rule of Law Report, Country Chapter Austria, p. 14 et seq.), which was established to follow-up on the recommendation in more detail, held a meeting to discuss the recommendation on 2 February 2023. Future meetings are foreseen but no timeline is known yet.

In the 2023 Rule of Law Report, it is further recommended to Austria to:

*“Adopt legislation to strengthen the framework on lobbying, including on its scope, supervision and enforcement.”*

No legislation has been adopted in this regard.

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

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

#### **Federal Bureau of Anti-Corruption:**

The resources of the Federal Bureau of Anti-Corruption (Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung or BAK) have increased (partly due to additional tasks that the BAK will take on from January 2024). As mentioned in last year’s input, the BAK’s budget has increased since 2014 and the implementation of projects and activities has been consistently ensured. The BAK’s expenditure budget rose from EUR 10.239 Mio. (2023 cost estimate) to EUR 17.467 Mio. (2024 cost estimate). On 1 December 2023, the BAK had 161 employees (December 2022: 124), fourteen of whom are on maternity leave or working in other organisational units outside the BAK.

In June 2023 the European Public Prosecutor's Office (EPPO) organized a workshop on the cooperation between Austrian investigative authorities and the EPPO, in which representatives of the Federal Bureau of Anti-Corruption took part. The aim of the workshop was inter alia how to effectively cooperate with the EPPO.

### **Austrian Court of Audit (ACA):**

Playing a key role when it comes to contributing to anti-corruption measures and to raising awareness for compliance in the public sector, roughly half of the ACA's audits in 2023 dealt with corruption prevention, as well as legal and general compliance. All audit reports are published on ACA's website.

Each year, the ACA also produces a report on the annual accounts of government departments, and it has to report to Parliament on its activities. Besides, the ACA has a number of special tasks (e.g. in relation to media transparency, financial disclosure, party financing, etc.). The Court helps as well the National Parliament in scrutinising the implementation of government policy in relation to special inquiries.

The ACA set up a new audit department "Political Parties and Compliance" in January 2023. ACA's strategic priority is to expand expertise and deploy appropriate human resources for this purpose. The department consists of two audit units: "Compliance und Corruption Prevention" focusing on transparency and good governance and "Political Parties and Elections" covering ACA's additional tasks in relation to the most recent amendment to the Political Parties Act ([Parteiengesetz 2012](#)– PartG), which is intended to lead to greater transparency in the financing of political parties.

As a result, the ACA can i.a. perform an audit of political parties on the spot (at their premises). In the case of a reasonable suspicion of a violation of the Political Parties Act, the ACA may request the political party in question to submit a statement within a reasonable period of time and demand in writing that it produces all information that appears necessary and submit account books, invoice documents as well as other supporting documents. This may take place regardless of auditing the political party's statement of accounts.

In its role as INTOSAI's (International Organization of Supreme Audit Institutions) General Secretariat the ACA strives towards the implementation of SDG 16, which advocates for accountability and transparency, for peace, justice and strong institutions. Fighting corruption is essential to achieving sustainable development, and SAIs have a key role to play as public watchdogs. For instance, the ACA is a member INTOSAI's working group on the fight against corruption and money laundering (WGFACML). In this regard, the ACA took a leading part in drafting the Guideline "[Audit of Corruption Prevention in Public Procurement](#)".

The ACA's annual budget will amount to EUR 46.7 Mio. in 2024 - representing a 10.6 % increase of about EUR 4.5 Mio.. The rising budget allows to recruit new staff members enabling that the audit work can be pursued at a continuously high quality level. The strategic goal is to reach and keep an adequate staffing level (of about 295 fulltime equivalents) in order to ensure enough capacity to independently and properly fulfil its audit plan.<sup>1</sup>

As of 1 November 2023, the ACA employs 156 women and 147 men, 84 % of whom are public auditors. At senior management level, the percentage of women amounts to 47 %. The new audit department "Political Parties and Compliance" has 18 staff members. This is required

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<sup>1</sup> [https://www.parlament.gv.at/aktuelles/pk/jahr\\_2023/pk1183](https://www.parlament.gv.at/aktuelles/pk/jahr_2023/pk1183).

not only in context of the additional tasks assigned by the Political Parties Act but also to meet a possible higher number of audit requests. Since 1 January 2023, the National Council's rules of procedure have stipulated that a parliamentary group/party with fewer than 20 Members of Parliament can also submit an audit request to the ACA.

## **21. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.**

### **Federal Bureau of Anti-Corruption:**

The Federal Act on the Establishment and Organization of the Federal Bureau of Anti-Corruption ([Gesetz über das Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung](#) – BAK-G), which entered into force on 1 January 2010, was amended in July 2023 (by [Federal Law Gazette I Nr. 107/2023](#)) to include additional tasks for the Federal Bureau of Anti-Corruption (BAK) in the field of police oversight. The amendment also contains several provisions which will further increase the BAK's functional independence. The new provisions will enter into force on 22 January 2024 and include:

- prolongation of the terms of office of the director and his/her deputies from five to ten years
- amended appointment procedure for the director and his/her deputies
- restriction of permissibility of secondary occupation by the director and his/her deputies and introduction of a requirement of authorization for secondary occupation by all other staff members
- regular intervals of security checks for all staff members ("secret" or "top secret", according to position).

### **Austrian Court of Audit:**

See question 20. ACA's functional independence has been strengthened by an increased budget. The independence of the ACA was further enhanced in 2023 by an amendment of [Art. 122 para. 4 of the Federal Constitutional Law](#) introducing a new mechanism of appointment and dismissal of the position of the President of the ACA with a two-thirds majority of Members of Parliament (National Council) — representing a qualified majority (instead of simple majority which was previously the case).

## **22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.**

Regarding the Austrian National Anti-Corruption Strategy (NACS), reference is made to previous submissions for the Rule of Law Reports 2020 - 2023. The first cycle of the NACS and the National Action Plan 2019-2020 were evaluated, and the evaluation report was accepted by the national Coordinating Body on Combating Corruption (Koordinationsgremium zur Korruptionsbekämpfung). Based on the findings and recommendations contained therein, a core team developed an adapted NACS and a grid for a new National Action Plan (NAP) 2023-2025. Both documents were adopted by the Council of Ministers on 11 October 2023.

The most important changes compared to the first NACS were:

- Establishment of NACS coordinators in all participating institutions and organisations as central points of contact for all NACS-related matters;
- Change of the NAP from a two-year to a three-year cycle (i.e. now 2023-2025);

- Setting indicators as part of the definition of targets and measures to facilitate evaluation and self-monitoring; the public must be regularly informed about progress and results.

The Federal Bureau of Anti-Corruption coordinated the activities around the evaluation of the action plans under the NACS in cooperation with the Coordinating Body on Combating Corruption.

The Federal Government's 2023-2025 Action Plan contains a total of 120 objectives with 228 measures and 198 measurable indicators in the area of prevention as well as 6 objectives, 13 measures and 14 measurable indicators in the area of prosecution.

Like the NACS, the 2023-2025 Action Plan is also divided into six fields of action: integrity management – promoting integrity, compliance management systems – public administration, reducing structural corruption risks, promoting corruption prevention measures, raising awareness – public, and raising awareness – training for specific target groups.

The action plan also contains measures based on GRECO (Group of States against Corruption) recommendations. In this respect, the establishment of Compliance Officers in all sections and offices of the Federal Ministry of Interior and the training and information of the Minister of Interior's cabinet staff (PTEF) have already been implemented.

A second National Action Plan with objectives, measures and indicators from organisations and authorities wishing to voluntarily take measures to prevent corruption outside the Federal Government is currently being finalised and contains contributions from 17 organisations and authorities.

Fulfilling objective 1.32 of the Action Plan to increase integrity with respect to persons entrusted with top executive functions, the Federal Chancellery has already conducted in-person-trainings for every employee (including PTEFs). On the occasion of these trainings the code of conduct for Preventing Corruption in the Civil Service "The RESPONSibility RESTS WITH ME" was distributed to every civil servant in the Federal Chancellery. Furthermore, the Federal Chancellery has implemented its objective 6.24 by establishing a new comprehensive intranet-presence.

## **B. Prevention**

### **23. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training).**

#### **Federal Ministry of Justice:**

The third network conference of Compliance Officers within the Austrian judicial system took place in September 2023. It was dedicated to the topic of "ethical behaviour". The Compliance Committee will meet on 23 January 2024. This committee will decide on the compliance program for 2024. There is a justice-specific e-learning program "Compliance", which has been available to all employees of the Austrian judiciary since 2021 and which all members of the judiciary must complete. It consists of eight learning modules (definitions and legal basics; overview; compliance guidelines; acceptance of gifts; invitations and hospitality; sponsoring;

impartiality; secondary employment). A second e-learning program, which has been online since 2022, deals with the topic of data security. The use of both tools is regularly monitored.

**Federal Bureau of Anti-Corruption:**

In 2023, two training courses were held for 50 new participants in the Network of Integrity Officers (Integritätsbeauftragten-Netzwerk or IBN), two training courses as well as the first half of a third course were organised by the Federal Bureau of Anti-Corruption (BAK) for 70 employees of the Federal Ministry of the Interior and training courses were held for the new Compliance Officers (CO) of the Ministry and Corruption Prevention Officers (Korruptionspräventionsbeamte or KP) of the Regional Police Directorates established in 2023.

Two conferences were held in June and November 2023 with the new Compliance Officers (CO), the Chief Compliance Officer (CCO) and the Corruption Prevention Officers (KP). They were also trained in the use of tools for communicating the topics of corruption and integrity.

In addition to these training courses, three anti-corruption events were organised in 2023: The Austrian Anti-Corruption Day 2023 (topic “Speak up – write down; The role of whistleblowing and journalism in the fight against corruption”) for around 150 managers from federal organisations and Integrity Officers, as well as two interactive educational events with around 150 students from vocational secondary schools.

**Education and training programmes by the Federal Academy of Public Administration:**

Please find below the statistics of the education and training programmes of the Federal Academy of Public Administration, that have a focus on measures to enhance integrity in the public sector and their application as well as on ethics and the prevention of corruption:

Education and training programmes	Years in which the programme took place	Number of participants (internal course number)
Basic training: The civil service	2011 - 2022	3 452 participants (GA 10)
Basic training: The civil service and compliance	Since 2023	945 participants
Apprenticeship training: quality in civil service	since 2018	55 participants (BS-L 160/2)
Ethics and professional ethics: What can we contribute to the common good	2013 - 2022	182 participants (GA 37)

Internal control systems and risk management	since 2014	178 participants (PM 002)
Prevention of corruption - compliance - integrity	since 2014	149 participants (PM 003)
Compliance in public administration: basics	since 2017	79 participants (PM 031)
Prevention of corruption - compliance - integrity: in-house training	since 2017	633 participants (PM 033)  Three inhouse compliance trainings (8 hrs) with 82 participants were specialized for the staff dealing with funds concerning the European Recovery and Resilience Fund
What are we doing here? – Civil service as a pillar of the common good	since 2023	13 participants (PM 034)
Compliance risk analysis	since 2021	19 participants (PM 037)
Compliance in public administration: advanced training	since 2023	14 participants (PM 038)
Riskmanagement course (8 modules; certificate by Austrian Standards according to ONR 49003)	since 2021	29 participants (ML 850) 9 participants have already successfully completed the course with a certificate from Austrian Standards according to ONR 49003.
E-Learning tool “The RESPONSibility rests with me – A QUESTION OF ETHICS”	since November 2020	Internal: 1 692 participants (EL-001)  Access via external link: 19 685 unique visits (until 30 Nov 2023)  <a href="https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/korru">https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/korru</a>

		<a href="#">ptionspraevention/verhaltenskode</a> <a href="#">x-e-Learning/Verhaltenskodex_e-Learning.html</a>
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### **Federal Chancellery:**

The Federal Chancellery organizes periodic meetings of all Compliance Officers at national level, where topical developments are discussed, and experiences are shared. Please also see question 22.

### **Austrian Court of Audit:**

For the ACA it is crucial to include a focus on those areas that are inherently exposed to a high risk of corruption in its audits. Therefore, compliance aspects (above all within the framework of compliance audits) are always taken into account in a standardized manner. In 2023 roughly half of the audit reports dealt with compliance-related matters such as risk management, internal control systems and conflicts of interest. The ACA emphasized – based on several audits – the pillars for an effective national anti-corruption system:

- clear rules and standards of conduct on all levels (including sanctions in case of breach)
- compliance as a managerial function (“tone from the top”)
- effective internal control systems
- effective internal audit (incl. independency and sufficient staffing)
- effective supervisory functions in state-owned enterprises
- transparency

Like in recent years, the ACA is committed to continuing its dedicated tasks with regard to anticorruption, integrity in the public sector and transparency. Currently, it is undertaking a number of audits in this context, both at federal and regional level.

Two recent relevant audits of 2023:

- [Compliance – Corruption prevention in real estate transactions:](#)

The public sector increasingly provides its services by public bodies, in which the state holds at least 50 % of shares. The ACA decided to audit two state-owned companies, one, the Austrian Federal Railways company and, two, the Austrian Post company. The audit assessed the corruption prevention measures as part of the compliance management system and the implementation of preventive measures with a focus on the decision-making process.

It analysed both the sale preparation and the subsequent sale process. The ACA concludes that the Austrian Post company and above all the Austrian Federal Railways company could have achieved significantly higher prices for sales of their properties – if a competitive, transparent system would have ensured a non-discriminatory and unconditional bidding process.

- [Bundesbeschaffung GmbH and selected procurements](#)

The Bundesbeschaffung GmbH, as well a state-owned company, was founded in 2001 with the aim of achieving savings in purchasing prices for the Federal Government. In its report, the ACA recommends that public sector procurements should increasingly be handled by this central control point of procurement for public bodies to minimize the possibility of corruption, in line with nationally agreed regulations.

Currently an audit is carried out to examine the advertisement policy of three ministries (Federal Chancellery, Ministry of Finance, Ministry of Climate Protection) and the municipality of Vienna with a focus on compliance.

#### **24. General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)**

Implementing GRECO-recommendation x (i) (*further developing the existing financial declaration system for all persons entrusted with top executive functions (also including secretaries general and ministerial advisors) by (i) expanding the categories of assets to be disclosed and providing for greater itemisation*) a new asset-declaration is drafted by the Federal Chancellery. This asset-declaration includes all information on assets required by GRECO. To ensure that the declaration is used as soon as possible it is planned to adopt the asset-declaration on a voluntary basis first. Otherwise, the new declaration could only be implemented after the act comes into force. Regarding gifts policy and in view of implementing GRECO-recommendation iii, a code of conduct for ministers is being drafted.

Legal certainty with regard to the rules for civil servants on the acceptance of gifts was increased by adding a [new para. 7](#) to sec. 59 of the Public Services Law ([Beamten-Dienstrechtsgesetz 1979](#) – BDG 1979) in December 2022, which clarifies the conditions under which a contribution is not a gift or benefit within the meaning of the prohibition of the acceptance of gifts.

The Independent Political Parties Transparency Panel (UPTS), established by [sec. 11 of the PartG](#), issued six decisions in 2023 related to the most important political parties on the federal level. Five of those political parties were fined with a total amount of EUR 98 384, for acts or omissions amounting to illegal party financing (e.g. donations not reported to the Austrian Court of Audit in time or not at all, unusually low rent paid to public communities, or costs of printing / costs for ads paid by a party sub-organisation which was forbidden by law to do so).

The translation of the Political Parties Act ([Parteiengesetz 2012](#) – PartG) after the last amendment can be found at: [https://ris.bka.gv.at/Dokumente/ErV/ERV\\_2012\\_1\\_56/ERV\\_2012\\_1\\_56.pdf](https://ris.bka.gv.at/Dokumente/ErV/ERV_2012_1_56/ERV_2012_1_56.pdf).

For the decisions (in German only), please refer to: <https://www.bundeskanzleramt.gv.at/themen/unabhaenger-parteien-transparenz-senat.html>

#### **Parliamentary Administration:**

The compliance unit of the parliamentary administration (cf. 2022 Rule of Law Report, Country Chapter Austria, p. 13; 2023 Rule of Law Report, Country Chapter Austria, p. 14 et seq.) continues to offer voluntary and confidential counselling to Members of Parliament, but also to the parliamentary administration's staff on integrity and conflict of interest matters. Between 1 January 2023 and 15 December 2023, the compliance unit was asked for such counselling by 68 Members of Parliament and civil servants. Internal guidelines providing guidance to the parliamentary administration's staff contain a code of ethics, which was updated in October 2023. The compliance unit takes part in staff training programs and offers trainings and workshops to Members of Parliament and parliamentary groups.

In March 2023, a motion to amend the Parliamentary Groups Funding Act ([Klubfinanzierungsgesetz 1985](#) – KlubFG) has been introduced in Parliament concerning the



establishment of a publicly accessible register of parliamentary groups. This bill has been passed by the National Council and the Federal Council in May 2023 and entered into force on 15 July 2023. According to the new provision, the President of the National Council shall keep a publicly accessible list which has to contain the names of the parliamentary groups and the persons authorised to act on their behalf. The parliamentary groups shall provide the President of the National Council with the information necessary. The register of parliamentary groups shall be published on the internet in an appropriate manner (cf. Art. 5b of the Parliamentary Groups Funding Act, [Federal Law Gazette I no. 57/2023](#); see also the [Parliament's website](#)).

#### **Austrian Court of Audit:**

The ACA was tasked with genuine audit competences regarding political party financing in 2023 (see question 20), which include the following activities and tasks:

- In the case of a reasonable suspicion of a violation of the Political Parties Act, the ACA may request the political party in question to submit a statement within a reasonable period of time and demand in writing that it discloses all information that appears necessary and submit account books, invoice documents as well as other supporting documents. This may take place independently of auditing the party's statement of accounts.
- If the requested statement does not clear up the reasonable suspicion or if no statement was submitted by the party, the ACA shall notify the party thereof in writing. Thereafter, the ACA may carry out an audit of the political party within the scope required for this purpose in the form of an on-site inspection at the party's premises.
- Furthermore, there are also new rules for the topics of receipts of quarterly donations and publication of donations exceeding EUR 500 and for the publication of donations between the elections cut-off date and the election day.
- The ACA shall keep a register of the supporters' committees and publish the designation of the committee, its proponents and the supporting party or political candidate on the ACA's website. The ACA shall also provide this information to the party, the political candidate and the members of the personal committee in question. Objections, if any, against the attribution of the personal committee to the political party shall be noted in the published register.
- In the event of a National Council or European Parliament election, the ACA has the following new tasks:
  - control of the election campaign reports
  - publication of the expenditure of the statutory professional associations
  - accompanying analyses of election campaign expenses
  - publication of individual cash donations exceeding EUR 2 500 between the qualifying date for election and the election day
  - compliance with regulations on donations and election campaign expenditure.

#### **25. Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)**

An information about compliance and duties regarding this matter for every minister was drafted by the Federal Chancellery and will be handed out to every minister at the time of their inauguration. Please also see question 24.

Functionaries may not act as lobbyists within the meaning of sec. 4 para. 4 Lobbying Act ([Lobbying- und Interessenvertretungs-Transparenz-Gesetz](#) – LobbyG) during the term of their function in their area of responsibility, i.e. they may not accept any paid lobbying assignments. This applies both to a function in the public or private sector administration and to membership of a representative body (sec. 8 Lobbying Act).

The ACA set up the new audit department "Political Parties and Compliance" in January 2023. Details see question 20.

**For questions 23-25, please provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).**

Regarding the Parliamentary Administration, please see question 24. Figures in connection with the answers to questions 23 to 25 are not available for the justice sector.

No violations or irregularities against the various applicable regulations were identified in the Federal Chancellery. There was one potential breach, which did not occur in the Federal Chancellery, but was detected by employees of the Federal Chancellery, in the end of 2022.

The ACA has evaluated that for 2022 its recommendations have been implemented to the following extent: the percentage of implemented and accepted recommendations has reached 89.1 % (the follow-up enquiry) and 87.3 % (follow-up audits), respectively. For example, one of the follow-up audits in the year 2023 focused on the [Federal Sports Promotion Scheme](#). The original audit took place in 2020 and found – among other things – that there was no clear separation between the donors and the beneficiaries, which is why the beneficiaries themselves influenced the awarding of funds. According to the [ACA's opinion](#), the inclusion of the beneficiaries' representatives gives rise to conflicts of interest inherent to the system.

**26. Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given**

Since publication of the law transposing the Whistleblowers Directive at federal level on 24 February 2023 (Whistleblower Protection Act; [HinweisgeberInnenschutzgesetz](#) – HSchG, [Federal Gazette part I No 6/2023](#); see 2023 Rule of Law Report, p. 17), implementation of public authorities' whistleblowing systems has been finalised in 2023.

Aside from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (WKStA), the Whistleblower Protection Act (sec. 15 para. 2 HSchG) explicitly provides for the following authorities as external reporting channels:

- Austrian Audit Oversight Authority – APAB (“Abschlussprüferaufsichtsbehörde”)
- Austrian Financial Intelligence Unit – A-FIU (“Geldwäschemeldestelle”)
- Austrian Financial Market Authority – FMA (“Österreichische Finanzmarktaufsicht”)
- Balance Sheet Accounting Authority („Bilanzbuchhaltungsbehörde“)
- Federal Bureau of Anti-Corruption – BAK (“Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung”)
- Federal Competition Authority („Bundeswettbewerbsbehörde“)
- Bars of Austrian Lawyers („Rechtsanwaltskammern“)
- Chambers of Notaries („Notariatskammern“)
- Chamber of accountant services („Kammer der Steuerberater:innen und Wirtschaftsprüfer:innen“)

With the exception of some Bars of Austrian Lawyers at the level of the Federal provinces (*Länder*), all these whistleblowing systems admit and technically support anonymous reports.

On the basis of the Whistleblower Protection Act, an internal and an external whistleblower channel pursuant to sec. 12 and 15 HSchG have been set up at the Federal Bureau of Anti-Corruption (Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung – BAK), which has been accepting information from whistleblowers since 25 August 2023, the end of the transition and implementation phase provided for in sec. 28 HSchG.

A protected person under the Whistleblower Protection Act may be anyone who learns of certain violations in the course of their professional activity. This includes not only employees, but also, for example, applicants, freelancers and suppliers. To protect whistleblowers, reporting platforms have been set up externally for the private and public sectors as well as internally for the Ministry of the Interior that guarantee anonymous communication with the BAK's Whistleblowing Point of Contact staff. It is also possible to report verbally and/or in person.

In order to encourage the reporting of corruption and promote the submission of reports, Whistleblowing Point of Contact staff attended specialist events and lectures and published information for the general public to raise awareness of this issue (e.g. press release, newsletter, information on public website). Since the reporting office was set up on 25 August 2023, 38 reports have been received by the reporting date of 14 December 2023. The reports that fall within the scope of the Whistleblower Protection Act (note: in case of doubt, the Act was/is applied) led to 23 follow-up measures. The total number of follow-up measures resulting from the further processing of reports received by the Whistleblowing Point of Contact (regardless of the scope of application) is 35. In addition, various consultations and other enquiries were processed in connection with the Whistleblower Protection Act.

A web-based internal (addressees are exclusively all members of the Austrian justice system: judges, prosecutors, correctional officers, etc.) reporting platform has been in place since July 2023. The platform serves members of the Austrian justice system on two levels: on the one hand, as an information tool on compliance/integrity issues and, on the other hand, as a reporting tool for corrupt practices that only affect members of the Austrian justice system. An information brochure for using this platform is available on the intranet of the justice system and every employee also receives a printed version.

The status of the BKMS® Report mentioned in the AT Input 2023 (as of 31 October 2022) is still up to date.

In accordance with the Whistleblower Protection Act, the Public Services Law ([Beamten-Dienstrechtsgesetz 1979](#) – BDG 1979) was amended to ensure whistleblower protection and encourage reporting of corruption.

This essentially applies to

- the added para. 6 in sec. 46 BDG 1979 (official confidentiality), where a report pursuant to sec. 53a second sentence BDG 1979 shall be no breach of the official confidentiality and the duty of confidentiality pursuant to [sec. 4 of the Information Security Act](#) – InfoSiG;
- the added para. 1d in sec. 53 BDG 1979 (Reporting obligations), where it is stated, that the reporting obligation pursuant to sec. 53 para. 1 BDG 1979 is also deemed to be fulfilled, if the civil servant has submitted a report pursuant to sec. 53a BDG 1979. This means that civil servants also fulfil their reporting obligation under sec. 53 para. 1 BDG 1979, if they submit a report to the internal office responsible for the federal service in accordance with

sec. 12 HSchG or the external office responsible in accordance with sec. 15 para. 1 and 3 HSchG.

- the amendments in sec. 53a BDG 1979 (Protection against prejudicial treatment), which ensure that the protection also applies in the case of reports in accordance with the Whistleblower Protection Act. [Sec. 53a BDG 1979 now reads as follows.](#)
- the added para. 4 in sec. 54 BDG 1979 where it is stated that reporting pursuant to sec. 53a second sentence BDG 1979 is possible without going through official channels.

For the majority of the federal authorities (exceptions in sec. 12 para. 1 and 3 HSchG) an internal channel pursuant to sec. 12 para. 1 and 2 HSchG has been set up at the Federal Disciplinary Authority.

The Whistleblower Protection Act contains a provision according to which certain federal authorities have been obliged to establish separate channels and procedures for internal reporting by August 2023. These authorities are for example: The President of the National Council for the Parliamentary Administration, the Chair of the Ombudsperson Board for the Ombudsperson Board, the President of the Court of Audit for the Court of Audit, the President of the Constitutional Court for the Constitutional Court, the President of the Supreme Administrative Court for the Supreme Administrative Court and the Federal President for the Office of the Federal President (cf. sec. 12 para. 3 HSchG).

As regards the parliamentary administration, the President of the National Council has established an impartial internal reporting unit by August 2023. The internal reporting unit of the parliamentary administration is also in charge of reports concerning the Ombudsperson Board (which is by means of the Federal Constitutional Law [[Bundes-Verfassungsgesetz – B-VG](#)] considered a subsidiary body of the National Council). The President of the National Council has issued internal guidelines on whistleblowing based on the Whistleblower Protection Act. Also, a landing page on the intranet of the parliamentary administration was created. Between 25 August 2023 and 15 December 2023, the internal reporting unit received three reports, but none of them was considered relevant in light of the legal requirements and required follow-up measures.

The requirements of the Whistleblower Protection Act have been also introduced within the ACA and will be part of future audit tasks. In order to fully implement the law, an electronic whistleblower reporting tool has been put in [place on ACA's website](#), where potentially relevant information can be submitted anonymously.

## **27. Sectors with high risks of corruption in your Member State:**

- **Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement**
- **list other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen/residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)**

The ACA regularly examines areas with particularly high risks including in the areas mentioned. The system also provides for the possibility of follow-up audits to monitor the

implementation of ACA's recommendations. The ACA's impact is reflected particularly in the implementation of its recommendations.

In order to achieve an even coverage of potential risk areas, the ACA takes several random samples each year from the public companies subject to its audit competence. This is intended to prevent potential audit gaps.

The following list of relevant ACA audits indicates how diverse the topics are that the ACA examines and makes corresponding recommendations for compliance and risk management:

- [COVID-19-Vaccine Procurement](#)  
This special audit was carried out pursuant to an audit request of Members of Parliament, which comprised eleven subject areas. The audit aimed, in particular, at assessing the management and coordination of vaccine procurement as well as the delivery dates and quantities, analysing the financial framework conditions and the consequences of not ordering the full volume of COVID-19 vaccines, and analysing the contractual documents and Austria's role in the negotiations at EU level.
- [School operations during the COVID-19 pandemic](#)  
This report suggests that individual organizational units did not have a complete overview of the procurements made in their area.
- [Zoning planning of the municipality of Vienna](#)  
The zoning and development have an impact on the land value of properties. A higher development permission can lead to higher building utilisation of the property and therefore also a higher value. The audit objectives were to present the legal basis, the structural and procedural organization and to assess the course of the procedures for individual plan documents. The ACA examined nine procedures of the municipality of Vienna on the basis of a risk-oriented selection, seven of which were examined in depth.
- [Handling of environmental impact assessment procedures in Styria](#)  
In this report, the ACA emphasizes that the implementation of approval procedures and the preparation of decisions are core tasks that should not be outsourced to external parties.
- [Vienna Healthcare Fund - Procurement practice in the field of medical technology and consulting](#)  
This audit analyzed the data on contracts awarded by the Vienna Healthcare Fund. The result: there were shortcomings in 48 of the 66 contracts reviewed, primarily with regard to documentation. The ACA also found room for improvement in the compliance management system.
- [Film Academy Vienna](#)  
The ACA recommends that receipts be approved for payment only if they comply with legal and internal regulations. Furthermore, the introduction of the internal control system had not yet been completed at the time of the audit.
- [Operational building area Ehrenfeld II Viecht in Ohlsdorf](#)  
In this report, the ACA noted the clearing of forest areas without sufficient examination of the conditions, nonbinding general principles in spatial planning and incomplete justification of environmental impact. It figured out that a private company sold land from two public stated owned companies and subsequently sold it to a real estate company, generating extra EUR 12.20 Mio.. One public stated company had not agreed a rectification clause, although it was aware of the private company's intention to resell the properties in the near future.
- [FMB Facility Management Burgenland GmbH](#)

Company sales should only be carried out on the basis of transparent, non-discriminatory and unconditional tendering procedures and the public company should be sold to the highest bidder.

The fight against corruption is a major concern of the ACA, which is why it not only participates in international evaluations, like those carried out by the GRECO, but also had an active role in the creation and implementation of the UNODC „[Practical Guide: Enhancing collaboration between Supreme Audit Institutions and Anti-Corruption Bodies in preventing and fighting corruption](#)”.

## **28. Any other relevant measures to prevent corruption in public and private sector**

The phenomenon of corruption affects every specialised area and society as a whole. For this reason, existing measures to prevent corruption are constantly being adapted and further developed and new methods are being devised.

A new programme was developed by the Federal Bureau of Anti-Corruption in 2023 for the target group of teachers, in which they are to be trained themselves on the one hand and enabled to pass on their knowledge to pupils on the other (train the trainer). A pilot project was launched for this purpose (expected to be completed in the first quarter of 2024).

The Federal Chancellery conducted a comprehensive risk-analysis in 2022. This risk-analysis is already being reevaluated in its foreseen periodical reevaluation-process.

## **C. Repressive measures**

### **29. Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.**

On 1 September 2023 the Law amending the criminal law on corruption ([Korruptionsstrafrechtsänderungsgesetz 2023](#) – KorrStrÄG 2023) entered into force.

This Act includes

- the penalization of the so-called purchase of political mandates,
- criminal liability in cases of bribery of candidates running for an office,
- higher penalties for corruption offenses and
- the loss of eligibility in the event of a conviction for a corruption offense to a term of imprisonment exceeding six months.

This law also contains changes with regard to the sanctions that are generally applicable to legal entities, which are provided in sec. 4 of the Federal Act on Responsibility of Entities ([Verbandsverantwortlichkeitsgesetz](#) – VbVG). [Sec. 4 now reads as follows](#). The amount of the daily rate in para. 4 was tripled.

### **30. Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible), including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds.**

Data analysis for the investigation and prosecution of corruption offences in which proceedings were conducted under the Federal Act on the Responsibility of Legal Entities ([Verbandsverantwortlichkeitsgesetz](#) – VbVG):

Outcomes of criminal proceedings against legal persons for corruption offences (1/1/2022 – 30/11/2023):

Offence	Convictions	Acquittals	Diversions	Indictments	Discontinuation of Investigation	Withdrawal of Proceedings	Aborting Investigation Proceedings	Other Outcomes
<b>2022</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>6</b>
§ 304 CC (Passive Bribery)	0	0	0	0	0	0	0	2
§ 307 CC (Active Bribery)	0	0	1	2	1	0	0	4
§ 307a CC (Giving Undue Advantages)	0	0	1	0	2	0	0	0
§ 307b CC (Giving Undue Advantages for the Purpose of Interference)	0	0	1	2	1	0	0	0
§ 309 CC (Acceptance of Gifts and Bribery of Employees and Representatives)	0	0	0	0	0	0	0	0
<b>2023</b>	<b>0</b>	<b>21</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>5</b>
§ 304 CC (Passive Bribery)	0	21	0	0	0	1	0	1
§ 307 CC (Active Bribery)	0	0	0	0	0	4	0	2
§ 307a CC (Giving Undue Advantages)	0	0	0	0	0	0	0	0
§ 307b CC (Giving Undue Advantages for the Purpose of Interference)	0	0	0	0	0	0	0	0
§ 309 CC (Acceptance of Gifts and Bribery of Employees and Representatives)	0	0	0	0	1	0	0	2
<b>Total Number of Outcomes</b>	<b>0</b>	<b>21</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>11</b>

Pending corruption cases against legal persons (reference date: 30/11/2023)

Offence	Number of Cases
§ 304 CC (Passive Bribery)	1
§ 305 CC (Accepting Undue Advantages)	0

§ 306 CC (Acceptance of Benefits for the Purpose of Interference)	0
§ 307 CC (Active Bribery)	2
§ 307a CC (Giving Undue Advantages)	0
§ 307b CC (Giving Undue Advantages for the Purpose of Interference)	0
§ 308 CC (Unlawful Intervention)	0
§ 309 CC (Acceptance of Gifts and Bribery of Employees and Representatives)	0
<b>Total Number of Cases</b>	<b>3</b>

In 2023 (as of 30 November 2023), the BAK recorded a total of 692 cases that fall under the exclusive jurisdiction of the BAK ([sec. 4 of the Federal Act on the Establishment and Organisation of the Federal Bureau of Anti-Corruption](#) [BAK Act]). The majority of these, namely 628 cases, relate to allegations of abuse of official authority (sec. 302 Austrian Criminal Code [[Strafgesetzbuch](#) – StGB]).

The BAK also registered the following allegations:

8 cases of alleged corruptibility (sec. 304 StGB), 2 cases of alleged acceptance of an advantage (sec. 305 StGB), and 1 case of alleged bribery (sec. 307 StGB). In addition, the Bureau registered 1 case of alleged acceptance of an advantage for the purpose of exerting influence (sec. 307b StGB), 3 cases of alleged acceptance of gifts and bribery of employees or agents (sec. 309 StGB) and 20 cases of alleged breach of official secrecy (sec. 310 StGB). The remaining 29 allegations are distributed among the other cases that fall under the exclusive jurisdiction of the BAK (sec. 4 BAK Act).

The basis for these statistics is the “principal offence” of each case, i.e. the criminal act that determines the sentence. However, a criminal investigation case can also include other offences. It should also be noted that the BAK statistics only take into account those reports, accusations, etc. that were received by the BAK in the reporting year. Alleged cases from previous reporting years for which investigations have not yet been completed are not included in the statistics for the new reporting year.

The BAK publishes a detailed annual report both online and in printed form, which includes the statistics collected by the BAK.

### **31. Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)**

There have been no changes regarding the effects of the immunity of Members of Parliament on criminal prosecution.



There is no change to the question of the potential impact of pardons on the effectiveness of sanctions imposed in relation to point 31 (high-level and complex corruption cases). Any applications for clemency in this area would, in line with general practice, be subject to a case-by-case examination, taking into account the specific degree of injustice or social disruptive value.

### **32. Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

#### **Other - please specify**

On 24 November 2023 two demands for the establishment of investigating committees into alleged corruption concerning political parties have been submitted pursuant to Art. 33 of the [Federal Law on the Rules of Procedure of the National Council](#) (Geschäftsordnungsgesetz 1975; see [Demand 6/US: "COFAG-Untersuchungsausschuss"](#) and [Demand 7/US: "ROT-BLAUER Machtmissbrauch-Untersuchungsausschuss"](#)). On 13 December 2023 a revised [Demand 8/US: "ROT-BLAUER Machtmissbrauch-Untersuchungsausschuss"](#) has been submitted, while Demand 7/US [was withdrawn](#).

The deliberations on the demands to set up investigating committees in the Rules of Procedure Committee took place on 14 December 2023. On 15 December 2023, the Plenary of the National Council considered the reports of the Rules of Procedure Committee (for the reports, see [here](#) and [here](#)). Consequently, on 15 December 2023, the two investigating committees have been established and the decisions of the Rules of Procedure Committee have become effective. Evidence-taking according to the adopted basic orders has started (for the basic orders to take evidence, see Annex 2 to the reports of the Rules of Procedure Committee respectively). Sittings of the investigating committees are scheduled to take place between 11 January and 1 July 2024 (see [here](#) and [here](#)). In January 2024, the Constitutional Court has to decide upon a request by the parliamentary minority if the basic order to take evidence in the "COFAG-Untersuchungsausschuss" adopted by the parliamentary majority was sufficient with regard to the prospective investigated bodies; in addition, the legality of the reasoning of the basic order to take evidence has been challenged ([UA 2/2023](#)).

The [law to extend criminal liability in corruption cases](#) was adopted by the National Council and the Federal Council in July 2023 and entered into force on 1 September 2023 (see question 29). The draft law was also presented in the course of the Justice Committee of the National Council's preliminary deliberation as well as the Plenary of the National Council's discussion about the citizens' initiative "Rule of Law and Anti-Corruption Referendum" in January and February 2023 (cf. 2023 Rule of Law Report, Country Chapter Austria, p. 18).

## III. Media pluralism and media freedom

### 33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

In the 2023 Rule of Law Report, it is recommended to Austria to:

*“Take further steps to reform of the framework for the allocation of state advertising by public authorities at all levels, in particular to improve the fairness of its distribution.”*

The amendment adopted by Parliament in April 2023 to the Federal Law on Transparency of Media Cooperation and Funding – mentioned as the „new law“ on page 20 of the 2023 Rule of Law Report, Chapter on Austria – was published on 19 May 2023 in the [Federal Law Gazette \(I Nr. 50/2023\)](#). Most of its provisions entered into force on 1 January 2024 (see sec. 7 para 5).

With regard to the new draft law on funding of quality journalism in print and online media, which is mentioned on page 19 of the 2023 Rule of Law Report, Chapter on Austria, it should be noted that – following the decision of the European Commission not to raise objections (decision dated 17 November 2023, C(2023) 7817 final, state aid case SA.107189 (2023/N)) – the bill was adopted by Parliament and was published on 22 December 2023 in the [Federal Law Gazette \(I Nr. 163/2023\)](#). Its provisions – which, inter alia, provide for an annual funding of EUR 20.0425 Mio. (of which EUR 230 000 as an aid for self-control mechanisms plus EUR 62 500 as an aid for the Press Council) – entered into force the next day (see sec. 24 para 1).

In the 2023 Rule of Law Report, it is further recommended to Austria to:

*“Advance with the reform on access to official information taking into account the European standards on access to official documents.”*

On 5 October 2023, the draft of a federal law amending the Federal Constitutional Law ([Bundes-Verfassungsgesetz](#) – B-VG) and enacting a Freedom of Information Act was adopted by the Federal Government and forwarded to the National Council as a government bill for further parliamentary consideration (RV 2238, <https://www.parlament.gv.at/gegenstand/XXVII/I/2238>). As stated in the previous AT Inputs, a general review procedure took place in 2021. The numerous (approx. 200) critical comments were evaluated and discussed in depth with affected institutions and stakeholders in particular to ensure that the law can be enforced effectively. The government bill is based on the results of this.

It has been assigned to the Constitutional Committee and was discussed there. On 15 January 2024 an expert hearing in this body took place, at which experts, while suggesting some amendments, unanimously welcomed the reform. The government bill was adopted by a majority in the Constitutional Committee on 22 January 2024 in the form of an overall amendment. The amendments concerned an extension of the parliamentary right of interpellation as well as improvements for the media and other “public watchdogs”. In response to the expert hearing in committee, individual provisions and explanations were tightened up.

The vote in the plenary session is scheduled for 31 January 2024. The required two-thirds majority in the National Council (constitutional provision) and the qualified consent of the Federal Council (two-thirds majority, restriction of the competence of the Federal provinces (*Länder*), [Art. 44 para. 2 B-VG](#)) should be ensured. Entry into force is foreseen on 1 September 2025, after a legislative vacancy of about 18 months, in order to make the legal adjustments in numerous material laws (e.g. criminal law, service law) and to create the technical requirements.

In terms of content, the main intention is to abolish official secrecy under constitutional law and to standardize a proactive state publication obligation as well as a constitutionally guaranteed right (fundamental right) to access information. Administrative bodies, bodies of ordinary justice, administrative courts, the Supreme Administrative Court, the Constitutional Court as well as the National Council, the Federal Council, the Court of Audit and the Ombudsman Board must proactively publish information of general interest. Municipalities with fewer than 5 000 inhabitants are exempt from this requirement in order to maintain their administrative capacity. However, like all administrative bodies, they are obliged to respond to requests for information (in exercising the fundamental right to access information). Furthermore, information can also be requested from foundations, funds, institutions and companies that are majority-owned by the public sector and are therefore audited by the Court of Audit.

Implementing provisions can be found in the Freedom of Information Act (IFG). Compared to the current legal situation in connection with the duty to provide information, the procedure has been streamlined. Access to information must generally be granted within 4 weeks (previously 8). If the information is not provided, an administrative decision must be issued within 2 months (previously 6). In the event of an appeal against the decision, the administrative court must also decide within 2 months (previously 6). Furthermore, in the event of an alleged violation of the fundamental right to access information, an appeal can be made to the Constitutional Court.

## **A. Media authorities and bodies**

### **34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies**

In the first half of 2024 two additional members will be appointed to the media regulatory authority (*KommAustria*), so that it will then have seven members.

### **35. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### **36. Existence and functions of media councils or other self-regulatory bodies**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

## **B. Safeguards against government or political interference and transparency and concentration of media ownership**

### **37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)**

See question 33.

### **38. Safeguards against state / political interference, in particular:**

- **safeguards to ensure editorial independence of media (private and public)**
- **specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions**
- **information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration, and corporate governance**

With its ruling of 10 October 2023 in case G 215/2022 (mentioned as pending at page 20 of the Rule of Law Report 2023) the Constitutional Court repealed individual provisions of the ORF Act ([ORF-Gesetz](#) – ORF-G) regarding the appointment and composition of the Foundation Council and the Public Council of the ORF as unconstitutional. The provisions violate the requirement of independence and pluralistic composition of these bodies enshrined in Art. 1 para. 2 of the Federal Constitutional Law on the Independence of Broadcasting ([Bundesverfassungsgesetz über die Sicherung der Unabhängigkeit des Rundfunks](#)). The constitutional requirements were violated by 1) a provision which gives the Federal Government the right to appoint a higher number of members of the Foundation Council than the number of the members appointed by the Public Council, 2) by the legal possibility to exchange members of the Foundation Council before the end of their 4 years term, if the nominating bodies (Federal Government and States as well as the Public Council) were newly constituted during this period, 3) that the Federal Chancellor (currently: the Federal Minister for Women, Family, Integration and Media) can appoint more members of the Public Council than other non governmental bodies and 4) that the law does not regulate precisely enough how many members of the individual groups are to be appointed and which proposals from which organizations are taken into account. The unconstitutional provisions will expire on 31 March 2025. The legislature has until then to come up with new regulations. Political negotiations have started.

As follow-up to the judgment of the Constitutional Court G 226/2021 (mentioned on page 22 of the Rule Of Law Report 2023) the ORF-Contribution Act 2024, [Federal Law Gazette I Nr. 112/2023](#), entered into force on 1 January 2024. The ORF contribution to be paid by households and enterprises will be EUR 15.30 instead of EUR 22.45. There will also be no sales tax and federal fees, consisting of art funding contributions and broadcasting fees any more. The rules continue to ensure that the ORF does not receive more than it needs to fulfill its public service mandate, which is also a requirement of European state aid law.

**39. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners as well as any rules regulating the matter**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**C. Framework for journalists' protection, transparency and access to documents**

**40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.**

In summer 2023, the Commission made a targeted consultation regarding the Recommendation (EU) 2021/1534 on ensuring the protection, safety and empowerment of journalists and other media professionals (deadline 8 September 2023). Additionally, a consortium of external consultants conducted a study on the application of this recommendation at national level. On 19 September 2023, a video conference took place between these consultants hired by the Commission and members of the media law unit of the Federal Chancellery, where different aspects (including those brought up during the mentioned public consultation) were discussed. In the time after this video conference, Austria supplied additional information and finally, the consultants prepared a fact sheet on the situation in Austria.

With regard to Media Alert (Nr. 200/2023) lodged with the CoE's platform concerning a TV Crew of the Austrian Broadcasting Company (ORF) attacked in Vienna after a concert, Austria stressed in its answer the particular importance to the unrestricted exercise of journalistic activity and the guarantee of freedom of the press and that the exercise of fundamental rights and freedoms is ensured by the Austrian security authorities in fulfillment of the tasks assigned to them by law. Furthermore, with regard to the subject matter, 167 police officers were on duty in and around the stadium where the concert took place on 26 July 2023. At about 10:20 p.m. police officers intervened in the course of the described incident. The subject matter was logged by the Austrian Police, the attacked journalist interviewed and a respective report transmitted to the public prosecutor's office. The investigations against a suspect concerning the assault on the operator are ongoing.

**41. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**42. Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)**

See question 33.

#### **43. Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits**

Austria welcomes the comprehensive EU-wide anti-SLAPP-initiative, which is also taking into account the cross-border dimension of SLAPPs, in general. At the same time, Austria recognizes a challenging balance between guaranteeing effective access to justice and properly restraining SLAPPs. Since SLAPPs are still a rather recent and uncommon phenomenon in Austria, the Federal Ministry of Justice has so far not taken any legislative measures to specifically counter SLAPPs. Yet, in Austria a diverse set of tools and measures is already in place at the national level to protect against manifestly unfounded and abusive lawsuits. For example, it is already currently regulated that claims - even if they are brought as payment claims - may not be unfounded. A claim is always considered unfounded if the legal consequence alleged in the claim cannot be derived from the facts alleged in the claim. The court must therefore examine, on the basis of substantive law, whether the claimant's submission - assuming it is correct - justifies the claim, i.e. whether the submission of the facts fulfils the facts of a legal principle from which the legal consequence sought by the claimant arises. If this is not the case, the claimant's submissions are unfounded and the claim - after unsuccessful improvement proceedings - must be dismissed as unfounded by judgment. Taking the phenomenon of SLAPPs seriously, the Federal Ministry of Justice observes respective developments closely.

##### Awareness raising:

The skills relevant to the protection of journalists and other media professionals are already promoted as part of the training of candidate judges (and public prosecutors).

As part of the four-year training program, each candidate judge also undergoes special mandatory training on the topics of fundamental and human rights, which are also part of the examination for the office of judge ([sec. 16 para. 4 subpara. 6 and 8 RStDG](#)). As part of their basic training, since the beginning of 2008 all trainee judges have completed the interdisciplinary three-day compulsory fundamental rights module "Curriculum Fundamental Rights" developed by the Fundamental Rights Section of the Association of Austrian Judges, which is organized jointly with the Ludwig Boltzmann Institute of Human Rights Vienna, the European Training and Research Center for Human Rights and Democracy Graz (ETC) and the Austrian Institute of Human Rights Salzburg (ÖIM) and deals with fundamental rights in everyday judicial practice. The EU Charter of Fundamental Rights is taught in this context. See also question 14.

Finally, in order to further raise awareness among all judges, public prosecutors and trainee judges, there is the opportunity to participate in relevant training courses offered by third party organizers (e.g. ERA, EJTN, etc.) in addition to the internal training courses offered by the judiciary.

In recent years, attempts have been made to raise the awareness of all organizers of basic and advanced training courses for judicial employees for the topic of the protection of journalists and other media professionals, especially in connection with "manifestly unfounded or abusive legal proceedings against public participation" (SLAPP proceedings/"Strategic lawsuit against public participation"). In future, the topic is to be increasingly integrated not only into existing training courses, but also into further training courses (e.g. as part of annual conferences and specialist courses).

## IV. Other institutional issues related to checks and balances

### 44. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

Not applicable.

### A. The process for preparing and enacting laws

### 45. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'/public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase.

For a detailed overview of the consultation procedures in the preparatory and the parliamentary phase please refer to point 32 on page 6 of the additional contribution from Austria to the 2023 Rule of Law Report following the country visit of 9 March 2023.

Participation in public consultations on the parliamentary website is constantly high – both in the preparatory and the parliamentary phase: between 1 January 2023 and 15 December 2023, 29 558 comments by experts and citizens were submitted on the Parliament's website; these comments were supported a total of 31 381 times.

Two bills aiming at (fully) transposing Directive (EU) 2018/958 on a proportionality test before adoption of new regulation of professions amending the Federal Law on the Rules of Procedure of the National Council ([Geschäftsordnungsgesetz 1975](#)) as well as the Proportionality Assessment Act ([Verhältnismäßigkeitsprüfungs-Gesetz - VPG](#)) were passed by the National Council in May 2023 and – as regards the latter – also the Federal Council in June 2023 (the Federal Council has no right to participation in so far as National Council enactments concern i. a. the Federal Law on the Rules of Procedure of the National Council pursuant to [Art. 42 para. 5 of the Federal Constitutional Law](#)). They entered into force on 15 June 2023 (cf. Art. 41a of the Federal Law on the Rules of Procedure of the National Council, [Federal Law Gazette I no. 53/2023](#); Art. 4 para. 2 of the Federal Law on a proportionality test, [Federal Law Gazette I no. 56/2023](#)).

The new procedure has formally introduced proportionality assessments (also) regarding i. a. parliamentary initiatives and parliamentary amendments of government bills. The responsibility to conduct the proportionality assessment lies with the President of the National Council.

**46. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

**47. Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight.**

As already reported in the Austrian Input for the 2020 Rule of Law Report, in a state of emergency the Federal President may have the authority to issue a provisional emergency ordinance according to [Art. 18 para. 3 of the Federal Constitutional Law](#). It is important to note that this authority may come into play only under very exceptional circumstances, namely when the National Council is not assembled, cannot meet in time, or is impeded from action by events beyond its control. Such law-amending ordinances must be limited to preventing obvious and irreparable damage to the public. Even in such a case, issuance by the Federal President requires a prior recommendation by the Federal Government and the consent of the standing sub-committee of the Main Committee of the National Council. Every such ordinance must be revised by the National Council without delay, viz. as soon as it is able to reconvene, and must either be replaced by a federal law or be declared invalid by the Federal Government on a motion of the National Council within four weeks after submission. However, this emergency procedure so far has never been applied during the Second Republic starting in 1945 (Art. 18 para. 3 and 4 of the Federal Constitutional Law; cf. Austrian Input for the 2020 Rule of Law Report, p. 51).

At the level of the Federal provinces (*Länder*), the Provincial Governments have a corresponding right to issue emergency ordinances (cf. [Art. 97 para. 3 and 4 of the Federal Constitutional Law](#)). Such emergency measures may include ordinances, certain administrative decisions, directives and supervisory acts.

The European Convention on Human Rights has constitutional law status in Austria. Austrian constitutional law, however, does not provide for the derogation of human rights in situations of emergencies. It is thus the prevailing view that – as a consequence of the safeguard rule of Art. 53 of the Convention – Art. 15 of the Convention is not applicable in Austria. Not even during the COVID-19 pandemic (<https://www.coe.int/en/web/conventions/derogations-covid-19>) has there been a discussion in Austria to suspend human rights in a situation of crisis.

A bill on a Federal Crisis Security Act ([Bundes-Krisensicherheitsgesetz](#) – B-KSG) was passed by the National Council and the Federal Council in July 2023. It entered into force on 1 January 2024 (cf. Federal Crisis Security Act, [Federal Law Gazette I no. 89/2023](#)). The Act entails i. a. that the declaration of a state of crisis shall require the consent of the Main Committee of the National Council. Only in case of imminent danger, the consent of the Main Committee shall be obtained within four days (sec. 3 of the Federal Crisis Security Act). Furthermore, the Act entails certain reporting duties to the National Council respectively to its committees. The Federal Government shall report to the National Council at least twice a year on recent developments in the field of possible grounds for the declaration of a state of crisis. A government advisor by virtue of the Federal Crisis Security Act shall be available to inform the respective committees about his area of responsibility (sec. 5 para. 6 of the Federal Crisis Security Act). After completion of a state of crisis, the Federal Government shall deliver a final report to the Parliament within six months (sec. 8 para. 3 of the Federal Crisis Security Act).



## **48. Regime for constitutional review of laws**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

## **B. Independent authorities**

### **49. 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**

On 1 January 2023, the amendment to the Federal Constitutional Law and the Federal Law on the Rules of Procedure of the National Council concerning i. a. the election procedure for the office of President of the Court of Audit entered into force (cf. 2023 Rule of Law Report, Country Chapter Austria, p. 25).

In July 2023, the National Council – following a proposal by its Main Committee – elected, for a term of ten years, the five members of the impartial control commission of the Federal Directorate State Protection and Intelligence Service (*unabhängige Kontrollkommission Verfassungsschutz*; cf. Art. 17a of the Federal State Protection and Intelligence Service Act [[Staatsschutz- und Nachrichtendienst-Gesetz](#) – SNG]).

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

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

## **C. Accessibility and judicial review of administrative decisions**

### **51. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)**

See question 33.

### **52. Judicial review of administrative decisions:**

- **short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

### **53. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)**

The right or – in cases where there would be no judicial remedy under national law against their decision – the obligation of Austrian courts to request a preliminary ruling from the European Court of Justice (ECJ) is based exclusively on Union law. Austrian national law neither standardizes the requirements for an ECJ referral nor deals with the question of a possible

obligation to refer or the sanctioning thereof, as this is considered inadmissible by the prevailing commentators' view. However, domestic provisions exist on the regulation of the legal consequences for the proceedings that the court took as the reason for the referral and in which it issued the order for referral (the "main proceedings"): [sec. 90a GOG](#), [sec. 38a AVG](#) in conjunction with [sec. 17 VwGVG](#), [sec. 290 BAO](#), [sec. 38b VwGG](#) and [sec. 19a VfGG](#). The purpose of these provisions is to ensure the effectiveness of a preliminary ruling procedure once it has been initiated by preventing steps in the main proceedings that would deprive the preliminary ruling of any relevance to the main proceedings or weaken its significance for the main proceedings. These provisions foresee that if the court has made a referral to the ECJ, it may, until the preliminary ruling has been received, only take such actions and only make such orders and decisions which cannot be influenced by the preliminary ruling, or which do not conclusively settle the issue and do not permit any postponement.

Austrian courts have been rather active in exercising their right or, as the case may be, their obligation under Art. 267 TFEU to request a preliminary ruling from the ECJ.<sup>2</sup> From April 2019 through November 2023, there have been 45 requests from the Supreme Court (*OGH*), 30 requests from the Supreme Administrative Court (*VwGH*) and 85 requests from lower instance courts. The Constitutional Court (*VfGH*) requested a preliminary ruling from the ECJ four times, in the years 1999, 2000, 2001 and 2012<sup>3</sup>.

#### **54. Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non- implementation**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

For updated information on the implementation of judgments of the European Court of Human Rights please refer to the country factsheet of the Department for the Execution of Judgments of the European Court of Human Rights for [Austria - Department for the Execution of Judgments of the European Court of Human Rights \(coe.int\)](#) and the [Country Map — European Implementation Network \(einnetwork.org\)](#).

### **D. The enabling framework for civil society**

#### **55. Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)**

No substantial changes have occurred since the publication of the 2023 Rule of Law Report.

#### **56. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the**

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<sup>2</sup> Please see the statistics concerning the judicial activity of the Court of Justice for more information: [https://curia.europa.eu/jcms/jcms/Jo2\\_14640/en/](https://curia.europa.eu/jcms/jcms/Jo2_14640/en/).

<sup>3</sup> <https://www.vfgh.gv.at/rechtsprechung/vorabentscheidungsersuchen.de.html>.

**public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.**

See question 43.

**57. Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)**

On the general tax regime for civil society (including the distinction to be made between tax treatment of NPOs and tax treatment of donors), please refer to the Austrian Input for the 2021 Rule of Law Report, p. 30 et seq., as well as information provided on the website of the Federal Ministry of Finance: <https://www.bmf.gv.at/themen/steuern/spenden-gemeinnuetzigkeit/Einleitung.html>.

The [Gemeinnützigkeitsreformgesetz 2023](#) has been adopted in Parliament in December 2023. It includes the expansion of tax deductibility of donations to non-profit organisations in the areas of human rights, civil and political rights, democracy, transparency and adult education (cf <https://www.bmf.gv.at/themen/steuern/spenden-gemeinnuetzigkeit/spendenbeguenstigung-neu.html>). Furthermore, the tax framework for non-profit organisations was modernised to provide more legal security and simplify procedures.

This major reform was prepared by a working group including representatives of NPOs on the modernisation of the taxation of non-profit organisations and the tax deductibility of donations. It had been composed of 7 representatives of the Ministry of Finance and the tax administration and 7 representatives of stakeholders (3 big charity organisations, 2 interest groups, 1 tax consultant, 1 professor).

It should also be mentioned that non-profit organisations in the areas of human rights, civil and political rights, democracy, transparency and adult education already enjoyed preferential treatment (under the general conditions), especially in the areas of corporate income tax and value-added tax.

Annual subsidy to the Jewish Religious Community of Austria

The Austrian-Jewish Cultural Heritage Act ([Österreichisch-Jüdisches Kulturerbegesetz – ÖJKG](#)), which entered into force in 2021, provides for an annual subsidy to the Jewish Religious Community of Austria. This measure, implemented in accordance with the National Strategy against Antisemitism, aims to legally protect and safeguard Jewish life in Austria. The amendment to the ÖJKG, unanimously adopted by the National Council in October 2023, provides for an increase in the annual subsidy from EUR 4 Mio. to EUR 7 Mio.. The amount is transferred directly to the Jewish Religious Community in Austria and is designated for the realisation of the objectives outlined in the ÖJKG, including the protection of Jewish institutions and interreligious dialogue. The amendment entered into force retroactively on 1 January 2023.

**58. Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)**

## Combating antisemitism

Preventing and combating all forms of antisemitism requires a society-wide effort, along with cooperation and coordination among numerous stakeholders, particularly involving institutions and organisations of civil society. Therefore, as part of the National Strategy against Antisemitism, the National Forum against Antisemitism and the Working Group on Documentation of Antisemitic Incidents have been established. For further information about these committees, please refer to the information provided in the Austrian Input for the 2023 Rule of Law Report (p.36).

The National Forum against Antisemitism has already taken place twice, in June 2022 and in October 2023 in Vienna. In the course of the latest Forum, the need for the further action against online antisemitism has been identified, particularly in light of the recent increase in antisemitic incidents following the events of 7 October 2023. Countering this development is one of the most pressing challenges in the successful fight against antisemitism. Therefore, following the second National Forum against Antisemitism, the Austrian Federal Chancellery established the “Task Force on Online Antisemitism and Disinformation”. Employing a multi-stakeholder approach, different groups are part of the Task Force:

- external experts from various fields
- members of the National Forum against Antisemitism, including representatives of civil society institutions and NGOs
- representatives of the Jewish Religious Community of Austria

The Task Force will develop potential measures for the prevention of and the fight against antisemitism and antisemitic disinformation online. The Task Force meetings took place in December 2023 and January 2024.

At an international level, Austria initiated the European Conference on antisemitism (ECA), which aims on connecting European Member states in the fight against antisemitism and for a prosperous Jewish life in Europe. The ECA was held in May 2022, and in April 2023.

## Participation of the civil society in political-administrative processes

The Federal Ministry for Arts, Culture, Civil Service and Sport has published a manual on the participation of the civil society in political-administrative processes. The manual considers participation processes as a vital part of a functioning democracy and integrates participation approaches into the goals of the policy cycle. The manual supports public administrators in the ideation, implementation and evaluation of participation projects, connected to their specific policy cycle goal. The publication is publicly available [[Praxisleitfaden: Partizipation im digitalen Zeitalter \(oeffentlicherdienst.gv.at\)](#)]. After further consultation processes on its applicability, it is intended to be transformed into an interactive website, supporting public sector employees to use participation tools, such as decision-trees, leading questions and a toolbox for participation methods, in their everyday work.

As an accompanying measure the Federal Ministry for Arts, Culture, Civil Service and Sport has also scheduled a professional qualification seminar on the implementation of public participation processes within administrative structures. The seminar will be offered at the Federal Academy of Public Administration ([Verwaltungsakademie des Bundes](#)) and will be openly accessible to all civil servants at the federal level. It is scheduled for October 2024.

Furthermore, the Federal Ministry for Arts, Culture, Civil Service and Sport has conducted ongoing dialogue processes with civil society organizations during several events (such as the

event “[Innovate 2023](#)”) focused on topics like the future of the state, the use of AI in public administration processes or the transfer of knowledge.

### Freiwilligengesetz

Based on the results of the partial evaluations of the Volunteer Act ([Freiwilligengesetz](#) – FreiWiG) as well as the already mentioned participatory project a first draft of the amendment of the Volunteer Act was prepared. The results of the evaluation of the Volunteer Act, the study and the participatory process showed a need for further clarification of terms, administrative simplification in the area of the Volunteer Council and the enhancement and appreciation of voluntary and honorary work. In implementing the government programme, the amendment to the Volunteer Act expands, supplements and specifies the existing framework conditions in accordance with the evaluation results and ensures an upgrading of the Voluntary Social Year (FSJ) / Voluntary Environmental Protection Year (FUJ) as well as the Memorial-, Peace- and Social Service Abroad. The amendment of the Volunteer Act entered into force on 1 September 2023.

### Implementation of the 2030 Agenda and SDGs

In its implementation of the 2030 Agenda and the SDGs, Austria takes a multi-stakeholder-approach that involves all Federal Ministries, Federal provinces (*Länder*), cities and municipalities as well as social partners and stakeholders from business, the scientific community and the civil society. Communicating the SDGs on a broad basis and incorporating them in all relevant strategies and programs, as well as drawing up corresponding action plans and taking appropriate measures, are important priorities in these efforts.

In April 2023, Austria has issued a national interim implementation report, which highlights success stories and best practice examples at federal and regional levels since the first VNR in 2020. It exemplifies the strong collaboration among all actors that is needed for achieving the SDGs in all areas. This report also follows a recent Austrian Court of Audit recommendation (2022) and was already debated in the Austrian Parliament. The Austrian National Council has also nominated SDG ambassadors and promoted specific goals in the margins of plenary sessions, in cooperation with academia. Hence, the significant role of parliament promoting the 2030 Agenda has been strengthened.

One result of the active stakeholder engagement that has been deliberately continued since the preparatory process for the VNR, is the so-called „*SDG Dialogue Forum*“ which has taken place every year since 2021. The events have been co-organised – on an equal footing – by government units together with civil society organisations (SDG Watch Austria) with its aim to promote dialogue and cooperation on the most compelling challenges identified in Austria’s first VNR. Therefore, a continuous dialogue with stakeholders has been institutionalised to uphold the commitment on implementing the SDGs. The cooperative approach when discussing future challenges has been followed also in this year’s SDG Dialogue Forum, which was dedicated as the main stakeholder event with a focus on Austria’s second VNR to be presented in 2024. Broad and transparent involvement of all relevant stakeholders, including civil society, will remain a cornerstone when preparing Austria’s second VNR. The preparation process has started at an early stage and a first draft has been sent out for comments in autumn 2023, further drafts will be circulated in order to finalize the VNR in March 2024.

Furthermore, on participation, the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology regularly updates the website [www.partizipation.at](http://www.partizipation.at),

which refers to major ongoing participation activities in Austria also at regional and local level and by providing tools for participation processes in practice.

## E. Initiatives to foster a rule of law culture

### 59. Measures to foster a rule of law culture (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.)

On the occasion of the 100th anniversary of the Federal Constitution and thus also the establishment of the Constitutional Court, the Constitutional Court organised numerous events to inform the public about the origins and significance of the Austrian Constitution and constitutional jurisdiction. In order to put this information and mediation task on a legal basis, a public foundation with its own legal personality was established (cf. Federal Law on the Establishment of the Forum Constitution Foundation [[Bundesgesetz zur Errichtung der Stiftung Forum Verfassung](#)], [Federal Law Gazette I No. 48/2023](#), as amended by [Federal Law Gazette I No. 128/2023](#)). The aim is to raise public awareness of the importance of the Federal Constitution and the Constitutional Court. Awareness-raising public activities, exhibitions and guided tours, the organisation and promotion of events and academic work are to take place and a “constitutional prize” is to be awarded to individuals or institutions that are particularly committed in this respect and develop and implement ideas to promote the understanding of democracy and the rule of law. An exhibition (with a digital focus and guides) is intended to convey the facts about the constitution, the Constitutional Court and the rights of citizens. Special exhibitions will complement the permanent exhibition. Appropriate learning content is to be offered for schools (cf. the previous project "Constitution makes school"). The focus will not only be on young people (school pupils and students), but also on the general public. The law in question entered into force on 11 November 2023.

On 10 and 11 December 2023 the Human Rights Office of the City of Vienna held a Human Rights Conference with national and international experts focusing on topics like the implementation of human rights at the local level, the role of politics, administration and civil society and the significance of human rights in the economic system and in climate and environmental policy.

In January 2023, the Austrian Parliament building reopened its doors after almost five years of renovation. In addition to standing educational initiatives such as democracy workshops for pupils of different ages and school types or the youth and apprentices' Parliament simulations, the building now contains a newly established visitor's centre “Demokratikum - Experience Parliament”. The “Demokratikum” aims at visitors of all ages and educational levels to learn about parliamentarism, the rule of law and the history of the Austrian political system (cf. [Visitor Center | Parliament Austria \(parlament.gv.at\)](#)). On 14 and 15 January as well as on 26 October 2023, open house days took place in the renovated Parliament building. By December 2023, over 500 000 people visited the building since its reopening. Between 1 January and 15 December 2023, 10 319 pupils of different ages and school types participated in the above-mentioned democracy workshops (“*Demokratiewerkstatt*”; cf. also [Democracy Workshops | Parliament Austria \(parlament.gv.at\)](#)).

In addition to the above, please find further examples of public information campaigns and education initiatives on fundamental rights issues in the “Examples of best practices in Austria

on the use and awareness of the EU Charter of Fundamental Rights” available in the e-Justice Portal: [European e-Justice Portal - Member States’ best practices on the Charter \(europa.eu\)](https://e-justice.europa.eu).