

# **European Rule of Law Mechanism: 2021 Rule of Law Report**

## Austrian Input

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# I. Justice System

In the Government Programme, the Austrian government has agreed to further strengthen the independence of the public prosecutor's office. Public prosecutors need to be able to conduct investigations without the appearance of public or political influence. In doing so, the public's need for information must be taken into account, freedom of the press must be protected and at the same time, prejudgement by media must be avoided. Investigations by public prosecutors should be accelerated while maintaining quality and diligence. At the same time, the rights of the accused should be protected and strengthened and negative economic consequences of an investigation should be prevented.

In this context, the Austrian Government has decided on 24 February 2021 to take different measures, one being the establishment of a Federal Prosecution Office, which will be independent and free from political interference, while safeguarding democratic legitimacy and accountability. Details of this fundamental reform (e.g. process of nomination, term of office, accountability, organisational structure) are under discussion, including with relevant stakeholders.

The Federal Ministry of Justice also aims at relieving the public prosecutors' offices of dispensable reporting obligations. Corresponding amendments to the Public Prosecutors' Act (*Staatsanwaltschaftsgesetz, StAG*) and a revision of the decree on reporting obligations are planned for 2021. As a first step, the Federal Ministry of Justice has recently instructed the Senior Public Prosecution Office of Vienna, which has the legal supervision over the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption, to amend its decree on reporting obligations. It clarifies that the Public Prosecution Offices do not need to report on important procedural steps before the beginning of their execution.

## A. Independence

### 1. Appointment and selection of judges, prosecutors and court presidents

Regarding the ordinary jurisdiction, there are no special rules for the appointment and selection of court presidents.

In 2020, two significant steps were made in the area of service law in the course of the "*Dienstrechts-Novelle 2020*" (Federal Law Gazette I No. 153/2020 [[BGBl. I Nr. 153/2020](#)]).

First, the process of reassignment (*Rückleitungsprozess*), which has already been used in practice and implies the obligation of the Federal Minister of Justice to inform the staff panels in writing in all cases in which she/he does not intend to follow any appointment proposal of the staff panel, was legally implemented in sec. 33a of the Service Act for Judges and Public Prosecutors (*Richter- und Staatsanwaltschaftsdienstgesetz, RStDG*). Each staff panel thus concerned may submit a written statement on the matter within a period of 14 days. This process of reassignment ensures that an intended deviation from the staff panel's proposal is communicated to this panel. This ensures the highest possible degree of transparency and comprehensibility in the judicial appointment procedure.

An analogous system was established for the procedures for filling positions in the public prosecutor's office (sec. 180 RStDG).

Furthermore, partial retirement was introduced for judges (sec. 76 et seq. RStDG). A judge may request that his or her workload be reduced on the basis of age, by one-fourth once the judge reaches the age of 55 and by one-fourth or one-half once the judge reaches the age of 60. There is no entitlement to reactivation.

For administrative courts, please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 20 to 24) as well as to the supplementary information provided in the context of the virtual country visit.

## **2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors**

In general, judges retire at the end of the month in which they reach the age of 65 (sec. 99 RStDG; applicable to justices at the Supreme Administrative Court pursuant to sec. 9 of the Supreme Administrative Court Act [*Verwaltungsgerichtshofgesetz, VwGG*]). They are allowed to enter early retirement upon application, if they have reached 62 years of age and at the time of retirement have accumulated a total of 480 months of service eligible for superannuation (sec. 87a RStDG).

According to sec. 83 RStDG, a judge shall enter into early retirement, if he/she has been absent from work because of illness for more than one year, or he/she no longer meets the admission requirements (early retirement because of disability for service). It shall be ordered ex officio or upon request by the judge.

With regard to cases of early retirement at the request of the judge as well as early retirement on medical grounds, the decisions are to be rendered by the Courts of Appeal acting as Service Courts.

The retirement and dismissal regime of judges can be found in detail in sec. 83 to 100a. RStDG.

Similar provisions apply to public prosecutors (sec. 13 to 22a of the Civil Servants Employment Act 1979 [*Beamtendienstrechtsgesetz 1979, BDG 1979*]).

## **3. Promotion of judges and prosecutors**

No further update available.

## **4. Allocation of cases in courts**

See remarks on page 12 et seq. (developments with regard to the COVID-19 pandemic).

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

No further update available.

## **6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges**

Judges and public prosecutors do not enjoy certain procedural guarantees in respect of starting prosecution or arraignment (prosecution) for offenses committed by them. The same rules as for the general public are applicable.

The Criminal Code (*Strafgesetzbuch, StGB*) includes several criminal offences, which could apply to judges. These are sec. 302 (“abuse of official authority”), sec. 304 (“corruptibility”), sec. 305 (“acceptance of an advantage”) and sec. 306 StGB (“acceptance of an advantage for the purpose of exerting influence”). These offences are applicable to all public officials.

In addition to general corruption offences regulated in the StGB, the RStDG provides for disciplinary consequences for violating professional and ethical duties. Possible consequences are, in increasing order of the seriousness of the official offence and the disadvantages caused, as well as of the degree of fault and the previous behaviour of the judge, a reprimand, a fine up to five (gross) monthly remunerations or discharge. An independent disciplinary tribunal decides upon the result of disciplinary proceedings. The disciplinary law can be found in sec. 101 to 165 RStDG.

## **7. Remuneration/bonuses for judges and prosecutors**

No further update available.

## **8. Independence/autonomy of the prosecution service**

See introductory remarks.

Currently the reasons for the Federal Ministry of Justice to issue instructions are stipulated demonstratively in sec. 29a para. 1a (1) to (3) of the Public Prosecutors' Act (*Staatsanwaltschaftsgesetz, StAG*). Instructions may only be issued in writing and together with a statement of reasons. Instructions of the Federal Ministry of Justice must be submitted to the independent Advisory Council for Ministerial Instructions (*Weisungsrat*) and must be reported to Parliament after the conclusion of the criminal proceedings.

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

In Austria, lawyers are not appointed by the authorities. The only requirement – apart from prerequisites such as studies of Austrian law, bar exam, etc. – is admission to the bar (admission to the register of lawyers = *Rechtsanwaltsliste*). They are self-employed and exercise their profession under their own economic responsibility and in their own offices or in joint offices together with one or several other colleagues.

Lawyers are also independent from the courts. The Board of the Bar Association (*Ausschuss der Rechtsanwaltskammer*) in Austria, where the lawyer is registered in the register of lawyers, is the responsible authority for observing the lawyer's compliance with professional regulations.

Disciplinary offences are to be handled by the Disciplinary Council (*Disziplinarrat*) established at each Bar Association (*Rechtsanwaltskammer*) in Austria. The independence of the

Disciplinary Council is guaranteed by the Austrian Lawyer's Code. The Disciplinary Council consists of lawyers who are elected by the members of the Bar Association for a term of four years. Members of the Disciplinary Council are not bound by any orders while exercising this function. They have to fulfil their tasks in an impartial way. They do not receive any remuneration for this activity.

The Disciplinary Council may impose sanctions reaching from written warnings, fines up to EUR 45,000 and the debarring from the lawyers' profession up to one year, up to the deletion from the register of lawyers, which means that this lawyer must not work as a lawyer anymore. The Disciplinary Council may also impose interim measures under certain circumstances. In case of a criminal offence, a lawyer may not only be subject to disciplinary supervision and sanctions but also to criminal penalties. These criminal proceedings fall within the competence of the criminal courts in Austria.

The Supreme Court (*Oberster Gerichtshof*) is the appellate court against decisions by the Disciplinary Council. In the so-called 'Supreme Appeals and Disciplinary Commission', the Supreme Court decides in senates consisting of two judges of the Supreme Court and two lawyer judges, whereas a judge of the Supreme Court always acts as chair.

Decisions by the Disciplinary Council and the Supreme Appeals and Disciplinary Commission are executed by the Board of the competent Bar Association.

The Federal Ministry of Justice has supervisory rights ensuring the orderly course of the disciplinary proceedings.

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

See introductory remarks.

## **B. Quality of justice**

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

In Austria, court fees have to be adjusted to the inflation rate. In order to facilitate access to justice during the COVID-19 pandemic, the inflation-linked indexation scheduled to take place in 2020 was postponed for one year. For this reason, also temporary court fee exemptions were introduced (for decisions on maintenance and for the entry of securities into the land register for loans that are taken to overcome COVID-19 related financial difficulties). In addition, draft legislation is planned for further alleviation of court fees.

Due to the necessary implementation of the Legal Aid Directive, the following adjustments result from the entry into force of the "StrEU-AG 2020" ([Federal Law Gazette I No. 20/2020](#)):

The first telephone consultation with a defence attorney is free of charge. The use of defended services within the framework of the on-call service is generally subject to a charge. A defendant who has been arrested or brought in for immediate questioning does not have to bear the costs for the involvement of a defence attorney on standby for a criminal investigation if he/she is lacking sufficient financial means and is in need of protection. The

participation of a defence attorney from the on-call legal service in the interrogation on the prerequisites of pre-trial detention is always free of charge for a defendant who lacks financial resources.

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

After a substantial increase of resources for the judiciary in the 2020 budget there was another significant increase of funds in the budget for 2021 (plus EUR 65.763 million or plus 3.8 % compared to 2020) in order to enable measures to strengthen the judiciary.

These additional funds primarily cover the higher staff expenditures due to the recruitment process/filling of vacant positions and a further staff increase, as well as wage increases and structural effects.

Furthermore, the costs resulting from legal changes have to be borne: Firstly, a law strengthening the right of victims of hate and violence on the internet has been enacted, resulting in higher costs for process support. Secondly, there are higher costs because of a change in the legal advice for refugees and thirdly, the fees of psychiatric experts have been raised to counteract the severe lack of experts in this area. Moreover, the necessary funds for further investments in the area of digitalization, for example the ongoing roll-out of the electronic case file, have to be made available. Apart from that, the demand for higher payments to the Austrian Bar Association for “pro bono” representation of parties has to be met. In addition, the further increased financial demand in the area of probationary services as well as general price increases will have to be financed with the budget for 2021.

Finally, for 2021, funds amounting to EUR 4.439 million were provided for the Federal Ministry of Justice to combat the COVID-19 pandemic; EUR 2.160 million hereof have been budgeted for the judiciary and the public prosecution and EUR 2.279 million for the penal system.

Due to the temporarily restricted activity of the judiciary caused by the pandemic in 2021, there was a decrease in revenues from court fees amounting to approximately EUR 20.26 million compared to 2019 (e.g. considerable decrease of revenues from civil proceedings, bankruptcy proceedings and fines). However, revenues from land register fees, which are the main source of revenues of the judiciary, still rose in 2020: Out of total EUR 1.191 billion of court fees received in 2020 an amount of EUR 950 million accounts for land register fees (in the year 2019: EUR 921 million).

The overall decrease in revenues in the year 2020 also led to a decline in the ratio of own revenues compared to expenses of the judiciary (including penal system; 76% in the year 2020 compared to 82% in the year 2019).

Regarding 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 2021. Moreover, the construction of a new court building (district court Seekirchen in Salzburg) will start in April 2021.

The (human) resources for the judiciary have been increased. The 2020 budget for the judiciary included inter alia ten additional posts for judges, 40 for prosecutors and 100 for court staff, which has been welcomed by stakeholders. Furthermore, the planned reduction of posts were halted and legal problems regarding the filling of vacant posts for legal clerks (*Rechtspfleger*)

solved. The significant increase in the number of positions initially led to a shortfall in staffing. A very successful recruitment initiative eliminated this shortage in the course of 2020 and broadly resulted in full staffing.

### **13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)**

#### Training of lawyers:

In order to be admitted to the bar a lawyer has to finish studies of Austrian law, be trained by courts or prosecutions for at least seven months and by another lawyer for at least three years, pass the bar exam and participate in trainings for trainee lawyers for at least 42 half-days.

Lawyers are obliged to continue their education according to sec. 10 para. 6 of the Austrian Lawyers' Code (*Rechtsanwaltsordnung, RAO*). This includes all fields of knowledge that Austrian law studies have to cover (especially civil law, civil procedure law, criminal law, criminal procedure law, constitutional law, commercial law, labour and social security law, tax law, EU law, international law) and that are subject to the bar exam.

#### Training of judges and prosecutors:

After finishing their studies of law, Austrian judges and prosecutors undergo a comprehensive four-year pre-service training, which comprises a variety of training positions (courts, prosecutor's offices, law office etc.) as well as specialised courses on legal topics and soft skills, including curricula on fundamental rights and contemporary judicial history.

While sec. 57 para. 1 RStDG stipulates a general obligation for acting judges and prosecutors to continue their professional education, Austria follows a voluntary approach regarding the concrete type and amount of training activities to be completed. A wide range of training activities, that can be participated in during working hours with all expenses covered, are offered.

The training programme for in-service judges and prosecutors comprises legal as well as non-judicial trainings. Legal trainings are offered not only on amendments and current developments in national and EU law, but also on overarching fields of human rights and anti-discrimination. Non-judicial trainings range from foreign language courses to communication skills, media training, self-management and burn-out prevention. Furthermore, specific courses for judges and prosecutors in leading or managerial positions are available.

In addition to the training programme offered by Austrian institutions, judges and prosecutors also have the possibility to participate in European training activities (in particular by the European Judicial Training Network, EJTN), such as seminars in the field of judicial cooperation as well as exchange programmes with other EU Member States and long-term professional trainings at European institutions.

Due to COVID-19 restrictions, many training activities had to be postponed for the time being, but trainings were held with additional hygiene measures or online, whenever possible.

#### Training of court staff:



All court staff undergo a “training-on-the-job”, which includes a basic education at the beginning of their service with possibilities for additional specialisation. In addition, a wide range of training seminars is offered in the different fields of activity of court staff as well as for personal development. Additionally, a number of trainings for judges and prosecutors are also open to court staff.

#### Administrative judges:

The Austrian Academy of Administrative Jurisprudence (*Österreichische Akademie der Verwaltungsgerichtsbarkeit, ÖAVG*) provides administrative judges with the opportunity to update their knowledge and skills. Since spring 2020, courses have been provided online. In addition to this, the administrative courts of first instance and the Supreme Administrative Court themselves organize in-house trainings for judges as well as administrative staff (including legal assistants/research associates). Trainings for administrative staff are also organized by the Federal Academy of Administration (*Verwaltungsakademie des Bundes, VAB*).

#### **14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)**

As of February 2021, proceedings at 38 courts, two public prosecutor's offices, the Supreme Court and the General Procurator's Office are conducted completely digitally, using “Justice 3.0” (*Justiz 3.0*). More than 70,000 files were processed exclusively digitally and more than 37,000 hearings held digitally. Over 100 courtrooms equipped for digitally conducting hearings are available (touch screens, media control and digital interrogation stand). While the acceptance of the system was very high even before the outbreak of COVID-19, the pandemic-related change in the work situation once again clearly demonstrated the advantages of digital file management (e.g. processing of digital files in work-from-home schemes, no physical manipulation of paper files by multiple persons, etc.).

Another advantage of digital file management within the judiciary is that digital files are available to authorised persons (e.g. court experts, parties and their representatives) directly and around the clock by way of electronic file inspection. Individual files can be excluded from electronic file inspection in whole or in part (by restricting individual file numbers). Citizens can inspect files electronically free of charge via the website: <https://justizonline.gv.at>. Persons authorised to inspect files are authenticated via a registration procedure (supporting eIDAS) using a citizens' card (*Bürgerkarte*). Furthermore, a digital proceedings status query was created, which supplements inspection of the proceedings with a citizen-friendly presentation of the chronological sequence. In addition to the chronological listing of selected steps, documents delivered electronically or on paper (e.g. the summons to a court hearing) can be retrieved at any time. Supplemented by date, time and location information as well as the download option of hearing dates, citizens can view all relevant information on ongoing court proceedings at a glance. A chatbot tool supports visitors to JustizOnline in finding the information they need as quickly as possible and in making optimal use of the platform functions.

Citizens can also use JustizOnline to submit electronic applications to courts and public prosecutors' offices. Professional party representatives have been obliged to participate in the

electronic legal filing process (ERV) since 2007. Around 95% of all submissions in contentious civil proceedings are already filed electronically.

New legal provisions entailed new requirements for the ERV, and there was a need for transmission of many different file formats, some of considerable file sizes (such as video recordings of interrogations by the criminal investigation department). In order to provide a solution as future-proof and flexible as possible, the so-called "Justice Box" ("*Justizbox*") was created and seamlessly integrated into the ERV. The Justice Box is operated in the computer centre of the judiciary as a secure cloud storage and enables secure transmission of large file and data volumes. In court proceedings, this allows to upload very large PDF/A documents as well as other file formats of any size, in particular media files (image, video and audio files) and archive files (such as ZIP). When uploaded, the files submitted to the Justice Box are checked for viruses/malware in order to guarantee IT security. For all files submitted to the Justice Box, transfer IDs are created as references, which link the files to the corresponding ERV submissions and allow the integration of these files into the IT applications of the judiciary.

In view of the COVID-19 pandemic, the infrastructure for videoconferencing was expanded and the necessary legal framework conditions were set up. Operations at the offices have been maintained without any problems and work-from-home was also made possible.

#### **15. 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)**

The initiative "*Justiz 3.0*" aims at establishing a digital reporting system that offers the clearest possible presentation of performance data of courts and public prosecutors' offices and at providing a quick overview of the key figures of the judiciary and statistical anomalies. Dashboards presenting relevant data from several sources in a clear and easy-to-understand manner at federal, district and office level have been developed. The user can adapt the presentation and level of detail of the information interactively at any time according to individual requirements. Selected key figures will be made available to the public via JustizOnline in another project phase. Currently, selected key figures (duration of proceedings, workload, staffing levels, safety reports, etc.) are already regularly published in various reports.

A new feature of the [security report](#) for the 2019 reporting year is that it devotes a separate chapter to corruption statistics.

#### **16. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation**

In Austria, courts administer justice at four different levels in the area of ordinary jurisdiction: The Supreme Court (*Oberster Gerichtshof*), with its seat in Vienna, is established as the highest instance in civil and criminal proceedings, its jurisdiction extends to the entire federal territory.

The Supreme Court is also the highest cartel court and, as such, decides on matters of cartel jurisdiction as an appellate court of second instance. The second highest level of ordinary jurisdiction is formed by the four Higher Regional Courts (*Oberlandesgerichte*). They are located in Vienna, Graz, Linz and Innsbruck, their jurisdiction extends to several regions. The Vienna Higher Regional Court also acts as a cartel court with nationwide jurisdiction. In

addition, it has been established as a nationwide appellate court in certain matters of the penal system (sec. 16a Penal Services Act, [*Strafvollzugsgesetz, StVG*]).

The next level is formed by the 20 courts of first instance (Regional Courts, *Landesgerichte*), which are established in 16 different cities. These are courts of first instance in certain civil law disputes (in particular where the amount in dispute exceeds EUR 15,000), in criminal main proceedings for those offences that are not assigned to the district courts (*Bezirksgerichte*) in the first instance, and generally in labour and social law cases.

There is a public prosecutor's office installed at each regional court dealing with criminal cases. The respective regional courts decide on applications of the public prosecutor's offices in investigation proceedings as well as on complaints of persons concerned against the measures taken by the public prosecutor's office. The regional courts are also responsible for keeping the company register and decide on appeals lodged against decisions of the district courts in their districts.

Vienna and Graz each have regional courts with special jurisdiction: The Vienna Labour and Social Court (*Arbeits- und Sozialgericht, ASG Wien*) is responsible for labour and social law disputes in the Vienna region and is the only regional court in Austria to act exclusively at first instance, while the Commercial Court Vienna (*Handelsgericht, HG Wien*) is the Commercial Register Court for Vienna and decides on commercial law disputes in Vienna that fall under the jurisdiction of the regional court. It is the appellate court against decisions of the Vienna District Court for Commercial Matters (*Bezirksgericht für Handelssachen Wien, BGHS*) and also has nationwide jurisdiction to decide at first instance in disputes regarding the infringement of industrial property rights.

The Regional Court for Civil Matters Vienna (*Landesgericht für Zivilrechtssachen Wien*) has jurisdiction in Vienna over the remaining civil law matters (which do not fall under the jurisdiction of the ASG Wien or the HG Wien) that fall under the jurisdiction of the regional court. It decides on appeals brought against decisions of the district courts in the region of Vienna (with the exception of the BGHS) in civil law cases. The Regional Court for Criminal Matters Vienna (*Landesgericht für Strafsachen Wien*) assumes the regional court jurisdiction in criminal matters in the region of Vienna, including the decision on appeals lodged against decisions of the Vienna district courts in criminal matters. In Graz, there is also a Regional Court for Civil Matters and a Regional Court for Criminal Matters. Their subject-matter jurisdiction corresponds to that of their Viennese counterparts, while the Regional Court for Civil Matters in Graz also decides in labour, social and commercial matters and acts as a court for the commercial register.

In the smallest federal regions in terms of population, i.e. Burgenland, Vorarlberg, Salzburg, Carinthia and Tyrol, there is only one regional court each, which – with the exception of Vorarlberg, where the regional court has its seat in Feldkirch – is located in the respective regional capital. Further regional courts exist in Korneuburg, Krems an der Donau, Leoben, Ried im Innkreis, Steyr, Wels and Wiener Neustadt.

At the lowest level, there are 115 district courts (*Bezirksgerichte*) throughout Austria. The only district court with special jurisdiction is the aforementioned District Court for Commercial Matters Vienna (*Bezirksgericht für Handelssachen Wien*), which has Vienna-wide jurisdiction over commercial disputes that fall under the jurisdiction of the district court (in particular for amounts in dispute up to a maximum of EUR 15,000). The remaining 114 district courts rule in

first instance on criminal cases carrying a maximum prison sentence of one year, on civil disputes up to the aforementioned amount in dispute, in tenancy law matters and family law matters regardless of the amount in dispute, and are responsible as execution courts for ruling on acts of judicial enforcement. In addition, the district courts (with the exception of the BGHS) keep the land register and act as courts of first instance in probate matters. Geographically, the district courts are distributed over the individual regions as follows: Lower Austria: 26; Upper Austria: 18; Styria: 15; Tyrol: 13; Vienna: 13 (including BGHS); Carinthia: 11; Salzburg: 8; Burgenland: 6; Vorarlberg: 5. The number of judges working at the individual district courts differs significantly in some cases. In particular, sparsely populated regions have their own district courts in order to ensure accessibility of the court by the population.

In the area of administrative jurisdiction, the Federation shares jurisdiction with the provinces (*Länder*). As of 2014, there are eleven Administrative Courts of first instance. At the federal level, first-instance administrative courts are the Federal Administrative Court (*Bundesverwaltungsgericht, BVwG*) and the Federal Finance Court (*Bundesfinanzgericht, BFG*). The BVwG has its main seat in Vienna and has branch offices in Graz, Linz and Innsbruck. The BFG also has its main seat in Vienna and has branch offices in Graz, Linz, Innsbruck, Salzburg, Klagenfurt and Feldkirch. At the province level, in each province there is one administrative court (*Landesverwaltungsgericht, LVwG*). The LVwG have their seat in the respective regional capital. The Administrative Court of Lower Austria has in addition to its seat in the regional capital three branch offices established in different cities all over the province.

Unless provided otherwise, the Federal Administrative Courts pronounce judgements – by and large – on complaints against rulings by administrative authorities for unlawful, on complaints against the exercise of direct administrative power and compulsion for unlawful and on complaints on the ground of breach of the duty to reach a decision by an administrative authority. The LVwG have jurisdiction in matters of provincial administration and indirect federal administration within the province (including misdemeanours and administrative penal proceedings). The BVwG pronounces judgement on complaints – by and large – in matters of the execution of the Federation, directly executed by federal authorities. The BFG pronounces judgement – by and large – in matters of public duties (with the exception of administrative fees of the Federation, the provinces and municipalities) and of Financial Penal Law as well as in other matters determined by law, to the extent the matters named are directly handled by the revenue or financial penal authorities of the Federation.

The decisions of the administrative courts of first instance are – if the decision of the Administrative Court depends on solving a legal question of fundamental importance – subject to judicial review by the Supreme Administrative Court (*Verwaltungsgerichtshof, VwGH*) and – if constitutional issues are concerned – to judicial review by the Constitutional Court (*Verfassungsgerichtshof, VfGH*). These two supreme courts have their seat in Vienna.

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

### **17. Length of proceedings**

No further update available.

**Other - please specify**

**Developments with regard to the COVID-19 pandemic**

Please refer to the answers submitted on 11 January 2021 to the OHCHR on the “Questionnaire on the impact of the COVID-19 pandemic on the administration of justice and the free and independent exercise of the legal profession” and the “Questionnaire on current and emerging challenges in the protection of persons deprived of their liberty, including judicial oversight”.

For administrative proceedings, proceedings before the administrative courts as well as proceedings before the Supreme Administrative Court and the Constitutional Court the “[Verwaltungsrechtliches COVID-19-Begleitgesetz](#)” (COVID-19-VwBG) was enacted, several times amended, and it contains – by and large – special rules on deadlines and the performance of oral hearings in the context of the COVID-19 pandemic. Regarding court organisation the relevant (federal as well as district) statutes were amended, especially enabling the courts’ plenary sessions and senates to have their debate and decision making by means of video conferences. Except few weeks in spring 2020, when due to the general lock down no public oral hearings could take place, the work of the administrative courts continued to function properly.

Additional information on the Supreme Administrative Court:

In general, the Plenary Assembly swears in new members – apart from the President and the Vice President – of the Supreme Administrative Court. If the gathering of the Plenary Assembly is not possible or not advisable, in particular to prevent the spread of COVID-19, the swearing-in of the new members takes place before the President of the Supreme Administrative Court (sec. 2a of the Supreme Administrative Court Act [[Verwaltungsgerichtshofgesetz, VwGG](#)]).

Due to the special circumstances created by the COVID-19 pandemic, the allocation of business may be enacted via circulating letter by the Plenary Assembly of the Supreme Administrative Court (sec. 10 para. 1a et seq. VwGG).

## II. Anti-corruption framework

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

The institutional framework capacity in Austria has not changed since the 2020 Rule of Law Report.

#### 18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format

Please refer to the list provided on page 25 of the Austrian Input for the 2020 Rule of Law Report.

The resources of these authorities have remained largely unchanged.

As mentioned in last year's input, the budget resources of the Federal Bureau of Anti-Corruption (*Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung, BAK*) have increased since 2014 and the implementation of projects and activities has been consistently assured. In 2020, due to COVID-19, the total expenditure was EUR 9,120,432.86 although expenditures of EUR 10,497,000 had been planned. As of 31 December 2020, the BAK counted 127 employees, nine of whom are on maternity leave or working in other organizational units.

As of 1 February 2021, 154 women and 148 men are employed at the Austrian Court of Audit (*Rechnungshof, ACA*). The percentage of women in the ACA (42 %) is thus significantly higher than in the public service as a whole. The budget for 2021, which is adopted by the National Council, amounts to around EUR 36.5 million.

### B. Prevention

#### 19. Integrity framework including incompatibility rules (e.g.: revolving doors)

On 22 February 2021, a ministerial proposal expanding the auditing competence of the ACA with regard to the financial management of enterprises in which the Federation (*Bund*) alone or jointly with other legal entities, which are subject to audit by the ACA, holds shares, was submitted and is currently undergoing the consultation procedure (*Begutachtungsverfahren*).

Within the framework of this legislative process – which also concerns amendments regarding the “right of information” (see answer to question 36) – a proposal on the amendment of Art. 147 of the Federal Constitutional Law (*Bundes-Verfassungsgesetz, B-VG*) introducing a cooling-off period for, inter alia, members of Government to become members or alternate members of the Constitutional Court of three years, was also submitted.

For further details see:  
[https://www.parlament.gv.at/PAKT/VHG/XXVII/ME/ME\\_00095/index.shtml](https://www.parlament.gv.at/PAKT/VHG/XXVII/ME/ME_00095/index.shtml).

Furthermore, as reported last year, the Austrian Federal Government adopted the Austrian National Anti-Corruption Strategy (NACS), the national policy and framework in the field of anti-corruption, on 31 January 2018. In January 2019, the action plan for the NACS, including measures to be implemented in 2019 and 2020 by the Federal Chancellery and the ministries, was adopted by the Federal Government.

All measures and actions planned for 2019 were implemented. However, due to the COVID-19 pandemic and the associated restrictions for conducting conferences, meetings, trainings, etc., most of the measures planned for 2020 could not be achieved. The NACS defines that the operationalization of the strategy and its actions should be revised in a biennial cycle. The national coordinating body for combating corruption (*Koordinationsgremium zur Korruptionsbekämpfung*) therefore decided to extend the cycle for the implementation and revision of the NACS and its action plan.

In 2020, the BAK ran and promoted the Network of Integrity Officers (NIO) and provided individual consultancy by email and telephone regarding all inquiries received from network members. The number of public officials applying for NIO membership was still rising in 2020 by almost 60 % (see answer to question 25).

According to its tasks in the fields of corruption prevention and awareness-raising, which are defined in 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*) and indicated in the National Anti-Corruption Strategy in the area of reduction of risks of structural corruption, the BAK continued to conduct its corruption prevention and compliance advisory services in 2020 (see below, answer to question 23). For some of the partners having requested these services, the BAK also held online workshops and meetings.

To continue its awareness-raising activities in 2020, the BAK, which runs the website of the Network of Integrity Officers (NIO), launched an information campaign on corruption prevention and promotion of compliance and integrity on the NIO website ([www.integritaet.info](http://www.integritaet.info)). Moreover, the BAK published a report on the 2019 National Anti-Corruption Day ([bak.gv.at](http://bak.gv.at)).

Parallel to the revision of the Austrian code of conduct for the public sector (see page 33 of the Austrian Input for the 2020 Rule of Law Report as well as answer to question 25), the ACA revised its own code of conduct in 2020; which was adopted in August 2020 by the President of the ACA. This revision was carried out in accordance with ISSAI 130, the International Standard for Codes of Conduct for SAIs.

With regard to recommendation xv of GRECO's 4th evaluation round, the proposed restriction on the simultaneous holding of the office of a judge and that of a member of an executive or legislative body has already been implemented into law in the course of the 2018 Second Amendment to the Civil Service Law (Federal Law Gazette I No. 102/2018 [2. *Dienstrechts-Novelle 2018, BGBl. I Nr. 102/2018*]) with sec. 79 of the Service Act for Judges and Public Prosecutors (*Richter- und Staatsanwaltschaftsdienstgesetz, RStDG*). This provision is also applicable for public prosecutors (sec. 206 RStDG).

## **20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)**

The ACA publishes on its website all its audit reports with a complete list of all findings and recommendations, including audit reports with a focus on anti-corruption aspects. This insight into decision processes is thus also provided to individuals and groups outside the public sector, which contributes to raising public awareness. This transparency of ACA recommendations ensures effective public access to information.

In emergency situations such as the COVID-19 pandemic, the risk of corruption increases, especially in areas with a high risk potential and high levels of expenditure, which are particularly prone to corruption. The solution for areas with a traditionally high risk of corruption, such as public procurement, must be to strengthen transparency in public procurement and contracting to prevent the misuse of resources. It is essential that transparency, accountability, openness of information, including open data and integrity are preserved. The ACA pays attention to this issue by conducting audits with an anti-corruption focus.

In its audit of the “Lobbying and Advocacy Register”, the ACA also emphasized the importance of awareness-raising measures related to lobbying. A legal framework in the field of lobbying exists (Act on Transparency of Lobbying and Advocacy [*Lobbying- und Interessenvertretungs-Transparenz-Gesetz, LobbyG*]), but it has been criticised. The Federal Ministry of Justice has set up a working group to improve the legal framework in the field of lobbying.

In Austria lobbying firms and their fields of activity, companies employing company lobbyists, self-governing bodies and advocacy groups must be registered in the automated Lobbying and Advocacy Register administered by the Federal Ministry of Justice. Substantial parts of the Lobbying and Advocacy Register are accessible to the public. Lobbying firms, companies employing lobbyists on their own behalf, lobbyists and lobbyists working on behalf of companies are only allowed to exercise their lobbying activities as from notification of entry into the Lobbying and Advocacy Register, and only during the validity of such entry. Persons and legal entities involved in lobbying and advocacy activities are obligated to comply with the minimum standards defined in Chapter 2 of the LobbyG. Among such standards are, for instance, for any first contact with a function holder the disclosure of the specific task, identity and concern and the refraining from exerting any unfair or undue pressure upon such function holder. The Lobbying and Advocacy Register is available online: [www.lobbyreg.justiz.gv.at](http://www.lobbyreg.justiz.gv.at).

## **21. Rules on preventing conflict of interests in the public sector**

One of the BAK’s main tasks is to prevent corruption and promote integrity. Therefore, the Network of Integrity Officers (NIO) places a particular focus on the prevention of conflicts of interest in the public sector. Although in 2020, relevant workshops and trainings for the NIO members could not be implemented due to the restrictions linked to the COVID-19 pandemic, the BAK made a special effort to transfer knowledge and information in this field via alternative channels (NIO website, emails, bilateral contacts with NIO members, etc.) and by developing a modern concept of hybrid training.

Additionally, the BAK’s prevention team incorporates recommendations to prevent conflicts of interest into its final reports prepared for entities making use of the corruption prevention and compliance advisory services offered by the BAK (see answer to question 23).



The courts and prosecution offices are currently implementing a comprehensive Compliance Management System. As a first step, regional Compliance Officers will be established at the level of each competent service authority of the judiciary and the prosecution offices. The regional Compliance Officers will not only promote compliance guidelines, compliance e-learning programmes (through e.g. “compliance circles” to be held regularly) etc., but shall also act as the Single Point of Contact (SPOC) with regard to compliance issues forwarded by members of the respective jurisdiction. Together with the Chief Compliance Officer (based in the Federal Ministry of Justice) and various professional representatives within the judiciary, the regional Compliance Officers form the Compliance Council. It shall act as a consultative body for the Minister of Justice in matters of risk assessment, compliance procedures (e.g. handling of an internal whistleblower system) and compliance programmes.

In the meantime, a compliance e-learning programme has been implemented, aimed at all members of the Austrian judicial system. It focuses on the core areas of potential conflicts of interest, i.e. acceptance of gifts, outside employment, objectivity and bias. As a next step, a compliance e-learning programme on data protection issues will be developed.

## **22. Measures in place to ensure whistleblower protection and encourage reporting of corruption**

In the course of 2020, the process of transposing the Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law was initiated. The ministries were requested to feedback on existing whistleblowing systems, legislation in force related to the Directive’s scope of application and requirements to adjust legislation accordingly. A draft law will be submitted to the consultation procedure (*Begutachtungsverfahren*) and parliamentary debate before the parliamentary summer recess.

As of 31 December 2020, the introductory page of the electronic whistleblower system mentioned on page 34 of the Austrian Input for the 2020 Rule of Law Report had been accessed over 725,775 times. 10,945 (potential) criminal offences were reported, 4.65 % of which were found to have been reported without any justification. 7,097 of all reports involved the installation of a secure mailbox. 39.89 % of the reports fell within the jurisdiction of other (especially fiscal) authorities and were forwarded accordingly.

## **23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other)**

In accordance with its legal mandate, the BAK advises public administration units on the development and implementation of corruption prevention and compliance management systems as well as on individual measures of corruption prevention and integrity promotion.

Health sector: As already reported last year, the BAK offers compliance and corruption prevention advisory services in the risk area of healthcare. A corruption prevention and compliance project with the Vienna Hospital Association (KAV) dealing with selected risk areas identified within KAV was concluded in May 2019. The BAK provided a final report on this consultation to the KAV project team in 2020, including more than 50 recommendations for a variety of integrity risk factors. These recommendations will be integrated into the existing organizational structures of the KAV.

Another compliance advisory service for the General Accident Insurance Institution (AUVA) with the aim of implementing a comprehensive compliance management system (CMS) and consolidating existing compliance-related measures was carried out from 2018 to 2019. In March 2020, the BAK presented a final report with more than 50 recommendations to improve existing and implement new compliance-relevant measures.

Since the second half of 2020, the BAK supports a regional healthcare association in the area of risk analysis and risk management. This cooperation is focusing on integrity risks and will be completed in mid-2021.

Banking/finance sector: In 2020, the Austrian Financial Market Authority (FMA) and the BAK signed an agreement on the provision of compliance advisory services. This advisory agreement is intended to strengthen the FMA's compliance and anti-corruption culture and facilitate the further development of its existing compliance management system.

The FMA is an independent, autonomous and integrated supervisory authority for the Austrian financial market, established as a public law institution. The BAK's advisory team has been working together with the FMA to develop recommendations for enhancing its compliance management system as well as individual measures to increase the efficiency of compliance-relevant processes and procedures. This cooperation will be finalized in the first half of 2021 by providing a final report to the FMA.

## **24. Measures taken to address corruption risks in the context of the COVID-19 pandemic**

Corruption has taken on new forms. Complex, unsafe scenarios created by the COVID-19 pandemic require quick and efficient responses from Supreme Audit Institutions (SAIs). Therefore, the ACA has already launched a number of public audits related to the COVID-19 pandemic, fully aware of the special framework conditions and challenges of a crisis of this kind.

These audits cover, inter alia, the following topics: hardship fund (fund established to provide rapid financial assistance to micro-businesses, one-person businesses and independent contractors affected by the pandemic); COVID-19: structure and financial scope of the aid measures, interaction between authorities in the event of a pandemic; COVID-19 short-time work subsidy; COVID-19 crisis management fund; importance of health data for responding to the COVID-19 pandemic; support measures for artists, cultural workers and art mediators in the context of the COVID-19 crisis; information security.

As a sign of the importance of the fight against corruption for the INTOSAI (International Organization of Supreme Audit Institutions) community, the current edition of the INTOSAI Journal emphasizes that the crisis has produced a keen sense of urgency, which has enabled corrupt behaviour, calling for SAIs to demonstrate value by generating independent information, strengthening public trust and intensifying anti-corruption efforts.

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

In 2020, due to the COVID-19 restrictions, the BAK had to suspend all traditional forms of in-classroom training. Therefore, the BAK promoted the Network of Integrity Officers (NIO) by

using all options available to provide present as well as future NIO members with knowledge and information in a modern hybrid form of utmost quality:

Specific NIO-relevant topics were periodically addressed in the NIO newsletter and posted on the NIO website ([www.integritaet.info](http://www.integritaet.info)). Furthermore, the BAK provided individual consultancy by email and telephone regarding all incoming inquiries. This two-pronged approach (personal support for NIO members and promotion of the NIO) resulted in an increase of applications for admission by almost 60 % within one year.

In addition to the corruption prevention and compliance advisory services for the public sector (see above, answer to question 23), the BAK carried out a compliance advisory service for the association NEUSTART, an Austrian probation service, in 2020. The BAK accompanied NEUSTART in its objective of raising employees' awareness of compliance and promotion of integrity in everyday work. NEUSTART is an association committed to offering solutions to problems related to crime and its consequences by e.g. re-socializing offenders, helping victims and preventing crime.

The focus of this project was on the systematic analysis of the association's compliance activities and on the development of a compliance management system by introducing new and optimizing existing compliance-relevant measures. Moreover, the creation and implementation of a code of conduct for NEUSTART was discussed. In cooperation with the association, the BAK developed a set of recommendations on compliance in order to further strengthen NEUSTART's already existing tone from the top and corporate culture conducive to compliance.

The new Austrian code of conduct for the prevention of corruption in the civil service "Die VerANTWORTung liegt bei mir – EINE FRAGE DER ETHIK" ("The RESPONSibility rests with me – A QUESTION OF ETHICS") was adopted by the Council of Ministers and presented to the public on 18 November 2020. Five special working groups comprising, inter alia, experts from the ministries, the regions, cities and municipalities, the Union of Public Services (*Gewerkschaft Öffentlicher Dienst*), the Union of Municipal Employees (*Gewerkschaft der Gemeindebediensteten*), and Transparency International – Austrian Chapter had developed this code of conduct under the direction of the Federal Ministry for Arts, Culture, the Civil Service and Sport. The code of conduct is applicable across all government departments and local authorities. It elucidates existing provisions of national criminal law as well as civil service employment law. In particular, it explains the standards to be observed by members of the civil service in the performance of their professional duties and provides examples of compliant and non-compliant behaviour. The code of conduct covers topics such as general principles of conduct, whistleblowing, prohibition of the acceptance of gifts and its exceptions, lobbying, sponsoring, avoidance of conflicts of interest, incompatibility rules, confidentiality obligations, responsible use of social media, leadership responsibility, organizational responsibility and many more.

An e-learning tool developed in cooperation between the Federal Ministry for Arts, Culture, the Civil Service and Sport and the Austrian Association of Cities and Towns complements this new general code of conduct. The new Austrian code of conduct for the prevention of corruption in the civil service and the complementary e-learning tool are available for use across all levels of the Austrian civil service (in German only):

[https://www.oeffentlicherdienst.gv.at/moderner\\_arbeitgeber/korruptionspraevention/verhaltenskodex/Verhaltenskodex.html](https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/korruptionspraevention/verhaltenskodex/Verhaltenskodex.html)

[https://www.oeffentlicherdienst.gv.at/moderner\\_arbeitgeber/korruptionspraevention/verhaltenskodex-e-Learning/Verhaltenskodex\\_e-Learning.html](https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/korruptionspraevention/verhaltenskodex-e-Learning/Verhaltenskodex_e-Learning.html)

Due to the different legal status of civil servants and civil service employees (working on a contractual basis), the provisions regulating disciplinary proceedings for civil servants on the one hand and civil service employees on the other hand differ slightly. In the event of a culpable breach of official duties, disciplinary action will be initiated. The superior shall investigate any reasonable suspicion of a breach of official duties and file a disciplinary complaint with the competent personnel authority without delay. If the breach of official duties also constitutes a criminal offence, there is an obligation to report the matter to the public prosecutor's office. Reprimands, small and large fines as well as dismissal are disciplinary measures available under the disciplinary code applicable to civil servants. The competent personnel authority may temporarily suspend civil servants or issue disciplinary orders against them. For civil service employees, reprimands, termination of contract, or dismissal are the only applicable disciplinary measures.

The new Federal Disciplinary Authority (*Bundesdisziplinarbehörde*), which officially started its work on 1 October 2020, replaced the former 26 disciplinary commissions. The Federal Disciplinary Authority, based in the Federal Ministry for Arts, Culture, the Civil Service and Sport, is competent to take disciplinary decisions and decide on suspensions of civil servants. Its members are independent and autonomous in the performance of their duties. A Disciplinary Attorney advocates the interests of the public service in proceedings before the Federal Disciplinary Authority. The Federal Disciplinary Authority must compile an annual report of activities.

Against decisions of the Federal Disciplinary Authority, appeal to the Federal Administrative Court (*Bundesverwaltungsgericht*) is admissible. Parties to proceedings before the Federal Administrative Court are entitled to file a final complaint with the Supreme Administrative Court (*Verwaltungsgerichtshof*).

## **C. Repressive measures**

### **26. Criminalisation of corruption and related offences**

Please refer to pages 37 to 38 of the Austrian Input for the 2020 Rule of Law Report.

### **27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.**

In 2020, the Federal Bureau of Anti-Corruption recorded nine cases of corruptibility (sec. 304 Austrian Criminal Code [*Strafgesetzbuch, StGB*]), six cases of acceptance of an advantage (sec. 305 StGB), six cases of acceptance of an advantage for the purpose of exerting influence (sec. 306 StGB), and seven cases of bribery (sec. 307 StGB). In addition, the Bureau registered one case of offering an advantage for the purpose of exerting influence (sec. 307b StGB), one case of illicit intervention (sec. 308 StGB) and two cases of acceptance of gifts and bribery of employees or agents (sec. 309 StGB). Of these 32 cases, one case involved the criminal responsibility of a legal person.

The basis for these statistics is the "principal offence" of each case, i.e. the criminal act determining the level of penalty. However, a criminal investigation case may include other punishable acts. Furthermore, it should be noted that the BAK statistics only take into account

reports, allegations, etc. received by the BAK during the reporting year. Cases from previous reporting years, where investigation has not been completed, are not included in the statistics of the new reporting year.

The Bureau publishes a detailed annual report both online and in print including, inter alia, statistics gathered by the BAK. In addition, the publication „Corruption phenomena in Austria from the perspective of the Federal Bureau of Anti-Corruption“ was first released in 2019 (in German). It had been produced within the BAK’s project „Analysis of corruption and integrity in Austria“, which is co-financed by the EU’s Internal Security Fund, and will be published every two years.

The following table contains convictions, diversions and acquittals with regard to offences pursuant to sec. 304 to 309 StGB for 2020 and for the time period of 1 January to 24 February 2021:

<b>2020:</b>	<b>Section 304</b>	<b>Section 305</b>	<b>Section 306</b>	<b>Section 307</b>	<b>Section 307a</b>	<b>Section 307b</b>	<b>Section 308</b>	<b>Section 309</b>
Convictions	9	1	1	49	4	-	1	2
Diversions	1	-	-	4	-	4	-	5
Acquittals	1	1	1	32	1	1	-	-

  

<b>2021 (until 24 Feb.):</b>	<b>Section 304</b>	<b>Section 305</b>	<b>Section 306</b>	<b>Section 307</b>	<b>Section 307a</b>	<b>Section 307b</b>	<b>Section 308</b>	<b>Section 309</b>
Convictions	-	-	-	3	-	1	-	-
Diversions	-	1	-	-	-	-	-	-
Acquittals	-	-	-	1	-	-	-	-

## **28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)**

There has been no change in the legal situation regarding immunity. However, with regard to investigations against non-immune accomplices, it will soon be clarified by decree that investigations against them are admissible after all (in deviation from the previously held legal opinion) and that evidence that also concerns the immune person – who cannot be prosecuted for the duration of immunity – may also be taken in proceedings initiated against them.

# III. Media Pluralism

## A. Media authorities and bodies

### 29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 43 to 44).

For updated information, please consult the annual report of the RTR (*Kommunikationsbericht*) for 2019, especially pages 16 to 45. As for the legal foundations and provisions for the budget of the KommAustria, cf. sec. 1 to 15 and 35 of the KommAustria Act.

The new AVMS-Directive (EU) 2018/1808 was transposed by the Federal Law published in the Federal Gazette I Nr. 150/2020, by which the KommAustria Act, the Federal Act on the Austrian Broadcasting Corporation, the Federal Act on Audiovisual Media Services as well as the Federal Act on Private Radio were amended.

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

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 44 to 45).

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

No further update available.

## B. Transparency of media ownership and government interference

### 32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

The decision in which media the advertisements are placed is based – without exception – on the factors coverage and circulation. The two factors are generally accepted and objective and they are always based on data from the current or previous year, to ensure that the numbers are up to date.

### 33. Rules governing transparency of media ownership and public availability of media ownership information

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 46 to 47).

## C. Framework for journalists' protection

### 34. Rules and practices guaranteeing journalist's independence and safety

Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 47 to 48) as well as to the supplementary information provided in the context of the virtual country visit.

Update on "Planned promotion":

- To promote the digital transformation process in the media sector, a draft for new funding measures is currently in the parliamentary review process. The aim of this new fund is to maintain the diversity of providers in the print and broadcasting sectors and to promote the development and expansion of digital offerings in the media landscape.
- The draft provides, in particular, for support measures to modernize digital distribution through improved access to online content as well as measures for part-time training and further education of journalistic employees and the promotion of measures for the protection of minors as well as for the increase of barrier-free accessible media content.

### 35. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (page 48) as well as to the supplementary information provided in the context of the virtual country visit.

### 36. Access to information and public documents

The Government Programme of the Austrian government mentions the establishment of "freedom of information" as one of the main policy aims for the period of 2020 to 2024 (cf. *Regierungsprogramm 2020–2024*, pages 19 to 20). To implement this aim, the Federal Ministry for EU and Constitution has prepared a legislative proposal after having heard a number of experts, concerned institutions, media representatives, Members of the Austrian Parliament and non-governmental organisations working in this field. On 22 February 2021, this ministerial proposal was submitted to the consultation procedure (*Begutachtungsverfahren*), during which a number of institutions may comment on the draft. It was also published on the Parliament's website ([https://www.parlament.gv.at/PAKT/VHG/XXVII/ME/ME\\_00095/index.shtml](https://www.parlament.gv.at/PAKT/VHG/XXVII/ME/ME_00095/index.shtml)) and at the website of the Legal Information System of the Republic of Austria (*Rechtsinformationssystem des Bundes, RIS*) ([https://www.ris.bka.gv.at/Dokument.wxe?ResultFunctionToken=72764fa1-f0c1-43c9-9e97-d8c6e84c81b8&Position=1&SkipToDocumentPage=True&Abfrage=Begut&Titel=&Einbringer=&DatumBegutachtungsfrist=23.02.2021&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=&Dokumentnummer=BEGUT\\_COO\\_2026\\_100\\_2\\_1836568](https://www.ris.bka.gv.at/Dokument.wxe?ResultFunctionToken=72764fa1-f0c1-43c9-9e97-d8c6e84c81b8&Position=1&SkipToDocumentPage=True&Abfrage=Begut&Titel=&Einbringer=&DatumBegutachtungsfrist=23.02.2021&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=&Dokumentnummer=BEGUT_COO_2026_100_2_1836568)).

The consultation procedure lasts until 19 April 2021 and involves a wide range of public and private institutions and interest groups, other entities likely to be affected, and expert groups such as NGOs. The opinions expressed during these consultations are published on the Parliament's website. They are also published on the internet (cf. above cited website of Parliament). Because of these consultations, the ministerial proposal may be modified before

it is submitted as a bill to the National Council, where it will be deliberated in the competent committees and in the plenary.

As regards the substance of the legislative proposal, which shall repeal an existing law on the duty to grant information, a new constitutional, fundamental right to information (on demand) shall be granted to everybody. In addition, public institutions shall actively make information of general interest accessible for everyone on the internet in a central information register. Not only the public administration shall be obliged to give information on demand and by their own initiative, but also the judicial and the legislative branches. Even private enterprises that are subject to review by the Austrian Court of Audit (*Rechnungshof*) shall be obliged to give information on demand.

In general, according to the proposal, the (informal) demands for information shall be fulfilled in lesser time (usually within four weeks at the latest, within eight weeks in special situations, e.g. if persons, whose rights are concerned, are to be heard before) and free of charge. If possible, direct access to the information is to be provided. Only certain public and very important private rights and interests provided by constitutional law (e.g. data protection) should limit the new fundamental right. Partial access to information shall be possible. The right to information shall be enforceable before the independent administrative courts and subsequently before the Constitutional Court (*VfGH*). The Austrian Data Protection Authority shall support the institutions that are subject to obligations in the present matter.

Notably, the law making process will require an amendment of the Federal Constitution. This will allow making further legal details in a single Federal Law on the Freedom of Information (*Informationsfreiheitsgesetz*), instead of in eleven laws of the Federation (*Bund*) and the provinces (*Länder*). As competences of the provinces (*Länder*) are to be curtailed, the Federal Council (*Bundesrat*) will also have to approve the act by a qualified majority.



# IV. Other institutional issues related to checks and balances

## A. The process for preparing and enacting laws

### 38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

#### Integrative public participation in the digital age: Green Paper and Manual

The continuous digitalization has led to significant innovations in the interaction between the state and citizens in recent years. The development and use of social media, semantic technologies, artificial intelligence, and the development of new online tools for public participation as well as changing social demands open up a multitude of chances for consultation and interaction in policy design, law making and evaluation. Furthermore, Austria's outcome-oriented performance management and regulatory impact assessment framework offers a wide range of opportunities for stakeholder and citizen engagement, through its contribution towards a transparent policy cycle and evidence based policymaking.

To address the resulting challenges and opportunities, the Austrian Federal Ministry for Arts, Culture, Civil Service and Sport (*BMKÖS*) is currently developing a manual for public participation in the digital age and corresponding online-services. The manual shall promote public participation across the public sector and support civil servants in the design, implementation and evaluation of integrative participatory processes, combining analogue and digital forms of participation aligned with the policy cycle.

A first milestone in the process towards a new guidebook was the participatory development of a green paper on public participation in the digital age that was published in December 2020 and is available online at:

<https://www.oeffentlicherdienst.gv.at/verwaltungsinnovation/oeffentlichkeitsbeteiligung/index.html> (in German only)

#### Regulatory Impact Assessments in Austria:

In 2013, Austria introduced a system of mandatory Regulatory Impact Assessments (*Wirkungsorientierte Folgenabschätzung*, hereinafter referred to as „RIA“) along with Performance-informed Budgeting (*Wirkungsorientierung*) at the federal level of government. Since then, a RIA has to be conducted for every new or amended law, regulation or major project that exceeds certain thresholds. Each impact assessment contains at least a description of the problem, intended goals and measures as well as a basic assessment of financial and socioeconomic impacts. In addition, during the drafting phase of the RIA information about the legislative procedures for the respective proposal, the relationship to EU law and a summary of the assessment according to Art. 35 of the General Data Protection Regulation (GDPR) is also provided.

In order to balance the need for an assessment of every proposal with considerations for efficiency and relevancy, a threshold test has been introduced in 2015 that is tied to the

significance of impacts in the financial and socioeconomic dimensions. Based on precise questions, the most relevant impacts in these impact dimensions are examined and, where possible, quantified. If thresholds are not exceeded and no significant connection with the performance information in the Federal Budget is found, a simplified RIA might be conducted. Simplified RIAs, which are now conducted for the majority of legislative proposals, still include the main information about the proposal but do not need to provide indicators to measure progress and require no mandatory evaluation after five years (see below). Otherwise, a “full” RIA with a more detailed assessment has to be provided.

The Federal Performance Management Office (FPMO) at the Federal Ministry for Arts, Culture, Civil Service and Sport (*BMKÖS*) provides quality assurance for all regulatory proposals. A standardized IT-application for all impact assessments and extensive training and support is offered to all ministries in order to improve the quality and use of RIAs.

In the subsequent legislative procedure, the responsible ministry presents the draft law or regulation incl. the RIA, and, where applicable, all other ministries and stakeholders can comment on this assessment in the consultation process. Therefore, the RIA document is an essential part of the overall transparency of the legislative process.

Full RIAs have to be evaluated internally by the responsible ministry after a maximum of five years. Projected indicators and milestones for the defined objectives and expected impacts are compared to the actual situation. Additionally, the existence of any further impacts is evaluated and potential future improvements should be pointed out. Again, the FPMO provides support, quality assurance and collects all evaluation results. A report on all current evaluations is published online on a yearly basis by the FPMO and is submitted to Parliament.

In conclusion, the Austrian Regulatory Impact Assessment System provides substantial ex-ante as well as ex-post information on regulatory proposals. Future work needs to focus on making this information more accessible and relevant to the public discourse, including through the use of digital tools to strengthen participation and transparency.

#### Extension of the current consultation procedure:

In December 2020, all five political parties represented in the Austrian Parliament submitted a motion to amend the Act on the National Council's Rules of Procedure (*Bundesgesetz vom 4. Juli 1975 über die Geschäftsordnung des Nationalrates [Geschäftsordnungsgesetz 1975]*), according to which all legislative initiatives that are discussed in the National Council are to be subjected to an open consultation procedure in the future. This extension of the scope of the current consultation procedure will allow experts and citizens to submit comments not only on proposals submitted by the competent ministry (*Ministerialentwürfe*), but also on legislative proposals by members of Parliament and committees, finalized Federal Government Bills (*Regierungsvorlagen*), legislative proposals by the Federal Council (*Bundesrat*) and popular initiatives, for as long as the parliamentary legislative process has not been completed. While all comments received are to be published on the Parliament's website, those from private individuals are only published with their consent. The motion is currently discussed in Parliament in the competent committee, highlighting the intention to comply with GRECO recommendations and further improve transparency in relation to legislative proposals. For updates on progress, please refer to:

[https://www.parlament.gv.at/PAKT/PR/JAHR\\_2021/PK0053/#XXVII\\_NRSITZ\\_00079](https://www.parlament.gv.at/PAKT/PR/JAHR_2021/PK0053/#XXVII_NRSITZ_00079) (in German only).

**39. 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 further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 50 to 52).

**40. Regime for constitutional review of laws**

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 52 to 53).

**41. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic**

- **judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic**
- **oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic**
- **measures taken to ensure the continued activity of Parliament (including possible best practices)**

As outlined in the Austrian Input for the 2020 Rule of Law Report (page 62), Austria has passed numerous laws and regulations with a view to combatting the coronavirus outbreak since the end of February 2020. Acting under severe time pressure, the laws were passed by Parliament on the basis of the Federal Constitutional Law and the relevant procedural laws in an expeditious procedure (please note that this expeditious procedure is not an emergency procedure but in fact the regular law making process; it is described in more detail on pages 51 and 52 of the Austrian Input for the 2020 Rule of Law Report), and the regulations were issued by the responsible Federal Ministers or the responsible Governors or Land Governments pursuant to the relevant laws. Limitations to fundamental rights are of a temporary nature and under constant evaluation in order to guarantee proportionality and non-discrimination.

The measures taken in Austria to combat the pandemic continue to be implemented in compliance with the usual legislative procedures: Parliament passes – albeit under great time pressure – the necessary laws in the regular legislative process, and the administrative regulations are set by the responsible bodies. All fundamental rights restrictions brought about by COVID-19 measures are limited in time. They are continuously evaluated in order to ensure that the principles of proportionality and non-discrimination are met.

In respect of some specific regulations issued by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection under Art. 11 of the COVID-19 Measures Act it is required to obtain the consent of the Main Committee of the National Council and to let such regulations expire at the latest after four weeks or ten days (as the case may be) after any such regulation has been issued. In order to extend the validity of such regulations it is thus required to once again obtain the National Council's consent.

More detailed country reports for Austria on this were prepared by the European Union Agency for Fundamental Rights (FRA). Following the FRA report referenced in the Austrian Input for the 2020 Rule of Law Report (this was the report „Fundamental Rights Agency,

Coronavirus pandemic in the EU – fundamental rights implications – Bulletin 3 (3 June 2020). Country: Austria“), two further reports on Austria were prepared by the FRA, namely the Bulletin 4 (2 July 2020) and the Bulletin 6 (3 November 2020), both available here:

[https://fra.europa.eu/sites/default/files/fra\\_uploads/at\\_report\\_on\\_coronavirus\\_pandemic\\_july\\_2020.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/at_report_on_coronavirus_pandemic_july_2020.pdf);

[https://fra.europa.eu/sites/default/files/fra\\_uploads/at\\_report\\_on\\_coronavirus\\_pandemic\\_november\\_2020.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/at_report_on_coronavirus_pandemic_november_2020.pdf).

The Constitutional Court (VfGH) is reviewing measures related to the COVID-19 pandemic. Since April 2020, the VfGH has received complaints against the protective measures taken in response to the pandemic. There are currently around 200 applications in total, out of which around 130 were completed in 2020.

The rulings of the VfGH up until July 2020 are summarized on page 13 of the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Austria. Since then, the VfGH has been following its benchmark decisions of 14 July 2020 (G 202/2020, V 408/2020; V 411/2020; V 363/2020):

[https://www.vfgh.gv.at/medien/Covid\\_Entschaedigungen\\_Betretungsverbot.de.php](https://www.vfgh.gv.at/medien/Covid_Entschaedigungen_Betretungsverbot.de.php) (in German and English)

The VfGH did not declare any provision of the federal laws regarding the COVID-19 pandemic (*COVID-19-Maßnahmengesetz* and *Epidemiegesetz*) inconsistent with the Austrian Constitution. However, in several cases ordinances were considered illegal. The VfGH found that the responsible Federal Minister had not submitted any files to the VfGH regarding the implementation of the ordinance and was thus unable to explain in a comprehensible manner why the contested measures were considered necessary. The VfGH thus declared that such measures had been imposed illegally. Specifically, the VfGH has decided on the following complaints (in chronological order):

Rulings of 1 October 2020 (V 392/2020; V 405/2020; V 428/2020; V 429/2020; G 271/2020, V 463-467/2020; G 272/2020):

The VfGH ruled that the entry ban to restaurants and to car washes that are independent from petrol stations, as well as the restrictions on the number of customers allowed into restaurants (4 adults unless from the same household), the prohibition of events with more than 10 persons (e.g. regarding discotheques) and the mandatory use of face masks in public spaces in buildings were unlawful. The VfGH also repealed a provision of the “*COVID-19-Lockerungsverordnung*” (now *COVID-19-Maßnahmenverordnung*) which ordered the mandatory observance of a minimum distance of one meter between tables in restaurants. For more details:

[https://www.vfgh.gv.at/medien/Entscheidungen\\_Oktober-Session.php](https://www.vfgh.gv.at/medien/Entscheidungen_Oktober-Session.php) (in German)

Rulings of 26 November 2020 (E 3412/2020, E 3417/2020, E 3544/2020):

In these three rulings, the VfGH refused to deal with complaints regarding compensation for companies affected by COVID-19 measures. The complaining companies – a trading company, the landlord of a shopping centre and a travel agency – had applied for compensation for the loss of earnings they suffered as a result of the COVID-19 measures that came into force on 16 March 2020. According to the VfGH, the non-compensation of the complainants did not violate the principle of equality. For more details:

[https://www.vfgh.gv.at/medien/Covid\\_Ablehnungen.php](https://www.vfgh.gv.at/medien/Covid_Ablehnungen.php) (in German)

Ruling of 10 December 2020 (V 436/2020):

The VfGH ruled that the face mask requirement in school buildings and class divisions imposed in the spring of 2020 had been illegal because the Federal Minister for Education's decision-making basis was not sufficiently substantiated. For more details:

[https://www.vfgh.gv.at/medien/Covid\\_Schulen.php](https://www.vfgh.gv.at/medien/Covid_Schulen.php) (in German)

Upcoming court session of the VfGH in March 2021:

In the court session of March 2021, several cases relating to COVID-19 measures will be discussed. They concern a wide range of topics, such as an entry ban for sports and leisure facilities (V 530/2020), the providing of information to health authorities in the event of suspected COVID-19 cases (V 573/2020), the rules on location-independent lessons ("distance learning") in the period from 17 November 2020 to 6 December 2020 (V 574/2020 e.a.), the competence of district courts to review segregation measures (G 380/2020, G 367/2020, G 7/2021), the entitlement to lump-sum compensation in the case of "extended" extraordinary community service (E 3310/2020 e.a.) and the compensation for loss of earnings due to home quarantine after returning home from abroad (E 4202/2020). For more details:

[https://www.vfgh.gv.at/medien/Vorschau\\_Maerz\\_COVID.php](https://www.vfgh.gv.at/medien/Vorschau_Maerz_COVID.php) (in German)

## **B. Independent authorities**

### **42. Independence, 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**

The Ombudsman Board (*Volksanwaltschaft, AOB*):

The AOB functions as the National Human Rights Institution according to the Paris Principles and was last re-accredited with B-Status by Global Alliance of National Human Rights Institutions (GANHRI) in 2011. It contributes significantly to the implementation and guarantee of human rights and thus complements the very good protection offered by the independent courts. The AOB has had an express constitutional mandate to promote and protect human rights since July 2012. At the same time, it was given the task of the National Prevention Mechanism (NPM) pursuant to the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Since the explicit expansion of its mandate to human rights matters in 2012, the AOB has conducted a constant, institutionalised dialogue with civil society and human rights experts from various fields. The Austrian civil society recognises that the AOB is acting in full independence. The independence of the AOB is constitutionally guaranteed: the three AOB Members cannot be recalled during their six-year term of office. Their mode of appointment by election in Parliament guarantees their democratic legitimation. The constitutionally regulated nomination of the three AOB Members by the three National Council parties with the highest mandate *de facto* secures the opposition's political right to appoint at least one Member. The annual rotation of the chairmanship of the AOB ensures that all Members have equal participation rights in the fulfilment of the AOB's duties. The AOB also has its own budget. It recently received additional staff and budget to further ensure its independence. Against this

background, the AOB is striving for A-Status and intends to officially apply for it at the International Conference of National Human Rights Institutions - ICC.

On other Austrian independent authorities, please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 53 to 58). For the Austrian supreme audit institution, please refer to Chapter II (Anti-corruption framework) above.

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

### **43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)**

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 58 to 60).

### **44. Implementation by the public administration and State institutions of final court decisions**

No further update available. Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 60 to 61).

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

### **45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)**

In September 2020, Austria's civic space rating by CIVICUS was upgraded from „narrowed“ to „open“. According to CIVICUS, only 3% of the world's population lives in countries with open civic space, where citizens are free to form associations, peacefully demonstrate in public spaces and practice freedom of expression. This ratings decision by the CIVICUS Monitor was taken following a thorough assessment of conditions in the country for the free exercise of civic freedoms, as protected by international law. For more details, please see:

<https://monitor.civicus.org/updates/2020/09/15/austria-civic-space-rating-upgraded-open/>  
<https://www.civicus.org/documents/Austriaratingschangeupgradestatement.pdf> (in German)

Regarding the Austrian tax regime for civil society organisations a distinction must be made between non-profit laws and preferential donations. The non-profit laws (sec. 34 et seqq. Federal Tax Code [*Bundesabgabenordnung, BAO*]) concern the taxation of the privileged corporations themselves. NGOs in specific areas can also benefit from privileges in individual tax regulations, in particular regarding corporation tax and VAT.

The rules on preferential donations (sec. 4a Income Tax Act [*Einkommensteuergesetz, EStG*]) regulate the conditions under which donations can be claimed by the donor to reduce income tax. There is – for different reasons – a restriction to certain charitable purposes where NGOs in specific areas, but also sports, animal welfare or schooling are not included. However, adult education at university level is one of the charitable purposes.

The Government Programme includes the plan to establish a working group to modernize non-profit laws and the tax framework for non-profit organisations. The expansion of donation deductibility to other non-profit organisations and the application and recognition process for donation deductibility shall also be examined in more detail. In view of the ongoing COVID-19 crisis, an evaluation is being made as to which of the measures planned in the Government Programme should be prioritized.

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

### 46. 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, etc.)

In Parliament, there is a specialised committee dedicated to human rights related issues including human rights policy, racism and xenophobia and anti-discrimination in Austria and in other countries. The Human Rights Committee (*Ausschuss für Menschenrechte*) deals inter alia with all bills, motions and reports that relate to fundamental rights. International human rights instruments are a recurring topic in the Human Rights Committee.

By tradition, its chairperson is a member of an opposition party. The committee meets on a regular basis and holds debates with members of the Federal Government on current human rights and rule of law related issues several times a year (*aktuelle Aussprachen*).

For more information on the Human Rights Committee's agenda please refer to Parliament's website:

[https://www.parlament.gv.at/PAKT/VHG/XXVII/A-ME/A-ME\\_00001\\_00894/index.shtml](https://www.parlament.gv.at/PAKT/VHG/XXVII/A-ME/A-ME_00001_00894/index.shtml).

### Other - please specify

#### State of play on terms and nominations for high-level positions

Constitutional Court (*Verfassungsgerichtshof, VfGH*), Supreme Administrative Court (*Verwaltungsgerichtshof, VwGH*) and Supreme Court (*Oberster Gerichtshof, OGH*):

General requirements for the judges of the Constitutional Court (see in detail Art. 147 B-VG), the Supreme Administrative Court (see in detail Art. 134 B-VG) and the Supreme Court include a university degree in law and at least several years of professional experience in one of the legal professions. There are strict incompatibility rules. Judges are appointed for an unlimited term of office, they retire ex lege at the age of 65 (*VwGH* and *OGH*) and 70 (*VfGH*). Vacancies are advertised.

The appointment of Supreme Court judges by the Federal President upon proposal of the Federal Government – for the Constitutional Court upon proposal partly of the Federal Government and partly of Parliament – does not impair the judges' independence and impartiality. Regarding the Supreme Administrative Court and the Supreme Court, the Federal President decides on the basis of a short list of candidates provided by these Courts.

According to the renowned Council of Europe Venice Commission there is no common standard for the most appropriate appointment procedure. In Europe, there is a great variety in the methods of appointment of judges in the various legal systems. Therefore, states have a certain margin of discretion provided that the high quality and experience, independence

and impartiality of Supreme Court judges are guaranteed. There are cases pending before the European Court of Justice dealing with the appointment of Supreme Court judges. According to the Advocate General's opinion (C-896/19, *Repubblika/Il-Prim Ministru*), EU law does not preclude national constitutional provisions under which the executive power or one of its members, such as the Prime Minister, plays a role in the process of the appointment of members of the judiciary. What matters is that judges must be free from any relationship of subordination or hierarchical control by either the executive or the legislature. It is also important that they enjoy sufficient protection against removal from office.

The Ombudsman Board (*Volksanwaltschaft, AOB*), the Austrian NHRI:

For details on the appointment of the AOB Members please see above under Point IV.B.42. The constitutional basis is Art. 148g B-VG.

Other independent authorities and equality bodies:

Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report and the documents referenced therein (pages 54 to 58).

Austrian Court of Audit (*Rechnungshof, ACA*):

The legal and institutional framework of the Austrian Court of Audit (*Rechnungshof, ACA*) as the Supreme Audit Institution (SAI), which reports directly to the Austrian Parliament (National Council), has not changed since the 2020 Rule of Law Report. This includes also the provisions on the terms and nomination of the President of the ACA according to Art. 122 B-VG.

The President of the ACA is elected by the Austrian Parliament (National Council) for a not-renewable term of office of twelve years on the proposal of the Parliament's Main Committee.

Media regulatory authorities and bodies:

Please refer to the information submitted in the Austrian Input for the 2020 Rule of Law Report (pages 44 to 45).