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COMMISSION STAFF WORKING DOCUMENT

2024 Rule of Law Report Country Chapter on the rule of law situation in Austria

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The level of perceived judicial independence in Austria continues to be very high and the justice system performs efficiently. While recent reforms of the appointment systems for the Supreme Court president and candidate judges are being implemented, no steps have been taken to ensure the involvement of the judiciary in the appointments of administrative court (vice-) presidents, with the long delay before appointing the president of the Federal Administrative Court highlighting continued concerns. The planned reform of the prosecution service has not advanced as no political agreement has been found to take forward the proposals made by an expert group. An independent committee set up to investigate allegations of attempted political influence on the judiciary presented its final report, finding that concrete attempts to influence investigations had occurred. Reporting obligations for prosecution offices facing the highest reporting burden remain unchanged and the power of the Minister of Justice to issue instructions to prosecutors in individual cases in practice continues to be used in practice. The high level of digitalisation of justice continues to advance, and further resources have been allocated to the justice system. Certain challenges exist in terms of access to justice linked to high court fees and as regards access to legal advice in administrative cases, with some steps being taken that aim to address the latter.

A new National Anti-Corruption Strategy and the 2023-2025 Action Plan were adopted. The Federal Act amending the Criminal Code in the area of anti-corruption entered into force, notably extending criminal liability in corruption cases. Investigations in high-level corruption cases are proceeding while prosecutors experience particular attention with regard to specific cases. Two parliamentary investigative committees have examined allegations of corruption concerning political parties. There are no plans to introduce rules on assets and interests' disclosure for members of Parliament, while the Federal Chancellery has started working on an asset declaration system and a Code of Conduct for Ministers. The lobbying framework remains limited in scope and no steps have been taken to strengthen it. . The resources of the Court of Audit have been strengthened to perform its reinforced role as independent external auditor. Some steps have been taken to introduce rules on 'revolving doors' for members of Government.

The media regulator continues to function independently and the funding for the Press Council has been increased. A new law on funding of quality journalism in print and online media has been adopted with first funds having been disbursed, while the establishment of a journalist school owned by the state still draws criticism. The impact of the new law on the transparency of the allocation of state advertising will still need to be seen in practice, notably on the issue of fair distribution of resources. A judgment of the Constitutional Court found the rules on the management bodies of the public service broadcaster to be unconstitutional. Austria adopted a Freedom of Information Act for the access to official documents in February 2024. Challenges remain regarding the safety of journalists, online as well as offline, with the Government planning to enhance training and awareness-raising.

Efforts to enhance participatory policy-making processes continue. The Ombudsperson Board continues to operate independently and has expanded its dialogue with civil society. Considerable delays in the appointments to high-level positions in independent authorities have continued. There have been improvements in the operating space for civil society, particularly through a reform of the tax framework for non-profit organisations.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Austria has (made):

- No progress on addressing the need for involvement of the judiciary in the procedures for appointment of court presidents of administrative courts, taking into account European standards on judicial appointments and the selection of court presidents.
- No further progress on taking forward the reform to establish an independent Federal Prosecution Office, taking into account European standards on the independence and autonomy of the prosecution, including to ensure the independent operation of the specialised anti-corruption prosecution.
- No progress on introducing effective rules on assets and interests' declaration for Members of Parliament, including effective monitoring and sanctioning mechanisms.
- No progress on adopting legislation to strengthen the framework on lobbying, including on its scope, supervision and enforcement.
- Some further progress on taking steps to reform the framework for the allocation of state advertising by public authorities at all levels, in particular to improve the fairness of its distribution.
- Fully implemented the recommendation on advancing with the reform on access to official information taking into account the European standards on access to official documents.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Austria to:

- Address the need for involvement of the judiciary in the procedures for appointment of court presidents of administrative courts, taking into account European standards on judicial appointments and the selection of court presidents.
- Take forward the reform to establish an independent Federal Prosecution Office, taking into account European standards on the independence and autonomy of the prosecution, including to ensure the independent operation of the specialised anti-corruption prosecution.
- Introduce effective rules on assets and interests' declaration for Members of Parliament, including effective monitoring and sanctioning mechanisms.
- Adopt a legislative proposal to strengthen the framework on lobbying, including a transparency register.
- Take steps to ensure proper implementation and enforcement as regards the fair distribution of state advertising.

I. JUSTICE SYSTEM

The Austrian justice system has two separate branches. The ordinary jurisdiction consists of 113 district courts, 20 regional courts, four higher regional courts and the Supreme Court. Austria also has a separate administrative court system with eleven first-instance administrative courts (nine regional administrative courts, one federal administrative court and the finance court) and the Supreme Administrative Court¹. The Constitutional Court, i.a. ensures the review of the constitutionality of federal and regional laws and of the legality of decrees². Judicial appointments are made by the executive based on non-binding proposals by staff panels composed of judges³ or plenary assemblies of a court, which draw up a ranked list of three candidates for each post⁴. The Prosecution Service is a judicial authority set up in a hierarchical structure under the supervision of the Minister of Justice, who can issue both general instructions and instructions in individual cases⁵. Austria participates in the European Public Prosecutor's Office (EPPO). Lawyers are registered in one of the nine local bar associations, which are public law corporations and autonomous self-governing bodies, with the Federal Bar Association as an umbrella organisation⁶.

Independence

The level of perceived judicial independence in Austria continues to be very high among both the general public and companies. Overall, 82% of the general population and 77% of companies perceived the level of independence of courts and judges to be 'fairly or very good' in 2024⁷. The perceived judicial independence among the general public has slightly decreased in comparison with 2023 (83%), as well as with 2020 (86%). The perceived judicial independence among companies has decreased in comparison with 2023 (80%), although it remains higher in comparison with 2020 (73%)⁸.

¹ Several of the district and regional courts are specialised courts. This structure does not necessarily correspond to the appeals instances. See CEPEJ (2024), Study on the functioning of judicial systems in the EU Member States.

² For the tasks of the Constitutional Court see Federal Constitutional Law, §§ 137-148.

³ Staff panels exist at regional and higher regional courts, the Supreme Court and administrative courts and the staff panels at the regional courts are also responsible for proposals for district courts. Staff panels include the president, vice-president and three to five other members of the court, which are elected by their peers. Constitution Art. 87 paras. 2-3 and Service Act for Judges and Public Prosecutors §§ 25 to 49.

⁴ Before becoming an ordinary court judge, candidates must first apply to a post for a candidate judge and complete a traineeship (usually four years). Candidate judges are appointed by the executive on proposal of the external senates at the Higher Regional Courts. After completing the traineeship, they can apply for a vacant post in accordance with the procedure described above. Service Act for Judges and Public Prosecutors, §§ 1 to 24. There is no judicial review of appointment decisions.

⁵ Public Prosecutors Act, §§ 8, 8a, 29-31.

⁶ Lawyers Code, Chapters III and V.

⁷ Figures 51 and 53, 2024 EU Justice Scoreboard and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁸ 70% of the companies in Austria are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 14% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

There was no progress on addressing the need for involvement of the judiciary in the appointments of administrative court (vice-)presidents, and the long delay before appointing the Federal Administrative Court president highlighted continued concerns. The 2023 Rule of Law Report recommended to Austria to ‘address the need for involvement of the judiciary in the procedures for appointment of court presidents of administrative courts, taking into account European standards on judicial appointments and the selection of court presidents’⁹. Despite the recommendations to ensure systematic judicial involvement, also mirrored in GRECO recommendations¹⁰ and by stakeholders¹¹, so far no steps have been taken to reform the system¹². The conference of chairpersons of administrative courts, an informal body bringing together the presidents of the eleven first instance administrative courts, has started reflections on this topic in view of examining requirements under Article 6 of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the EU, although no concrete details have been made public at this stage¹³. According to national law, existing experience as an administrative court judge is not a condition for appointment to the post of (vice-)president. This means that the appointment as court president can also serve as the initial appointment as a judge, despite following a different procedure¹⁴. Given the powers and duties of court (vice-)presidents¹⁵, who – especially in the case of vice-presidents – also adjudicate cases¹⁶, this raises concerns also with respect to European standards¹⁷. According to Council of Europe recommendations, if the executive takes decisions regarding the selection of judges, an independent and competent authority drawn in substantial part from the judiciary should be authorised to make recommendations or express opinions that the executive follows in practice¹⁸. No specific possibility of judicial review for appointment procedures exists, with a recent appointment of the president of the regional administrative court of Tyrol having been unsuccessfully challenged in court under general anti-discrimination legislation¹⁹. The problems in the

⁹ In 2023, the Commission concluded that ‘no progress’ had been made on this aspect of the recommendation addressed in the 2022 Rule of Law Report. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 2.

¹⁰ GRECO Fourth Evaluation Round – Second Compliance Report, recommendation xi.

¹¹ Contribution from the Association of European Administrative Judges – Austria for the 2024 Rule of Law Report, pp. 11-13. See also Association of Austrian Administrative Judges, Appointment procedures for (vice-)presidents of regional administrative courts in comparison with European standards.

¹² Input from Austria for the 2024 Rule of Law Report, p. 3.

¹³ Input from Austria for the 2024 Rule of Law Report p. 3; Written contribution from the regional administrative courts in the context of the country visit to Austria.

¹⁴ According to Article 134 of the Austrian Constitution, for the appointment of ordinary administrative court judges a proposal of three candidates needs to be provided by the assembly of the courts’ judges or a committee selected from among its members (but the article expressly exempts (vice-)presidents from this).

¹⁵ Presidents in certain regions are also subject to instructions from the executive regarding certain management functions. Consultative Council of European Judges, CCJE-BU(2019)3, 29 March 2019. Contribution from the Association of European Administrative Judges – Austria for the 2024 Rule of Law Report, p. 13.

¹⁶ As further explained in the 2023, 2022, 2021 and 2020 Rule of Law Reports, Country Chapter on the rule of law situation in Austria, pp. 4-5 (for 2023), pp. 4-5 (for 2022), pp. 4-5 (for 2021) and pp. 2-3 (for 2020).

¹⁷ CCJE Opinion No. 19 (2016) on the role of court presidents, para. 38, and Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, efficiency and responsibilities, para. 47.

¹⁸ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, efficiency and responsibilities, para. 47.

¹⁹ The regional administrative court of Tyrol, which heard the case, did not find any violation of anti-discrimination legislation in the appointment procedure. ORF (29 March 2024), Regional Administrative Court – Debated president appointment confirmed.

current system have been further highlighted by the considerable delay in the appointment of a new president of the Federal Administrative Court, which took around 14 months and was concluded only in January 2024, even though the expert commission involved²⁰ had presented a list of three candidates already in 2022. This delay has been criticised by stakeholders from both the judiciary and civil society²¹, not only for its possible impact on the operation of the only first instance court in federal administrative matters, but also for accentuating the risk that the decision is attributed to politicisation²². Taking into account persistent concerns and the lack of steps taken, there has been no progress on the recommendation made in the previous years.

Recent reforms of the appointment systems for the Supreme Court (vice-) president and candidate judges are being implemented, with positive feedback from stakeholders.

Following the adoption of a reform in December 2022 introducing judicial involvement in the appointment procedure²³, a new Supreme Court president and vice-president were appointed and took office in January 2024²⁴. Stakeholders, including the Supreme Court itself, assessed the implementation of the new system in positive terms²⁵. In a similar manner, the implementation of the reform adopted in December 2022, strengthening the formal involvement of judicial bodies in the appointment of candidate judges²⁶, has been positively evaluated²⁷. An evaluation will be carried out, once more experience with the new system has been gathered²⁸. Similarly to these recent reforms, prosecutors advocate for a reform ensuring that proposals for appointments of prosecutors are made by a panel composed in majority of members of the judiciary²⁹, which could further improve the perceived independence of the prosecution service³⁰.

There has been no further progress on the reform of the prosecution service, with no political agreement to take forward the proposals of an expert group made in 2022. The 2023 Rule of Law Report recommended to Austria to ‘take forward the reform to establish an

²⁰ The Commission had been composed of two representatives of the competent Ministry for Civil Service, two representatives of academia and the presidents of the Constitutional Court, the Supreme Administrative Court and the Supreme Court or a person mandated by them.

²¹ Contributions from the CCBE – Austria, pp. 13-14, the Association of European Administrative Judges – Austria, pp. 11-13 and the Association of Judges, p. 10 for the 2024 Rule of Law Report. Franet (2024), Country research - Legal environment and space of civil society organisations in supporting fundamental rights – Austria, p. 18. See also the statement of the four upper regional court presidents (13 July 2023), i.a. in response to the 2023 Rule of Law Report, calling on a swift reappointment.

²² Joint statement by Amnesty International Austria, epicenter.works, Ökobüro und asylkoordination österreich on appointment at the Federal Administrative Court.

²³ This followed up on the recommendation made in the 2022 Rule of Law Report to involve the judiciary in the procedures for appointment of the president and vice-president of the Supreme Court, which the Commission concluded to have been fully implemented on this point in 2023. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 2-4.

²⁴ Supreme Court (2 January 2024), New President and Vice-President.

²⁵ Written contribution from the Supreme Court in the context of the country visit to Austria; information received from the Association of Judges in the context of the country visit to Austria.

²⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 5-6.

²⁷ Information received from the Association of Judges in the context of the country visit to Austria.

²⁸ Information received from the Ministry of Justice and the Association of Judges in the context of the country visit to Austria.

²⁹ The staff panel making proposal for appointments is composed of two prosecutors and two representatives of the Ministry of Justice. §182, Judge and Public Prosecution Service Act.

³⁰ Contribution from the Austrian Association of Prosecutors for the 2024 Rule of Law Report, p. 8. Information received from the Association of Prosecutors in the context of the country visit to Austria.

independent Federal Prosecution Office, taking into account European standards on the independence and autonomy of the prosecution, including to ensure the independent operation of the specialised anti-corruption prosecution³¹. As already noted in the 2023 Rule of Law Report, while a high-level expert group presented a model for such a reform in September 2022, the situation remains unchanged³², as no political agreement within the Government coalition was found so far³³. Open issues between the coalition partners concern particularly the type of body within the prosecution service that should be empowered to give instructions to prosecutors in individual cases (either in the form of senates of three prosecutors or a single Prosecutor General), and the question of parliamentary control over the Prosecutor General³⁴. According to Council of Europe recommendations, regular reporting of the prosecution service should not extend to an obligation to report to Parliament on the details of individual cases³⁵. Stakeholders continue to underline the importance of a reform that would meaningfully enhance the independence of the prosecution service³⁶. Given the need for a two-thirds majority in Parliament for the required constitutional amendments, it is considered unlikely that such a reform will be taken forward under the current Government³⁷. Therefore, no further progress has been made on the recommendations made in the previous years.

An independent committee set up by the Ministry of Justice to investigate allegations of attempted political influence on the judiciary presented its final report in July 2024, finding that concrete attempts to influence investigations had occurred. In December 2023, the Ministry of Justice set up an independent, multi-disciplinary investigative committee to look into allegations of attempted political influence on the judiciary, chaired by an international anti-corruption expert and composed of a team with members from academia, the judiciary and experts in compliance matters³⁸. This follows the revelation of secret recordings of a high-ranking former official in the Ministry of Justice, in which he appeared to be discussing attempts by politicians to influence concrete ongoing

³¹ In 2023, the Commission concluded that ‘no further progress’ had been made on the recommendation addressed in the 2022 Rule of Law Report. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 2.

³² Input from Austria for the 2024 Rule of Law Report, p. 3.

³³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 6-7.

³⁴ According to the expert group, parliamentary control should be possible for administrative matters and cases that have been concluded, but not for ongoing cases, which should be subject only to review by the courts. 2023 Rule of Law Report, Country Chapter on the rule of law situation, pp. 6-7.

³⁵ Venice Commission Opinion CDL-AD(2022)032, para. 23. More generally, as regards European standards for the prosecution service, see in particular Recommendation CM/Rec(2000)19 of the Committee of Ministers of the Council of Europe on the Role of Public Prosecution in the Criminal Justice System and Venice Commission CDLAD(2010)040- e, Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service.

³⁶ Contributions from the Association of Prosecutors (p. 8), the Association of Judges (p. 10) and the Procurator General (p. 8) for the 2024 Rule of Law Report. Information also confirmed by Transparency International Austria, the anti-corruption citizens’ initiative and Forum Informationsfreiheit in the context of the country visit to Austria.

³⁷ Information received from the Ministry of Justice, the Prosecution Service and the Association of Prosecutors in the context of the country visit to Austria.

³⁸ In addition to the chair, the committee has six members – two members representing the judiciary, one representing the prosecution service, one representing compliance and administration of justice, one from academia and one representing an international perspective, from the German judiciary. Ministry of Justice (2023), Investigative Commission.

investigations³⁹. The committee was tasked to review prosecutorial proceedings between January 2010 and December 2023 where there are suspicions of possible influence by a political party or persons close to it. It has analysed whether unauthorised persons sought or actually received information, whether influence was exerted in a non-objective manner, and whether proceedings were compatible with applicable compliance standards⁴⁰. Stakeholders, including representatives of the prosecution services who have already been interviewed by the committee, have welcomed this process, and have indicated that its results might further highlight the need for reform of the prosecution service⁴¹. The final report of the committee was submitted to the Ministry of Justice on 14 July 2024 and concludes that interventions and influence on the flow of information had taken place in all areas examined⁴². The expert commission considers that these findings further underline the need for a reform of the prosecution service (see above)⁴³.

Despite a decree aimed at reducing reporting obligations, these remain unchanged for prosecution offices facing the highest reporting burden. As noted in the 2023 Rule of Law Report⁴⁴, a decree on reporting obligations for the prosecution services had been under preparation in the Ministry of Justice and entered into force on 10 December 2023⁴⁵. It reduces the reporting obligations in specific matters such as out-of-court settlements or with respect to groups of cases and information reporting, adding to previously reported⁴⁶ efforts to reduce reporting obligations of Public Prosecutors' Offices as much as possible within the existing legislative framework⁴⁷. However, this does not relax the reporting obligations for those prosecution services faced with the highest reporting burden, such as the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (WKStA), as a revision of the legislative framework would be necessary to change reporting obligations in cases of special public interest due to the nature of the crime or the function of suspect in public life, which constitute the majority of its work⁴⁸.

³⁹ Der Standard (21 November 2023), Secretly recorded Pilnacek conversation heavily implicates Sobotka and ÖVP.

⁴⁰ The committee will examine case files, interview prosecutors, supervising authorities and political actors, and make comparisons with international standards and best practices. A whistleblowing channel (including for anonymous reports) to report to the committee also been created. Ministry of Justice (2023), Investigative Commission.

⁴¹ Information received from the Senior Prosecutors' Office Vienna, the WKStA and the Association of Prosecutors in the context of the country visit to Austria.

⁴² Der Standard (15 July 2024), Pilnacek Commission sees 'two class' justice in Austria. The full report is set to be published shortly.

⁴³ Ibid.

⁴⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 7.

⁴⁵ Prosecution services have written reporting obligations to higher prosecution offices and ultimately to the Ministry of Justice - Input from Austria for the 2024 Rule of Law Report, p. 4. Decree of 27 November 2023 to amend the decree of 12 June 2021 on the new regulation of the prosecutorial reporting obligations.

⁴⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation, p. 7.

⁴⁷ This is also reflected in the decrease of reports on intended further steps: While in 2019 Public Prosecutors' Offices filed 712 reports on intended further steps, the number decreased to 414 in 2023. Written contribution from Austria.

⁴⁸ These obligations are set out in the §8 Public Prosecutors Act. The limits of reducing reporting obligations by decree is also acknowledged in the 2023 decree's explanatory memorandum. Information received from the WKStA and the Association of Prosecutors in the context of the county visit to Austria. A further relief of regular reporting obligations of the WKStA and Corruption (as well as other Public Prosecutors' Offices) to the Senior Public Prosecutor's Office and the Ministry of Justice could only be achieved through an amendment of the Public Prosecutors Act by Parliament.

The power of the Minister of Justice to issue instructions to prosecutors in individual cases continues to be used in practice, while members of the Council of Directives consulted on these instructions operate with an expired mandate. The Minister of Justice issued instructions in individual cases in 27 instances in 2023⁴⁹. The annual Report on instructions for 2021, submitted to Parliament only in December 2023, additionally reported on 31 instructions in individual cases between 2014-2021 including one instruction not to prosecute⁵⁰, while the 2022 Report, submitted to Parliament in June 2024, reported on 21 instructions in individual cases between 2016-2022, including also one instruction not to prosecute⁵¹. The independent Council of Directives, an advisory body to the Minister of Justice that issues non-binding opinions on all instructions in individual cases, is chaired *ex-officio* by the Procurator General⁵², with its other members and alternates being appointed by the Federal President on the proposal of the Government, which have been operating on an expired mandate since the end of 2022⁵³. While, as foreseen in the relevant law, the legal protection officer had submitted proposals for new candidates for these posts already in December 2022⁵⁴, the Government has not yet been able to proceed with the appointments, as no political agreement has been found so far⁵⁵.

Quality

Further resources have been allocated to the justice system and the Government has launched several initiatives to attract more court staff. The trend from past years of increasing resources for the judiciary has continued, with an additional EUR 311 million allocated in 2024⁵⁶ and 135 new posts included in the 2024 staff plan, out of which 30 are for

⁴⁹ Written contribution from the Council for Directives in the context of the country visit to Austria. Instructions by the Minister of Justice must be reasoned, issued in writing and attached to the case file. They can include instructions not to prosecute (a decision not to prosecute can be appealed). For a comparative overview of Member States where Ministers of Justice can issue instructions to prosecutors in individual cases, see Figure 55, 2020 EU Justice Scoreboard.

⁵⁰ Report on Instructions 2021.

⁵¹ Report on Instructions 2022; in each case, the Report only covers cases already concluded at the time of its publication.

⁵² The Procurator General is the Prosecutor at the Supreme Court but has no hierarchical function within the Prosecution Service. A new Procurator General was appointed in November 2023, following the retirement of the previous Procurator General, and since then chairs the Council on Directives.

⁵³ The members are appointed by the President on a proposal from the Government (following a list of candidates submitted by the legal protection officer in consultation with the Presidents of the Constitutional Court, the Supreme Court and the Supreme Court) for a seven-year term; the current members were appointed in January 2016. According to the law, they continue to exercise their function until a new member is appointed. §29b Public Prosecutors Act. Information received from the Council for Directives in the context of the country visit to Austria.

⁵⁴ Austrian Ministry of Justice (2023), Reply to Parliamentary Question 15859/J-NR/2023.

⁵⁵ According to §29b point 4 of the law, the members and their alternates should have a special expertise in criminal and criminal procedural law and least 15 years of relevant professional experience. Currently, the two other members are one retired former Procurator General and one representative of academia. Written contribution from the Ministry of Justice in the context of the country visit.

⁵⁶ Input from Austria for 2024 Rule of Law Report, p. 5. These, among others, cover the increased personnel costs due to wage increases, linked to inflation, as well as the filling of vacant and new positions. Furthermore, the budget reflects the general price increases and legal measures (for example increase in compensations according to the fee claim act, significant increase in contributions to the costs of defence in criminal proceedings and compensation payments for people who have been prosecuted, convicted or imprisoned for consensual same-sex sexual contact).

judges, 25 for trainee judges, 4 for public prosecutors and 44 for court staff⁵⁷. Stakeholders are generally satisfied with the available resources⁵⁸, though recruitment challenges for court staff have been reported⁵⁹. To address this, the Ministry of Justice has taken a number of initiatives to fill vacancies and strengthen long-term loyalty of judicial employees, including a widespread advertising campaign, an apprenticeship campaign, creation of a career portal for the judiciary, increasing flexible working arrangements and providing for a performance-related remuneration⁶⁰. As a result, a majority of the posts for court staff could be filled by the end of 2023⁶¹. At the Federal Finance Court, where specific challenges were identified in the past⁶², the process continues to fill existing vacancies (at the end of 2023, 42 out of 224 judges' posts were vacant), with 13 new judges having already taken up duties in 2024, while a call for 13 further judges has been launched⁶³. While, in line with recommendations of the Austrian Court of Audit, 20 positions for administrative staff were added and these posts start to be filled⁶⁴, the ratio of court staff to judges remains low compared to other courts, meaning that judges have to devote more resources to non-core tasks⁶⁵. The requirement of an approval of the Minister of Finance for the publication of any vacancy at the Federal Finance Court remains unchanged, reportedly delaying the process further⁶⁶.

The overall level of digitalisation of justice remains high, with the implementation of the 'Justice 3.0' initiative further progressing. Digitalisation of justice continues to be at a high level, particularly in civil and commercial cases, where comprehensive procedural rules are in place as well as wide-spread use of digital tools⁶⁷. Room for improvement remains in administrative cases as regards digital solutions to initiate and follow proceedings online⁶⁸, and as regards online publication of judgments⁶⁹. The implementation of the 'Justice 3.0' initiative for the fully digital handling of cases in the ordinary courts and prosecution services continues to advance, with the move to digital files concluded at 160 courts and prosecution services by the end of 2023⁷⁰. Outstanding milestones concern inter alia the digitalisation of

⁵⁷ 22 posts have been created within the Ministry of Justice and 10 within correctional institutions. Written contribution from the Ministry of Justice in the context of the country visit to Austria.

⁵⁸ Information received from the Association of Judges, Association of Prosecutors, Association of Administrative Judges, Supreme Court, Supreme Administrative Court and regional administrative courts in the context of the country visit to Austria.

⁵⁹ Information received from the Ministry of Justice and the Association of Judges in the context of the country visit to Austria.

⁶⁰ Written contribution from the Ministry of Justice in the context of the country visit to Austria.

⁶¹ Ibid.

⁶² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 6.

⁶³ These 13 judges would take up duties in 2025. Seven judges are set to retire in 2024, meaning that there will still be a net gap of at least 20 judges even with the additions foreseen in 2025. Written contribution from the Ministry of Finance in the context of the country visit to Austria.

⁶⁴ Written contribution from the Ministry of Finance in the context of the country visit to Austria.

⁶⁵ Contribution from the Association of European Administrative Judges – Austria for the 2024 Rule of Law Report, p. 13 and 17.

⁶⁶ Ibid.

⁶⁷ Figures 43-48, 2024 EU Justice Scoreboard.

⁶⁸ Figure 47, 2024 EU Justice Scoreboard.

⁶⁹ Figure 49, 2024 EU Justice Scoreboard. The Bar points out that not publishing first instance decisions, while the courts have access to them and can cite them in future decisions, can impact the equality of arms between the parties. Contribution from the CCBE – Austria for the 2024 Rule of Law Report, p. 15.

⁷⁰ More than 80% of judges and 100% of prosecutors are using the digital judicial workplace and over 1.4 million files were handled digitally. Over 500 000 hearings with eDossiers in 750 court rooms equipped for conducting hearings virtually. Input from Austria for the 2024 Rule of Law Report, p. 8 and written contribution from the Ministry of Justice in the context of the country visit to Austria.

enforcement and insolvency proceedings and of proceedings at the Supreme Court⁷¹. At the administrative courts, the progress diverges, as each regional administrative court has so far developed its own digital file management system, with the fact that administrative authorities often still use paper files constituting a further challenge⁷². The Supreme Administrative Court and the Federal Administrative Court, which already use the same digital file management system, have launched a project to improve the uniform electronic submission of files⁷³.

Certain challenges exist in terms of access to justice linked to high court fees and as regards access to a legal advice in administrative cases, with some steps being taken that aim to address the latter. The situation remains unchanged as regards the absence of a cap of court fees⁷⁴, noted also in previous Rule of Law Reports⁷⁵, which may constitute a challenge for access to justice, while for budgetary reasons no reform is envisaged⁷⁶. As regards access to justice in administrative matters, on 14 December 2023 the Constitutional Court ruled that the independence of the Federal Agency for Reception and Support Services (a federal agency set up to support asylum seekers) is not sufficiently guaranteed by law for the purpose of providing legal advice and representation thereby violating the right to an effective remedy⁷⁷. This set-up had previously been criticised by stakeholders⁷⁸ and the legislator has been given until July 2025 to reform the relevant legislation. As a consequence, on 3 July 2024 the National Council adopted an amendment to the Act on the establishment of the Federal Agency for Reception and Support Services and the Act regulating the general provisions on the procedure before the Federal Office for Immigration and Asylum⁷⁹. The Constitutional Court further decided to review the constitutionality of provisions limiting access to legal aid in administrative cases to cases which concern violations of the rights under Article 6 of the Convention of Human Rights or Article 47 of the Charter of Fundamental Rights. The Constitutional Court provisionally assumed that there could also be other cases (outside the scope of direct violations of these rights) where legal aid may be required to ensure the access to an effective remedy such as particularly complex cases or cases where personal circumstances require support to the concerned persons⁸⁰.

⁷¹ Information received from the Ministry of Justice in the context of the country visit to Austria. The Supreme Court can already handle the digital files received from the lower instances and will start a pilot project for the full digitalisation in 2024. Written contribution from the Supreme Court in the context of the country visit to Austria.

⁷² Written contribution from the regional administrative courts in the context of the country visit to Austria. Contribution from the Association of European Administrative Judges – Austria for the 2024 Rule of Law Report, p. 18. The Bar also calls for the uniformisation of digitalisation for administrative courts. Contribution from CCBE – Austria for the 2024 Rule of Law Report, p. 15.

⁷³ Written contribution from the Supreme Administrative Court for the 2024 Rule of Law Report.

⁷⁴ Court fees are calculated as a percentage of the value of the case and, in the absence of a cap on fees, can, therefore, be very high in high-value cases.

⁷⁵ 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation, p. 5 (for 2020), pp. 6-7 (for 2021), p. 9 (for 2022) and pp. 9-10 (for 2023).

⁷⁶ Information received from the Ministry of Justice in the context of the country visit to Austria.

⁷⁷ Judgment of the Constitutional Court of 14 December 2023, G 328/2022.

⁷⁸ Contribution from the CCBE – Austria for the 2024 Rule of Law Report, p. 14.

⁷⁹ Law amending the law establishing the Federal Support Agency and the law on the procedure of the Federal Agency for Asylum.

⁸⁰ Decision of the Constitutional Court of 12 December 2023, E 119/2023. The Federal Government will have the opportunity to intervene in these proceedings.

Efficiency

The overall efficiency of the justice system remains high, with continued advances in administrative cases. The average time to resolve litigious civil and commercial cases remains very low (142 days in 2022 compared to 135 days in 2021), also at second (85 days) and third instance (102 days in 2022), with a clearance rate at 101%⁸¹. In administrative cases, the positive trend from previous years has continued⁸², with the disposition time further decreasing (285 days in 2022 compared to 312 days in 2021 and 388 in 2020), and a clearance rate that remains very high at 112% in 2022⁸³, resulting in a continued reduction of the high backlog of pending cases (0.5 per 100 00 inhabitants in 2022, compared to 0.6 in 2021)⁸⁴. Austria also shows improvements in bribery cases, with the disposition time down to 164 days in first instance in 2022 (from 285 in 2021)⁸⁵.

II. ANTI-CORRUPTION FRAMEWORK

Austria has a National Anti-Corruption Strategy in place, which is accompanied by a Federal Action Plan for 2023-2025. The authorities involved in the prevention of and the fight against corruption include the Federal Ministry of Justice and its Coordinating Body on Corruption, the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (WKStA), the Federal Ministry of the Interior and its Federal Bureau of Anti-Corruption (BAK)⁸⁶ and the Criminal Intelligence Service (BK) as well as the Court of Audit. The legal framework includes relevant provisions in the Criminal Code and the Code of Criminal Procedure as well as specific legislation in the fight against corruption⁸⁷.

The perception among experts and business executives is that the level of corruption in the public sector remains relatively low. In the 2023 Corruption Perceptions Index by Transparency International, Austria scores 71/100 and ranks 10th in the European Union and 20th globally⁸⁸. This perception has significantly deteriorated over the past five years⁸⁹. The

⁸¹ Figures 6, 7 and 11, 2024 EU Justice Scoreboard.

⁸² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 10.

⁸³ Figures 8 and 12, 2024 EU Justice Scoreboard.

⁸⁴ Figure 15, 2024 EU Justice Scoreboard.

⁸⁵ Figure 23, 2024 EU Justice Scoreboard. Austria notably performs well in competition law cases (122 days average disposition time over 2013; 2020-2022). Figure 16, 2024 EU Justice Scoreboard.

⁸⁶ The Federal Act on the Establishment and Organization of the Federal Bureau of Anti-Corruption (BAK) was amended in July 2023 (by Federal Law Gazette I Nr. 107/2023) to include additional tasks for the BAK in the field of police oversight. The amendment also contains provisions which aim to increase the BAK's functional independence. The new provisions entered into force on 22 January 2024 and include the prolongation of the terms of office of the director and his/her deputies from five to ten years; the amendment of the appointment procedure for the director and his/her deputies; restriction of permissibility of secondary occupation by the director and his/her deputies and introduction of a requirement of authorisation for secondary occupation by all other staff members; and regular intervals of security checks for all staff members ("secret" or "top secret", according to position). Input from Austria for the 2024 Rule of Law Report, p. 11.

⁸⁷ Relevant legislation includes: the Federal Act on the Establishment and Organisation of the Federal Bureau of Anti-Corruption, the Federal Statute on Responsibility of Entities for Criminal Offences and the Federal Act on Extradition and Mutual Assistance in Criminal Matters. See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 6 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 8-9.

⁸⁸ Transparency International, Corruption Perceptions Index 2023 (2024), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public

2024 Special Eurobarometer on Corruption shows that 55% of respondents consider corruption widespread in their country (EU average 68%) and 17% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁹⁰. As regards businesses, 55% of companies consider that corruption is widespread (EU average 65%) and 24% consider that corruption is a problem when doing business (EU average 36%)⁹¹. Furthermore, 43% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁹², while 47% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁹³.

A new National Anti-Corruption Strategy and the 2023-2025 Action Plan were adopted.

On 11 October 2023, the Council of Ministers adopted the National Anti-Corruption Strategy (NACS) and the National Action Plan (NAP)⁹⁴. Adopted with some delay at the end of 2023, the NAP will cover the period 2023-2025. Transparency International positively evaluated the strategy as a comprehensive document⁹⁵, while other stakeholders considered that broader participation in its preparation would have been welcome⁹⁶. The results of the evaluation of the previous NACS and 2019-2020 NAP were presented at the meeting of the Anti-Corruption Coordination Committee in October 2022. The most relevant changes, with regards to the previous NACS⁹⁷ include the establishment of NACS coordinators in all participating institutions and organisations, as central contact points for NACS-related matters, the establishment of indicators as part of the definition of targets and measures to facilitate evaluation and self-monitoring, and information to the general public on progress and results shall be provided.⁹⁸ The first evaluation of the actions under the NAP 2023-2025

sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁸⁹ In 2019 the score was 77, while, in 2023, the score is 71. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); has been relatively stable (changes from 1-3 points) in the last five years.

⁹⁰ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 on Corruption (2023).

⁹¹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁹² Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

⁹³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

⁹⁴ Federal Bureau of Anti-Corruption (2023), Council of Ministers adopts National Anti-Corruption Strategy and Action Plan.

⁹⁵ Information received from Transparency International in the context of the country visit to Austria.

⁹⁶ Civil society noted that no concrete reform plan is included to improve transparency in high-risk areas, such as conflicts of interest, abuse of office, and corruption by foreign actors. Written contribution received from Antikorruptionsbegehren and Forum Informationsfreiheit in the context of the country visit to Austria.

⁹⁷ The results of the evaluation of the previous NACS and 2019-2020 NAP were presented at the meeting of the Coordinating Body on Combating Corruption in October 2022. Following the evaluation in 2022, a strategy team was set up under the leadership of the BAK, together with the Federal Chancellery, the Federal Ministry of Justice and the Federal Ministry of Arts, Culture, Public Service and Sport to incorporate the evaluation results into the new NACS and the NAP. The previous National Anti-Corruption Strategy was adopted in 2018.

⁹⁸ Input from Austria for the 2024 Rule of Law Report, pp. 11-12. The 2023-2025 Action Plan contains 120 objectives with 228 measures and 198 measurable indicators in the area of prevention as well as six objectives, 13 measures and 14 measurable indicators in the area of prosecution. Like the NACS, the 2023-2025 Action Plan is divided into fields of action: 1. Integrity Management – Promoting Conduct with

will take place in June 2025. In 2023, the BAK hosted training courses under the Network of Integrity Officers, as well as for the Federal Ministry of the Interior and for the new Compliance Officers of the Ministry and Corruption Prevention Officers of the Regional Police Directorates established in 2023⁹⁹.

The Federal Act amending the Criminal Code entered into force on 1 September 2023, extending criminal liability in corruption cases, while upcoming legislative changes relevant in the area of anti-corruption are being discussed with regard to the seizure of electronic devices¹⁰⁰. The Act includes the criminalisation of the “purchase of political mandates”¹⁰¹, extends criminal liability for bribery to also cover candidates for public office, and includes higher penalties for corruption offences. Furthermore, according to the National Council Electoral Regulations and the Electoral Regulations of the European Parliament a conviction for a corruption offence to a term of imprisonment exceeding six months, can result in the loss of eligibility for office¹⁰². As reported last year¹⁰³, stakeholders overall welcomed the reform which addresses existing loopholes¹⁰⁴. Following a ruling by the Constitutional Court in December 2023¹⁰⁵, the Ministry of Justice has drafted a proposal to regulate the confiscation of electronic devices¹⁰⁶, which both governing parties agreed to submit as an initiative motion to Parliament in June 2024¹⁰⁷. The majority of comments

Integrity; 2. Compliance Management Systems – Public Administration; 3. Reduction of structural corruption risks; 4. Promoting measures to prevent corruption; 5. Raising awareness – public; 6. Awareness-raising – training of specific target groups; 7. Implementation of the Corruption Criminal Law Amendment Act 2023 in law enforcement. Federal Bureau of Anti-Corruption (2023), National Anti-Corruption Strategy.

⁹⁹ Input from Austria for the 2024 Rule of Law Report, p. 13. In addition to these courses, three anti-corruption events were organised in 2023: the Austrian Anti-Corruption Day 2023 (topic “*Speak up – write down; The role of whistleblowing and journalism in the fight against corruption*”) for around 150 managers from federal organisations and Integrity Officers, as well as two interactive educational events with around 150 students from vocational secondary schools.

¹⁰⁰ Corruption Criminal Law Amendment Act 2023 – KorrStrÄG 2023 (244/ME).

¹⁰¹ By punishing the ‘purchase’ of political mandates, the provision aims to extend criminal liability to campaigning persons (para. 1) and persons (para. 2) who demand, accept or are promised (para. 1) or offer, promise or grant (para. 2) remuneration for themselves or a third party to influence the allocation of a mandate (§ 265a Criminal Code).

¹⁰² Sanctions generally applicable to legal entities are also amended: sec. 4 of the Federal Act on Responsibility of Entities. Input from Austria for the 2024 Rule of Law Report, p. 22. Nationalrats-Wahlordnung, NRWÖ; Europawahlordnung, EuWÖ.

¹⁰³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 11.

¹⁰⁴ Information received from Transparency International and Antikorruptionsbegehren in the context of the country visit to Austria. Transparency International particularly welcomes the extended criminal liability to candidates for office, a legal definition of “candidate”, as well as the fact that persons who are faced with a sentence of imprisonment of more than six months for a public corruption offence (Sections 304-307b CC) also lose their eligibility for office.

¹⁰⁵ On 14 December 2023, the Constitutional Court issued a judgment on the seizure of electronic devices (decision G 352/2021). It found that the current legislation concerning seizure of electronic devices infringes data protection law and the fundamental right to private life. The Ministry of Justice acknowledged that legislative changes are now needed to regulate seizures of electronic devices, in line with the guidance provided by the Constitutional Court, especially regarding prior authorisation. The Ministry of Justice stressed the need to ensure proportionality in drafting the legislation. The corresponding provisions in the Criminal Procedural Code will be repealed by 1 January 2025.

¹⁰⁶ The Criminal Procedure Amendment Act 2024 was approved by the Justice Committee of the National Council on 18 June 2024. See Austrian Parliament (2024), Mobile phone evaluation: Legislative package passes Justice Committee with votes from ÖVP and Greens.

¹⁰⁷ Information received from the Central Public Prosecutor’s Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria. The public debate started on the basis of a study by

submitted so far were critical of the proposal¹⁰⁸. Prosecutors have underlined the importance of having access to digital data, especially in corruption cases, where very few witnesses and documents are available¹⁰⁹. The Austrian Bar Association generally welcomed the proposed new regulation of the confiscation of electronic devices. At the same time, however, they also see room for improvement in order to better protect the rights of those affected. Following the initial stakeholder reactions, the consultation period has been prolonged¹¹⁰.

Investigations are proceeding with regard to high-level corruption cases related also to previous governments, while prosecutors experience particular attention with regard to specific cases. Investigations on a number of high-level corruption cases are ongoing¹¹¹. As already noted in the 2023 Report¹¹², public scrutiny linked to abrasive narrative in the media remains high, including for prosecutors' daily actions with regard to specific cases¹¹³ as well as for judges, in those cases having reached the stage of adjudication¹¹⁴. The authorities consider that a transparent narrative and structured dialogue between the political sphere and media outlets could help improve public trust in the work of the prosecution, especially on high-level cases, which attract most public attention¹¹⁵.

Two parliamentary investigative committees have examined further corruption allegations concerning political parties. As reported last year¹¹⁶, on 27 April 2023, the National Council unanimously took note of the final report of the parliamentary investigative committee tasked with examining allegations of corruption concerning a governmental political party. The final report included several recommendations and conclusions¹¹⁷. The Ministry of Justice is examining them to assess whether legislative changes are necessary¹¹⁸.

the Bar Association, which also underlines the need to uphold the rights of the accused person (Austrian Bar Association (2022), ÖRAK calls for far-reaching reforms in the safeguarding and evaluation of data and data carriers). Contribution from the CCBE – Austria for the 2024 Rule of Law Report, p. 13.

¹⁰⁸ See Austrian Parliament (2024), Law amending the criminal procedural code 2024: stakeholder contributions.

¹⁰⁹ Prosecutors underlined the practical necessity in investigations for clear regulation allowing the seizure of relevant evidence.

¹¹⁰ Der Standard (2024), Zadic wants changes on seizure of mobile phones, consultation period prolonged.

¹¹¹ In one of these cases, on 23 February 2024, the former Chancellor was found guilty for having given false testimony to a parliamentary investigatory committee during his term in office. The judgment is not final and open to appeal. For example, the 2023 Annual Report of the WKStA summaries further steps in several high-level cases. See also the press release of the WKStA of 30 March 2023 and 18 August 2023 on investigative steps in the CASAG case group.

¹¹² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 12.

¹¹³ Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption and Antikorruptionsvolksbegehren in the context of the country visit to Austria. See also closing lines of the 2023 WKStA Annual Report, where the WKStA stressed that decisions are made "in accordance with the law and work in fact; unbiased and free from media, political and other influences".

¹¹⁴ Austrian Judges Association (1 March 2024), Judges Association comments on the reporting in the criminal case against Sebastian Kurz and others.

¹¹⁵ Information received from the Ministry of Justice and from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria.

¹¹⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 13.

¹¹⁷ Report of the investigative committee regarding the clarification of allegations of corruption against members of the ÖVP government.

¹¹⁸ Information received from the Ministry of Justice in the context of the country visit to Austria. The final report recommended i.a. transparent procedures for applications for top positions (see under pillar IV), as well as the establishment of an independent federal prosecutor's office (see under pillar I) and a cooling off period for Ministers to become members of the Constitutional Court (see the paragraph on revolving doors

On 15 December 2023, two investigative committees were established to examine alleged corruption concerning political parties, which started to convene by 11 January 2024¹¹⁹. Their activities were concluded on 1 July 2024, with the submission of the final reports. On 3 July 2024, the National Council unanimously took note of the final reports of the committees, each including five parliamentary group reports¹²⁰.

Resources of the prosecution service for anti-corruption work remain stable, although additional posts could help address increasingly complex cases and burdens related to reporting obligations. In 2023, the BAK detected 66 potential cases of corruption (compared to 68 in 2022), in addition to 688 cases (638 in 2022) relating to allegations of abuse of official authority¹²¹. Regarding the outcomes of criminal proceedings against legal persons for corruption offences, since 2022 four cases led to indictments and four to discontinuation of investigation proceedings, with no conviction issued so far¹²². As of December 2023, the WKStA has 230 open investigations; 76 are ongoing large-scale cases¹²³. In terms of resources, in December 2023 the WKStA requested five additional permanent posts, while as of 2024, it employed 47 public prosecutors¹²⁴. In order to properly address the increasing complexity of cases, the WKStA is also supported by a number of financial, business and IT

below). Parliamentary groups' reports recommend i.a. setting up an absolute maximum limit for state advertising spending, and the expansion of documentation obligations. The parliamentary groups' reports are published together with the report of the investigative committee. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 13-14.

¹¹⁹ Input from Austria for the 2024 Rule of Law Report, p. 25. See Austrian Parliament (2023), COFAG Committee of Inquiry (4/A-USA XXVII. GP) since 15.12.2023; and Austrian Parliament (2023), "RED-BLUE Abuse of Power Committee of Inquiry" (5/A-USA XXVII. GP) since 15.12.2023. Austrian Parliament (2023), Two committees of inquiry into possible abuse of power. The "COFAG Untersuchungsausschuss" was about an alleged "two-tier administration due to preferential treatment of billionaires by ÖVP government members" while the "ROT-BLAUER Machtmissbrauch-Untersuchungsausschuss" concerned the "clarification of whether public funds in the area of federal law enforcement were used for improper motives" (by SPÖ and FPÖ officials). Public hearings of informants and experts before the "COFAG-Untersuchungsausschuss" had started on 6 and 7 March 2024 while those before the "ROT-BLAUER Machtmissbrauch-Untersuchungsausschuss" on 14 and 15 March 2024. Both committees concluded hearings by the beginning of June 2024. Written contribution received from the Parliament Administration in the context of the country visit to Austria.

¹²⁰ Austrian Parliament (2024), COFAG committee of inquiry and red-blue abuse of power committee of inquiry go into the finale. Austrian Parliament (2024), Report of the RED-BLUE Abuse of Power U-Committee with recommendation for Russia-U-Committee; Austrian Parliament (2024), Final report of the COFAG Committee of Inquiry is available.

¹²¹ Eight cases of alleged corruptibility (§ 304 of the Criminal Code), two cases of alleged acceptance of an advantage (§ 305 CC), and two cases of alleged bribery (§ 307 CC). In addition, the Bureau registered one case of alleged acceptance of an advantage for the purpose of exerting influence (§ 307b CC), three cases of alleged acceptance of gifts and bribery of employees or agents (art. 309 CC) and 22 cases of alleged breach of official secrecy (§ 310 CC). The remaining 28 allegations are distributed among the other cases that fall under the exclusive jurisdiction of the BAK (§4 BAK Act). Input from Austria for the 2024 Rule of Law Report, p. 24.

¹²² Data refer to the period 1 January 2022 – 31 December 2023. Input from Austria for the 2024 Rule of Law Report, p. 23.

¹²³ WKStA (2024) 2023 Annual Report. Among the 230 open cases, 30% are corruption offences, while the remaining 70% are economic crimes. 770 cases were completed in 2023, while over 1 000 new cases were opened in the same year. In 257 cases, investigation was not initiated (according to § 35c StAG), while 52 indictments against 152 defendants were brought before the court.

¹²⁴ Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria. In 2023, 44 posts were fulfilled, out of 45 assigned.

experts and has identified the need for additional resources in this respect¹²⁵. Reporting obligations are particularly heavy for the anti-corruption prosecution (see also pillar I), weighing on resources¹²⁶. As of 1 December 2023, the BAK had 161 employees¹²⁷. The cooperation between prosecution and the police continues to work well, including as regards exchange of data. The collaboration between the BAK and the EPPO is reported to be constructive¹²⁸.

Since 2022, no progress has been made on introducing rules on assets and interests' disclosure for members of Parliament. The 2023 Rule of Law Report recommended to Austria to 'introduce effective rules on assets and interests' declaration for Members of Parliament, including effective monitoring and sanctioning mechanisms'¹²⁹. As already reported last year¹³⁰, a parliamentary working group was established to follow up on the 2022 Rule of Law recommendation. The group held its last meeting in February 2023, and no further meetings or other concrete steps are currently foreseen¹³¹. Thus, as reported since 2020, members of Parliament are still not obliged to declare their assets, interests, debts, liabilities, or any other personal economic interests such as company investments, with very limited exceptions¹³². This lack of disclosure obligations is also the subject of several GRECO recommendations¹³³. A Code of Conduct for Members of the National Council and Members of the Federal Council is in place, which mostly reiterates existing legal provisions¹³⁴. When declarations are published voluntarily, there are no monitoring or

¹²⁵ The WKStA can rely on ten business experts. A procedure is open to further recruit two additional experts. Besides, 15 IT experts are available for the whole justice system and are not dedicated exclusively to the WKStA. Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria.

¹²⁶ Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria. The legislative changes adopted in December 2023 (amendments to the reporting obligations decree 2021, which entered into force on 10 December 2023) do not affect corruption investigations, being limited to rather ordinary cases.

¹²⁷ 14 of whom are on justified leave of absence or working in other organisational units outside the BAK. Input from Austria for the 2024 Rule of Law Report, p. 9. Compared to 124 as of December 2022.

¹²⁸ Information received from the BAK in the context of the country visit to Austria. According to the 2023 Annual Report (2024), no EPPO case for Austria in 2023 concerned specifically corruption. In 2023 there were three cases, whereas in 2024 there was one case pending at the BAK, which fell under the competence of the EPPO. In June 2023 the EPPO organised a workshop on the cooperation between Austrian investigative authorities and the EPPO, in which the BAK took part.

¹²⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 2. In the 2023 Rule of Law Report, the Commission concluded that no progress was made on the recommendation made in 2022.

¹³⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 14-15.

¹³¹ Input from Austria for the 2024 Rule of Law report, p. 9. The 2023 Rule of Law Report already underlined this uncertainty (pp.14-15). The parliamentary group previously discussed the recommendation at three meetings in 2022 (on 15 September, 6 October and 29 November). The Parliamentary Administration is not aware to what extent the recommendation is currently the subject of political consultations. Written contribution received from the Parliament Administration in the context of the country visit to Austria.

¹³² 2020, 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 8 (for 2020), p.11 (for 2021), p. 13 (for 2022) and p. 14 (for 2023). As reported in 2022 (p. 13), according to the Incompatibility and Transparency Act, Members of Parliament have to report certain activities (e.g. executive positions held by them in stock corporations or other kinds of employment) as well as the average monthly gross emoluments earned in a calendar year in respect of these activities to the president of the respective representative body.

¹³³ GRECO Fourth Evaluation Round – Second Compliance Report, recommendations iii – viii.

¹³⁴ Austrian Parliament (2021), Code of Conduct for Members of the National Council and Members of the Federal Council. 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 13 and p. 14.

sanction mechanisms to control their accuracy¹³⁵. Members of Parliament can consult internal guidelines in relation to gifts and other advantages, as well as the Annex 1 to the Code of Conduct related to gifts' declarations¹³⁶. However, no dedicated rules on accepting and disclosing gifts by Members of Parliament have been adopted. As a result, no progress has been made on the recommendations made in the previous years.

The Federal Chancellery has started working on an asset declaration system and Code of Conduct for Ministers. No timeline for adoption of the new asset declaration system is currently foreseen¹³⁷. Additionally, a Code of Conduct for Ministers is being drafted, which will focus on conflicts of interest¹³⁸. Since 2020, a Code of Conduct for the Prevention of Corruption in the Public Service is in place, which provides instructions to public service employees and managers on how to deal with bribery attempts, gifts and invitations, whistleblowing, lobbying, and includes examples of compliant and non-compliant behaviour¹³⁹. The Federal Disciplinary Authority is tasked to issue disciplinary findings for federal civil servants. In 2023, 380 cases were pending before the Federal Disciplinary Authority¹⁴⁰. Likewise, in 2022, 489 cases were initiated, of which 417 led to a decision or were closed¹⁴¹.

There has been no progress on strengthening the lobbying framework, which remains limited in scope. The 2023 Rule of Law Report recommended to Austria to “adopt legislation to strengthen the framework on lobbying, including on its scope, supervision and enforcement”¹⁴². In line with what was reported in previous Rule of Law Reports¹⁴³, no changes have been made so far to improve the limited scope of the lobbying legislation, which dates back to 2013¹⁴⁴. The need for reform has been underlined both by GRECO¹⁴⁵ and stakeholders¹⁴⁶, as well as by the Court of Audit in 2019, which specifically noted the lack of supervision and enforcement, as well as the limited range of information disclosed in registry¹⁴⁷. Civil society organisations consider the existing framework as limited and lacking

¹³⁵ 2020, 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 8 (for 2020), p.11 (for 2021), p. 13 (for 2022) and p. 14 (for 2023).

¹³⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 14. Additionally, the compliance unit of the Parliamentary Administration offers voluntary consulting on these topics for members of parliament. Internal guidelines were updated in October 2023.

¹³⁷ Written contribution from the Ministry of Justice following the country visit to Austria.

¹³⁸ Input from Austria for the 2024 Rule of Law Report, p. 16. See GRECO Fifth Evaluation Round Report, recommendation iii, para 67.

¹³⁹ Verhaltenskodex zur Korruptionsprävention im öffentlichen Dienst „Die VerANTWORTung liegt bei mir – EINE FRAGE DER ETHIK; oeffentlicherdienst.gv.at.

¹⁴⁰ Federal Disciplinary Authority (2023), Annual Report 2023, pp. 1-3.

¹⁴¹ Federal Disciplinary Authority (2022), Annual Report 2022, pp. 1-3.

¹⁴² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 2.

¹⁴³ 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Austria, p. 9 (for 2020); p. 12 (for 2021); p. 14 (for 2022); p. 15 (for 2023).

¹⁴⁴ Only specialist lobbying companies, in-house lobbyists, self-governing bodies and interest groups have to register and single contacts do not have to be reported as stated in 2020 Rule of Law Report, p. 9.

¹⁴⁵ GRECO Fourth Evaluation Round – Second Compliance Report, recommendation v, paras 21-23; GRECO Fifth Evaluation Round Report paras 82-87.

¹⁴⁶ Information received from Transparency International Austria and Forum Informationsfreiheit in the context of the country visit to Austria.

¹⁴⁷ For example, no publicity requirement is foreseen for contracts with lobbyists, only accessible to senior level officials. GRECO Fifth Evaluation Round Report, recommendation vi, para 85. Transparency International asks for the register to be publicly accessible.

sanctions as well as control mechanisms¹⁴⁸. No follow up has been given so far on the recommendations of a working group established in 2020, pending agreement at political level and due to concerns regarding the expected increase of administrative burdens¹⁴⁹. Overall, no progress has been made on this recommendation of the 2023 Rule of Law Report.

Some steps have been taken to introduce rules on ‘revolving doors’ for members of Government. The absence of regulation in these areas has already been reported in previous Rule of Law Reports¹⁵⁰. Revolving doors provisions remain very limited¹⁵¹ and beside the specific provisions of Constitutional law¹⁵², there is no post-employment restriction for ministers and state secretaries¹⁵³, nor an effective supervision mechanism regarding the rules in place. However, on 3 July 2024, the National Council unanimously approved a three-year cooling off period for constitutional judges. In the future, constitutional judges may not have been a member of the government, a regional government, the National Council, the Federal Council, a regional parliament or the European Parliament for three years prior to their appointment and may not have been an employee or official of a political party¹⁵⁴. The amendment represents a limited step forward in creating a revolving doors framework¹⁵⁵. Transparency International called for legislative changes to prevent ministers and state secretaries from accepting any function that includes maintaining contact with public officials for a period of one year after leaving office¹⁵⁶. As reported last year, there is currently no post-employment restriction for ministers and state secretaries: revolving doors provisions remain very limited¹⁵⁷.

¹⁴⁸ Information received from Transparency International Austria and Forum Informationsfreiheit in the context of the country visit to Austria. Transparency International Austria (2022), TI press release – Lobbying rules of the game for politics.

¹⁴⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 15. According to the Ministry of Justice, the main challenges on proceeding with a potential reform are the increased administrative burden stemming, in particular, from the need to manage the register and redacting obligations, as well as the additional reporting obligations.

¹⁵⁰ 2020, 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 8-9 (for 2020); p. 11 (for 2021); p. 14 (for 2022); pp. 15-16 (for 2023).

¹⁵¹ This was also underlined by GRECO in its Fifth Evaluation Round Report, recommendation ix, paras 122-126.

¹⁵² Former members of Government are excluded from certain positions for five years, such as in the Supreme Court, the Administrative Courts, the Supreme Administrative Court as well as the Constitutional Court.

¹⁵³ Secretaries general and ministerial advisors are subject to the Civil Service Employment Act, which includes a six months cooling off period: they may not work for any legal entity which is not subject to auditing by the Federal Court of Audit, a regional court of audit or a comparable international or foreign inspection body, and which has benefited from decisions delivered by the official in a period of twelve months before the termination of functions. This six-month cooling off period for civil servants does not apply to ministers and state secretaries. As underlined by GRECO in its Fifth Evaluation Round Report (p. 34), six months is a very short cooling-off period, considering that most GRECO members establish longer cool-off periods for PTEF (generally two years).

¹⁵⁴ A "cooling-off phase" already applies to the President and Vice-President of the Constitutional Court for period of at least five years between their appointment and one of the previous following functions: members of the government, regional government, National Council, Federal Council, a regional parliament or the European Parliament. See Austrian Parliament (2024), New in the Constitutional Committee, "Cooling-off phase" for constitutional judges, RIS, special budget for Statistics Austria.

¹⁵⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 15-16. Written contribution from the Ministry of Justice in the context of the country visit to Austria.

¹⁵⁶ Transparency International Austria (2023), Press release transparency- cooling-off is overdue!

¹⁵⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 16.

The resources of the Court of Audit have been strengthened to perform its reinforced role as independent external auditor. Following the amendments to the Political Parties' Act in July 2022, new provisions aim to increase the transparency of political party financing¹⁵⁸, and strengthen the role and tasks of the Court of Audit (ACA). As of April 2024, the ACA counts 291 full-time equivalents. Additional posts are planned by the end of the year¹⁵⁹, due to the additional tasks assigned relating to the extension of the powers and tasks under the Political Parties Act¹⁶⁰, as well as the extension of the possibilities for a minority of members of the National Council to request audits. The overall budget has also been increased: the annual budget for 2024 amounts to EUR 46.7 million (compared to 42.4 million in 2023)¹⁶¹. The ACA considers that the current staff and budget provisions allow to satisfactorily carry out its tasks¹⁶². It will exercise the new task for auditing party statements for the first time at the end of 2024, when the first party statements under the new regime since 2023 will need to be submitted¹⁶³.

Amendments to the Parliamentary Groups Funding Act establish a publicly accessible register of parliamentary groups aiming to improve transparency. The bill to amend the Parliamentary Groups Funding Act concerning the establishment of a publicly accessible register of parliamentary groups¹⁶⁴ entered into force on 15 July 2023. According to the new provision, the President of the National Council shall keep a publicly accessible list which has to contain the names of the parliamentary groups and the persons authorised to act on their behalf¹⁶⁵. As reported last year¹⁶⁶, the amended legislation also prohibits parliamentary groups to accept donations (including payments and benefits in kind, as well as living subsidies), with the exception of specific provisions¹⁶⁷. New obligations concerning the public party register also entered into force in January 2024. The definition of "party affiliated organisation" has been extended in order to broaden the scope of application by

¹⁵⁸ Federal Act on the Financing of Political Parties (Political Parties Act 2012 – Part G) was amended by the federal law published on 27 July 2022 (Federal Law Gazette I 125/2022).

¹⁵⁹ Information received from ACA in the context of the country visit to Austria. According to the ACA budget, the human resources strategy of the ACA is to count on an average of 295 full-time equivalents on an annual basis.

¹⁶⁰ As of 1 January 2023, the amendments to the Rules of Procedure of the National Council increase possibilities to request special audits by the Court of Audit. According to the new rules, such audits can still be requested by at least 20 MPs, and in case a parliamentary group consists of less than 20 members, the parliamentary group itself can submit the request if all the members agree. The limitation to a maximum three ongoing special audits is removed, although a limitation on the number of request that MPs can submit is in place. The regulations on the possibility to request special audits by the Court of Audit are laid down in § 99 of the Rules of Procedure of the National Council.

¹⁶¹ Austrian Parliament (2023), Court of Auditors: EUR 4.5 million more to tackle additional tasks.

¹⁶² Information received from ACA in the context of the country visit to Austria.

¹⁶³ Information received from ACA in the context of the country visit to Austria. Civil society noted the need to introduce a criminal offence of illegal party financing, to allow the public prosecutor's office to investigate in the event of suspicion. Information received from Forum Informationsfreiheit in the context of the country visit to Austria. See also Forum Informationsfreiheit (2022), New rules on party transparency: an overview of the draft.

¹⁶⁴ Klubfinanzierungsgesetz 1985 – KlubFG. Input from Austria for the 2024 Rule of Law Report, pp. 16-17.

¹⁶⁵ The parliamentary groups shall provide the President of the National Council with the necessary information.

¹⁶⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 16.

¹⁶⁷ Specific circumstances include e.g. particular contributions and funds granted under the Parliamentary Groups Funding Act itself, membership fees, and funds by political parties and other non-discriminatory public funds. Apart from what mentioned, the acceptance of donations is generally limited to the value of EUR 150 (cf. sec. 5a of the Parliamentary Groups Funding Act, Federal Law Gazette I no. 142/2022).

including affiliated organisations that support a political party or another affiliated organisation of that party¹⁶⁸.

Web-based reporting channels for whistleblower reports are in place. Following the transposition of the EU Whistleblower Directive in February 2023¹⁶⁹, the Federal Ministry of Justice established a web-based reporting channel in July 2023¹⁷⁰. Aside from this, the BAK's system is fully operational since August 2023: since its reporting channel was set up, 46 reports have been received as of 31 December 2023. In addition to the web-based reporting platform, reports can also be submitted by post, telephone and in person¹⁷¹. The BAK provides for guidelines and a step-by-step procedure on its website to guide the submission of reports¹⁷². The WKStA manages its own online whistleblower reporting channel already since 2013, which is reported to be working well¹⁷³. Formal coordination between the existing channel of the WKStA and the new one established under the BAK is not in place yet, while coordination is ongoing between the WKStA and the web system established under the Federal Ministry of Justice¹⁷⁴.

Public procurement and close relations between media and politics are seen as areas at high risk of corruption. Businesses' attitudes towards corruption in the EU shows that 20% of companies in Austria (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁷⁵. The Austrian Court of Audit (ACA) regularly examines areas with particularly high risks of corruption. In 2023, it published two reports on the opportunity to include corruption prevention measures in real estate transactions, and procurements linked to state-owned companies¹⁷⁶. This monitoring system also provides for the possibility of follow-up audits to monitor the implementations of ACA's recommendations¹⁷⁷. In 2023, the ACA also undertook an audit on public procurement, recommending public sector procurement to be increasingly handled by a central control point to minimise the possibility of corruption, in

¹⁶⁸ Amendment of the Federal Act on the Financing of Political Parties (§ 2).

¹⁶⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 17.

¹⁷⁰ Input from Austria for the 2024 Rule of Law Report, p. 19. The platform serves members of the Austrian justice system on two levels: as an information tool on compliance/integrity issues and as a reporting tool for corrupt practices that only affect members of the Austrian justice system. An information brochure on how to use the platform is available on the intranet of the justice system.

¹⁷¹ The reports that fall within the scope of the Whistleblower Protection Act led to 23 follow-up measures.

¹⁷² Information received from the BAK in the context of the country visit to Austria. A section for Frequently Asked Questions aims to allow people to self-assess whether they would fall under the scope of the legislation.

¹⁷³ In the period 20 March 2013 – 31 December 2023, the reporting tool of the WKStA registered a total of 16 059 cases. WKStA (2024), 2023 WKStA Annual Report.

¹⁷⁴ Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption in the context of the country visit to Austria.

¹⁷⁵ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 7 percentage points below the EU average.

¹⁷⁶ Input from Austria for the 2024 Rule of Law Report, p. 15. In the first report, the ACA audited both compliance and corruption prevention in real estate transactions of two state-owned companies (the Austrian Federal Railways company and the Austrian Post company). The audit aimed to assess the measures taken to prevent corruption as part of the general conceptual compliance management system and to assess the implementation of preventive measures. As for the second report, the ACA recommends that federal procurements should be increasingly handled by the Federal Procurement GmbH to minimise the possibility of corruption, in line with nationally agreed regulations.

¹⁷⁷ Input from Austria for the 2024 Rule of Law Report, p. 15.

line with nationally agreed regulations¹⁷⁸. When identifying sectors at high risk of corruption, civil society and the prosecution point to the links between some media outlets and the political sphere for example as regards state advertising (see pillar III)¹⁷⁹, as well as to the zoning and urban planning sector¹⁸⁰.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The right to freedom of expression is enshrined in the Constitution¹⁸¹. A new law, which will apply from September 2025¹⁸² for the first time provides for the active publication of official information and for a subjective right to access such information, together with a new constitutional provision to ensure this right¹⁸³. The Austrian Communications Authority (*KommAustria*) serves as independent regulator for audiovisual media services; its administrative body¹⁸⁴ is the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR)¹⁸⁵.

The media regulator continues to function independently and the funding for the Press Council has been increased. There have been no changes regarding the institutional setup of the independent authority *KommAustria* compared to previous editions of the Rule of Law Report¹⁸⁶, and the independent functioning is not at risk. New tasks concerning the Terrorist Content Online Regulation and the Digital Services Act have been accompanied by additional human and financial resources for *KommAustria* and RTR, which meet the regulator's suggestion¹⁸⁷. The Media Pluralism Monitor (MPM 2024) reports a continuously low risk for the independence and effectiveness of the media authority¹⁸⁸. The funding for the self-regulatory body for print media, the Press Council, has been increased by law from EUR 150 000 to EUR 230 000¹⁸⁹. According to the Press Council, this will provide relief for the next three to four years, while the amount of funding has not been linked to the inflation rate¹⁹⁰.

A new law on funding of quality journalism in print and online media has been adopted with first funds having been disbursed, while the establishment of a journalist school owned by the state still draws criticism. The new law on funding of quality journalism,

¹⁷⁸ Austrian Court of Audit (2023), Federal government to buy more through Federal Procurement GmbH. Input from Austria for the 2024 Rule of Law Report, p. 15.

¹⁷⁹ Information received from the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption and Antikorruptionsbegehren in the context of the country visit to Austria.

¹⁸⁰ Information received from Transparency International in the context of the country visit to Austria. Transparency International notes corruption risks connected to granting building permits within local communities.

¹⁸¹ Article 13 of the Fundamental State Law (*Staatsgrundgesetz*) which has constitutional rank.

¹⁸² Austrian Parliament (2024), Abolition of professional secrecy takes last hurdle in Parliament.

¹⁸³ New Article 22a of the Federal Constitutional Law (*Bundes-Verfassungsgesetz*).

¹⁸⁴ The RTR is a non-profit state-owned company, which among other things operationally supports *KommAustria*.

¹⁸⁵ Austria ranks 32nd in the 2024 Reporters without Borders World Press Freedom Index compared to 29th in the previous year.

¹⁸⁶ 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 13 (for 2021), p. 16 (for 2022) and p. 19 (for 2023).

¹⁸⁷ Information received from *KommAustria* in the context of the country visit to Austria.

¹⁸⁸ 2024 Media Pluralism Monitor, country report for Austria, p. 13.

¹⁸⁹ § 14 Law on the support of quality journalism (*Qualitäts-Journalismus-Förderungs-Gesetz*).

¹⁹⁰ Information received from the Press Council in the context of the country visit to Austria.

which was adopted in November 2023, against the backdrop of a challenging economic situation of media outlets in Austria¹⁹¹, provides for an increased annual funding of EUR 20 million for print and online media, based on the number of journalists and on special criteria like regional coverage¹⁹². Based on funding guidelines issued by *KommAustria* in January 2024, the first funds were paid out in May 2024 (for the year 2022); in the future funds will be distributed in two instalments in August and November¹⁹³. Another law, adopted in April 2023, which has established the Media Hub Austria under the ownership of the state¹⁹⁴ to provide training programmes for journalists and support for media founders and has transformed one of Austria's oldest newspapers, the *Wiener Zeitung*, into a medium focused on training and education and publishing mainly online¹⁹⁵, continues to draw criticism from stakeholders who, based on the institutional set-up, expressed concerns about potential state influence over the new training and online medium¹⁹⁶ and the alleged distortion of competition in the markets of journalism schools and newspapers¹⁹⁷. There have been no changes in the legal framework concerning transparency of media ownership nor in the high degree of media market concentration or regarding rules addressing the latter¹⁹⁸. According to the MPM 2024, media ownership transparency is at medium risk and the plurality of media providers at high risk¹⁹⁹.

Some further progress has been made although the impact of the new law increasing transparency of allocation of state advertising will still need to be seen in practice, notably on the issue of fair distribution of resources. The 2023 Rule of Law Report recommended to Austria to '[t]ake further steps to reform of the framework for the allocation of state advertising by public authorities at all levels, in particular to improve the fairness of its distribution'²⁰⁰. Concerning public spending on state advertising, in 2023, public authorities spent EUR 193 million on advertising (4% less than the previous year), of which EUR 25.8 million (or 13.4%) were paid to one media group (12.8% less than the previous

¹⁹¹ Information received from the Publishers' Association and from Presseclub Concordia in the context of the country visit to Austria.

¹⁹² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 19. The threshold for online media of 150 000 unique users per month has been criticised to exclude new innovative media; information received from Presseclub Concordia in the context of the country visit to Austria.

¹⁹³ § 21 Law on the support of quality journalism; KommAustria (2024), Funding of quality journalism: overview of results for 2022

¹⁹⁴ In addition, the company shares are held by the Chancellor.

¹⁹⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 19-20.

¹⁹⁶ Information received from Presseclub Concordia and the Press Council in the context of the country visit to Austria. The Government, on the other hand, stresses that as opposed to the former setup of the *Wiener Zeitung* there would be safeguards to protect editorial independence as also mentioned in the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 20; information received from the Federal Chancellery in the context of the country visit to Austria.

¹⁹⁷ Information received from the Publishers' Association and Presseclub Concordia in the context of the country visit to Austria.

¹⁹⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 21. The Austrian law provides for specific rules regarding the assessment of media market concentrations (§ 13 Antitrust Law (*Kartellgesetz*)) which, however, have been 'largely ineffective' (2024 Media Pluralism Monitor, country report for Austria, pp. 15-16).

¹⁹⁹ 2024 Media Pluralism Monitor, country report for Austria, pp. 15-16.

²⁰⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 2, 20-21, where the Commission acknowledged that Austria had made some progress on the recommendation made in the 2022 Rule of Law Report to reform the framework for the allocation of state advertising by public authorities at all levels, in particular to improve transparency of its distribution.

year)²⁰¹, whose publications reach an audience share of around 36%²⁰². The Court of Audit found in a Report published in February 2024 that the Federal Government, between 2019 and 2021, modified allocation schemes for State advertising prepared by specialised contractors to the benefit of media favouring the ruling parties²⁰³. It will still need to be seen whether the new law on the transparency of media cooperation and funding, adopted in April 2023 and in force since January 2024, will have an impact on such practices. The law has widened the scope of state advertising contracts which have to be publicly disclosed and, above certain sums per contract, introduced a requirement for the public authority concerned to describe the target group and how the advertising contributed to cover the public's need for information or additionally to perform an analysis of the effect of the advertising campaign²⁰⁴. There is a discussion whether this approach, combined with a strict focus on the factual need for the media campaign in question, can sufficiently ensure fairness of the distribution of advertising campaigns²⁰⁵; in this context the Government also considers the existing law on public procurement to be a relevant instrument²⁰⁶. Considering the possible impact of the new law, which, applied properly and in combination with standards of good governance, is likely also to improve the issue of fairness of distribution, some further progress has been made on the recommendation made in the 2023 Rule of Law Report.

A judgment of the Constitutional Court found the rules on the management bodies of the public service broadcaster to be unconstitutional. In October 2023 the Constitutional Court ruled as unconstitutional the composition of the management bodies of the public service media provider ORF due to a violation of the requirement of independence, given the strong rights of the Federal Government regarding that composition and the fact that the members of the governing Foundation Council (*Stiftungsrat*) that have been appointed by the Federal Government or the governments of the *Länder* (which together constitute more than half of the Council) can be dismissed if a new government is constituted²⁰⁷. The legislator must adopt a new regulation by 31 March 2025. Stakeholders raised expectations that the new regulation should lead to less political influence on the ORF (not only from the governments, but also from political parties) and should provide for more professionals in the management bodies²⁰⁸. The Federal Chancellery prepared a first draft, with negotiations on it expected in the coming months²⁰⁹. Following the publicity around the events reported last

²⁰¹ KommAustria, Visualisation of data on media transparency. The media group is Mediaprint with its publications *Krone* and *Kurier* and related media services.

²⁰² Statistik Austria (2023), Reach of Austrian daily newspapers 2021, with *Neue Kronen-Zeitung* accounting for 30% and *Kurier* for 6.3%.

²⁰³ Court of Audit (2024), Court of Audit criticises incomprehensible decisions regarding public relations work of ministries.

²⁰⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 20.

²⁰⁵ While notably the Court of Audit is of the opinion that if public authorities did a proper check for any advertising campaign based on the principles of good governance (including the check for the need for the campaign), there would not necessarily be a need for separate fairness rules (with *KommAustria* as authority responsible for collecting the information from public authorities on their advertising campaigns concurring with that position) and while the Publishers' Association considers it very difficult to find a fair distribution key, Presseclub Concordia misses clear criteria for the distribution of State advertising; information received from the Court of Audit, the Publishers' Association and Presseclub Concordia in the context of the country visit to Austria.

²⁰⁶ Information received from the Federal Chancellery in the context of the country visit to Austria.

²⁰⁷ Judgment of the Constitutional Court of 5 October 2023, G 215/2022.

²⁰⁸ Information received from Presseclub Concordia, the Press Council and the editorial board of the ORF in the context of the country visit to Austria.

²⁰⁹ Information received from the Federal Chancellery in the context of the country visit to Austria.

year which further illustrated the risks of politicisation of the public broadcaster²¹⁰, the appointments made in the last few months appear to have been free of political influence²¹¹. As of 1 January 2024, the ORF is (mainly) financed by a household fee which is considerably lower than the former fee which was linked to the possession of a TV or radio set, making the service more affordable for everyone while broadening the base of contributors²¹². The savings to which the ORF had to commit have been made through increased efficiencies and a standstill in staff reappointments, so that the content offer could be maintained²¹³. According to the MPM 2024, ‘independence of public service media’ is at medium risk²¹⁴.

With the adoption of a Freedom of Information Act, the recommendation on the reform of access to official documents was fully implemented. The 2023 Rule of Law Report recommended to Austria to ‘[a]dvance with the reform on access to official information taking into account the European standards on access to official documents’²¹⁵. In February 2024, Parliament adopted a Freedom of Information Act which for the first time provides a subjective right to information vis-à-vis public authorities and state-owned enterprises, applicable from September 2025, which was also enshrined in the Constitution²¹⁶. The law consists of two pillars, one regarding the obligation of authorities to actively publish information (with communities of a population of less than 5 000 being exempt from this obligation) and the other regarding the right to request information from them. The ordinary delay to reply to a request has been shortened from eight to four weeks (in special cases it can be prolonged for another four weeks)²¹⁷. The reaction from stakeholders ranges from very positive to sceptical, with critics pointing to the exceptions which could leave too much leeway to the authorities²¹⁸, the lack of an independent body that citizens can turn to and that can advise authorities on the application of the law and a procedure of judicial review which

²¹⁰ The editor-in-chief of the news department of ORF and the director of the ORF studio of the Lower Austria region both resigned in 2022 and 2023, facing accusations of being receptive to undue influence regarding staff allocation, respectively of having influenced the news coverage in favour of the regional governor and the ruling party in the region during the time as editor-in-chief; see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 21.

²¹¹ Information received from the editorial board of the ORF in the context of the country visit to Austria.

²¹² This aspect has been stressed by the Federal Chancellery; information received in the context of the country visit to Austria. The new household fee has been set at EUR 15.30 per month as opposed to EUR 22.45 for the former fee; in both cases this fee can be increased by an additional fee charged in some cases at the level of the regions (Futurezone (2023), FAQ regarding the new ORF fee).

²¹³ Information received from the editorial board of the ORF in the context of the country visit to Austria.

²¹⁴ 2024 Media Pluralism Monitor, country report for Austria, pp. 21-22. According to the European Parliament’s Flash Eurobarometer: News & Media Survey 2023, p. 44, 50% of the population of Austria trust public TV and radio stations (incl. online), which is slightly above the EU average of 48%.

²¹⁵ 2023 Rule of Law Report, Country chapter on the rule of law situation in Austria, pp. 2, 22, where it was said that Austria had made no progress on the recommendation made in the 2022 Rule of Law Report to advance with the reform on access to official information taking into account the European standards on access to official documents.

²¹⁶ Austrian Parliament (2024), Abolition of official secrecy takes last hurdle in Parliament.

²¹⁷ Input from Austria for 2024 Rule of Law Report, p. 27. Judicial review (which has to be decided upon within two months) is available against the formal decision denying the access to the information which must be requested and which the authority has to issue within two months, § 11 of the Freedom of Information Act (*Informationsfreiheitsgesetz*).

²¹⁸ Examples given are the provision that the request is to be denied if the request ‘obviously constitutes an abuse of the right’ (§ 9(3) of the Freedom of Information Act) and if this is necessary to prevent ‘significant economic or financial damages’ of the public body in question (§ 6(1) No. 6, Freedom of Information Act).

is perceived as too lengthy²¹⁹. The Federal Government as well as regional and local authorities plan to issue information material and to implement training courses, with the Data Protection Authority also being responsible for the provision of guidelines and training offers²²⁰. With the adoption of the freedom of information act, the recommendations made in the previous years have been fully implemented.

Challenges remain regarding the safety of journalists, online as well as offline, with the Government planning to enhance training and awareness-raising. As reported in last year's Rule of Law Report²²¹, the general climate regarding the safety of journalists remains tense²²². The Media Freedom Rapid Response project reports two physical assaults at public events (one of them also being reported by the Council of Europe Platform to promote the protection of journalism and safety of journalists²²³) since June 2023²²⁴. The creation of liaison officers within the police forces to deal with such incidents, in particular at demonstrations, has not yet led to satisfying results across the board²²⁵. There are also more and more online campaigns against (mainly female) journalists with the perpetrators not being able to be identified by the police²²⁶. As a result of newly initiated regular meetings with editors-in-chief, the Government intends to enhance training and awareness-raising and work on establishing independent legal and psychological advice to journalists²²⁷. Due to the difficulty to properly identify strategic lawsuits against public participation (SLAPPs) and a lack of awareness, there is no clarity on the number of SLAPP cases²²⁸ (see also pillar IV). The Constitutional Court has ruled on 14 December 2022 that a complete exemption of media outlets from the application of the data protection laws would be unconstitutional and has rendered the exemption void as of 1 July 2024²²⁹. While stakeholders have expressed concerns that data protection law could be used in an undue manner against journalists, notably by the launch of lawsuits against them,²³⁰ the Government has indicated that it intends, in line with constitutional and Union law requirements²³¹, to strike an appropriate

²¹⁹ Information received from Forum Informationsfreiheit, Transparency International, the Publishers' Association, the Press Council and the editorial board of the ORF.

²²⁰ Written contribution from the Federal Chancellery in the context of the country visit to Austria, p. 9.

²²¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 22.

²²² Information received from the editorial board of the ORF in the context of the country visit to Austria, whose representative spoke of a 'massive climate change' and that he would no longer wear clothing showing his affiliation with the ORF, with most other media outlets acting accordingly.

²²³ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Alert no. 200/2023. It has been the only alert published on the platform since the last Rule of Law Report.

²²⁴ European Centre for Press and Media Freedom, Mapping Media Freedom, Austria country profile. One of the assaults was committed by the bodyguard of the party leader of the FPÖ party.

²²⁵ Information received from Presseclub Concordia in the context of the country visit to Austria, which reported instances of pressure being put on journalists at demonstrations with the police forces not intervening.

²²⁶ Information received from Presseclub Concordia in the context of the country visit to Austria.

²²⁷ Information received from the Federal Chancellery in the context of the country visit to Austria. The independent legal advice would supplement the legal service provided by Presseclub Concordia.

²²⁸ One stakeholder identified two such cases in the reporting period, contribution from Presseclub Concordia for the 2024 Rule of Law Report, p. 18. This difficulty is in fact also shown by the fact that in one of these cases the Court of Appeals ordered a re-hearing at lower instance (which had dismissed the complaint), which could raise doubts about the status of the complaint as a SLAPP.

²²⁹ Judgment of the Constitutional Court of 14 December 2022, G-287/2022, G-288/2022.

²³⁰ Information received from the Publishers' Association and Presseclub Concordia in the context of the country visit to Austria.

²³¹ Notably Article 85 of Regulation (EU) 2016/679 (General Data Protection Regulation)

balance between the right to the protection of personal data and the right to freedom of expression and information²³². In May 2024, the Ministry of Justice issued a draft law which would give media outlets the possibility to deny a request for information, among others, if this is necessary and proportionate for the protection of editorial secrecy²³³. The reactions among media stakeholders range from overall positive to rather fundamental criticism, and even those who see it positively consider that this approach may not be sufficient to protect media outlets from an undue impact on their activities²³⁴. The law, with some amendments in relation to the draft based on the results of the public consultation, was adopted by Parliament in June 2024 and entered into force on 1 July 2024.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Austria is a federal republic with a bicameral parliament, composed of the National Council (*Nationalrat*) and the Federal Council (*Bundesrat*). Legislative proposals can be submitted by the Government, by members of both chambers of parliament, as well as by way of popular initiative²³⁵. The Constitutional Court carries out an ex-post constitutionality review of laws, which is possible both in concrete cases²³⁶ and as an abstract review of a law, based on appeals by the federal or a regional Government or by a third of the members of either parliamentary chamber. Several different Ombudspersons contribute to upholding fundamental rights in different areas, including the Ombudsperson Board, which functions as the National Human Rights Institution, and the Disability Ombudsperson and the Ombud for Equal Treatment, which both function as national equality bodies²³⁷.

Efforts to enhance participatory policy-making processes continue. The implementation of the project on ‘participation in the digital age’ has continued, with a comprehensive practical guide for policymakers on organising participatory processes having been published at the end of 2023²³⁸. The competent ministry has already planned connected training activities towards the end of 2024. A third phase of the project, which aims to provide the

²³² Information received from the Federal Chancellery in the context of the country visit to Austria. The Constitutional Court has stated that the “rights of freedom of expression and of information force the legislator to [...] exclude the application of certain data protection provisions, that do not comply with the specificities of journalistic activity, to data processing for journalistic purposes.” Judgment of the Constitutional Court of 14 December 2022, G-287/2022, G-288/2022, p. 67.

²³³ Ministry of Justice (2024), Draft law to amend the data protection law. The draft law also allows the media outlet to charge nine euros for any request. The draft had been published for possible comments to be made until 20 May 2024.

²³⁴ See Presseclub Concordia (2024), Statement to the draft law to amend the data protection law: While the draft law is overall considered positively, there is the danger of a ‘potential gateway for the obstruction of journalistic action through SLAPP-kind activities’, notably because the media outlet would have to decide in every single case about the necessity and proportionality. This aspect is also stressed by the Austrian Association of Newspapers and the Austrian Association of Magazines and Specialist Media in their identical statements (2024), which, however, also speak of an ‘overall positive’ draft. The public service media provider ORF and the Association of Austrian Private Broadcasters in their common statements (2024) express more fundamental criticism as in their opinion no rights of data subjects would have to apply if data are processed for journalistic purposes.

²³⁵ This requires signatures by 100 000 voters or by one sixth each of the voters in three provinces. Input from Austria for the 2020 Rule of Law Report, p. 50.

²³⁶ The review can take place ex-officio or on application by another court, an individual or a party to a case pending before an ordinary court of first instance.

²³⁷ There also is an Ombudsperson for Children and Youth.

²³⁸ Practical Guide – Participation in the Digital Age.

Austrian public administration with a digital tool for participation-processes, is scheduled to be starting in 2025²³⁹. The Austrian umbrella association of non-profit organisations has generally welcomed the cooperation with decision-makers and opportunities for dialogue, while noting the absence of a formalised framework for civil dialogue, meaning that engagement in practice depends on the individual ministries²⁴⁰. As regards the consultation of stakeholders on draft laws by the Government, a statutory standard deadline of six weeks is provided for²⁴¹, but certain instances of significantly shorter consultation periods continue to be noted²⁴² and business associations have noted room for improvement regarding the quality and stability of law-making²⁴³.

On 1 January 2024, Austria had 6 leading judgments of the European Court of Human Rights pending implementation, an increase of three compared to the previous year²⁴⁴. At that time, Austria's rate of leading judgments from the past 10 years that remained pending was at 32% (compared to 22% in 2023), and the average time that the judgments had been pending implementation was 1 year and 5 months (compared to 1 year and 3 months in 2023)²⁴⁵. The change in data is influenced by the delivery of three new leading judgments by the Court against Austria in 2023. As regards the respect of payment deadlines, on 31 December 2023 there were 3 cases in total awaiting confirmation of payments (compared to 1 in 2022)²⁴⁶. On 1 July 2024, the number of leading judgments pending implementation had decreased to five²⁴⁷.

The Ombudsperson Board continues to operate independently and has expanded its dialogue with civil society. The Ombudsperson Board, which is the National Human Rights Institution accredited with A-Status²⁴⁸, has seen a steady increase in its budget over the past

²³⁹ Information received from the Ministry for Arts, Culture, Civil Service and Sport in the context of the country visit to Austria.

²⁴⁰ Contribution from Bündnis für Gemeinnützigkeit as part of European Civic Forum, pp. 11-13.

²⁴¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 23.

²⁴² Contribution from the CCBE – Austria for the 2024 Rule of Law Report, p. 15.

²⁴³ Information received from the WKÖ in the context of the country visit to Austria. However, only 12 % of the surveyed companies perceive frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

²⁴⁴ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

²⁴⁵ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 1.

²⁴⁶ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

²⁴⁷ Data according to the online database of the Council of Europe (HUDOC).

²⁴⁸ The Global Alliance of Human Rights Institutions (GANHRI) in its decision to accredit the Ombudsperson Board with A-Status in March 2022 made certain recommendations related to the appointment procedure of the board and for ensuring diversity in this membership. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Austria, p. 24. So far, no further follow-up has been reported as regards the legislative framework. Information received from the Ombudsperson Board in the context of the country visit to Austria.

years and considers its resources to be sufficient to carry out its tasks²⁴⁹. Its recommendations are in general followed-up and implemented by the authorities²⁵⁰. In 2023, the Board received 23 124 complaints (out of which 16 655 were deemed admissible), a similar level to 2022 (23 958 complaints, out of which 16 911 admissible)²⁵¹. In addition to its annual NGO Forum organised every year on a specific topic, which focused in 2023 on poverty reduction, the Ombudsperson Board has established an ‘NGO Sounding Board’, a less formalised forum which meets quarterly to strengthen alliances between the Ombudsperson Board, other Ombudspersons and civil society organisations. This has led for instance to a coordinated submission to the country review process of the UN Committee on the Rights of Persons with Disabilities²⁵².

Considerable delays in appointments to senior positions in independent authorities have continued to occur. While a number of appointments to high-level positions in independent authorities and courts took place after considerable delays in 2023, such as for the head of the competition authority²⁵³ and the President of the Federal Administrative Court (see pillar I), other appointments remain pending, including two members of the Council on Directives (since the end of 2022 (see pillar I)). Stakeholders have long criticised the appearance of politicisation in these appointment procedures for independent authorities and publicly owned companies, as in general no justifications are provided for lengthy delays²⁵⁴. There is also continued criticism of deviations from the ranking of candidates by the selection commissions involved in the procedures²⁵⁵. While the act on the advertising of vacancies stipulates deadlines for both the advertisement and selection procedure of management positions to avoid interim appointments to top positions²⁵⁶, this does not cover the final decision-making process for positions where the Government needs to agree on the candidate to be appointed. A reform of this act has been called for in the final report from the

²⁴⁹ Contribution from the Ombudsperson Board for the 2024 Rule of Law Report, p. 2.

²⁵⁰ The weekly TV show ‘Bürgeranwalt’ with the Ombudspersons where ongoing investigations are presented is also considered to contribute to addressing issues effectively, and also includes a follow-up section where older cases are revisited. Contribution from the Ombudsperson Board for the 2024 Rule of Law Report, p. 4.

²⁵¹ An increase of complaints was noted in the areas of internal security (26.5% cases, increase by 14%) and climate and environment protection (19% of cases; increase by 42%). Ombudsperson Board (2024), 2023 Annual Report to Parliament.

²⁵² Contribution from the Ombudsperson Board for the 2024 Rule of Law Report, p. 5.

²⁵³ The position had been open since 2021 and the appointment was made in October 2023. Der Standard (10 October 2023), Government agrees on head of the national competition authority.

²⁵⁴ See e.g. the Amnesty International, epicenter.works, Ökobüro und asylkoordination österreich (2024), Joint statement on appointment at the Federal Administrative Court; Ministry of Interior (2022), Reasoning for launching the anti-corruption citizens’ initiative; and Transparency International Austria (2021), More Transparency in the appointment of top posts in state-near companies. Furthermore, the ‘Initiative Better Public Administration’ composed of experts in the field (including a former Minister of Justice), presented a set of reform proposals in 2023, identifying the untransparent allocation of key posts in the public administration based on party-political affiliation as a key issue. Initiative Better Public Administration (2023), 50 point plan for a better public administration. As regards the Federal Administrative Court, this had also been identified as an area for further examination by the Court of Audit. Court of Audit (2023), Report on the Federal Administrative Court, p. 110.

²⁵⁵ Ibid. As noted in the 2022 Rule of Law Report, the topic of political side-agreements on the allocation of top-level positions in various bodies of the public sector had drawn public attention following revelations around the so-called side-letters, allocating positions in the judiciary, public service media or state-owned companies between the coalition parties. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Austria, pp. 3-4.

²⁵⁶ Act on the advertising of vacancies, sections 5 and 12.

investigative parliamentary committee on corruption of a government party²⁵⁷ and in the citizens' initiative on anti-corruption²⁵⁸.

There have been improvements in the operating space for civil society, particularly through a reform of the tax framework for non-profit organisations. Civil society space in Austria continues to be considered as 'open'²⁵⁹. The reform of the tax framework for non-profit organisations, already noted in previous Rule of Law Reports²⁶⁰, was adopted in December 2023²⁶¹ and has been generally welcomed by civil society organisations, who had long advocated for such a reform²⁶². It notably expands the list of activities considered as non-profit for the purposes of the tax deductibility of donations, now including also human rights protection, animal welfare, education, sport and culture, and also introduced a number of administrative simplifications²⁶³. An amendment to the law on voluntary engagement which entered into force in September 2023²⁶⁴, increased financial support and simplified administrative requirements. As regards the safe space, while the general framework for CSOs to act freely and independently is in place²⁶⁵, individual instances of SLAPPs against civil society organisations²⁶⁶ have been reported, as well as questions about the proportionality of detention measures and legal action faced by climate activists related to acts of peaceful civil disobedience²⁶⁷.

²⁵⁷ Recommendations 1: Act on the advertising of vacancies – transparent procedures for applications for (top level) positions in public authorities involving independent personal selection agencies based solely on objective criteria and qualification. Austrian Parliament (2023), Report of the ÖVP Corruption Committee, p. 470.

²⁵⁸ Austrian Parliament (2024), Report of the Justice Committee on the anti-corruption citizens' initiative, p. 5.

²⁵⁹ Rating given by Civicus, Austria. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²⁶⁰ 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Austria, p. 23 and p. 25.

²⁶¹ Input from Austria for the 2024 Rule of Law Report, p. 35.

²⁶² Contribution from Bündnis für Gemeinnützigkeit as part of European Civic Forum for the 2024 Rule of Law Report, pp. 10-11. Bündnis für Gemeinnützigkeit is the association of 15 national umbrella organisations of civil society and 80 further individual organisations.

²⁶³ While some CSOs had raised last-minute concerns about certain provisions related to the loss of the non-profit status in case of violations of the legal provisions, these are considered to have been mostly addressed in the final text or to correspond to the de-facto situation before the reform. Information received from Bündnis für Gemeinnützigkeit in the context of the country visit to Austria.

²⁶⁴ Input from Austria for the 2024 Rule of Law Report, p. 27.

²⁶⁵ Contribution from Bündnis für Gemeinnützigkeit as part of European Civic Forum for the 2024 Rule of Law Report, p. 8.

²⁶⁶ Such as against SOS Balkanroute, a civil society organisation active in the field of asylum. See Amnesty International (2023), ICMPD gives in – no appeal against SOS Balkanroute in SLAPP case.

²⁶⁷ Contribution from Bündnis für Gemeinnützigkeit as part of European Civic Forum for the 2024 Rule of Law Report, pp. 8-10, which also notes that in certain instances courts have rejected applications for pre-trial detention of those concerned.

Annex I: List of sources in alphabetical order*

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Annex II: Country visit to Austria

The Commission services held virtual meetings in March 2024 with:

- Amnesty International Austria
- Anti-Corruption Citizens' Initiative
- Association of Administrative Judges
- Association of Judges
- Association of Prosecutors
- Association of Publishers
- Austrian Economic Chambers
- Bündnis Gemeinnützigkeit
- Central Public Prosecutor's Office for Combating Economic Crimes and Corruption
- Council of Directives
- Court of Audit
- Federal Bar
- Federal Chancellery
- Federal Bureau of Anti-Corruption
- Forum Informationsfreiheit
- Journalists' Union
- Media Authority (KommAustria)
- Ministry of Arts, Culture, the Civil Service and Sport
- Ministry of Justice
- Federal Ministry of Labour and the Economy
- Ombudsperson Board
- ORF
- Parliamentary Administration
- Press Council
- Presse Club Concordia
- Regional Administrative Courts
- Senior Prosecutor's Office Vienna
- Supreme Administrative Court
- Supreme Court
- Transparency International Austria

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum

- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU