

# **Legal environment and space of civil society organisations in supporting fundamental rights and the rule of law**

**Austria**

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**Authors: Wanda Tiefenbacher, Markus Möstl (reviewer)**

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# 1 Civic space developments in 2021

<b>1.1 Extension of legal review periods and scope</b>	
Area	Participation and cooperation with authorities
Topic	Participation in decision-making
Impact	Major

In Austria, the Act on the National Council's Rules of Procedure has been amended so that each legislative initiative discussed in the National Council must undergo an open consultation procedure in the future.<sup>1</sup> Previously, it was only possible to comment on ministerial drafts during the so-called "pre-parliamentary procedure" ("*vorparlamentarisches Verfahren*"). CSOs thus voiced criticism on the short *de facto* review period for reviewing draft laws in the past.<sup>2</sup> The enacted extension of the scope of the consultation procedure now allows experts and citizens to submit comments not only on proposals submitted by the competent ministry (*Ministerialentwürfe*), but also on legislative proposals by members of Parliament and committees, finalised Federal Government Draft Bills (*Regierungsvorlagen*), legislative proposals by the Federal Council (*Bundesrat*) and citizens' initiatives, for as long as the parliamentary legislative process has not been completed. The Interest Representation of Public Benefit Organisations (*Interessensvertretung Gemeinnütziger Vereine, IGO*) welcomes this development, inviting individuals and organisations to make use of insights gained through civic engagement.<sup>3</sup> This signifies a positive development for CSOs and increases civic space.

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<sup>1</sup> Austria, [Amendment to the Act on the National Council's Rules of Procedure](#), Federal Law Gazette I No. 63/2021.

<sup>2</sup> European Union Agency for Fundamental Rights (2020), [Legal environment and space of civil society organisations in supporting fundamental rights – Austria](#), January 2020, p. 5.

<sup>3</sup> Interessensvertretung Gemeinnütziger Organisationen (2021), [Parlament weiter Möglichkeiten im Begutachtungsverfahren aus](#), 20 September 2021.

<b>1.2 COVID-19 emergency fund for CSOs extended</b>	
Area	Financing framework
Topic	Funding landscape
Impact	Major

In Austria, the Federal Government made public associations (“Vereine”) eligible in its COVID-19 emergency support measures in 2020.<sup>4</sup> For this purpose, the Non-Profit Organisation Support Fund (*Non-Profit Organisation Unterstützungsfonds*) was installed and, as of 31 December 2021, has funded 679 million Euro to over 23.000 eligible organisations.<sup>5</sup> Since its establishment in mid-2020, the possibility for organisations to apply has been continuously extended. In a meeting with members of the Alliance of Public Benefit Organisations (*Bündnis für Gemeinnützigkeit*), the Federal Ministry of Art, Culture, Civil Service and Sport announced another extension until Q1/2022 and an additional 125 million Euro until the end of 2022.<sup>6</sup> The Fund is worth 1,075 billion Euro and is unique in Europe.<sup>7</sup> This signifies a positive development for CSOs and increases civic space.

<b>1.3 Limits to freedom of peaceful assembly</b>	
Area	Freedom of peaceful assembly
Topic	Equal treatment; policing practices
Impact	Major

In Austria, there have been increased reports of violations to the right to peaceful assembly. CIVICUS reported on several occasions on escalating police aggression during protests, including the use of batons, attacks with pepper spray and stepping on protesters.<sup>8</sup> Such attacks frequently occur against left-wing counter protesters at mobilisations in response to COVID-19 measures and also happened at the International Worker’s Day protest in Vienna on 1 May 2021.<sup>9</sup> In addition, in mid-2021, environmental activists began a blockade in Vienna against a large construction project involving the building of an underground tunnel underneath

<sup>4</sup> European Union Agency for Fundamental Rights (2020), [Legal environment and space of civil society organisations in supporting fundamental rights – Austria](#), January 2020, p. 3.

<sup>5</sup> Austria, Federal Ministry of Arts, Culture, Civil Service and Sport (2022), [Non-Profit Organisation Support Fund](#).

<sup>6</sup> Interessensvertretung Gemeinnütziger Vereine (2021), [Neuaufgabe des NPO Fonds: BMKÖS gibt erste Eckpunkte bekannt](#), 14 December 2021.

<sup>7</sup> Austria, Federal Ministry of Arts, Culture, Civil Service and Sport (2021), [NPO-Unterstützungsfonds bis Ende März 2022 verlängert](#), press release.

<sup>8</sup> CIVICUS Monitor Austria (2021), Excessive force at protest, [Government reluctant to involve CSOs in COVID-19 recovery plan, 25 May 2021](#).

<sup>9</sup> CIVICUS Monitor Austria (2021), [Increased police powers to crackdown on protests, attempts to limit media freedom](#), 12 April 2021.

the National Park "Donau-Auen". Reports from May 2021 showed police carrying away peaceful protesters taking part in a blockade as they "represent an unnecessary danger for all road users and emergency services".<sup>10</sup> In December 2021, reports surfaced about the Mayor of Vienna sending letters to environmental activists taking part in the blockade, including to underage activists and scientists<sup>11</sup>, requesting to leave the occupation site and threatening them with legal actions and damage claims<sup>12</sup>. Greenpeace Austria and other NGOs criticized that also organisations and individuals not involved in the blockade received threats of legal actions worth millions of Euro. *Amnesty International Austria* and other NGOs called for the City of Vienna to withdraw the threatening letters and to start dialogue.<sup>13</sup> After an unresolved arson attack on a two-storey wooden hut at the camp on 31 December 2021<sup>14</sup>, police forcefully evicted the activists and dissolved the camp in February 2022 under the order of the City of Vienna.<sup>15</sup> This was widely condemned by CSOs, particularly by members of the ruling Green party.

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<sup>10</sup> CIVICUS Monitor Austria (2021), Excessive force at protest, [Government reluctant to involve CSOs in COVID-19 recovery plan, 25 May 2021](#).

<sup>11</sup> ZackZack (2021), "[Stadt Wien droht jungen Umweltschützern mit Klage](#)", 13 December 2021.

<sup>12</sup> Der Standard (2021), "[Die SPÖ und der Stadtstraßenprotest: Autoritäre Rückzugsgefechte](#)", 18 December 2021.

<sup>13</sup> Amnesty International Austria (2021), [Klimaschutz- und Menschenrechtsbewegung sowie Wissenschaftlerin verurteilen Klagsdrohungen der Stadt Wien als Menschenrechtsverletzung](#), 15 December 2021.

<sup>14</sup> OFF News (2021), 'Regierung verspricht nach Brand Aufklärung', 31 December 2021.

<sup>15</sup> ORF News (2022), 'Wien überrascht mit Protestcamp-Räumung', 1 February 2022.

## 2 Examples of civil society contributions to the rule of law

<b>2.1 Institutionalised multi-stakeholder dialogue and cooperation</b>	
Topic	Contributing to law and policy making (including involvement in public consultations)

In Austria, CSOs are routinely being included into policy-making procedures and consultation. However, recent research found that whether or not civil society expertise is included in various stages of political decision-making (eg. invitations for dialogue, sharing expertise, giving statements) often depends on the Ministry and administrating ruling party in question.<sup>16</sup> For example, in 2021, CSOs have been included in various forms of multi-stakeholder dialogue and could contribute expertise to Austria's preparation for the new National Disability Action Plan 2022-2030<sup>17</sup>, in the creation and implementation of the National Action Plan on the Child Guarantee<sup>18</sup>, the realization and evaluation of the Roma Strategy<sup>19</sup>, or in the realization of the SDGs and Agenda 2030<sup>20</sup>. The Federal Minister of Social Affairs, Health, Care and Consumer Protection also continuously refers to the importance of including civil society, also when it comes to decision-making relating to COVID-19 measures, such as the mandatory vaccination planned for 2022.<sup>21</sup> In contrast, in early 2021, the NGO *Südwind* had criticised that when it comes to the National EU-Recovery Strategy, CSOs had not been included adequately and that only an email address was provided to which suggestions could be sent.<sup>22</sup> However, no response to suggestions was given, no statements from CSOs were made public and no public debate took place. Out of the 17 proposals *Südwind* made on the strategy, only one was accepted, five were minimally represented and eleven were disregarded.<sup>23</sup>

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<sup>16</sup> Simsa, Ruth; Mayer, Fabian; Muckenhuber, Sebastian; Schweinschwaller, Thomas (2021), [Framework conditions of Austria's Civil Society](#), Maecenata Institut, European Civic Space Observatory.

<sup>17</sup> Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (2021), [Mückstein: Umfassende, barrierefreie Teilhabe von Menschen mit Behinderungen in allen Bereichen des Lebens ist das Ziel, press release](#), 3 December 2021.

<sup>18</sup> Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (2021), [Soziale Teilhabe und Chancengleichheit für alle Kinder in Österreich](#), 15 December 2021.

<sup>19</sup> Austria, Federal Chancellery (2022), [Roma-Strategie](#).

<sup>20</sup> Austria, Federal Chancellery (2022), [Nachhaltige Entwicklung – Agenda 2030/SDGs](#).

<sup>21</sup> ORF News (2021), [Impfpflichtentwurf soll "wasserdicht" sein](#), 6 December 2021.

<sup>22</sup> Südwind (2021), [Südwind: Österreichs Vorschlag für den EU-Wiederaufbauplan fällt bei globaler Verantwortung klar durch](#), press release, 3 May 2021.

## **2.2 Re-accreditation of Ombudsperson Board with CSO support and advice**

Topic	Feeding into and supporting the work of independent authorities and bodies (e.g. judiciary, NHRI, Ombudsperson)
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In Austria, the Austrian Ombudsman Board (*Volksanwaltschaft*, AOB) is the NHRI with B-Status with the Global Alliance of National Human Rights Institutions (GANHRI) since 2011. In 2021, the AOB prepared for re-accreditation as A-Status and is supported in its efforts by 11 national CSOs including *Amnesty International Austria*, *Asylkoordination Österreich*, *Diakonie* and *SOS Mitmensch*. The CSOs published a joint statement to GANHRI for the purpose of supplementing the Board's pledge for re-accreditation.<sup>24</sup> The statement outlines possible areas of improvement for the AOB and stems from desk research and analysis, CSO consultations and expert interviews conducted by *Amnesty International Austria*. The CSOs ask GANHRI for clear recommendations on necessary reforms to be presented in the accreditation interview process and in the final evaluation report to help the AOB best fulfil its national human rights obligations.<sup>25</sup> One central finding in the statement is the necessity "to institutionalise better cooperation with civil society and other relevant stakeholders as foreseen with the Paris Principles."<sup>26</sup>

## **2.3 Anti-corruption and rule of law referendum launched**

Topic	Keeping the national anti-corruption framework operational (incl. whistle-blowers and their protection etc.)
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In Austria, a broad alliance of CSOs and initiatives started a petition for a referendum against corruption and the abuse of power in late 2021, stating that "Austria has had an unmistakable and structural problem with corruption for decades".<sup>27</sup> This Anti-Corruption and Rule of Law Referendum ("*Rechtsstaat und Anti-Korruptionsvolksbegehren*") calls on the Federal Government and the

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<sup>24</sup> Amnesty International Austria (2021), [Joint Civil Society Information to the GANHRI Sub-Committee on Accreditation concerning the review of the Austrian Ombudsman Board](#), 6 October 2021.

<sup>25</sup> Amnesty International Austria (2021), [Joint Civil Society Information to the GANHRI Sub-Committee on Accreditation concerning the review of the Austrian Ombudsman Board](#), 6 October 2021.

<sup>26</sup> Amnesty International Austria (2021), [Joint Civil Society Information to the GANHRI Sub-Committee on Accreditation concerning the review of the Austrian Ombudsman Board](#), 6 October 2021, p. 9.

<sup>27</sup> Antikorruptionsbegehren.at (2022), [Content of the Referendum](#).

Parliament to propose and pass all the necessary laws, regulations, etc., as well as the budgetary coverage, to cover topics such as integrity and decency in politics, strengthening of rule of law, strengthening the independence of the judiciary as well as investigation and control authorities, anti-corruption and transparency legislation, and media freedom and advertising corruption. The signing week is expected for early 2022. The petition comes in reaction to a series of high-level political scandals involving the ruling conservative Austrian People's Party (*Österreichische Volkspartei, ÖVP*). Throughout 2021, the party continuously publicly attacked the Public Prosecutor's Office for White-Collar Crime and Corruption (*Wirtschafts- und Korruptionsstaatsanwaltschaft, WKStA*), accusing it of conducting partisan investigations and attempting to discredit its investigative efforts.<sup>28</sup> In this context, the ÖVP planned a controversial judicial reform seeking to impose penalties for journalists quoting from leaked documents<sup>29</sup> (like the ones being presented by the WKStA during its investigations) and proposing to revoke the possibility to conduct house searches of public officials<sup>30</sup>. Both proposals were not adopted and widely condemned by CSOs, the coalition partner and the opposition parties.<sup>31</sup>

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<sup>28</sup> CIVICUS Monitor Austria (2021), [Women's Rights NGOs call for more funding; Rule of law & Anti-corruption referendum launched](#), 15 October 2021.

<sup>29</sup> CIVICUS Monitor Austria (2021), [Increased police powers to crackdown on protests, attempts to limit media freedom](#), 12 April 2021.

<sup>30</sup> CIVICUS Monitor Austria (2021), Excessive force at protest, [Government reluctant to involve CSOs in COVID-19 recovery plan, 25 May 2021](#).

<sup>31</sup> Kurier (2021), ['Machtwort im Streit zwischen Justiz und ÖVP: „An der WKStA wird nichts geändert'](#)", 19 March 2021.

## 3 Other relevant developments

### 3.1 Promising practice: E-participation tool Decidim roll-out in Austria

In Austria, the Interest Representation of Public Benefit Organisations (*Interessensvertretung Gemeinnütziger Vereine, IGO*) made efforts to bring the internationally renowned e-participation tool Decidim to the Austrian market to jointly develop positions on the preservation and promotion of civic engagement in Austria.<sup>32</sup> Decidim is an open-source democratic participation platform aiming at the facilitation of policy development. The tool allows individuals to support the planning and implementation of participatory projects in local, regional, or national governments, NGOs, and other collective institutions, using processes like crowdsourcing, exchange and cooperation, voting on projects, participatory budgeting and the creation and submission of petitions.<sup>33</sup> In early 2021, the Federal Office of the Vice Chancellor (*Büro des Vizekanzlers*) invited the IGO to make recommendations on how the government can aid CSOs during and after the pandemic.<sup>34</sup> IGO used Decidim for this request and plans to utilise it in the upcoming amendment of the Law on Volunteerism (*Freiwilligengesetz*) in 2022.<sup>35</sup> Decidim is used by city governments across Europe (Barcelona, Helsinki, Geneva, Luzern, etc.) and by the European Commission's Conference on the Future of Europe<sup>36</sup>. The Austrian roll-out promises streamlined and increased means of participation for individuals and CSOs in various decision-making processes.

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<sup>32</sup> decidim.Austria (2022), [Decidim e-participation platform](#).

<sup>33</sup> Interessensvertretung Gemeinnütziger Vereine (2021), [IGO Decidim platform](#).

<sup>34</sup> Interessensvertretung Gemeinnütziger Vereine (2021), [IGO Decidim page on Future Strategy for Public Benefit Organisations](#).

<sup>35</sup> Interessensvertretung Gemeinnütziger Vereine (2021), [Projekterfolg: Beteiligungsplattform Decidim in Österreich verankert und weiterentwickelt](#), 15 December 2021.

<sup>36</sup> European Commission (2022), [Conference on the Future of Europe](#).