

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

**Austria**

**January 2020**

**Contractor: European Training and Research  
Centre for Human Rights and Democracy (ETC  
Graz)**

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# 1 Five most significant civic space developments in 2020

## 1.1 NGO competencies in legal counselling transferred to a federal agency: category 'other'

In Austria, the Federal Ministry of the Interior (*Bundesministerium für Inneres, BMI*) **transferred responsibility** for legal counselling for asylum seekers to a federal agency ("*Staatliche Bundesagentur*").<sup>1</sup> The new Federal Agency for Care and Support Services (*Bundesagentur für Betreuungs- und Unterstützungsleistungen, BBU*) is responsible for independent legal counselling and representation, return counselling and assistance, human rights monitoring as well as translation and interpreting services. The BBU is a demerged company ("*ausgegliederte Gesellschaft*") fully owned by the Federal Government. According to the newspaper *Wiener Zeitung*, the contracts maintained with NGOs including *Volkshilfe* and *Diakonie* were voided in late February 2020.<sup>2</sup> The new agency commenced providing basic care for asylum applicants on 1 December 2020 and started counselling on 1 January 2021. NGOs criticized this move, stating that the "independence of legal counselling in asylum procedures will be history by the end of the year".<sup>3</sup> NGOs fear that the BBU will be bound to the instructions of the supervisory board, dominated by the Ministry. This puts independent legal counselling at risk.<sup>4</sup> The Federal Minister of Justice reiterated that independence will remain the foundation of legal counselling and that easier access to fair asylum procedures and legislation will be guaranteed.<sup>5</sup> This signifies a governmentalisation of civil society activities and decreases the space to operate for civil society organisations.

## 1.2 Including the third sector in COVID-19 emergency support measures: category 'financing'

In Austria, the Federal Government has made public associations ("*Vereine*") eligible in its **COVID-19 emergency support measures**. Notably, the 700 million Euro Non-Profit Organisation Support Fund (*Non-Profit Organisation-Unterstützungsfonds*) is open for non-profit organisations which benefit the public ("*gemeinnützige Organisationen*"), including social, cultural, sports, volunteering

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<sup>1</sup> Federal Ministry of the Interior, [Nehammer: Bundesagentur für Betreuungs- und Unterstützungsleistungen startet am 1. Dezember 2020](#), press statement, 1 December 2020.

<sup>2</sup> *Wiener Zeitung* (2020), [„Regierung löst NGO-Verträge für Asylrechtsberatung“](#), 28 February 2020.

<sup>3</sup> *Diakonie* (2020), [Diakonie und Volkshilfe befürchten Chaos und Stillstand im Asylverfahren](#), press release, 28 February 2020.

<sup>4</sup> *Wiener Zeitung* (2020), [„Regierung löst NGO-Verträge für Asylrechtsberatung“](#), 28 February 2020.

<sup>5</sup> Federal Ministry of Justice, [Zadic/Nehammer: „Unabhängigkeit bleibt Grundprinzip der Asylrechtsberatung“](#), press release, 30 December 2020.

or religious associations.<sup>6</sup> It was developed in consultation with various affected organisations.<sup>7</sup> The explicit goal is to support such organisations in overcoming the Corona crisis by reimbursing incurred costs in order to enable their crucial societal activities to recommence after the end of the crisis.<sup>8</sup> One vital criteria is that such organisations are legal entities registered with the government since before 10 March 2020. According to CIVICUS, the corresponding law<sup>9</sup> mentioned the word “Not- for Profit Organisation’s” for the first time in Austrian history.<sup>10</sup> This signifies a positive development and helps maintain the space to operate for civil society organisations.

### **1.3 Including NGOs in decision-making on framework for protests during COVID-19: category ‘participation in decision-making’**

In Austria, the Federal Government has increasingly included public associations and NGOs in its decision-making processes. According to the Alliance of Public Benefit Organisations (*Bündnis für Gemeinnützigkeit*), CSOs were included in deliberations on the Non-Profit Organisation Support Fund (*Non-Profit-Organisation-Unterstützungsfonds*).<sup>11</sup> Similarly, the Austrian Broadcasting Service (*Österreichischer Rundfunk, ORF*) reports that after mass protests against racism in the US in March 2020, the government called for a round table with health authorities and protest organisers to establish adequate measures to maintain the freedom of association during the pandemic.<sup>12</sup> Finally, the Minister of Climate Change invited NGO representatives to a discussion on climate-friendly economic stimulus measures in wake of the COVID-19 pandemic in May 2020.<sup>13</sup> The increased **consultation and participation of civil society organisations** increases the space to operate.

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<sup>6</sup> Federal Ministry of Arts, Culture, Civil Service and Sport, [website of Non-Profit-Organisation Support Fund \(NPO Unterstützungsfonds\)](#).

<sup>7</sup> Alliance of Public Benefit Organisations (2020), [Was lange währt, wird endlich gut: BÜNDNIS FÜR GEMEINNÜTZIGKEIT begrüßt Corona-Hilfe der Regierung für den gemeinnützigen Sektor](#), press release, 2 July 2020.

<sup>8</sup> Federal Ministry of Arts, Culture, Civil Service and Sport (2020), [Unterstützungsfonds für Non-Profit-Organisationen \(NPO\) im Überblick](#).

<sup>9</sup> Austria, Federal Law establishing a Federal Law on a Non-Profit Organization Support Fund and amending the COVID-19 Grant Review Law (20th COVID-19 Law) ([Bundesgesetz, mit dem ein Bundesgesetz über die Errichtung eines Non-Profit Organisationen Unterstützungsfonds erlassen wird und Bundesgesetz, mit dem das COVID-19-Förderungsprüfungsgesetzes geändert wird \(20. COVID-19-Gesetz\)](#)), Federal Law Gazette I No. 49, 2020.

<sup>10</sup> CIVICUS Monitor (2020), [Austria’s civic space rating upgraded](#), 15 September 2020.

<sup>11</sup> Alliance of Public Benefit Organisations (2020), [Was lange währt, wird endlich gut: BÜNDNIS FÜR GEMEINNÜTZIGKEIT begrüßt Corona-Hilfe der Regierung für den gemeinnützigen Sektor](#), press release, 2 July 2020.

<sup>12</sup> ORF (2020), [Drei Vorgaben für Großdemonstrationen](#), 8 June 2020.

<sup>13</sup> Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology (2020), [AVISO – Montag, 18.05, 11:30: Kogler und Gewessler treffen NGO-VertreterInnen](#), 17 May 2020.

#### 1.4 Anchoring civil society development in political goal-setting: category 'financing'

In Austria, the Federal Government announced in its government programme 2020-2024<sup>14</sup> the expansion of infrastructure to promote civic engagement ("*Ausbau von engagementfördernder Infrastruktur*"), for example by establishing a certified volunteering seal of approval, establishing a volunteer service centre for non-profit associations, foundations and social enterprises ("*Freiwilligenagentur*"), and developing a national strategy for volunteer management.<sup>15</sup> According to the Interest Representation of Public Benefit Organisations (*Interessensvertretung Gemeinnütziger Vereine, IGO*), some steps have already been implemented including increasing the resources of the Volunteer Recognition Fund ("*Anerkennungsfonds*"), which supports volunteer organisations in covering the costs incurred in activities helping to combat the COVID-19 pandemic.<sup>16</sup> In addition, the national parliament adopted a corresponding resolution to expand relevant infrastructure including the establishment of volunteer agencies ("*Freiwilligenagenturen*") in close cooperation with the Provinces and Municipalities, with particular regard to young and elderly persons.<sup>17</sup> Furthermore, the Alliance of Public Benefit Organisations (*Bündnis für Gemeinnützigkeit*) reports aspirations to establish a non-profit organisation satellite account in national accounts administered by Statistics Austria (*Statistik Austria*).<sup>18</sup> The Federal Government's commitment to **financing and developing civil society work** increases the space to operate of civil society organisations.

#### 1.5 Decreased review period for draft laws: category 'participation in decision-making'

In Austria, the review period for draft laws to be reviewed by institutions and individuals is intended to be at least six weeks, according to recommendations made by the Constitutional Service in the Federal Chancellery (*Verfassungsdienst im Bundeskanzleramt*).<sup>19</sup> The 2020 Activity Report of the Court of Accounts ("*Tätigkeitsbericht des Rechnungshofes Österreich 2020*") states that in 2020, 43 draft laws had review periods significantly shorter than the intended six weeks. Amnesty International Austria pointed out that for example the review period for the Ministerial draft on the Federal Law amending the Epidemics Act 1950, the

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<sup>14</sup> Federal Government of Austria, [Governmental Programme 2020-2024](#).

<sup>15</sup> Rettet die Vereinsfeste (2020), [RDV: Bundesregierung plant Servicestelle für Ehrenamtliche](#), 10 January 2020.

<sup>16</sup> IGO (2020), [Nationalrat beschließt Ausbau von engagementfördernder Infrastruktur](#), 18 May 2020.

<sup>17</sup> IGO (2020), [Nationalrat beschließt Ausbau von engagementfördernder Infrastruktur](#), 18 May 2020.

<sup>18</sup> Alliance of Public Benefit Organisations (2020), [Was lange währt, wird endlich gut: BÜNDNIS FÜR GEMEINNÜTZIGKEIT begrüßt Corona-Hilfe der Regierung für den gemeinnützigen Sektor](#), press release, 2 July 2020.

<sup>19</sup> Federal Chancellery, [website containing bulletins on review and consultation mechanisms](#).

Tuberculosis Act and the COVID 19 Measures Act<sup>20</sup> ("*Ministerialentwurf betreffend Bundesgesetz, mit dem das Epidemiegesetz 1950, das Tuberkulosegesetz und das COVID-19-Maßnahmengesetz geändert werden*") was only two weeks long.<sup>21</sup> Amnesty criticized this, stating that participation and dialogue with civil society organisations, particularly in the context of a sensitive subject like COVID-19 is vital, as various human rights must be balanced.<sup>22</sup> The Ministerial draft laid the groundwork for new COVID-19 restrictions, including curfews and no entry rules. Shortened review periods decrease the space of operation and **participation in decision-making** for civil society organisations.

## 2 Examples of promising practice

### 2.1 Reducing bureaucratic obstacles through digitalisation

In Austria, the Federal Minister of the Interior has made significant efforts to **digitalise** the association (i.e. third) sector ("*Digitalisierung des Vereinswesens*").<sup>23</sup> The goal is to make easier the bureaucratic work associated with the third sector, including address changes, registering internal elections or new roles within associations. The Minister states that associations ("*Vereine*") are vital carriers of the democratic principle and the administrative work associated with this sector shall be reduced, not least in light of reduced contact with authorities due to COVID-19. In previous years the Federal Government began its digitalisation efforts for the sector and implemented a so-called Transparency Portal ("*Transparenzportal*") to collect and make available all funding sources available for civil society organisations across the federal, regional and local government levels.<sup>24</sup>

### 2.2 Bringing NGOs together and building issue-based coalitions: category 'freedom of association'

In Austria, the COVID-19 crisis has led to intensive **coalition-building** amongst civil society and media actors. In August 2020, the Austrian Broadcasting Service (*Österreichischer Rundfunk, ORF*) started an initiative together with the NGOs *Caritas, Diakonie, Hilfswerk, Rotes Kreuz, Volkshilfe* and *Samariterbund* entitled

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<sup>20</sup> Federal Parliament, Ministerial draft on the Federal Law amending the Law on Epidemics 1950, the Law on Tuberculosis and the Law on COVID-19 Measures ([Ministerialentwurf betreffend Bundesgesetz, mit dem das Epidemiegesetz 1950, das Tuberkulosegesetz und das COVID-19-Maßnahmengesetz geändert werden](#)), 41/ME, 12 August 2020.

<sup>21</sup> Amnesty International Austria (2020), [Novelle von COVID-19-Regelungen: Fehlende Klarheit, Unpräzise Ausgestaltung](#), 28 August 2020.

<sup>22</sup> Amnesty International Austria (2020), [Novelle von COVID-19-Regelungen: Fehlende Klarheit, Unpräzise Ausgestaltung](#), 28 August 2020.

<sup>23</sup> Federal Ministry of the Interior (2020), [Innenminister Karl Nehammer forciert Digitalisierung des Vereinswesens](#), press statement, 16 September 2020.

<sup>24</sup> Federal Transparency Portal, [website introducing new transparency portal](#).

“Austria helps Austria” (“*Österreich hilft Österreich*”).<sup>25</sup> The initiative raises money for persons particularly affected by crisis-related hardships and raises awareness for the social consequences of the pandemic. Already in March 2020 the Austrian Broadcasting Service (*Österreichischer Rundfunk, ORF*) reported on several NGO-led and donation-based initiatives that seek to supplement government support services.<sup>26</sup> Such initiatives include collecting products of daily use and setting up emergency quarters for homeless persons, offering childcare services, or offering pro bono educational support to children from disadvantaged households.

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<sup>25</sup> Österreich hilft Österreich, [website about the aid project Austria helps Austria](#).

<sup>26</sup> ORF Vienna (2020), [‘NGOs besonders auf Spenden angewiesen’](#), 31 March 2020.