

# Austria | Freedom House

## POLITICAL RIGHTS: 37 / 40

### A. ELECTORAL PROCESS: 12 / 12

#### **A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4**

Executive elections in Austria are generally free and fair. The president is elected for a six-year term and has predominantly ceremonial duties. The president does, however, appoint the chancellor, who also needs the support of the legislature to govern. Austria's current president is the former head of the Green Party, Alexander Van der Bellen, who was elected after a close and controversial poll that featured a repeat of the run-off between Van der Bellen and FPÖ candidate Norbert Hofer. The run-off was repeated after the Constitutional Court established that there had been problems with the handling of postal ballots.

Following the 2017 elections to the National Council (Nationalrat), the lower house of parliament, ÖVP head Sebastian Kurz became chancellor with support of the right-wing, populist FPÖ.

#### **A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4**

Legislative elections in Austria are generally considered credible. The National Council has 183 members chosen through proportional representation at the district, state, and federal levels. Members serve five-year terms. The 62 members of the upper house, the Federal Council (Bundesrat), are chosen by state legislatures for five- or six-year terms.

Snap elections to the National Council took place in 2017, one year early, following the collapse of the coalition between the SPÖ and the ÖVP. Animosity between the two former coalition partners was reflected in an antagonistic, heavily-fought election campaign. Migration and asylum issues were particularly prominent. ÖVP leader Kurz became a proponent of some of the restrictive policies supported by the right-wing, populist FPÖ, reflecting a rightward shift in Austrian politics.

The ÖVP took 62 mandates—the most of any party but not enough for a governing majority. The SPÖ received 52 mandates, and the FPÖ took 51; the remaining votes were split between smaller parties. Voter turnout was around 80 percent.

The ÖVP formed a coalition government with the FPÖ in late 2017 under the leadership of Sebastian Kurz. The new coalition made Austria the only western European country to have a far-right party included in the government.

#### **A3. Are the electoral laws and framework fair, and are they**

## **implemented impartially by the relevant election management bodies? 4 / 4**

Austria's electoral laws and framework are fair and generally implemented impartially by the relevant bodies.

## **B. POLITICAL PLURALISM AND PARTICIPATION: 15 / 16**

### **B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4**

Austria has competitive political parties that form and operate without encountering undue obstacles. Recent years have seen the rise and fall of various competing parties and coalitions through democratic processes. The Green Party lost its seats in the National Council after failing to meet the 4 percent voting threshold in the 2017 elections, while the recently formed Pilz List entered the chamber for the first time.

### **B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4**

Opposition parties have a realistic opportunity to gain representation. Austria has frequently been governed by grand coalitions, a trend that has fostered some public disillusionment with the political process. The SPÖ had formed a grand coalition with the ÖVP in 2013 after winning a plurality of seats in that year's elections. However, following the 2017 polls, the SPÖ was pushed into the opposition after the best-performing ÖVP entered a coalition with the FPÖ.

### **B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 4 / 4**

Austrians are generally free to make their own political choices without pressure from the military, business leaders, or other groups that are not democratically accountable.

### **B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4**

The participation of Slovene, Hungarian, and Roma minorities in local government remains limited. There is little minority representation in the legislature. The number of people who have been naturalized (thus gaining certain political rights) has fallen dramatically since the establishment of a more restrictive national integration policy in 2009.

A number of political parties include support for gender equality in their platforms. In the 2017 elections, 34 percent of the members elected to the parliament were women.

## **C. FUNCTIONING OF GOVERNMENT: 10 / 12**

### **C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 4 / 4**

The freely elected president and legislative representatives work with the chancellor, vice-chancellor, and cabinet ministers to determine the policies of the government.

### **C2. Are safeguards against official corruption strong and effective? 3 / 4**

Austria has some problems with public-sector corruption, and the political class is perceived by many as corrupt. The trial against former finance minister Karl-Heinz Grasser, which commenced in late 2017, was still ongoing at the end of 2018; he is charged with bribery and embezzlement in connection with the sale of state housing in 2004. The Council of Europe's Group of States against Corruption (GRECO) has criticized Austria for weak party finance legislation, and for failing to adequately regulate lobbying and prevent corruption amongst parliamentarians.

### **C3. Does the government operate with openness and transparency? 3 / 4**

Austria's government has frequently been criticized for inadequate transparency. Official secrecy remains enshrined in the constitution. For over five years, a draft freedom of information law has been mired in parliamentary procedures, and it remained stalled in the parliament at year's end. Austria's overall legal framework on access to information, containing vague criteria for compliance and lacking a strong appeals mechanism, is weak.

## **CIVIL LIBERTIES: 56 / 60 (–1)**

## **D. FREEDOM OF EXPRESSION AND BELIEF: 14 / 16 (–1)**

### **D1. Are there free and independent media? 3 / 4 (–1)**

The federal constitution and the Media Law of 1981 provide the basis for free media in Austria, and the government generally respects these provisions in practice. However, libel and slander laws protect politicians and government officials, many of whom—particularly members of the FPÖ—have filed defamation suits in recent years. Media ownership remains highly concentrated, particularly in the provinces.

The government exerts some influence on the state broadcaster, the ORF. The FPÖ-ÖVP government was criticized throughout 2018 for increasing pressure on independent journalists. In a February Facebook post, Heinz-Christian Strache, the head of the FPÖ and vice-chancellor, directly attacked Armin Wolf, a prominent ORF journalist, and accused the broadcaster of spreading lies and propaganda. In May, former FPÖ lawmaker Norbert Steger was appointed head of the ORF's board of trustees. In an April interview, Steger had sharply criticized the ORF and threatened "to cut a third of foreign correspondents, should they not report correctly." In June, the ORF released draft social media guidelines for journalists, which directed them to

refrain from criticizing or endorsing government policies and politicians, including on their private accounts. Reporters Without Borders (RSF) condemned the guidelines for “violating not only their [journalists’] freedom of expression but also their right to inform.”

The government has increasingly shown favoritism for its preferred media outlets and taken steps to limit access for journalists and entities it views as oppositional. In September, an email written by Interior Minister Herbert Kickl’s spokesperson was leaked, which called on the ministry and the police to reduce the amount of information provided to media outlets critical of the government.

While there is no official censorship, Austrian law prohibits any form of neo-Nazism or anti-Semitism, as well as the public denial, approval, or justification of Nazi crimes, including the Holocaust.

*Score Change: The score declined from 4 to 3 due to increased pressure and verbal attacks against journalists by government officials, the release of draft guidelines by the Austrian Broadcasting Corporation directing journalists to refrain from expressing political opinions on social media, and efforts by the government to limit access for critical journalists.*

## **D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 3 / 4**

Religious freedom is constitutionally guaranteed. Austrian law divides religious organizations into three legal categories: officially recognized religious societies, religious confessional communities, and associations. Many religious minority groups allege that the law impedes their legitimate claims for recognition, and demotes them to second- or third-class status.

Foreign funding for Muslim houses of worship and imams is prohibited by a 2015 law; Orthodox Christian and Jewish groups with similarly strong links to communities abroad face no such restrictions. The FPÖ has been criticized for stoking anti-Muslim sentiment through controversial advertising campaigns. Some Muslims in Austria have told journalists that they feel the need to keep a low profile since the formation of the ÖVP-FPÖ government. In June 2018, the government announced that it would expel up to 60 imams and close seven mosques for promoting political Islam, which is prohibited under Austrian law. The imams allegedly received illegal funding from Turkey. The move was criticized as a further encroachment on the right to practice Islam in Austria. However, supporters of the decision defended it on national-security grounds, citing the fact that some of the mosques closed were associated with militant and far-right groups.

Full-face coverings were banned in 2017, which was generally interpreted as targeting women who wear burqas and niqabs (facial veils), even though very few women in Austria wear those garments.

## **D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4**

Academic freedom is generally upheld, and the educational system is free from

extensive political indoctrination.

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4**

Private discussion in Austria is generally free and unrestricted. However, there have been some difficulties related to the balance between ensuring freedom of speech, and enforcing legal prohibitions on hate speech. In June 2018, a Croatian national received a 15-month suspended sentence for performing a Nazi salute at a festival.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 12 / 12**

**E1. Is there freedom of assembly? 4 / 4**

Freedom of assembly is protected in the constitution and in practice.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 4 / 4**

Nongovernmental organizations (NGOs) operate without restrictions. In 2017, then foreign minister Sebastian Kurz strongly attacked international and other NGOs that aid migrants attempting to cross the Mediterranean, accusing them of supporting human trafficking.

**E3. Is there freedom for trade unions and similar professional or labor organizations? 4 / 4**

Trade unions are free to organize and to strike, and they are considered an essential partner in national policymaking. Around 27 percent of Austrian employees are unionized, according to 2016 figures.

**F. RULE OF LAW: 15 / 16**

**F1. Is there an independent judiciary? 4 / 4**

The judiciary is independent, and the Constitutional Court examines the compatibility of legislation with the constitution without political influence or interference.

**F2. Does due process prevail in civil and criminal matters? 4 / 4**

Due process generally prevails in civil and criminal matters. However, a scandal that unfolded throughout the year, involving Austria's intelligence apparatus, raised concerns about the potential politicization of the justice system, as well as respect for due process. In February 2018, police raided the offices of the BVT, Austria's domestic intelligence agency, at the behest of FPÖ members in control of the Interior Ministry. The pretext for the raids was the alleged abuse of office by the agency's head, Peter Gridling, who was later suspended, and several other BVT employees. However, critics assailed the raids as politically motivated. Sensitive documents were seized during the raid on the BVT's offices, including information about ongoing

investigations into far-right groups with ties to the FPÖ, and several top BVT officials were fired, leading to accusations that the Interior Ministry was attempting to change the leadership of the agency.

In May, a court reversed the suspension of Gridling. In August, a regional court in Vienna ruled that a lower court's approval for the raid on the BVT offices, as well as raids on the homes of three BVT staff members, was illegal, because the information seized could have been collected by simply requesting it from the BVT. As outrage over the raids continued, a parliamentary investigation into the scandal commenced in September.

### **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 4 / 4**

People in Austria are generally free from the illegitimate use of physical force, war, and insurgencies. However, terrorist threats are a concern.

Conditions in prisons generally meet high European standards.

### **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 3 / 4**

Some marginalized groups face difficulty exercising their human rights before the law. Strong rhetoric has been directed against refugees and migrants in recent years. Some asylum seekers can be deported while appeals are pending. During the year, the government continued to pursue policies aimed at cracking down on asylum seekers and migrants. In November 2018, the government announced proposed legislation that would reduce welfare benefits for people with poor German skills, which drew condemnation from rights groups.

LGBT (lesbian, gay, transgender, and bisexual) people face some societal discrimination. Hate crime legislation prohibits incitement based on sexual orientation. However, no law prohibits service providers from denying services on that basis. In August, reports emerged that the asylum application of a gay man from Afghanistan was denied because he did not “walk, act, or dress” like a gay man, and thus should not fear persecution in his home country. On the other hand, a gay Iraqi man's asylum application was rejected because the authorities claimed he acted “too girlish,” making his sexuality “not believable.” Rights groups denounced the decisions and the stereotypical language used to justify them, and claimed that the asylum process is discriminatory against both LGBT people and other vulnerable groups.

## **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 15 / 16**

### **G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 4 / 4**

Austrian citizens enjoy freedom of movement and choice of residence. Roma and other ethnic minorities face discrimination in the labor and housing markets. The Labor Ministry has sought to promote integration of younger immigrants by providing German-language instruction and job training.

**G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 4 / 4**

Austrians may freely exercise the right to own property and establish businesses.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 4 / 4**

In 2017, Austria's Constitutional Court ruled that same-sex marriage will be legal starting in 2019, overturning the 2009 law that permitted civil partnerships for same-sex couples. Since 2016, there are no longer restrictions on same-sex couples adopting children.

The 2009 Second Protection against Violence Act increased penalties for perpetrators of domestic violence, and authorized further punitive measures against chronic offenders.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 4**

A 1979 law guarantees women's freedom from discrimination in various areas, including the workplace. However, the income gap between men and women remains significant. According to the US State Department's 2018 *Trafficking in Persons Report*, Austria remains "a destination and transit country for men, women, and children subjected to sex trafficking and forced labor," but the government is making efforts to fight human trafficking; convictions and prosecutions for trafficking-related offenses have increased, and the government makes efforts at identifying victims among refugee and migrant populations.