

# The International Review of Constitutional Reform

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# Austria

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## I. INTRODUCTION

The year 2024 has been a notable one for Austria in terms of constitutional reform. Following a period of considerable restraint regarding far-reaching constitutional amendments, several rather substantial changes were implemented in the final year of the 27<sup>th</sup> legislative period, which lasted from 23 October 2019 until 23 October 2024. A significant landmark in Austrian constitutional history was marked this year with the long-awaited enactment of the Freedom of Information legislative package<sup>1</sup>, a legislative measure that has been repeatedly announced in the prior reports,<sup>2</sup> yet up until the year 2024 never materialized. Its enactment led to a comprehensive restructuring of fundamental constitutional culture with its entry into force in September 2025. Moreover, it extended the Austrian guarantees of fundamental rights by incorporating a new right of access to information

All constitutional amendments of 2024 were implemented ahead of the elections of the first chamber of the Austrian Parliament, the National Council, at the end of September 2024. These elections resulted in a restructuring of parliament, culminating in the right-populist Freedom Party (FPÖ) securing the most seats in parliament for the first time in the country's electoral history.<sup>3</sup> However, after long negotiations, the FPÖ did not end up forming a government due to the lack of will for sufficient compromises with the Austrian People's Party (ÖVP). These developments paved the way for the second strongest party, the conservative ÖVP, to provide the Federal Chancellor again and to form Austria's first three-party coalition together with the Social Democrats (SPÖ) and the Liberal Party (NEOS) in February 2025.<sup>4</sup>

\* The authors would like to thank Marianne Radinger for her valuable assistance in researching for this report.

<sup>1</sup> Federal Law Gazette I No. 5/2024.

<sup>2</sup> See the reports of the last years Susanne Gstöttner and Konrad Lachmayer, 'Report: Austria' in Luís Roberto Barroso and Richard Albert (eds), *The 2020 International Review of Constitutional Reform* (2021) 21, 21-22; Susanne Gstöttner and Konrad Lachmayer, 'Report: Austria' in Luís Roberto Barroso and Richard Albert (eds), *The 2021 International Review of Constitutional Reform* (2022), 20, 21; Konrad Lachmayer and Susanne Gstöttner, 'Report: Austria' in Luís Roberto Barroso and Richard Albert (eds), *The 2022 International Review of Constitutional Reform* (2023), 36, 37-38; Konrad Lachmayer and Eleonóra Wagenknecht, 'Report: Austria' in Luís Roberto Barroso and Richard Albert (eds), *The 2023 International Review of Constitutional Reform* (2024), 32, 34.

<sup>3</sup> Konrad Lachmayer, 'Austria's Populist Turn: Constitutional Conventions, Federalism and Resilience' (*VerfBlog*, 16 January 2025) <<https://verfassungsblog.de/austrias-populist-turn>> accessed 20 March 2025.

<sup>4</sup> See section IV. Looking Ahead for further discussion.

## II. PROPOSED, FAILED, AND SUCCESSFUL CONSTITUTIONAL REFORMS

### A. OVERVIEW

In 2024, a significant increase in substantive constitutional reforms compared to the years prior could be observed. Unlike in previous years, many of the constitutional amendments took place within the main document of the Austrian Constitution, the Federal Constitutional Act (F-CA, *Bundes-Verfassungsgesetz*)<sup>5</sup>, and, moreover, reached further than before.

The most prominent of these changes was the abolition of the long-standing principle of official secrecy, which dates back to the days of the Austrian monarchy, and the introduction of a Freedom of Information principle, creating a framework for transparency through the adoption of a new fundamental law.<sup>6</sup> In addition to this landmark reform, several other constitutional amendments were passed, some of which also meant to strengthen transparency and institutional integrity. These included new rules on data processing by legislative bodies, which were introduced as a response to a recent case of the Court of Justice of the European Union<sup>7</sup>, and an extension of the cooling-off period for judges of the Austrian Constitutional Court, aimed at preventing potential political conflicts of interest.<sup>8</sup> In addition, some structural reforms were passed to clarify the allocation of competencies between the federation and the states (*Länder*), as well as several other comparably smaller constitutional amendments.

### B. THE FREEDOM OF INFORMATION ACT AND A NEW FUNDAMENTAL LAW

After about a decade of preparation, discussion, and postponement, 2024 marks the year in which the long-awaited Freedom of Information (FOI) legislative package was finally passed.<sup>9</sup> At the heart of this debate lies the fundamental question of how to deal with

<sup>5</sup> Bundes-Verfassungsgesetz, Federal Law Gazette No. 1/1930 as last amended by Federal Law Gazette I No. 89/2024.

<sup>6</sup> 2238 d.B. 27<sup>th</sup> legislative period, d.B. is short for "der Beilagen" and means the supplements to the protocols of the National Council.

<sup>7</sup> IA 3848/A 27<sup>th</sup> legislative period, 2; IA is short for *Initiativantrag* and refers to bills by at least five members of the National Council.

<sup>8</sup> IA 4099/A 27<sup>th</sup> legislative period, 5.

<sup>9</sup> Federal Law Gazette I No. 5/2024.

access to information from public authorities. Up until now, Austria historically adhered to the strict so-called principle of official secrecy (*Amtsverschwiegenheit*), codified in Art. 20 para. 3 F-CA, which dates back to the times of the Austrian monarchy and served to professionalize the federal administration. This principle obliges public authorities to maintain secrecy about all information acquired in their official capacity if such confidentiality is required in the interest of safeguarding public peace, order and security, national defense, foreign relations, the economic interest of a public corporation, the preparation of a decision, or the predominant interest of the parties. Nevertheless, the Austrian Constitution already provides a right to information in Art. 20 para. 4 F-CA, which is, however, restricted to persons with legitimate legal interests in obtaining the respective information (*Auskunftsrecht*) and, other than that, to parties in concrete administrative procedures (*Akteneinsichtsrecht*). This gradual approach to the now-implemented transparency model was furthermore continued with the introduction of Art. 20 para. 5 F-CA which stipulates a publication obligation for studies, expert opinions, and surveys alongside the costs for each by the respective administrative bodies involved. This provision was already implemented in 2022<sup>10</sup> and may only be circumvented for the secrecy reasons set out in Art. 20 para. 3 F-CA.<sup>11</sup>

The 2020-2024 governmental program of the coalition government of the ÖVP and the Green Party (*GRÜNE*)<sup>12</sup> promised a paradigm shift towards transparency. After prolonged negotiations especially with the *Länder*, the local municipalities, and other government-affiliated stakeholders, the constitutional amendment abolishing *Amtsverschwiegenheit* while replacing it with a new fundamental right of access to information was passed in early 2024.<sup>13</sup> This shift only entered into force on 1 September 2025, granting governmental authorities as well as government-affiliated companies the necessary time to prepare relevant structures and procedures to comply with the FOI principle.

The FOI principle was implemented constitutionally in Art 22a F-CA and thereby repealed Art. 20 para. 3 to 5 F-CA, regarding the principle of *Amtsverschwiegenheit*. This new provision stipulates, on the one hand, a general obligation for public bodies to proactively publish information (para. 1) and, on the other hand, guarantees an enforceable right of access to government-held information for everybody (para. 2).<sup>14</sup> The corresponding statutory FOI act operationalizes these principles e.g. by outlining procedural rules for accessing information. Public authorities must disclose government documents, reports and contracts of public interest. Individuals can request access to non-public information, which then is to be provided generally within four weeks. In principle, the grounds for refusing to provide information remain like those under the old regime of official secrecy mentioned above, but the new fundamental right now

10 Federal Law Gazette I No. 141/2022.

11 See for further details regarding the 2022 amendment Lachmayer and Gstöttner 2023 (FN 3) 37.

12 Bundesregierung, *Aus Verantwortung für Österreich: Regierungsprogramm 2020-2024* (2020) <chrome-extension://efaidnbmnnibpcajpcglclefindmkaj/https://www.dievolkspartei.at/Download/Regierungsprogramm\_2020.pdf> accessed 20 March 2025.

13 Federal Law Gazette I No.5/2024.

14 Peter Bußjäger, 'Art 22a B-VG' in Peter Bußjäger and Marco Dworschak (eds) *Informationsfreiheitsgesetz* (Jan Sramek Publishing 2024) 14-32.

requires a thorough proportionality test to be carried out in the event of a desired refusal.

At the core of this reform certainly is the new fundamental right of access to information. Prior under the system of *Amtsverschwiegenheit*, individuals had to justify their legal interest in obtaining information. Now, the new fundamental right applies universally, and no further explanation is needed for granting access. The dual system of proactive publication and reactive disclosure upon request is a defining feature of this new ruleset. However, to avoid excessive burdens on smaller municipalities, communities with under 5000 residents are exempt from the proactive transparency obligation, while still falling under the reactive disclosure requirement. This exception caused disagreements with some of the opposition parties, saying that it could disadvantage a large part of Austria's rural population.<sup>15</sup> As a digital solution to the proactive publication obligation, the website data.gv.at was set up, which creates a new information register for the administration.<sup>16</sup>

Altogether, the Austrian Freedom of Information reform of 2024 corrects a long-standing deficit and at least creates a necessary link to European minimum benchmarks regarding modern open government standards.

## C. DATA PROCESSING BY LEGISLATIVE BODIES

The parliament introduced a new concept of data protection concerning the legislative branch, which, besides the parliament itself in Art. 30a F-CA, also includes amendments regarding the auxiliary bodies, namely the Austrian Court of Audit (*Rechnungshof*)<sup>17</sup> in Art. 128 F-CA and the Austrian Ombudsman Board (*Volksanwaltschaft*) in Art. 148j F-CA.<sup>18</sup> With this amendment, the constitutional legislator reacted to the ruling of the Court of Justice of the European Union (CJEU) of 16 January 2024, confirming the applicability of European data protection law to parliamentary activities.<sup>19</sup>

This constitutional amendment was also accompanied by adaptations partly on a constitutional level of the National Council's Rules of Procedure Act, the Information Regulation Act and the Data Protection Act<sup>20</sup> to comply with the General Data Protection Regulation (GDPR) as well as the subsequent establishment of a new data protection authority in the Austrian Parliament (*Parlamentarisches Datenschutzkomitee*), which acts as a supervisory body for data protection matters.<sup>21</sup> While it remains unclear how this parliamentary data protection committee fits into the traditional separation of powers concept, from an academic perspective it seems evident to qualify this authority as a fourth branch institution protecting democracy.<sup>22</sup>

15 See the parliamentary communication No. 68/2024 <https://www.parlament.gv.at/aktuelles/pk/jahr\_2024/pk0068#XXVII\_I\_02238> accessed 20 March 2025.

16 See, for further detail, the website <www.data.gv.at> accessed 20 March 2025.

17 The Supreme Audit Institution of the Republic of Austria.

18 Federal Law Gazette I No. 68/2024.

19 CJEU16.1.2024, C-33/22 *Österreichische Datenschutzbehörde* [2024] ECLI:EU:C:2024:46, 43.

20 Federal Law Gazette I No. 70/2024.

21 See Section 35a of the Data Protection Act as amended by Federal Law Gazette I No. 70/2024; see, also, the parliamentary communication No. 627/2024 <https://www.parlament.gv.at/aktuelles/pk/jahr\_2024/pk0627#XXVII\_A\_03848> accessed 20 March 2025.

22 Mark Tushnet, *The New Fourth Branch. Institutions for Protecting Constitutional Democracy* (CUP 2021).

## D. COOLING-OFF-PERIOD FOR CONSTITUTIONAL COURT JUDGES

In accordance with the fundamental principle of separation of powers, the Austrian Constitution stipulates incompatibility rules to safeguard the independence of the Austrian Constitutional Court (ACC). Judges of the ACC cannot simultaneously hold positions in the federal government, a state government, the National Council, the Federal Council, a state parliament, or the European Parliament and even employment or official functions in political parties are strictly prohibited.<sup>23</sup> For the president and vice president of the ACC, a cooling-off period has already been in place for about a hundred years<sup>24</sup>, which first amounted to four years and was later increased to five,<sup>25</sup> preventing individuals who recently held these high positions from assuming the key judicial roles.

The extension of this cooling-off period to all members of the ACC was discussed when the case of a former Minister of Justice, who was appointed as a member to the ACC shortly after leaving government in 2018, raised concerns about the proximity between politics and the judiciary. In 2021, this judge became the subject of criminal investigations for alleged misuse of authority, and private messages that surfaced in this context called into question his impartiality, particularly in politically sensitive cases. As a result, he faced recusals in multiple proceedings and ultimately resigned from office, triggering a broader debate on institutional safeguards and political neutrality.<sup>26</sup>

A new constitutional amendment was, thus, passed, finally extending the cooling-off period to all other members and substitute judges of the ACC, albeit for a shorter period of only three years.<sup>27</sup> With this measure, the legislator aims to further strengthen judicial independence and enhance the public's trust in the ACC as an impartial institution, as this reduces potential conflicts of interest and avoids political influence over constitutional adjudication. By introducing this three-year cooling-off-period for all members of the ACC, Austria has taken a proactive step to prevent similar controversies in the future. This constitutional amendment was welcomed unanimously in parliament, which underlines the relevance and omnipresence of the issue behind it.<sup>28</sup>

## E. OTHER SUCCESSFUL CONSTITUTIONAL AMENDMENTS

A particularly surprising constitutional amendment in 2024 reintroduced the instrument of contractual spatial planning (*Vertragsraumordnung*) by elevating it to a constitutional level.<sup>29</sup> This marked a shift from existing constitutional doctrine. In 1999, the ACC

<sup>23</sup> Mathias Möschel, *Ex-Ministers as Constitutional Judges* (OUP 2025)

<sup>24</sup> See, 2<sup>nd</sup> Federal-Constitutional Amendment, Federal Law Gazette No. 392/1929. 25 Federal Law Gazette I No. 27/2007.

<sup>26</sup> See in this regard, for example, Manfred Seeh and Anna Thalhammer, 'Brandstetter und Pilnacek beschuldigt', *Die Presse* (26 February 2021) <<https://www.diepresse.com/5942890/brandstetter-und-pilnacek-beschuldigt>> accessed 20 March 2025.

<sup>27</sup> Federal Law Gazette I No. 88/2024.

<sup>28</sup> See the parliamentary communication No. 770/2024 <[https://www.parlament.gv.at/aktuelles/pk/jahr\\_2024/pk0770#XXVII\\_A\\_04099](https://www.parlament.gv.at/aktuelles/pk/jahr_2024/pk0770#XXVII_A_04099)> and 777/2024 <[https://www.parlament.gv.at/aktuelles/pk/jahr\\_2024/pk0777#XXVII\\_A\\_04099](https://www.parlament.gv.at/aktuelles/pk/jahr_2024/pk0777#XXVII_A_04099)> both accessed 20 March 2025.

<sup>29</sup> Federal Law Gazette I No. 89/2024.

annulled such a particular concept of contractual spatial planning because the enactment of spatial planning regulations as sovereign acts could not be contingent upon prior private-law agreements.<sup>30</sup> By now, 25 years after the ACC's decision, stipulating this possibility directly on a constitutional level, the legislator essentially placed such arrangements beyond constitutional review. One might ask whether such an amendment resulted in the strengthening or rather the weakening of the rule of law in spatial planning.

Many so-called individual constitutional provisions in statutory law have been enacted in legislative acts besides the constitutional amendments mentioned above. The underlying rationale for them lies in potential conflicts with existing constitutional law. One set of these constitutional provisions concerned the so-called competence coverage clauses (*Kompetenzdeckungsklauseln*). Articles 10 to 15 F-CA contain the main division of legislative and executive powers between the Federation and the *Länder*.<sup>31</sup> For new legislation that does not fall within the (exclusive) competence of the federal government, a standard governmental practice is to include a constitutional provision within the statutory act that defines such competence for the specific area in question. Such *Kompetenzdeckungsklauseln* can be found in several statutory acts, for example, concerning renewable energy<sup>32</sup> and agricultural and forestry vocational training.<sup>33</sup>

The allocation of competences was also clarified in other ways: Art. 11 para. 1 No. 3 F-CA elucidated the assessment of taxes under competence law regarding vacancies and underutilization of so-called "public housing" by merely specifying the wording of the provision. Legislation pertaining to this matter is to be the subject of the federal government, while legal administration is to be the responsibility of the *Länder*.<sup>34</sup>

There have also been minor changes to constitutional provisions in other statutory acts, such as the so-called Home Victims' Pension Act which clarifies that retroactive pension payments or lump-sum compensation payments to home victims will not result in a reduction of social benefits.<sup>35</sup>

## F. PROPOSED CONSTITUTIONAL AMENDMENTS

Among the proposed but ultimately not adopted constitutional initiatives in 2024 was the "No NATO Membership" (*Kein NATO-Beitritt*) popular initiative (*Volksbegehren*),<sup>36</sup> which has been submitted responding to the security discourse following Russia's full-scale invasion of Ukraine. The proposal aimed to explicitly prohibit NATO membership and found some political resonance, particularly among FPÖ-aligned circles. It was, however, harshly criticized as legally redundant, because Austria's longstanding neutrality is already enshrined

<sup>30</sup> ACC Decision G77/99.

<sup>31</sup> On the allocation of powers in the Austrian Constitution see Manfred Stelzer, *The Constitution of the Republic of Austria: A Contextual Analysis* (Hart Publishing 2022), 141ff.

<sup>32</sup> Erneuerbare-Wärme-Gesetz (Renewable Energy Act), Federal Law Gazette I No. 8/2024.

<sup>33</sup> Land- und Forstwirtschaftliches Berufsgesetz (Agricultural and Forestry Professions Act) Federal Law Gazette I No. 42/2024.

<sup>34</sup> Federal Law Gazette I No. 47/2024.

<sup>35</sup> Heimopferrentengesetz (Home Victims' Pension Act), Federal Law Gazette I No. 69/2017 as amended by Federal Law Gazette I No. 15/2024.

<sup>36</sup> 2546 d.B. 27<sup>th</sup> legislative period.

in constitutional law and any move towards a NATO accession would require a constitutional amendment anyway.<sup>37</sup>

Furthermore, the *SPÖ* proposed an expansion of Austria's catalog of fundamental rights to include explicit social rights.<sup>38</sup> This has been an ongoing debate since the establishment of the Austrian Constitution in 1920 calling for constitutional guarantees of rights such as access to housing, healthcare, and social security. The initiative showed a renewed interest in constitutionalizing social protection.<sup>39</sup>

Many of the reforms proposed – either through legislative initiatives or by passing a resolution calling for the government to draft such a bill – have not been decided yet either because deliberations have not been taken up yet or because the topic has been adjourned. Although they cannot be classified as “failed” proposals, many of them were not dealt with within this legislative period due to lacking political support from the government; they simply “expired” when the legislative period came to an end with the 2024 elections of the new National Council.

### III. THE SCOPE OF REFORMS AND CONSTITUTIONAL CONTROL<sup>40</sup>

#### A. UNAMENDABLE CONSTITUTIONAL PROVISIONS

Austrian constitutional law is set up as a two-level structure distinguishing between ordinary constitutional law and basic principles of constitutional law.<sup>41</sup> These principles at the highest level of constitutional law include democracy, the rule of law, federalism, human rights, separation of powers and the republican principle (rejecting the reestablishment of a monarchy). While all changes in constitutional law require a higher attendance and voting quora in the National Council, changes affecting these basic principles additionally require a referendum to be held. However, there are no unamendable constitutional provisions in Austrian constitutional law. None of the proposed or successful reforms of 2024 constituted such a total revision of the Austrian Constitution. Hence, the constitutional reforms constitute amendments to the constitution rather than dismemberments.<sup>42</sup>

#### B. LEGISLATIVE OVERSIGHT

The constitutional amendments of 2024 took the same path as regular legislative acts, including their assignment to one of the National Council's committees for further discussion. These committees are set up at the beginning of each legislative period to deal with different subjects, such as the constitutional committee for constitutional matters.

<sup>37</sup> See the parliamentary communication No. 930 [https://www.parlament.gv.at/aktuelles/pk/jahr\\_2024/pk0930#XXVII\\_I\\_02546](https://www.parlament.gv.at/aktuelles/pk/jahr_2024/pk0930#XXVII_I_02546) accessed 20 March 2025.

<sup>38</sup> IA 3685/A 27<sup>th</sup> legislative period.

<sup>39</sup> See the parliamentary communication No. 770 <[https://www.parlament.gv.at/aktuelles/pk/jahr\\_2024/pk0770#XXVII\\_A\\_03685](https://www.parlament.gv.at/aktuelles/pk/jahr_2024/pk0770#XXVII_A_03685)> accessed 20 March 20205.

<sup>40</sup> With regard to unamendable constitutional provisions, legislative oversight and constitutional review, please take into consideration the reports of the last years Gstöttner and Lachmayer 2021, Gstöttner and Lachmayer 2022, Lachmayer and Gstöttner 2023, Lachmayer and Wagenknecht 2024 (FN 3).

<sup>41</sup> Harald Eberhard and Konrad Lachmayer, ‘Constitutional Reform 2008 in Austria’ (2008) ICL Journal 112, 116.

<sup>42</sup> Richard Albert, *Constitutional Amendments: Making, Breaking, and Changing Constitutions* (OUP 2019) 76-94.

They assess the proposed amendment and propose changes before the legislative initiative is put to a vote in the National Council and subsequently forwarded to the Federal Council. The coalition of the governing parties holds a majority in these committees, just like in the subsequent vote in the National Council itself. As the two ruling parties did not have a two-thirds majority in Parliament, they needed the votes of some opposition parties to pass constitutional amendments, thus sometimes requiring a higher degree of compromise.

Frequently, drafts not supported by the governing parties will be deliberated in the committees but will ultimately keep being adjourned and are never formally dealt with. These drafts “expire” at the end of a legislative period and usually will not be taken up again in the next period. It remains to be seen, whether and which drafts the newly elected National Council might take up again in the new legislative period.

Another form of oversight for proposed constitutional amendments during the legislative process comes through the pre-parliamentary public review process initiated for all bills drafted by the government. During this step, stakeholders, NGOs, any organizations involved, and the public could give statements on the proposals. In constitutional matters, the constitutional service (*Verfassungsdienst*) – a department of the Federal Chancellery focused on constitutional issues – will be involved. Both forms of oversight are not legally required but have been observed as part of a decades-long state practice.<sup>43</sup>

Some of the constitutional amendments proposed were put before Parliament not as governmental bills but by individual MPs of the governing parties as an initiative motion (*Initiativantrag*), meaning no pre-parliamentary review process is required.

#### C. CONSTITUTIONAL REVIEW

The constitutionality of all legislative acts can be reviewed by the Austrian Constitutional Court (ACC) after they have been implemented. The ACC has assumed the competence to subject even laws at a constitutional level to its *ex post* scrutiny to detect any violation of such provisions against the higher-ranking basic principles of the Austrian Constitution. The Court initiates the proceedings *ex officio* only in cases where it would have to apply the relevant law in a pending case. Other than that, it will only decide upon the constitutionality of a law following a motion by another Court, an individual, or a national or federal state government (Art. 140 F-CA). However, none of the constitutional amendments of 2024 have been subjected to this kind of *ex post* review by the ACC so far. The Austrian Constitution does not provide for a general *ex ante* constitutional review of legislative acts – including constitutional reforms. The only exception is the possibility to clarify whether an act of legislature falls within the competence of the Federation or the *Länder* upon application by the national or federal state governments before its implementation (Art. 138 F-CA).

The constitutional mandate of the ACC as the guardian of the Austrian Constitution<sup>44</sup> is to review the constitutionality of legislative and

<sup>43</sup> See the Federal Chancellor's answer to a parliamentary inquiry (*Anfragebeantwortung*) in that matter in June 2020; 1740/AB 27<sup>th</sup> legislative period.

<sup>44</sup> Konrad Lachmayer, ‘The Austrian Constitutional Court’ in András Jakab, Arthur

administrative acts. Over the past 50 years, the ACC has become increasingly activist in its approach. However, in recent times, its stance has become more restrained. Nevertheless, it continues to safeguard human rights and the rule of law, when necessary, even if this entails maintaining an activist stance and developing its case law further. The balance between its judicial restraint and targeted activism could even be termed the “post-activist era” of the ACC.<sup>45</sup>

#### IV. LOOKING AHEAD

After the end of the 27<sup>th</sup> legislative period, the new election at the end of September 2024 led to a hitherto unparalleled political scenario in Austria: it has been a long-standing constitutional convention that the party with the highest number of votes in the elections for the National Council receives the mandate to form a government. However, initially, none of the parties were willing to collaborate with the right populist FPÖ. Therefore, even though the FPÖ received the most votes, the second largest party, ÖVP, was assigned to establish a coalition but was unsuccessful at its first attempt to agree with the other parties. Subsequently, the ÖVP-affiliated Federal Chancellor resigned and the FPÖ was given the mandate after all,<sup>46</sup> trying but failing to cooperate with the ÖVP. In a second attempt, the ÖVP succeeded in forming Austria’s first-ever three-party coalition with the SPÖ and the NEOS.

This development positions the FPÖ, as the party with the most seats in parliament, namely over 30 percent, to assume a particularly powerful role in opposition. While this share brings the party very close to a blocking minority for constitutional amendments, a two-thirds majority can still narrowly be achieved without their support. Should the governing parties aspire to implement constitutional amendments during the now ongoing legislative period, they will still be compelled to rely on the votes of either the GRÜNE or the FPÖ to secure the required two-thirds majority.

An important initiative of the newly formed government, however, is to establish a Federal Prosecutor’s Office (*Bundesstaatsanwaltschaft*) as an independent collegial body with supervisory authority over public prosecutors, aiming to enhance transparency and accountability. In addition, the current governmental program anticipates, among other initiatives, for the convening of a constitutional convention (following an unsuccessful attempt from 2003 to 2005), which, amidst various objectives, aims to strengthen democracy against authoritarian and extremist influences.<sup>47</sup> This new initiative is still unclear and the presentation of further details by the government in the coming years will reveal the dimension of this broader idea of constitutional reform in Austria.

#### V. FURTHER READING

Anna Gamper ‘Austria’ in Richard Albert, David Landau, Pietro Faraguna and Giulia Andrade (eds), *The 2023 Review of Global Constitutional Law* (University of Texas Law 2024), 29-32

Konrad Lachmayer and Susanne Gstöttner, ‘The Austrian Constitutional Court 1990-2020: A Human Rights Stronghold Despite Increasing Judicial Restraint’ in Kálmán Pócsa (ed), *Constitutional Review in Western Europe* (Routledge 2024), 26-51

Matthias Lukan ‘Independence and Pluralism of Public Service Broadcasting and its Governing Bodies in Austria?’ (2024) 1 Austrian Law Journal 52-79

Manfred Stelzer, *The Constitution of the Republic of Austria – A Contextual Analysis* (2nd edn, Hart Publishing 2022)

45 Dyevre and Giulio Itzovich (eds), *Comparative Constitutional Reasoning* (CUP 2017), 75, 86f; Konrad Lachmayer and Niklas Sonntag, ‘An Introduction to Austrian Legal Culture’ in Søren Koch and Marius Mikkel Kjølstad (eds), *Handbook on Legal Cultures. A Selection of the World’s Legal Cultures* (Springer International Publishing 2023) 39-62.

46 Konrad Lachmayer and Susanne Gstöttner, ‘The Austrian Constitutional Court 1990-2020: A Human Rights Stronghold Despite Increasing Judicial Restraint’ in Kálmán Pócsa (ed), *Constitutional Review in Western Europe* (Routledge 2024) 26, 47f.

47 Lachmayer 2025 (FN 4).

47 Bundesregierung, *Jetzt das Richtige tun. Für Österreich: Regierungsprogramm 2025-2029* (2025) <<https://www.bundeskanzleramt.gv.at/bundeskanzleramt/die-bundesregierung/regierungsdokumente.html>> accessed 20 March 2025.