

Annual Rule of Law Report - stakeholder consultation

Fields marked with * are mandatory.

Introduction

In the Political Guidelines, President von der Leyen announced that the Commission will set up a comprehensive European rule of law mechanism covering all Member States, with objective annual reporting by the European Commission[1]. In July 2019, the Commission adopted its Communication on Strengthening the rule of law within the Union - a blueprint for action, setting out some of the features of such a mechanism[2]. The first annual Rule of Law Report is one of the major initiatives of the Commission's Work Programme for 2020. The new European rule of law mechanism will act as a preventive tool, deepening dialogue and joint awareness of rule of law issues.

In the preparation of the annual Rule of Law Report, the Commission will rely on a diversity of relevant sources, including input to be received from Member States, country visits, and stakeholders' contributions. In order to facilitate the appropriate involvement of stakeholders, the Commission is inviting stakeholders to provide written contributions to the Report through this targeted consultation. The objective is to feed the assessment of the Commission with factual information on developments on the ground in the Member States.

The input should consist of a short summary, preferably in English, of information in the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work of your organisation. The contribution should highlight significant developments, primarily since January 2019. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make reference to any contribution already provided in a different context or to Reports and documents already published.

Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

Please provide your contribution by 4 May 2020. In case of requests for clarifications, you could contact the Commission at the following email address: rule-of-law-network@ec.europa.eu.

[1] https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

[2] COM(2019) 343 final

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar as regards the following types of developments in particular. This can include challenges, current workstreams, positive developments and best practices:

Information prepared and collected by your organisation

- any reports, statements or other documents relating to relevant developments in a Member State published by your organisation
- other direct information on the situation on the ground

Legislative developments

- legislation in force
- legislative drafts currently discussed in Parliament
- legislative plans envisaged by the government

Policy developments

- implementation of legislation
- evaluations, impact assessments, surveys
- white papers/strategies/action plans/consultation processes
- follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- important decisions/opinions from independent bodies/authorities

Developments related to the judiciary / independent authorities

- important case law by national courts
- important decisions/opinions from independent bodies/authorities

Any other relevant developments

- stakeholders are free to add any further information they deem relevant; however, this should be short and to the point.

You are invited to provide concrete information on what you see as significant developments either horizontally at European level (concerning several or all EU Member States), and/or at Member State level, focusing primarily on developments since January 2019. If you intend to, you will be able to provide input separately per Member State.

Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under “type of information”).

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

About you

* I am giving my contribution as

Academic/research institution

* Organisation name

250 character(s) maximum

Austrian Academy of Sciences, Institute for Comparative Media and Communication Studies

* Main Areas of Work

- Justice System
- Anti-corruption
- Media Pluralism
- Other

* Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

<http://www.oeaw.ac.at/cmc>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

Austria

* First Name

Josef

* Surname

Seethaler

* Email Address of the organisation (this information will not be published)

* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- Anonymous - Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name, transparency register number) will not be published.
- Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution.
- No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

I agree with the [personal data protection provisions](#).

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[Stakeholder consultation - topics.pdf](#)

Please provide any relevant information on horizontal developments here

Questions on developments in Member States

The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information on significant developments, focusing primarily on developments since January 2019, for each of the sub-topics which are relevant for your work. Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under "type of information").

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Member States covered in contribution [several choices possible]

Please select all Member States for which you wish to contribute information. For each Member State, a separate template for providing information will open.

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia

- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

Justice System - Austria

Independence

Appointment and selection of judges and prosecutors

3000 character(s) maximum

Irremovability of judges, including transfers of judges and dismissal

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

3000 character(s) maximum

Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

Independence of the Bar (chamber/association of lawyers)

3000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

Accessibility of courts (e.g. court fees, legal aid)

3000 character(s) maximum

Resources of the judiciary (human/financial)

3000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

Length of proceedings

3000 character(s) maximum

Enforcement of judgements

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Austria

The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

Authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Resources allocated to these (the human, financial, legal, and practical resources as relevant).

3000 character(s) maximum

Prevention

Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information).

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

Measures in place to ensure Whistle-blower protection and encourage reporting of corruption.

3000 character(s) maximum

Sectors with high-risks of corruption in a Member State and relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

3000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector.

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

Application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons).

3000 character(s) maximum

Potential obstacles to investigation and prosecution of high-level and complex corruption cases(e.g. political immunity regulation).

3000 character(s) maximum

Media Pluralism - Austria

Media regulatory authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Independence, enforcement powers and adequacy of resources of media authorities and bodies.

3000 character(s) maximum

The Austrian media regulatory authority is the 2001 established “Austrian Communications Authority” (KommAustria). As part of the state regulation, it is responsible for the administration of regulatory activities in the areas of electronic audio media and electronic audio-visual media. In the field of broadcasting regulation, KommAustria is operationally supported by the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR-GmbH), a non-profit company which has also been set up under the KommAustria Act (KOG) in order to provide support to KommAustria, the Telecom Control Commission and the Postal Control Commission. 100 per cent of the shares of the company are reserved for the Federal Government.

KommAustria is legally distinct and functionally and effectively independent from the government and any other public or private body. Its competences, powers and accountability are clearly defined in law (https://www.ris.bka.gv.at/Dokumente/Erv/ERV_2001_1_84/ERV_2001_1_84.pdf).

KommAustria works fully independent from the government – in terms of its external business practices since 2001, in terms of independent decision making since October 2010 (Art. 20 (2) 5a B-VG as amended by BGBl. I 2012/51). No governmental individual or body has the power to issue instructions to or overturn decisions by the media authority. However, the Federal Chancellor is authorized to gather and request relevant information on all matters handled by KommAustria.

Its powers of sanction include warnings, monetary fines (in case of advertising violations and violations of programming principles such as the protection of minors), publication of decisions (typical for infringements of the regulations regarding product placement or sponsoring), and the revocation of the licence or prohibition of further broadcasting activities in serious cases of infringement by private broadcasters.

Decisions and conduction of public oral hearings by KommAustria must be published. Moreover, an annual report on the development of the media and telecommunication sector in Austria is published. Appeals against KommAustria decisions and RTR decisions can be submitted to the Federal Administrative Court (BVwG). Further appeals against BVwG decisions may be submitted to the Austrian Administrative Court and the Austrian Constitutional Court.

The KommAustria Media Division is funded by contributions from the end-user licence fees and contributions of market players (Art. 35 KOG). Funding contributions from market players are based on percentage of revenues; the industry is consulted before RTR’s budget is finally adopted. Since 2007, budgets are annually adopted to the consumers’ price index (CPI). The annual budgets are generally regarded as largely sufficient. KommAustria and RTR must submit an annual report on the use of these funds and a statement of accounts to the Federal Chancellor. KommAustria is also accountable to the court of auditors (for auditing purposes).

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

3000 character(s) maximum

The Austrian Communications Authority (KommAustria) is constituted by one chairperson, one deputy chairperson and three additional members, all fulltime lawyers. The term of office is six years, which can be renewed. The members of KommAustria are appointed by the federal president on proposal of the federal government, and Parliament must agree with the federal government's proposal. The proposal must be preceded by a public invitation for applications. Art. 4 KOG contains regulations regarding incompatibility. As media-politics-relations are generally strong in Austria, politics sometimes tries to exert influence on personnel-related decisions.

During their term of office, KommAustria members may not exercise any activity that could cast doubt on the independent exercise of their function or give rise to the suspicion of bias or that could prevent them from fulfilling their official tasks or put substantial official interests at risk. In the performance of their duties, the members of KommAustria are independent and not bound by instructions from any other authority.

Members of KommAustria can be dismissed only by the plenary of KommAustria and only because of violation of his or her duties, incompatibility issues, serious physical or mental infirmity, or because of loss of the eligibility to be elected to Parliament, i.e. a criminal offence punishable by at least six months' imprisonment. The entire body cannot be dismissed.

The Managing Director of RTR's Media Division is appointed by the Federal Chancellor, the Managing Director of the Telecommunications and Postal Service Division by the Federal Minister for Transport, Innovation and Technology. (As regards the technical matters of each of the respective Divisions, the respective Managing Director bears the sole responsibility while all other matters of the company shall be managed by both Managing Directors together.) In relation to its activities for KommAustria, RTR-GmbH shall exclusively be bound by the orders and specialist instructions of the Chairman and the members (Art. 18 (1) KOG).

According to Constitutional Law (Art. 20 (2) 5 B-VG), functionaries in charge for supervision and regulation of electronic media and for support of the media may be dispensed from being bound by instructions of their superior executive officers.

Transparency of media ownership and government interference

The transparent allocation of state advertising (including any rules regulating the matter)

3000 character(s) maximum

The 2012 Media Transparency Law, which has been amended in 2015 (https://www.ris.bka.gv.at/Dokumente/ErV/ERV_2011_1_125/ERV_2011_1_125.pdf), forces the government, public bodies and state-owned corporations to disclose their media collaborations (such as placing advertising orders and allocating subsidies to media owners), if the total amount of the paid fees exceeds 5,000 euro per quarter of a year. However, the law does not provide rules ensuring a fair distribution of state advertisements among media outlets. There is public discussion about questionable practices in state advertising because advertising orders are distributed to the media to some extent with regard, but not proportionally to the audience shares of the media outlets. In fact, a large share of state advertising goes to a few important media outlets, particularly tabloids. Experts therefore argue that the reputation of the media as independent observers could be undermined if the media were suspected of privileging reporting (see, for example, H. Koziol, ed., *Tatsachenmitteilungen und Werturteile: Freiheit und Verantwortung [Statements of facts and value judgements: Freedom and responsibility]*, Vienna 2018). From the view of liberal democracy this seems to be problematic because editorial autonomy is considered as a prerequisite of the functioning of the media system. One has to note that, in 2018, state subsidies for the media amounted to 40 million euros (except licence fees), whereas more than 170 million euros was spent on state advertisements (<https://.rtr.at/en/inf>

/Kommunikationsbericht-2018-epaper; <https://www.derstandard.at/story/2000099548974/wohin-die-oeffentlichen-werbemillionen-fliegen>).

Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

3000 character(s) maximum

Rules governing transparency of media ownership

3000 character(s) maximum

Details on ownership of print, online and broadcast media have to be publicly available and must be updated in the first month of each year (Art. 24 and 25 Media Act, https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1981_314/ERV_1981_314.pdf). Media outlets must disclose information necessary to identify all direct and indirect ownership back to a real person, including information on shareholdings, fiduciary relationships and silent partnerships. Not only the names of the executive bodies and officers of the media owner authorized to represent the company and, if there is a supervisory board, the names of its members have to be disclosed, but also the object of the company. In the case of direct or indirect shareholdings of foundations, the founder and the relevant beneficiaries of the foundation must be disclosed. If the media owner is an association or an association holds a direct or indirect share in ownership, the management board and the purpose of the association must be stated. Moreover, a declaration on the basic line of any periodical medium must be published. Art. 27 Media Act provides for administrative penalties to be imposed on companies which disclose incorrect information on ownership structures.

Only in the broadcasting sector, media have to report their ownership structures as well as significant changes (e.g., a transfer to third parties of more than 50 per cent of the shares held by the broadcaster) to the media authority (as required by the Audio-visual Media Services Act and the Private Radio Act).

According to Access Info Europe, the aforementioned threshold is, however, inadequate for ownership transparency purposes (<https://www.access-info.org/media-ownership-transparency>).

Despite the fact that media law has established detailed provisions with the aim of ensuring transparency of media ownership, information on the ultimate ownership structures of media companies is not generally available, partly due to a vague formulation in the 2011 amendment to the Media Act: the German word "Inhaber" can be interpreted as "100 percent owner" (W. Berka et al., *Mediengesetz Praxiskommentar [Media Act – Practical Commentary]*, Vienna 2019). Therefore, particularly partial shareholders or investors may remain unknown. Moreover, information on the holdings of affiliates or interests by the media company in other non-media businesses is not required.

According to Art. 50 Media Act, the application of all aforementioned provisions to foreign media owners is limited. Foreign media are only covered when they are "completely or almost exclusively" distributed in Austria. Similar exclusions also apply to foreign state publications and publications of Austrian public authorities. Access Info Europe argues that "only if the rules apply to all media operating in the country will citizens have access to the information they need to make informed choices about the media they use and be able to evaluate the information they receive".

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

3000 character(s) maximum

According to the core public mandate of the PSB (Art. 4 (6) ORF Act), independence from state, party and political and business lobbies is not only a right of journalistic and programming staff, but an obligation as well (https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1984_379/ERV_1984_379.pdf). In no other media sector is an equally precisely formulated legal provision in force. In contrast to the spirit of the law, however, attempts by politicians to influence appointment and dismissal procedures for management and board functions at the ORF occur frequently. This is mainly due to the appointment procedures of the “Stiftungsrat” (Foundation Council) which appoints all high officials, approves the budget and monitors financial conduct. Fifteen of its 35 members are appointed by the federal government, six of which in consideration of the proportionate strength of the political parties represented in parliament. Moreover, each of the nine Austrian federal states nominates a representative. This “politics-in-broadcasting system” is the basis for the entanglements between PSB and political actors and is highly questionable from a democratic perspective. On the one hand, Art. 2 (1) Media Act protects the journalist’s personal conviction and the right to refuse contributing to the creation of contents that are in contradiction to it; similar provisions are provided by the ORF Act (Art. 32 (1)) and the Audio-visual Media Services Act (Art. 49 (1)). Under a rarely applied provision of the “Journalistengesetz” (Journalism Act) of 1920 (<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008068>), an editor may terminate her or his contract with the media company she or he is employed without notice within one month if the media company changes the editorial line.

On the other hand, only TV and radio stations are obliged to have editorial statutes; all other media are allowed, but not required to establish editorial statutes (Art. 5 Media Act). Thus, it comes as no surprise that the two largest newspapers (“Kronen Zeitung” and “Heute”) refrain from any self-regulatory measures and are not members of the Austrian Press Council. There are no regulatory safeguards in place to prevent political influence over the appointments and dismissals of editors-in chief. Only the editorial statute of the public service broadcaster stipulates that the editorial committee must at least be informed and heard during appointment procedures.

Austria has dropped a further two places in Reporters without Borders’ Press Freedom Index, and is now in 18th place in the ranking (<https://rsf.org/en/ranking>). In 2019 it has already lost its long-lasting status among the countries where press freedom is best protected. The renewed loss of two places in the ranking is mainly due to the increasing verbal attacks on journalists and the growing pressure on independent and critical reporting under the conservative-right-wing government.

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

3000 character(s) maximum

Fortunately, until now, there have been no attacks on the physical safety of journalists in Austria. However, Mapping Media Freedom has recorded a significant rise in the intimidation of media outlets and journalists (<https://mappingmediafreedom.org/?s=austria>; <https://www.indexoncensorship.org/wp-content/uploads/2018/11/index-report-2018-web-v3.pdf>).

According a study by the International Press Institute (IPI) conducted before the recent increase in verbal attacks on journalists (https://ipi.media/wp-content/uploads/2017/08/Final_Austria_Report_Ontheline_ENG_2017.pdf), the incidences of online abuse against journalists that were collected in Austria can be divided into two main categories: “Abusive Behaviour” and “Threats of Violence”. The largest proportion of incidences were “verbal abuses”, classified as a subcategory of “Abusive Behaviour”, i.e., everything from classic swear words to negative references to intelligence or physical appearance. In a few cases, journalists were also implicitly or explicitly threatened with violence. The abuse is almost always topic-related, occurring especially in connection with controversial, emotionally charged topics such as immigration or feminism. In general, the attacks against journalists are not random: Rather, individual journalists are singled out online and, in some cases, repeatedly attacked over an extended period. The abuse occurs on all platforms, both publicly and via private message. Generally, the abuse is greater in the private sphere – coming via email and Facebook Messenger – than in the public sphere. The

Facebook pages of the right-wing Austrian Freedom Party (FPÖ) play a special role here, with numerous offensive and threatening user comments appearing below posts critical of the media written by FPÖ politicians. For this reason, a quantitatively large portion of the abuse is connected to politics. Even though Austrian media companies have taken measures in recent years to professionalise their community management departments and to offer support to affected journalists, awareness of the subject is still not sufficiently high. Most newsrooms lack structures and clearly communicated guidelines for dealing with online attacks against journalists. On the political level, Austria participates in the two UNESCO “Groups of Friends on the Safety of Journalists” founded in Paris and New York in 2016, informal working groups of states committed to strengthening the UN Plan of Action on the Safety of Journalists and the Issue of Impunity (<https://en.unesco.org/un-plan-action-safety-journalists>) and its implementation at the national level. So far, no formal mechanism for the security of journalists has been established in Austria.

Access to information and public documents

3000 character(s) maximum

Although Art. 20 (4) of the Federal Constitution guarantees the right to information, the obligation of administrative authorities (at a national, regional and local level) to maintain secrecy takes precedence over that to disclose information – and this is only done upon request (which is difficult to file). Under Art. 20 (3), the organs charged with federal, provincial and municipal administration, as well as other public bodies, are sworn to secrecy concerning all facts that come to their knowledge during their official duty. As stated in Art. 20 (3), secrecy is “in the interest of the maintenance of public peace, order and security, of comprehensive national defence, of external relations, in the interest of a public law corporate body, for the preparation of a ruling or in the preponderant interest of the parties involved.” This is a rather broad list of restrictions to the right to access information, which can hardly be considered in accordance with the 2013 U.N. recommendations (<https://digitallibrary.un.org/record/768352>).

While there is no positive obligation for the authorities to provide information to the public, Art. 1 of the Duty to Grant Information Act (https://www.ris.bka.gv.at/Dokumente/Erv/ERV_1987_287/ERV_1987_287.pdf) regulates the negative obligation to disclose information only upon request. According to it, information shall be given “to the extent not being in contradiction to a statutory duty of secrecy” and not impairing “compliance with the other duties of the administration”. Requests (made in writing, orally or by telephone) must make sufficiently clear the contents and the extent of the information they intend to acquire. State bodies are free to refuse to provide information without having to justify their decision.

There is only the right to lodge a judicial appeal with the federal administrative court, in line with the General Administrative Procedures Act; neither an internal appeal nor an external appeal with an independent administrative oversight body (e.g. an ombudsperson) is permitted. In the appeal process the government does not bear the burden of demonstrating that it did not operate in breach of the rules.

Not surprisingly, Austria ranked second to last in a recent survey of 128 countries on the global right to information conducted by Access Info Europe and the Centre for Law and Democracy (<https://www.rti-rating.org/country-detail/?country=Austria>). The current legal regime prevents transparency in the work of the state’s power apparatus and makes it difficult for the media to exert control over the administration. The Council of Europe’s Group of States against Corruption has already recommended in 2007 to provide for precise criteria for a limited number of situations where access to information can be denied and to ensure that such denials can be challenged by the person concerned (https://www.bak.gv.at/en/Downloads/files/GRECO/Evaluation_Report_on_Austria.pdf).

Other - please specify

3000 character(s) maximum

Austria has a differentiated system of state subsidies, covering all media sectors except online media. Subsidies are also available for accelerating the digitalization of the broadcasting sector, in particular for

introducing DAB. However, media experts have long been criticizing the “watering can principle” which has failed to ensure media pluralism.

In fact, horizontal and cross-media concentration is exceptionally high in Austria. All concentration measurements for ownership and audience concentration in the audio-visual, radio and newspaper markets are between 72 and 89 per cent (data from 2018), and therefore far too high to be acceptable from a democratic point of view. According to data on the 18 largest media companies that are tax-registered in Austria, the market share of the Top 4 news media owners across different media markets is 65 per cent. One of the problems is that only legislation for the audio-visual and radio sectors contains specific restrictions regarding areas of distribution and market shares in order to prevent horizontal and cross-media concentration; these restraints, however, are not very tight. As a result, Austrian media and cartel law has been ineffective in preventing mergers of media companies – from the Mediaprint deal in 1988 (a joint venture of the owners of the two biggest newspapers at the time, “Kronen Zeitung” and “Kurier”) to the 2017 merger of the two biggest private TV stations, ATV and PULS 4, both of which are now owned by the German ProSiebenSat.1 group. Moreover, changes in the media landscape have not yet been significantly incorporated into competition law.

Coming back to the question of media subsidies, the current system should be financially upgraded and revised to support the democratic quality of all types of media, thus ensuring the plurality of perspectives and positions in the public debate. A revised system of subsidies should focus, for example, on social diversity in media content, newsrooms and management boards; information for local communities as vital cells of democracy; and empowerment of the people by providing support to civil society initiatives and enabling citizens take part in media content production and discussions on matters of public interest. As all three of these objectives are already being met by non-profit community media, ensuring their financial sustainability and increasing their numbers (for example, according to the number of NUTS 3 regions) must be considered a priority. This is in line with Recommendation CM/Rec(2018)1[1] of the Committee of Ministers to Member States on media pluralism and transparency of media ownership (https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680790e13).

Other institutional issues related to checks and balances - Austria

The process for preparing and enacting laws

Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

Independent authorities

Independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies;

3000 character(s) maximum

Accessibility and judicial review of administrative decisions

Modalities of publication of administrative decisions and scope of judicial review

3000 character(s) maximum

Implementation by the public administration and State institutions of final court decisions

3000 character(s) maximum

The enabling framework for civil society

Measures regarding the framework for civil society organisations

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Contact

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