Last updated: February 2024

Austria

Ratified the European Convention on Human Rights in 1956

National Judge: Gabriele Kucsko-Stadlmayer (2 November 2015 -)
Judges' CVs are available on the ECHR Internet site

Previous Judges: Alfred Verdross (1959-1977), Franz Matscher (1977-1998), Willi Fuhrmann (1998-2001), Elisabeth Steiner (2001-2015)

List of judges of the Court since 1959

The Court dealt with 175 applications concerning Austria in 2023, of which 166 were declared inadmissible or struck out. It delivered 6 judgments (concerning 9 applications), 5 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2021	2022	2023
Applications allocated to a judicial formation	222	254	200
Communicated to the Government	19	4	11
Applications decided:	198	262	175
- Declared inadmissible or struck out (Single Judge)	177	247	158
- Declared inadmissible or struck out (Committee)	13	8	7
- Declared inadmissible or struck out (Chamber)	0	3	1
- Decided by judgment	8	4	9

Applications pending before the Court on 01/01/2024	
Applications pending before a judicial formation:	125
Single Judge	89
Committee (3 Judges)	13
Chamber (7 Judges)	23
Grand Chamber (17 Judges)	0

For information about the Court's judicial formations and procedure, see the ECHR internet site.
Statistics on interim measures can be found here.

Austria and ...

The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **618** Registry staff members.

Noteworthy cases, judgments delivered

Grand Chamber

Kurt v. Austria

15.06.2021

The case concerned the applicant's complaint that the Austrian authorities had failed to protect her and her children from her violent husband, which had resulted in his murdering their son.

No violation of Article 2 (right to life)

X and Others v. Austria (no. 19010/07)

19.02.2013

The case concerned the complaint by two women who live in a stable homosexual relationship about the Austrian courts' refusal to grant one of the partners the right to adopt the son of the other partner without severing the mother's legal ties with the child (second-parent adoption).

Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 8 on account of the difference in treatment of the applicants in comparison with unmarried different-sex couples in which one partner wished to adopt the other partner's child

No violation of Article 14 taken in conjunction with Article 8 when the applicants' situation was compared with that of a married couple in which one spouse wished to adopt the other spouse's child

See also press release in German

S. H. and Others v. Austria
(no. 57813/00)

03.11.2011

The case concerned the complaint by two married couples from Austria about the ban on medically-assisted procreation techniques that they wished to use.

No violation of Article 8 (right to respect for private and family life)

See also press release in German

Stummer v. Austria

07.07.2011

The case concerned a former prisoner's complaint of his non-affiliation to the old-age pension system for work performed in prison and his consequent inability to receive pension benefits under that scheme.

No violation of Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 (protection of property)

No violation of Article 4 (prohibition of slavery and forced labour)

Maslov v. Austria

23.06.2008

10-year exclusion order against a Bulgarian national, minor at the time, following his criminal convictions. The order was issued despite the non-violent nature of his offences, the lack of ties with his country of origin and his good conduct after being released the second time from prison.

Violation of Article 8 (right to respect for private and family life)

Noteworthy cases, judgments delivered

Chamber

Cases concerning Article 3 (prohibition of torture and /or inhuman or degrading treatment)

Mohammed v. Austria

06.06.2013

The case concerned the complaint of a Sudanese national that his forced transfer from Austria to Hungary under the EU Dublin Regulation would subject him to conditions amounting to inhuman treatment, and that his second asylum request in Austria did not have a suspensive effect in relation to the transfer order.

Violation of Article 13 (right to an effective remedy) in conjunction with Article 3 on account of a lack of protection against forced transfer in the course of the proceedings concerning his second asylum application while having – at the relevant time – an arguable claim that his Convention rights would be violated in case of his transfer.

No violation of Article 3 if Mr Mohammed was to be transferred to Hungary in view of recent legislative amendments in Hungary improving the situation of asylum-seekers.

I.K. v. Austria (no. 2964/12)

28.03.2013

The case concerned the complaint by a Russian national of Chechen origin that his removal from Austria to Russia would expose him to the risk of ill-treatment, as his family had been persecuted in Chechnya.

Violation of Article 3

Cases concerning detention pending expulsion

Palushi v. Austria (no. 27900/04)

22.12.2009

Concerned an asylum seeker who was subject to ill-treatment causing injuries and received no adequate medical care during his detention with a view to expulsion in Vienna Police Prison.

Two violations of Article 3 (prohibition of inhuman or degrading treatment)

Rusu v. Austria

02.10.2008

Detention of a Romanian citizen pending expulsion and failure to inform her promptly and in a language she understood of the reasons.

Violation of Article 5 §§ 1 (f) and 2 (right to liberty and security)

Case concerning forced labour (Article 4)

J. and others v. Austria (no. 58216/12)

17.01.2017

The case concerned the Austrian authorities' investigation into an allegation of human trafficking.

No violation of Article 4 (prohibition of forced labour)

No violation of Article 3 (prohibition of inhuman or degrading treatment)

Cases concerning Article 5 (right to liberty and security)

Kuttner v. Austria

16.07.2015

The case essentially concerned a convicted offender's complaint about the delay in dealing with his application for release from a psychiatric institution.

Violation of Article 5 § 4

Elsner v. Austria (nos. 1-6)

24.05.2011

The case concerned the complaint by Helmut Elsner, a former bank manager and a well-known figure in Austria, that his detention on remand in criminal proceedings against him was unlawful and excessively long, and that public statements by politicians amounted to finding him guilty before his conviction by a court.

No violation of Article 5 § 3

Cases concerning Article 6

Right to a fair trial

J.M. and Others v. Austria (nos. 61503/14, 61673/14, and 64583/14)

01.06.2017

The case concerned the sale of shares of an Austrian bank and the subsequent proceedings brought against a politician and two managers of the bank (the applicants) for breach of trust consisting of a six million euro payment made to a financial consultant for his role in the sale. The sale was at the centre of much media controversy in Austria and led to parliamentary enquiries.

No violation of Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses)

Saccoccia v. Austria

18.12.2008

Execution by an Austrian court of a US court order on forfeiture of assets located in Austria which were considered to derive from money laundering. The applicant complained about the lack of a hearing in Austria.

No violation of Article 6

No violation of Article 1 of Protocol No. 1 (protection of property)

Lückhof and Spanner v. Austria

10.01.2008

Obligation under Austrian law to disclose driver of one's car at a given moment does not violate one's right to remain silent and privilege against self-incrimination.

No violation of Article 6 § 1

Right to a fair trial within a reasonable time

Blum v. Austria

05.04.2016

The case concerned disciplinary proceedings against the applicant, a practicing lawyer.

Under Article 6 § 1 of the Convention, Mr Blum complained in particular that the disciplinary council had not held an oral hearing before deciding on the interim measure against him.

Violation of Article 6 § 1

Right of access to court

Wallishauser v. Austria

17.07.2012

The case concerned the lack of access to court in respect of claims arising out of the employment contract of a local employee of the United States embassy in Austria.

Violation of Article 6 § 1

Cases concerning the rights of homosexuals

P.B. and J.S. v. Austria (no. 18984/02)

22.07.2010

The applicants are a homosexual couple. The case concerned their inability under Austrian law to have one partner's sickness and accident insurance extended to the other partner.

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life) until 30 June 2007, when Austria abolished the preferential treatment of non-married partners of the opposite sex as regards insurance cover

No violation after that date

Schalk and Kopf v. Austria

24.06.2010

Complaint by a same-sex couple about the authorities' refusal to allow them to contract marriage. The applicants alleged that they were discriminated against on account of their sexual orientation since they were denied the right to marry and did not have any other possibility to have their relationship recognised by law before the entry into force of the Registered Partnership Act in January 2010.

No violation of Article 12 (right to marry)

No violation of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life)

Family cases: custody and access

Kopf and Liberda v. Austria

17.01.2012

The case concerned the complaint by former foster parents about not being able to have contact with the child they had fostered.

Violation of Article 8 (right to protection of private and family life)

Sporer v. Austria

03.02.2011

Concerned the complaint of the father of a child born out of wedlock that he was discriminated against in particular in comparison with the mother, in that he had no opportunity to obtain joint custody without her consent.

Violation of Article 14 (prohibition of discrimination) taken together with Article 8 (right to respect for family life)

See also press release in German

Right to respect for private life

Polat v. Austria

20.07.2021

The case concerned a post-mortem examination of the applicant's son carried out against her will.

Violation of Article 8 and Article 9 (freedom of thought, conscience and religion) in respect of the post-mortem examination of the applicant's baby carried out against her will and against her religious convictions

Violation of Article 8 in respect of the authorities' failure to disclose information to the applicant about her son's post-mortem examination

Lewit v. Austria

10.10.2019

The case concerned a now 96-year-old Holocaust survivor's complaint that he had been defamed by a right-wing periodical and that the courts had not protect his right to reputation.

Violation of article 8

Press release in German

Inadmissible application

Haupt v. Austria

01.06.2017

The applicant, Herbert Haupt, was Chairperson of the Austrian Freedom Party between 2002 and 2004, and Vice Chancellor of the Federal Government between February and October 2003. In an episode of the satirical comedy show *Das Letze der Woche* (which aired in September 2003), the host suggested that Mr Haupt was "usually surrounded by little brown rats". This was regarded as an allusion to neo-Nazis. Mr Haupt brought proceedings in Austria against ATV, the television company which had broadcast the programme. Though his claim had been initially successful in 2004-5, his case was ultimately rejected after the Supreme Court re-opened proceedings in 2009.

Application declared inadmissible as manifestly ill founded.

Freedom of religion cases (Article 9)

Gütl v. Austria and Löffelmann v. Austria

12.03.2009

Lang v. Austria

19.03.2009

The applicants in all three cases were members of Jehovah's witnesses. They complained of the fact that they were refused exemption from military and alternative civilian service.

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 9

Verein der Freunde der Christengemeinschaft and Others v. Austria

26.02.2009

The case concerned the Austrian authorities' refusal to grant a religious community legal personality.

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 9

Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria

31.07.2008

Prolonged failure to grant legal personality to a religious group; inconsistent application of qualifying periods for eligibility to register as a religious society and the length of proceedings.

Violation of Article 9, Article 14 (prohibition of discrimination) in conjunction with Article 9

Violation of Article 6 § 1 (right to a fair hearing within a reasonable time)

Freedom of expression cases (Article 10)

Standard Verlagsgesellschaft mbH v. Austria (no. 3)

07.12.2021

The case concerned court orders for the applicant media company to reveal the sign-up information of registered users who had posted comments on its website, derStandard.at, the website of the newspaper Der Standard. This had followed comments allegedly linking politicians to, among other things, corruption or neo-Nazis, which the applicant company had removed, albeit refusing to reveal the information of the commenters.

Violation of Article 10

E.S. v. Austria

25.10.2018

The case concerned the applicant's conviction for disparaging religious doctrines; she had made statements suggesting that Muhammad had had paedophilic tendencies.

No violation of Article 10

Press release in German.

Ärztekammer Für Wien and Dorner v. Austria

16.02.2016

The applicants in this case are the Vienna Chamber of Medical Doctors (*Ärztekammer für Wien*) and Walter Dorner, who was the Chamber's president at the time of the events. The case concerned their complaint about decisions by the domestic courts prohibiting them from making certain negative statements about a private company.

No violation of Article 10 - in respect of M. Dorner (the Court further declared the Vienna Chamber of Medical Doctors' application inadmissible)

Standard Verlags GmbH v. Austria (no. 2)
04.06.2009
Newspaper article disseminating gossip about the married life of the former President for which the paper had to pay compensation.
No violation of Article 10

Falter Zeitschriften GmbH v. Austria
22.02.2007
The applicant company was ordered to pay compensation for publishing an article criticising the discontinuation of preliminary proceedings against members of the Austrian Freedom Party, suggesting that K., the leader of the Party's local Vienna branch would otherwise have been convicted.
Violation of Article 10

Nikowitz and Verlagsgruppe News GmbH v. Austria
22.02.2007
Journalist and publishing company being ordered to pay fine in connection with a satirical article written in response to a public hysteria following the accident of Hermann Maier, a skiing champion.
Violation of Article 10

Standard Verlagsgesellschaft mbH v. Austria (No. 2)
22.02.2007
Successful injunction proceedings by Mr Haider, then Regional Governor of Carinthia against the applicant company, which had published a front-page article alleging that Mr. Haider had deliberately misled the Regional Government and breached the Regional Constitution.
No violation of Article 10

Arbeiter v. Austria
25.01.2007
Concerned the interim injunction against a regional politician after publishing an article in which he criticised Mr K., an entrepreneur, for his plans to break up a good health system in order to take over hospitals using his newly-founded company.
Violation of Article 10

Vereinigung Bildender Künstler v. Austria
25.01.2007
Concerned court decisions prohibiting the applicant association from displaying at exhibitions a painting of 34 public figures all naked and involved in sexual activities.
Violation of Article 10 (freedom of expression)

Ferihumer v. Austria
01.02.2007
Concerned an injunction against the applicant after he had made statements in a regional newspaper in respect of teachers allegedly applying pressure on pupils and parents and their abuse of authority.
Violation of Article 10

Case concerning discrimination (Article 14)

Ratzenböck and Seydl v. Austria
26.10.2017
The case concerned the complaint by a heterosexual couple about being denied access to a registered partnership, a legal institution only available to same-sex couples. The applicants maintained that they were discriminated against based on their sex and sexual orientation.
No violation of Article 14 taken in conjunction with Article 8 (right to respect for private and family life

Raviv v. Austria
13.03.2012
The case concerned the complaint that the special pension insurance regime in Austria, under which victims of Nazi persecution have the possibility of paying retroactive social security contributions on a voluntary basis in order to be entitled to an old-age-pension, was discriminatory.
No violation of Article 14 in conjunction with Article 1 of Protocol No. 1 (protection of property)

Case concerning the right to vote

Frodl v. Austria
08.04.2010
Sentenced to life imprisonment for murder, the applicant was excluded from the electoral register.
Violation of Article 3 of Protocol No. 1 (right to free elections)

Noteworthy pending cases

A.P. v. Austria (no. 1718/21)

Case communicated to the Government in June 2021

The application concerns the death of the applicant's son during his mandatory military service.

Scherhaufer v. Austria (nos. 44990/18, 47468/18, and 7161/19)

Case communicated to the Government in January 2021

The applicants complain of their compulsory membership of hunting associations as landowners although they are opposed to hunting on ethical grounds.

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