

The Austrian Legal Information System (RIS, E-Recht)

Brigitte Barotányi, Austrian Federal Chancellery, Division I/13 - Digital and E-Government – Project- and Program-management

1. The Austrian legal system

1.1. The Constitution

Austria, according to her constitution, is a democratic republic, governed by the rule of law, and a federal state. Other fundamental principles of the federal constitution are the guarantee of fundamental rights and freedoms and the separation of powers.

Distinct features of constitutional life are a rather strict perception of the principle of legality, meaning in particular that the executive power needs to be bound by well-determined parliamentary laws, and powers – exercised more than ten times a year on average – of the constitutional court to rescind even parliamentary laws (and even provisions of the constitution deemed to contradict the fundamental principles of the federal constitution, which has occurred only once so far). No wonder that the Federal parliament is quite active, producing about 130 parliamentary laws (mostly amendments of existing laws) per year.

Being a federal state means that the constituent parts (Länder, provinces) have their own parliaments (diets) with legislative powers. Compared with other federal systems, however, the federation is in a rather strong position vis-à-vis its constituent parts, meaning also that the vast majority of important areas of law are assigned to the legislative powers of the federation. Thus, most legislative powers lie with the Nationalrat (National Assembly), which is elected by general federal elections every five years. On the other hand, the members of the second chamber, the Bundesrat (Federal Assembly), are elected by the diets of the nine autonomous Provinces to represent the interests of the provinces (Länder, States).

In order for a bill to become a federal Law, it must be resolved upon by the National Assembly. Bills that are passed are sent to the Federal Assembly for corroboration. Such resolutions are signed by the Federal President and then countersigned by the Federal Chancellor before being published in the Federal Law Gazette, thus acquiring the force of law.

1.2. Constitutional Law

Constitutional law is higher in rank than simple law and is harder to amend. An amendment to the constitution requires a two thirds majority in parliament, with at least half of the members present and voting. The provision thereby adopted is then known as a "Constitutional Law" or "Constitutional Regulation." By contrast, to pass a valid motion in parliament relating to a law that is not constitutional in nature, a simple majority of votes is required, with one third of parliamentary members present and voting. In the past these powers were used on more than thousand occasions, often to modulate the constitutional balance between Federation and Länder. There is little doubt that the Austrian constitution (spread over many separate constitutional laws and constitutional provisions) is the most voluminous of the world.

1.3. Private Law

Private law is divided into general private law applicable to all persons, and specialised forms of private law, which are applicable only to certain categories, such as commercial law for business people or employment law for employers and employees. The major part of what is considered general private law is regulated in a comprehensive private law code called the Allgemeines Bürgerliches Gesetzbuch (ABGB) which was enacted in 1811. Meanwhile frequently amended, it is still considered as a model of good legislation because of the brevity and simplicity of its provisions.

1.4. Criminal Law

Substantive criminal law (i.e. those provisions concerned with the crimes themselves rather than the criminal process) is the branch of public law that defines criminal acts and sets out the respective criminal penalties. Penal law is a broad concept, and it includes as a separate sub-category, the so-called "non-criminal" penal law (concerned with "administrative" infractions and disciplinary penalties, both handled by administrative authorities). Thus, within the concept of criminal law, one differentiates between judicial criminal law and administrative penal law depending on whether the law is to be enforced by the courts or by the administrative authorities (subject to court revision). The law must, however, comply with the provisions of the constitutional laws which allocate the criminal justice to the courts.

1.5. Austrian Court System

All court jurisdictions emanate from the Federation, subject to the share that the Länder have in the administrative court system. Verdicts and findings are proclaimed and published in the name of the Republic. Austrian Law draws a basic distinction between two principal jurisdictions: (i) tribunals and courts concerned with public law matters, and (ii) the courts of ordinary jurisdiction.

The Supreme Court of Justice ([Oberster Gerichtshof – OGH](#)) is the final instance in civil and criminal proceedings and hence the supreme institution of ordinary jurisdiction.

The Constitutional Court ([Verfassungsgerichtshof - VfGH](#)) is the highest state body in Austria when considering constitutional law.

The Administrative Court system, to which the guarantee of the legality of administrative acts is entrusted, is composed of the administrative Courts of first instance (one for each Land and for the Federation) and the Supreme Administrative Court ([Verwaltungsgerichtshof – VwGH](#)).

The courts of ordinary jurisdiction deal with all matters outside the competence of the public law courts, i.e. matters of private law, criminal law, as well as aspects of competition law.

2. Key features of the system of official publication and legal information

Among the Forum members, Austria belongs to the (strong) minority adhering to a two pillar system of official publication, reserving the publication of laws and (selected) ordinances to separate law gazettes, leaving other sorts of official announcements to other official gazettes. The (major) official gazette of the Federation is the "Amtsblatt zur Wiener Zeitung" (Official Journal incorporated to the Wiener Zeitung newspaper), and the States, alike, have both law and official gazettes.

The same distinction is continued on the level of the Legal Information System, which contains, with minor exceptions, only the (Federal and State) law gazettes and consolidated versions of acts published in the law gazettes, disregarding the (other) official gazettes.

While the Legal Information System collects (and consolidates) what is issued by authorities when exercising their public powers (gazettes, consolidated versions, case law), there is a “second layer” of legal information trying to make law really understandable for citizens; this different “legal information system” HELP.gv.at is explicated in the subsequent presentation of this meeting (see Rund, HELP.gv.at – legal and administrative information for everybody [p. 45]).

Federal Law Gazette and State Law Gazettes are published with legally binding force on the internet, more specifically within the Legal Information System operated by the Federal Chancellery. Not surprisingly, this was prepared by a new Federal Law Gazette Act and a new constitutional basis (Art 49 of the Federal Constitutional Law), created in 2003, parts of which read as follows:

“Federal laws shall be published by the Federal Chancellor in the Federal Law Gazette. ... Announcements in the Federal Law Gazette ... must be accessible to the general public and be ascertained completely and forever in the published form. ... The detailed provisions on the publication in the Federal Law Gazette shall be made by federal Law.”

3. The Legal Information System of the Republic of Austria (RIS)

The [Legal Information System of the Republic of Austria](#) is a computer-assisted information system on Austrian law, which is coordinated and operated by the Austrian Federal Chancellery and can be used not only by law students and lawyers, but by all citizens wishing to look up current and historical legal acts as well as legislation in force, both Federal and Provincial, nonetheless the case-law of the courts (at least the supreme courts). Its beginnings date back to 1983 when the essential features of the system were designed. On 7 October 1986, the Federal Government formally resolved the institution of a comprehensive legal information system, to be operated by the Federal Chancellery, thereby laying a secure basis for the development of the present system. 7 October 1986, therefore, can be regarded as the birthday of the Austrian Legal Information System RIS which can celebrate its 30th anniversary these days. After, during the 1990s, the major part of the federal legislation had been incorporated into the system, decisions of the supreme courts started to be included. Since June 1997 the RIS, which previously had been accessible only to the public administration, is available on the Internet free of charge, as one of the first public government projects.

The Legal Information System contains the following databases:

- Federal (including the previous Imperial) Law Gazettes from 1848 onwards and since January 1, 2004 in its legally authentic form, and those from 1780 to 1848 in the form of external data

It is noteworthy that the accessibility of the documents containing the individual issues of the Gazettes is different:

- From 2004 onwards, issues are authentic and allow full text search;
- from 1945 to 2003, documents are scanned and OCR'ed PDFs which are subject to OCR errors;
- from 1848 to 1940, only metadata (title, number, ...) can be searched, users are forwarded to the National Library database which holds images of the gazette page per page;
- from 1740 to 1848, users were referred to the said National Library database which holds images solely and offers only poor (metadata) search options.

- draft bills released for consultation and government bills
- Consolidated Federal Law as amended as well as historical versions
- Consolidated State Law of all 9 provinces as amended as well as some historical versions
- Authentic versions of State Law Gazettes of all 9 states
- Not authentic State Law Gazettes of 8 provinces, the application “Law Gazettes of Vienna” is accessing external data
- Municipal Law (extracts) of the provinces of Carinthia, Styria, Vienna, Salzburg and Lower Austria
- Decisions of the courts and selected administrative authorities:
 - Decisions of the Constitutional Court,
 - decisions of the administrative courts: The Supreme Administrative Court, the Federal Administrative Court and the 9 State Administrative Courts, the former Court of Asylum and
 - decisions of the courts of ordinary jurisdiction (Supreme Court of Judicature, Courts of Appeal, Regional Courts of Justice, District Courts) and of
 - decisions of several tribunals and commissions (e.g. Environmental Senate, Data Protection Authority, Equal Treatment Commissions, Procurement Review Authority)
- The abbreviation list of legal norms of the Supreme Administrative Court
- Law of the European Union (link to EUR-Lex)
- Edicts of the Austrian Federal Ministries (extracts)
- Official Veterinary Bulletins
- Social Security Law (authentic version since 2002)
- Austrian laws (selected Austrian federal laws in English translation)

The federal law database covers 99% of Austrian federal law.

Amendments are incorporated as soon as they are promulgated so that the database always contains the applicable version of a document (one document: 1 section or 1 article or 1 annex). In addition to the applicable version, many norms also offer the opportunity to access previous versions, making it possible for the user to reconstruct the development of the regulation. Previous versions are available back to the first version entered after the creation of the Legal information System, which regularly means, back to the early 1990s. It is also possible to get the whole consolidated version of one law as amended as well as historical versions for any day of the existence of every law (in the Legal Information System, regularly back to the 1990s).

A much-appreciated feature is the list, existing for each consolidated act, of originating issues of gazettes covering both original versions and amendments together with, in the case of a parliamentary law or international treaty approved by parliament, the respective parliamentary materials (minutes, commission reports etc), all items of the list being clickable, thereby leading to the documents held on the website of the Parliamentary Administration.

As a result of the cooperation with the offices of State (regional) governments, the Legal Information System contains all issues of the State Law Gazettes of all the Austrian provinces in their authentic versions and, back over a varying range of years, former non-authentic versions. The consolidated State Law contains the applicable version of a document (one document: 1 section or 1 article or 1 annex), amendments are incorporated as soon as they are promulgated; historical versions are available. The Municipal law database contains the laws of some Austrian municipalities.

Case-law is now a third key component of the Legal Information System. The databases contain both the legal principles and the full text of the rulings. The database contains the case-law of the Constitutional Court (nearly all rulings since 1980), the Supreme Administrative Court (comprises

nearly all its decisions since 1990; substantial rulings are also available from previous years), of the Supreme Court (decisions of civil and criminal law), of the Federal Administrative Court and the 9 State Administrative Courts (since 2014), of the Data Protection Authority, of the Equal Treatment Commission, of the Disciplinary Commissions, Supreme Disciplinary commission and Appeals Tribunal and a lot of other historical Tribunals and Commissions.

The applications are supplemented with a comprehensive collection of links to websites of Austrian federal and regional authorities, the EU and international organisations as well as to other Internet providers of legal data (select „list of links“). Most applications offer documents in three different file formats (HTML, PDF, RTF), to support further processing.

In order to ensure the authenticity and integrity of the content, the Law Gazettes (Federal and State), the Veterinary Bulletins and the Social Security Law are affixed with an electronic signature. All signatures are PDF-based (PAdES) except the Federal Law Gazette, currently preparations are being undertaken in order to shift from the XML-based signature to a PDF-based one.

4. E-Recht – Contemporary Legislative Process

4.1. E-Recht as part of e-government

The use of modern information and communication technology in public administration goes under the title e-government. In e-government, Austria plays a leading role.

At EU level e-government is defined as:

“The use of information and communication technologies in public administration combined with organisational change and new skills in order to improve public services and democratic processes and strengthen support to public policies.”

In the interest of the citizens and entrepreneurs the aim was to quickly develop a modern and service-oriented administration. Furthermore, great efforts will be undertaken to offer qualitative high-grade, efficient, low-cost, and secure administrative services within the frame of the federal government’s e-government-offensive.

The E-Recht project initiated by the Austrian Federal Government in 2001 allows a continuous electronic production channel from the drafting of legislation to its publication in an authentic form on the Internet (www.ris.bka.gv.at). It can be characterised as a change from paper documents to electronic documents. The drafting process is shown without any interruptions. A process-control workflow and the use of document templates support the work of the users. At the moment the use of online application modules (“MOA”) allows the electronic signing of legal texts XML-based to warrant their authenticity and completeness, the change to a PDF-based signature (PAdES) is planned within the next 6 months.

The basic idea of the E-Recht project was to have legal texts pass through a continuous electronic production channel, from the initial draft of a bill, via evaluation („Begutachtung“), to the government bill, to its debate in parliament and through to its authentic publication on the internet. Technical means ensure transparency with regard to the making of the text drafting throughout the entire process.

The redesign of the law making process was implemented following a decision on this subject adopted by the Council of Ministers in May 2001. The system facilitates the individual work steps and, above all, clearly speeds up the law making and publication procedure. The implementation of the project also allows for financial savings which exceed the development costs incurred.

First deliberations on this fundamental reform of legislation were launched in 1999 by the Federal Chancellery. In 2001, the Federal Government has defined the aims of the project in a decision (Decision of the Federal Government of 6 June 2001 on Electronic Law-Making).

By virtue of the (Austrian) „Kundmachungsreformgesetz 2004“ (Publication Reform Act 2004), Federal Law Gazette I No. 100/2003, legal texts which must be promulgated in the Austrian Federal Law Gazette are considered to be promulgated in a legally binding way exclusively if published on the Legal Information System of the Republic of Austria.

The Federal Chancellery was one of the first public authorities in Europe which has implemented a complete digital law making system and the publication of the Federal Law Gazette in an authentic version on the Internet.

4.2. E-Recht – the project

The process was planned and realised as a whole, which allows processing transitions from one organisation to the next to be kept frictionless; parallel processing by several organisations at once is made possible.

The main aims of the project were:

- Continuous electronic support of legislation
- Reduction of mistakes by elimination of duplicates
- Recycling of data
- Compare versions
- Easier administration of different versions of documents
- Implementing of a uniform layout
- Support for legislative bodies
- Official and authentic publication in an electronic Federal Law Gazette online free of charge

Using the web-based software for Electronic Files ("ELAK-System") which is in place in all Federal Ministries, the requirements for the E-Recht project were developed. The E-Recht workflow is a centralised system where no specialised client software is needed and no additional license fee has to be paid.

4.2.1. Workflow

The law-making process is documented and facilitated by a workflow system. The workflow of electronic law making involves the following processes, depending on the type of the legal source (e.g., Federal Act, Regulation):

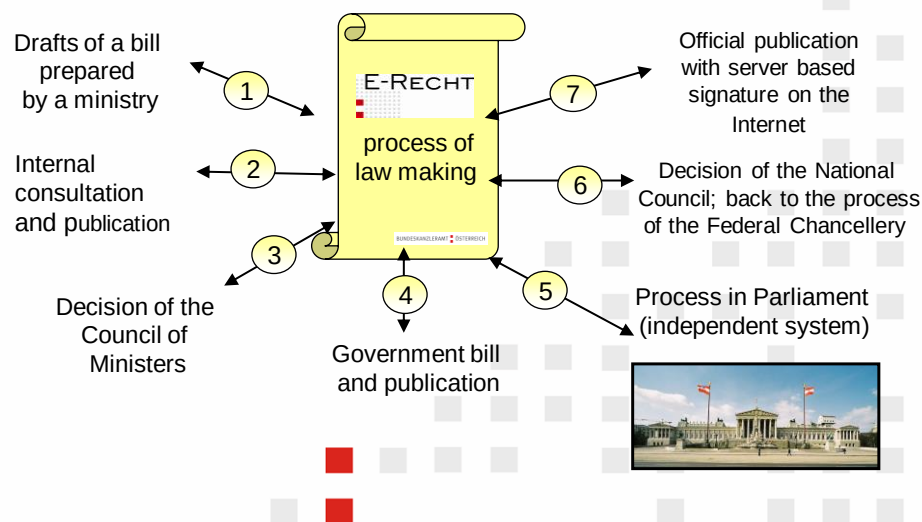
- Preparation of a bill
- Evaluation procedure
- Presentation to the Council of Ministers
- Government bill
- Process in parliament (independent system)
- Decision of Parliament
- Authentication of the Act by the Federal President and counter-signature by the Federal Chancellor
- Official electronic publication as a Federal Law Gazette via the Austrian Legal Information System (www.ris.bka.gv.at)

Each bill recorded in the E-Recht system consists of metadata (descriptive information) and the following documents:

- Draft bill (mandatory)
- Relevant documents (usually consisting of the introduction („Vorblatt“), comments, comparison of texts)
- Annexes
- Opinions of bodies which were invited to evaluate a ministerial draft bill („Ministerialentwurf“)
- Various cover notes
- Other documents



process of law making



4.2.2. Documents and conversion routines

The creation of electronic texts within the law making process follows the layout guidelines of the Executive Office for Constitutional Matters of the Federal Chancellery (for information in German see www.bka.gv.at, „Fachinhalte / Verfassungsdienst/Legistik“). Based on these guidelines, MS Word-based templates were developed which facilitate the structuring of texts and the layout design for the Federal Ministries. Currently, 55 paragraph formats and 9 character formats are available. Specially defined toolbars help to assign the formats. The first draft of a new law will regularly be prepared outside of the E-Recht system by legal professionals. The writing of the first draft is supported by the use of MS Word templates and assisted by MS Word macros. The usage of these macros is decentralised. These measures should guarantee a standardised layout of all legal norms when authorised users of the E-Recht system put the draft into the system.

Additional functions which allow for a more comfortable editing of the legal texts are made available to the users:

- Auto format recognition
- E-Recht conformity check (for conversion to XML)
- Table of contents generation
- Text comparison

Of great importance for the next steps is the entry and strict separation of meta- and text data as well as the correct formatting. This has to be checked again after a successful data import. Now the document can be forwarded to the next legislative body in the process.

At this stage the documents which have been created in MS Word as well as other original formats (PDF, JPEG, GIF, TIFF, etc.) are converted automatically to XML (Extensible Markup Language) to meet the requirements of sustainable long-term archiving and the electronic signature. Main advantages of XML documents are also the high compatibility and re-use of data.

4.2.3. Authenticity

The use of online application modules („MOA”) allows the electronic signing of legal texts to warrant their authenticity and completeness. Since 2004 we use this XML-based signature, but currently a changing process is undertaken to change to a PDF-based signature (PAdES).

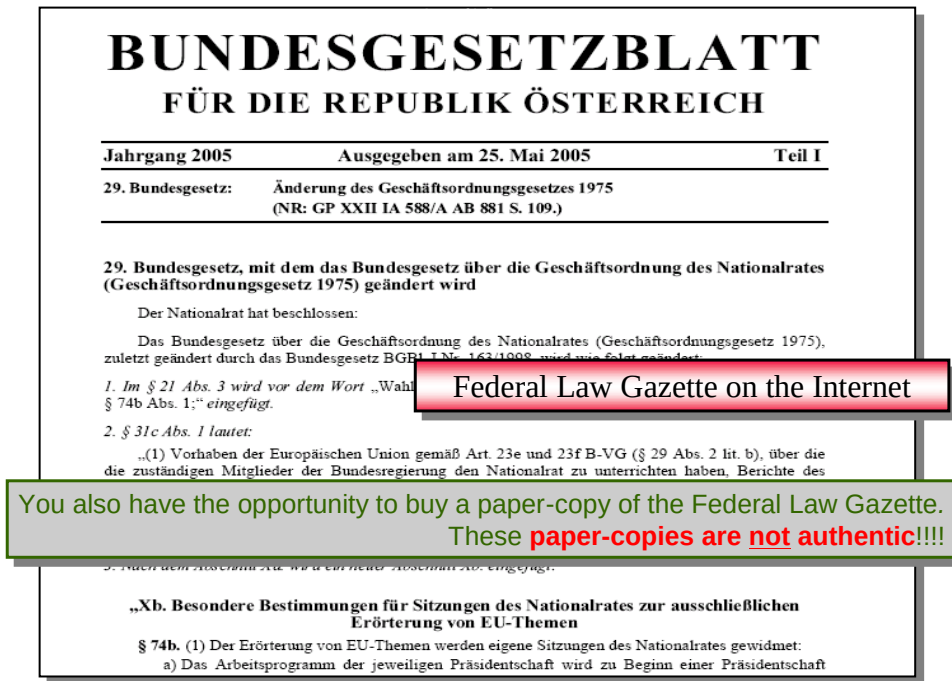
4.2.4. Access and Access rights

E-Recht can be only accessed on the Intranet of the public bodies. Authorised and specially trained users can login with user-ID and password. Furthermore, SSL (Secure Socket Layers) is installed for secure communications. SSL is a form of encryption which can be used to scramble data when it is transferred each way between a server and an Internet browser. All drafts or projects are protected by strict access rules. The data in the E-Recht system can be put, read or changed depending on different access rights. Every ministry has to define some groups of users who are responsible for certain subject fields and have the authorisation to put the preliminary draft of a planned bill into the E-Recht system. The members of these user groups have the access rights to read, to write and to search as far as their own projects are concerned.

4.2.5. Publication of E-Recht documents

The following documents which were created in the E-Recht system are published in RIS:

- Draft bills
- Government bills
- Federal Law Gazettes



4.3. Benefits for citizens and administration

The E-Recht System is very profitable for the citizens and the administration in Austria.

- The access to draft bills, government bills and the publication of the Federal Law Gazettes is available for everybody free of charge.
- The possibility of full text search in the content of the documents in RIS.
- The replacement of printed Federal Law Gazettes by digitally signed electronic documents
- In RIS the user can choose from the following document formats of the Federal Law Gazette
 - HTML
 - PDF
 - RTF
 - Electronically signed version
- Additionally everyone has also the opportunity to buy a hard-copy of the Federal Law Gazette from the company "Wiener Zeitung". Please notice that these hard-copies are not authentic.
- The Federal Chancellery provides an electronic workflow for the Austrian Ministries to produce their legal texts (e.g. laws, regulations).
- Enormous time savings (days or even hours instead of weeks) especially regarding the publication.
- Documents are written in MS Word supported by the dedicated macros (use of special MS Word templates).
- Some more information is available because all documents are structured by additional categories (e.g. date of the parliament meeting, number of the meeting-document, title, CELEX-number, European Law Identifier (ELI) in near future, number of the Federal Law Gazette).