

# **Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States**

## **Austria 2017**

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Author(s): Markus Möstl, Wanda Tiefenbacher

Reviewed by: Klaus Starl

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## Table of contents

1	Regulatory environment for the work of non-governmental organisations .....	3
2	EU Member State government funding for non-governmental organisations – trends and developments 2011-2016 .....	4
2.1	Overall amount of government funding.....	4
2.2	Distribution of government funding .....	6
2.3	Restrictions (or other changes) on NGO funding from other sources	6
3	Access to the decision-making process for non-governmental organisations working on fundamental rights .....	7
4	Further information.....	8

## 1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
Regulation on Extraordinary Expenses and Data Transfer 2016 ( <i>Sonderausgaben-Datenübermittlungsverordnung</i> ) <sup>1</sup>	D	Positive in relation to transparency and negative in relation to feasibility for small organisations.  Private donations to tax exempt organisations are now liable to full disclosure of donors' data to the Ministry of Finance. For small organisations this is not sensible due to high labour and management costs. Large and more established organisations are more likely to easily to manage this task. <sup>2</sup>
Law on Benefit to the Public 2015 ( <i>Gemeinnützigkeitsgesetz 2015</i> ) <sup>3</sup>	C	Negative: Foundations and funds now have stricter founding criteria, including clauses excluding the realisation of

<sup>1</sup> Austria, Regulation on Extraordinary Expenses and Data Transfer (*Verordnung des Bundesministers für Finanzen zur Übermittlung von Daten für die Berücksichtigung von Sonderausgaben in der Einkommensteuerveranlagung (Sonderausgaben-Datenübermittlungsverordnung – Sonderausgaben-DÜV)*), BGBl. II No. 289/2016, available at: [www.ris.bka.gv.at/Dokumente/BqblAuth/BGBLA\\_2016\\_II\\_289/BGBLA\\_2016\\_II\\_289.pdf](http://www.ris.bka.gv.at/Dokumente/BqblAuth/BGBLA_2016_II_289/BGBLA_2016_II_289.pdf)

<sup>2</sup> Interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017 and *Interessensvertretung Gemeinnütziger Organisationen (IGO)* (2017), „Datenübermittlungsverpflichtung" im Parlament beschlossen, available at: [www.gemeinnuetzig.at/igo-423](http://www.gemeinnuetzig.at/igo-423).

<sup>3</sup>Austria, Law on Benefit to the Public (*Gemeinnützigkeitsgesetz 2015*), 153/ME (XXV. GP), available at: [www.parlament.gv.at/PAKT/VHG/XXV/ME/ME\\_00153/imfname\\_471283.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00153/imfname_471283.pdf)

		profit, as well as excluding possible financial gains to the founder or a person close to the institution. Existing 'old' and traditional funds must now amend their statutes or will be reviewed and excluded from the status of 'foundation' or 'fund'. <sup>4</sup>
Law on Transparency for Interest Representation and Lobbying 2012 ( <i>Lobbying- und Interessensvertretungs-Transparenz-Gesetz 2012</i> ) <sup>5</sup>	E	Positive: Organisations working towards a common cause and count as 'interest representations' may now register into a database at the Ministry of Justice, outlining their aims and declaring their finances. <sup>6</sup>

## 2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

### 2.1 Overall amount of government funding

No concrete numbers are available on governmental funding trends concerning non-governmental organisations (NGOs) working on fundamental rights. However the reports available give insight on the general amount of funding spent annually on the work of non-governmental organisations.

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<sup>4</sup> *Interessensvertretung Gemeinnütziger Organisationen (IGO) (2017), Gefahren für bestehende Stiftungen und Fonds*, available at: [www.gemeinnuetzig.at/bstfg-2015-gefahren-fuer-bestehende-stiftungen-und-fonds](http://www.gemeinnuetzig.at/bstfg-2015-gefahren-fuer-bestehende-stiftungen-und-fonds).

<sup>5</sup> Austria, Law on Transparency for Interest Representation and Lobbying (*Bundesgesetz zur Sicherung der Transparenz bei der Wahrnehmung politischer und wirtschaftlicher Interessen (Lobbying- und Interessenvertretungs-Transparenz-Gesetz – LobbyG)*), BGBl. I No. 64/2012, available at: [www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2012\\_I\\_64/BGBLA\\_2012\\_I\\_64.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2012_I_64/BGBLA_2012_I_64.pdf).

<sup>6</sup> *Interessensvertretung Gemeinnütziger Organisationen (IGO) (2017), Lobbyistengesetz in Kraft*, available at: [www.gemeinnuetzig.at/lobbyisten-gesetz-in-kraft](http://www.gemeinnuetzig.at/lobbyisten-gesetz-in-kraft).

Funding for NGOs primarily comes from the Ministry for the Interior (within the budget referred to as 'UG Inneres'): a total € 50.9 million spent in direct funding (an increase of 339.2 % compared to the previous year due to extra funding for NGOs dealing with the refugee crisis and affected persons). In each governmental funding report, a list of funded organisations is available and includes organisations working on fundamental rights. However there are no concrete numbers on how much funding was given specifically. For comparison, in the years before 2015, the Ministry of the Interior spent: € 17.2 million in 2011;<sup>7</sup> € 21.4 million in 2012;<sup>8</sup> € 24.3 million in 2013;<sup>9</sup> € 14.9 million in 2014.<sup>10</sup>

Out of the total receivers of funding from all government fundings given in 2015, 34.1 % are private individuals or organisations, i.e. non-profit ventures; however this does not only include NGOs.<sup>11</sup> The percentage of overall funding from UG Inneres going towards private, non-profit institutions (as opposed to foreign institutions or public institutions) seems to have increased: 27 % in 2011;<sup>12</sup> 31.3 % in 2012;<sup>13</sup> 32.1 % in 2013;<sup>14</sup> 32.6 % in 2014.<sup>15</sup>

However, a report<sup>16</sup> and two interview partners<sup>17</sup> stated that accessibility to funding has decreased in the last five years, as has the perceived

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<sup>7</sup> Bundesministerium für Finanzen (2012), *Förderungsbericht 2012*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2012.pdf?5s3q6l](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2012.pdf?5s3q6l).

<sup>8</sup> Bundesministerium für Finanzen (2013), *Förderungsbericht 2013*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2013.pdf?5s3qfc](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2013.pdf?5s3qfc).

<sup>9</sup> Bundesministerium für Finanzen (2014), *Förderungsbericht 2014*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2014.pdf?5s3ptj](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2014.pdf?5s3ptj).

<sup>10</sup> Bundesministerium für Finanzen (2015), *Förderungsbericht 2015*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2015.pdf?5s3qar](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2015.pdf?5s3qar).

<sup>11</sup> Bundesministerium für Finanzen (2015), *Förderungsbericht 2015*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2015.pdf?5s3qar](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2015.pdf?5s3qar).

<sup>12</sup> Bundesministerium für Finanzen (2012), *Förderungsbericht 2012*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2012.pdf?5s3q6l](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2012.pdf?5s3q6l).

<sup>13</sup> Bundesministerium für Finanzen (2012), *Förderungsbericht 2012*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2012.pdf?5s3q6l](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2012.pdf?5s3q6l).

<sup>14</sup> Bundesministerium für Finanzen (2013), *Förderungsbericht 2013*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2013.pdf?5s3qfc](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2013.pdf?5s3qfc).

<sup>15</sup> Bundesministerium für Finanzen (2014), *Förderungsbericht 2014*, available at: [www.bmf.gv.at/budget/das-budget/Foerderungsbericht\\_2014.pdf?5s3ptj](http://www.bmf.gv.at/budget/das-budget/Foerderungsbericht_2014.pdf?5s3ptj).

<sup>16</sup> More-Hollerweger, E., Simsa, R., Kainz, G., Neunteufl, F., Grasgruber-Kerl, R., Wohlgemuth, F. (2014), *Civil Society Index – Rapid Assessment: Rahmenbedingungen für die Zivilgesellschaft in Österreich*, Interessensvertretung Gemeinnütziger Organisationen (IGO), available at: [www.gemeinnuetzig.at/images/doku/civil\\_society\\_index\\_ra\\_juni\\_2014.pdf](http://www.gemeinnuetzig.at/images/doku/civil_society_index_ra_juni_2014.pdf).

availability thereof. More specifically, the report outlines that framework conditions for NGOs to receive funds are often bureaucratic and difficult, and there is a restriction in the funding of overhead costs as well as late government payments. At the same time, for example in the context of decreased government spending overall, criteria for funding has become more specific and the readiness of the government to fund NGOs not active in their fields of preference has decreased. In addition, both interview partners<sup>18</sup> confirmed that survival in the civil society sector in Austria takes determination and will, thus implying that the steps actively taken to enable NGO activity are limited (see Section 4 on further information). It can therefore be assumed that the perceived availability of funding is also rather low.

## **2.2 Distribution of government funding**

There is no direct information available from official sources.

One interview partner stated that scientific research seems more likely to be funded than direct activities for fundamental rights implementation. Furthermore, the interviewee stated that 'experimental' and innovative projects and approaches are very unlikely to receive funding.<sup>19</sup>

## **2.3 Restrictions (or other changes) on NGO funding from other sources**

In general, funding seems to have been cut down although more NGOs are claiming funds from the government and are even dependent on them – the process behind the allocation and amount of funds is not transparent.<sup>20</sup> Two interviewees stated that they were not aware of any direct restrictions on funding.<sup>21</sup>

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<sup>17</sup> Interview with *Behindertenverband Österreich* (KOBV) "Umbrella Association for People with Disabilities", 22 February 2017; interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.

<sup>18</sup> Interview with *Behindertenverband Österreich* (KOBV) "Umbrella Association for People with Disabilities", 22.2.2017 and interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.

<sup>19</sup> Interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.

<sup>20</sup> Interview with *Behindertenverband Österreich* (KOBV) "Umbrella Association for People with Disabilities", 22 February 2017 and interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.

<sup>21</sup> Interview with *Behindertenverband Österreich* (KOBV) "Umbrella Association for People with Disabilities", 22 February 2017.

### 3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
National Action Plan for Human Rights ( <i>Nationaler Aktionsplan für Menschenrechte 2013–2018</i> ) <sup>22</sup>	<p>Interview with <i>Klagsverband Österreich</i> "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.</p> <p>AOB (Austrian Ombudsman Board) (2015) <i>Annual Report 2015, International Version</i>, available at: <a href="http://tinyurl.com/jgkf2no">http://tinyurl.com/jgkf2no</a>.</p>	<p>NGOs are regularly invited to hold talks with government stakeholders and are invited to discussions. However, activities explicitly based on NGO input are rare or non-existent. Cooperation with NGOs is minimal, very selective and usually confined to information giving beforehand, or in an evaluation in hindsight. It must be noted that NGO representatives withdrew from the consultation process in February 2016 due to lack of progress and disappointment with suggestions submitted by the federal ministries.</p>
National Action Plan Disability 2012–2020 ( <i>Nationaler Aktionsplan für</i>	Interview with <i>Österreichischer Behindertenverband</i> (KOBV),	Changes have resulted in more opportunities to be heard and to represent and

<sup>22</sup> Austria, National Action Plan for Human Rights (*Nationaler Aktionsplan für Menschenrechte*), available at: <http://volksanwaltschaft.gv.at/downloads/7gu6o/Projektbeschreibung%2520NAP-Menschenrechte15.7.2014.pdf>.

<p><i>Behinderung 2012-2020</i>)<sup>23</sup></p>	<p>22 February 2017.</p> <p>Interview with <i>Klagsverband Österreich</i> "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.</p>	<p>implement interests. In addition, government institutions are more willing to involve NGOs and umbrella organisations when making or implementing new rules. These are generally positive developments in terms of involvement and acknowledgement, and are the result of organisations making year-long demands.</p>
<p>Deadline for submitting statements on new laws<sup>24</sup></p>	<p>Interview with <i>Österreichischer Behindertenverband</i> (KOBV), 22 February 2017.</p> <p>Interview with <i>Klagsverband Österreich</i> "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.</p>	<p>There are generally much stricter deadlines for submitting statements on new laws (not specified, dependent on law).</p>

#### 4 Further information

NGOs seem to be largely based on perception with the criterion of being an institution with common benefit to the public. In Austria, there are several legal forms, most commonly a 'Verein', which is a registered association,

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<sup>23</sup> Austria, National Action Plan for Disability (*Nationaler Aktionsplan für Behinderung*), available at: <https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=165>.

<sup>24</sup> No source available as this is not legally enshrined but decided by the Ministry submitting the law on an ad hoc basis.



or sometimes a 'Stiftung', which is a foundation.<sup>25</sup> NGOs are therefore those Vereine and Stiftungen who deal with social, environment, migration and human rights issues. There are 425 NGOs in Austria. These are not mentioned explicitly and are not governed by a centralised government agency. There are no barriers or discrimination when it comes to opening a Verein in Austria, and no start-up capital is required.<sup>26</sup>

The funding of NGOs (Vereine) is administered by local, regional and national authorities depending on area of funding interest and/or activity and is highly varied. There is no centrally coordinated funding mechanism, as funding remains at the discretion of political and administrative decision makers. The determinants of when and by whom structural or project-specific funds are allocated is not transparent, and no exact numbers are available. A report found that official fundings are often given in accordance with leading coalition party interests, as was echoed by an interview partner. This also influences the capacity of NGOs to advocate their cause.<sup>27</sup>

Furthermore, NGOs active in the areas of women's rights, the environment, developmental aid or human rights often receive less public funding because of their distance to the establishment. Official statistics on NGOs therefore do not adequately reflect the importance of NGOs and their work in Austria.<sup>28</sup>

It has been reported that NGOs lack the means to partake in public decision-making in general.<sup>29</sup>

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<sup>25</sup> The World of NGOs (2017), *Was ist eine NGO?*, available at: [www.ngo.at/index.php/ngos/was-ist-eine-ngo](http://www.ngo.at/index.php/ngos/was-ist-eine-ngo).

<sup>26</sup> Dimmel, C. and Stelzer-Orthofer, C. (2016), *TransForm – Journal für zivilgesellschaftliche Innovation, Jahrgang 1, Heft 1, Schwerpunktthema: Demokratie*, available at: <http://tinyurl.com/jachhhr>.

<sup>27</sup> More-Hollerweger, E., Simsa, R., Kainz, G., Neunteufl, F., Grasgruber-Kerl, R., Wohlgemuth, F. (2014), *Civil Society Index – Rapid Assessment: Rahmenbedingungen für die Zivilgesellschaft in Österreich, Interessensvertretung Gemeinnütziger Organisationen (IGO)*, available at: [www.gemeinnuetzig.at/images/doku/civil\\_society\\_index\\_ra\\_juni\\_2014.pdf](http://www.gemeinnuetzig.at/images/doku/civil_society_index_ra_juni_2014.pdf); interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.

<sup>28</sup> More-Hollerweger, E., Simsa, R., Kainz, G., Neunteufl, F., Grasgruber-Kerl, R., Wohlgemuth, F. (2014), *Civil Society Index – Rapid Assessment: Rahmenbedingungen für die Zivilgesellschaft in Österreich, Interessensvertretung Gemeinnütziger Organisationen (IGO)*, available at: [www.gemeinnuetzig.at/images/doku/civil\\_society\\_index\\_ra\\_juni\\_2014.pdf](http://www.gemeinnuetzig.at/images/doku/civil_society_index_ra_juni_2014.pdf).

<sup>29</sup> More-Hollerweger, E., Simsa, R., Kainz, G., Neunteufl, F., Grasgruber-Kerl, R., Wohlgemuth, F. (2014), *Civil Society Index – Rapid Assessment: Rahmenbedingungen für die Zivilgesellschaft in Österreich, Interessensvertretung Gemeinnütziger Organisationen (IGO)*, available at: [www.gemeinnuetzig.at/images/doku/civil\\_society\\_index\\_ra\\_juni\\_2014.pdf](http://www.gemeinnuetzig.at/images/doku/civil_society_index_ra_juni_2014.pdf).

Finally, both interview partners stated that NGOs need to show a strong degree of determination and perseverance in order to be acknowledged and involved politically, as the government is neither pro-active nor facilitating in this realm. There has been little legal process and change in the past years.<sup>30</sup>

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<sup>30</sup> Interview with *Behindertenverband Österreich* (KOBV) "Umbrella Association for People with Disabilities", 22 February 2017; interview with *Klagsverband Österreich* "Umbrella organisation for implementing the rights of victims of discrimination", 22 February 2017.