



Austria

Ratified the European Convention on Human Rights in 1956

National Judge: Gabriele Kucsko-Stadlmayer

[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)

The Court dealt with 248 applications concerning Austria in 2015, of which 241 were declared inadmissible or struck out. It delivered 8 judgments (concerning 7 applications*), 5 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2013	2014	2015
Applications allocated to a judicial formation	437	315	263
Communicated to the Government	28	18	33
Applications decided:	633	394	248
- Declared inadmissible or struck out (Single Judge)	573	370	233
- Declared inadmissible or struck out (Committee)	8	12	7
- Declared inadmissible or struck out (Chamber)	30	5	1
- Decided by judgment	22	7	7
Interim measures:	35	21	24
- Granted	0	2	3
- Refused (including out of scope)	35	19	21

* One further judgment was delivered in respect of both Slovenia and Austria: *Furman v. Slovenia and Austria*

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#)

Applications pending before the Court on 01/01/2016	
Total pending applications*	197
Applications pending before a judicial formation:	135
Single Judge	37
Committee (3 Judges)	38
Chamber (7 Judges)	60
Grand Chamber (17 Judges)	0

*including applications for which completed application forms have not yet been received

Austria and ...

Its contribution to the Court's budget

For 2016 the Court's budget amounted to approximately 71 million euros. That budget is financed by contributions from the 47 member States of the Council of Europe in accordance with scales based on population and GDP; the 2016 contribution of Austria to the Council of Europe's (EUR 326 million) budget was **EUR 5,447,401**.

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 **679** Registry staff members of whom **3** are Austrian.

Noteworthy cases, judgments delivered

Grand Chamber

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 dealing with 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 dealing with 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 \(right to free elections\)](#)

Cases dealing with 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 dealing with Article 6

Right to a fair hearing/trial

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 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](#)

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 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](#)

Other noteworthy judgments, judgments delivered

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 \(prohibition of discrimination\) in conjunction with Article 1 of Protocol No. 1 \(protection of property\)](#)

Noteworthy pending cases

Tretter and Others v. Austria (no. 3599/10)

[Communicated](#) to the Austrian Government in May 2013

The case concerns complaints under Articles 8 (right to respect for private life and correspondence), 10 (freedom of expression) and 13 (right to an effective remedy) of the Convention as regards the amendments of the Police Powers Act, which entered into force in January 2008 and extended the powers of the police authorities to collect and process personal data.

Batista Laborde v. Austria (no. 41767/09)

[Communicated](#) to the Austrian Government in September 2013

The case concerns Mr Batista Laborde's complaint about the unfairness of his conviction for drug trafficking.

Relying on Article 6 § 1 (right to a fair trial) of the Convention he alleges in particular that he would not have committed the offences of which he was convicted if he had not been unlawfully incited by the Austrian police.