

The Current Political System of Austria

Written by Ryan Jacobs

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Introduction

Within each state's borders there is a unique political history. Comprising of parties building power, and changing the political regime, is commonly seen when delving into research.

Another common trait is the loss of power that these parties eventually reach, as another party gains support by a new generation, which brings a new wave of ideas. The differences amongst states is exactly what these parties consist of, where they originate, why they rise to power, and what they leave behind when they lose support of the state. Austria's unique political regime relies on a desire for social reform, and a democratic process. The authority of Austria's government has increasingly been handed over to its people, as the parties have altered their role, they speak for society at large. This combination of the democratic process, and social reform illustrate the example that a state can stabilize the two, and manage to flourish economically. The following is a summary of the political process, political parties, and the three branches of governance in Austria, today.

"Cognizance of the relation between a cause and its effect is the first step toward mans orientation in the world and is the intellectual condition of any successful activity(Ludwig von Mises, The Ultimate Foundation of Economic Science pg 20)."

Elections and the Electoral System of Austria

In Austria, there are 183 seats in the National Council, and the territory of Austria is subdivided into one federal constituency. There are also nine provincial constituencies which are subdivided into forty-three regional constituencies. Each of these constituencies has a limit on the number of seats to be allocated on the basis of the latest election. Austria's electoral process for parliament consists of voting for a particular party which produces a list of the parties candidates before the election.

Austria's proportional representation system ensures that the ratio of votes cast and the number of seats assigned determine how many seats a party obtains. From the age of sixteen, everyone has the right to vote freely, equally, directly, and in a secret ballot. According to the Republik Osterreich's webpage "In recent decades various elements of the ad personam election system have been introduced into elections by party list – for instance by allowing voters to express their preference for particular persons on the slate."

Austria is a parliamentary democracy. Every citizen has the right to speak their individual mind within the political realm and to defend their interest. They pride themselves in doing so. Austria permeates a strict ideology of "Its law emanates from the people", and "that if it was left up to the majority, democracy would be jeopardized

and reduced to voting", which is contested by the Republik Österreich's webpage, as follows:

- All institutions and office-holders of the state have to justify all of their decisions and actions to their citizens. They must give their essential reasons for them and stand for election at regular intervals. In other words, they cannot act without their citizens or without assuming responsibility for their actions.
- Accordingly, the political freedom of all citizens must be safeguarded and protected. Each and every one of them must enjoy the right to express their views and become politically active(1).

For the most part, election cycles have been stable. From the twenty-third election on October 1st, 2006 to the twenty-fourth on September, 28th of 2008 there were seven hundred and twenty-eight days. It was due to the withdrawal of the Austrian People's Party leader. This was the shortest time in between elections in Austria over the course of the last sixteen years. The amount of days in between the election cycle prior was fourteen hundred and seven days, following eleven-hundred and forty-eight, and thirteen hundred and eighty-six. The average amount of years (by days) since 1995 is eleven-hundred and sixty seven.

Although there are over seven-hundred registered political parties, only four parties have consistently won seats in the parliament. So, even though Austria suggests that the people are politically powerful, the dominance of particular political parties suggest otherwise. The Social Democrats have been a leading political party since the early 1900's. It was not until then that they were faced with the idea of democracy, as opposed to their socialist roots which lost them much of their power in the Austrian parliament. At this point, the Austrian People's Party gained power and it was necessary

for the Social Democrats (formerly "The Socialist Party of Austria") to form a grand coalition with the Austrian People's Party, which lasted until 1999. At this point, the Social Democrats decided on a reformed party program. The elections of 1999 saw a dramatic decrease in the parties votes due to the risky changes that the party took. The Freedom Party of Austria won five percent more votes than the last election and formed a coalition government with the Freedom Party of Austria (both winning nearly twenty-seven percent of the votes). Since both these parties are right wing, this caused tensions with the EU. Within three years, the Freedom Party of Austria became so divided due to the skepticism of the Austrian people and its struggle from being anti-establishment party to a part of the government that it lost over half the votes that it received in the previous election. Once again in 2002, the Social Democratic Party received a predominant amount of the votes, only falling short to the Austrian People's Party. In 2004, the leader of the Social Democratic Party, Heinz Fischer won the presidential election and thereafter became the strongest party in Austria. Their prosperity flourished in 2006 when they won 35.34 percent of the votes over the Austrian People's Party's 34.33 percent. This has been consistent since 2006, as the Social Democratic Party won the majority of votes in 2008. According to Wikipedia, " Former ÖVP (Austrian People's Party) leader Wolfgang Schüssel claimed on 4 September 2008 the ÖVP's low numbers in the polls were due to the large number of parties contesting the election and denied that the ÖVP had made mistakes in their election campaign so far(1)."

The ability for smaller parties to rise and claim seats in Austria is difficult, but possible. The Green Party or "Green Alternative" has steadily increased in recognition throughout the past four elections. The possibility for other weaker parties, such as the

Citizens' Forum Austria and the Liberal Forum may develop over time and the chances are much more likely than in the past few decades. This is mainly due to the effect the Cold War had on Austrians and their ability to adapt to a new political environment since the fall of the Soviet Union.

Courts and Constitution of Austria

In Austria, there are fourteen members in the Constitutional Court. They are appointed by the President. The President is given proposals by the Federal Assembly or the Government regarding the members appointment. There are also six substitute members. The court justices stay in office until they are seventy years of age, or removed from office by the Constitutional Court itself. In many regards, the Austrian Constitutional Court follows a model that is very similar to the United States of America. The Constitutional Court hears cases that an individual or institution files, which initiates a proceeding and enables the intervention of the Court. The Constitutional Court cannot take any actions by itself. The Court is responsible to take action once a complaint is filed. Of course, there are several other requirements that must be fulfilled before filing a complaint with the Constitutional Court. The individual or institution must submit the application in written form through a lawyer and have already gone through other stages of appeals if they feel that their constitutionally rights have been infringed upon.

Austria's constitution was the second in the world to enact judicial review

wherein separate constitutional court reviews legislative acts for their constitutionality. It became known as the "Austrian System" and was adopted by many European countries shortly after World War II. The Federal and state judicial authority is responsible for judicial review of administrative acts. It is comprised of the Constitutional Court and Administrative Court. The Constitutional Court focuses on the laws passed by parliament and examines the legality of such laws. The Administrative Court deals with all cases dealing with public officials, those in various offices and cases that the Constitutional Court does not deal with, although the Constitutional Court has the right to strike down laws. Furthermore, making new amendments to the Constitution is rare in Austria. According to Wikipedia:

- A majority of two-thirds in the National Council (parliament). Only in the case of a fundamental change ("Gesamtänderung") of the constitution a confirmation by referendum is required. Since 1945, this has only happened once when Austria's accession to the European Union was approved by popular vote. If a constitutional amendment limits the powers of the states, a two-thirds majority in the Federal Council of Austria is required as well. Depending on the matter on hand, two-thirds of the Federal Councilors present (attendance of one half of all Councilors is required), or two-thirds of all Federal Councilors must approve. If the amendment would change articles 34 or 35 of the constitution, the majority of councilors of at least four of the nine states is an additional requirement(1).

There is a possibility of a "one third motion" concerning the review of norms in Austria. It allows one third of the members of either house in the Federal Assembly, or a state council to enable the intervention of the Constitutional Court. The Federal government can question state legislation and the state can do the very same concerning federal law. There are several other political institutions that can apply to the Constitutional Court. The Constitutional Court of Austria or Verfassungsgesichtshof Österreich webpage explains "Other institutions that can apply to the Constitutional Court are, - for

example, for proceedings concerning the review of the legislature - include the Administrative Court, the Supreme Court, the appellate courts or the Independent Administrative Panel. They are all obliged to contest legislation that they have to apply, but consider unconstitutional." They also note that it is more common for the Constitutional Court to initiate a constitutional review proceeding, if there is any doubt regarding the legality of the norm.

One theory, regarding judicial review in Austria, comes from Nicola Corkin of the University of Birmingham. He states that recently there have been changes in Austria's abstract judicial review over the course of the last three decades. He notes six factors, including the decision making of the court judge, personal political attitudes, direct influence by political institutions, "Black Letter of the Law", precedent, changes in public opinion and the harmonization of national law with European law. Corkin uses empirical data to illustrate the current changes that Austria has been undergoing since the early nineteen-eighties. Due to the harmonization of Austria law and EU law, Corkin suggests that:

- 1. The style of decisions is more interpretative
- 2. More laws are, at least in part, found unconstitutional
- 3. The pattern of decisions is leaning towards more unconstitutionality rulings so as to clarify the political framework for future legislation(1).

The cases enter the operating management office of the Constitutional Court. Then, the President writes the new case of the justice, who will work on it. The President can choose anyone he feels fit for the assignment, but usually they are chosen by their specialty. The President also chooses a "Permanent Reporter" to work the case with the justice. The justice goes over the content of the case in order to determine whether the Constitutional Court has jurisdiction and if the petition meets legal requirements. The justice then works over the basis of the case, which the other justices will discuss. If it is admissible, or refused because it is not deemed unconstitutional, it will be rejected. If the opposing party decides to pursue the case further, they have the right to present a

statement in reply if the justice will allow a preparatory proceeding. If the case is ready for judgment, a draft for discussion will be prepared for the other justices. The clerks assist in preparing the draft. During the session, the draft will be discussed during the session. The fourteen justices usually meet four times a year unless urgent matters occur and they may meet more often. Smaller cases are dealt with in a "small assembly" which consists of only four justices and the attendance of the chair. The deliberations are not open to the public.

Once the justices determine the outcome, the President opens the case for discussion. Then the justices vote on the draft. It is usually amended or corrected in the duration of the discussions. They must earn a majority of the vote and be included in the draft. In complex situations, the justices may meet over the course of several sessions. If they cannot come to a conclusion, they may open a public hearing. At this point, the political parties have to undergo questioning by the justices. They present their individual cases in the hearing room. Such interruptions during constitutional review can extend the time it takes to deal with the proceedings.

When a draft is accepted, the case is closed. The justice who wrote the original draft has to write the final version that includes the make-up that the case underwent over the course of time. The justice can consult the Reporter and the Plenary, if necessary. After it receives the signature of the justice, it still has to be written out in final form. The clerks edit the document for clarification and the decision is sent to the political parties through the operations management office.

Austrian Parliament

In Austria, the Parliament is bicameral and has used a consensus model since World War II. Its functions are mainly ceremonial, but they are endowed with important responsibilities under particular circumstances. More recently, parliament has begun to play a more predominant role than that of the past. According to Dr. Karl Renner-Ring:

- Under the Federal Constitutional Law the Federal Assembly has five functions, which for the most part refer to the office of the Federal President: The Federal Assembly inaugurates the Federal President, who is directly elected by popular vote. It may, at the request of the National Council, decide to hold a referendum

on the deposition of the Federal President; It decides, also at the request of the National Council, whether the Federal President should be prosecuted for a specific action, or impeached for a violation of the Federal Constitution before the Constitutional Court. The Federal Assembly is also responsible for declaring war(4).

The Federal Assembly consists of the Federal Council and The National Council. The Federal Council has sixty two seats. These seats are appointed by state parliaments. Each state receives three to twelve seats in proportion to its population. The other chamber is called the National Council. Members of the National Council serve five or six year terms. The National Council has one hundred and eighty three seats. The members of the National Council are elected by popular vote. They serve for a five year term under a system of proportional representation with a partially open party list, although the National Council can move prematurely for its own dissolution. The Federal Assembly meets in the Debating Chamber of the former House of Deputies of Austria.

Lately, the party discipline of Austria has loosened. There have been increasingly high levels of members of parties using parliamentary control over members of their own party. Currently, there are over eight hundred registered parties in Austria. Parties may be formed freely and are easily created, given that they follow the constitutional law.

The state parliaments also play an important role in developing new laws for their individual provinces. Both the state or "provincial parliaments" and the Federal Assembly play essential roles in the government of Austria. Austria's legislature proposes laws and votes in order for a law to be implemented, but these laws are

proposed by organizations and initiatives outside of the government itself.

"Committees in the Austrian parliament, the Nationrat, are also significant(2011, 60); they are sometimes charged with devising legislation in a particular area, with the full parliament virtually certain to accept their recommendations." A legislative proposal undergoes various steps before being implemented.

The National Council discusses and determines whether a bill should be adopted. If the Federal Council has no objection, the law can be authenticated and published. The majority of these bills are initiated by the government. The government and parliament have a close relationship which results in the government's assumption that if they send a bill to the legislature, it will have majority support and be passed. It usually takes months between the proposal and when the voting process actually begins. Once a law is entered into force, the Federal President signs the law and it is also countersigned by the Federal Chancellor. Austria's legislative proposal is published in the Federal Law Gazette on the internet. In addition, the Federal Council has no authority over the National Councils propositions concerning the federal budget, rules of procedure of the National Council, the final budget account, or particular financial laws.

The Federal Government and its administration, as well as the courts, act only in accordance with the law which the national and provincial parliaments pass. It is also before the Federal Assembly that the inauguration of a newly or re elected Federal president takes place. As parliament plays a pivotal role in the government of Austria, the Federal president has many exclusive powers. The Federal president has the power to dismiss the government, dissolve the National Council, and reject proposed ministers. Parliament keeps a close watch on the Chancellor, Ministers and State Secretaries. They

ensure that they are held accountable for what they do. Austria has increased its procedures regarding question time and has developed committees to investigate government affairs. The committees have begun to hold some investigations publicly and challenge even the most prominent of politicians.

The Austrian Executive Branch

Austria is a federal, parliamentary democratic republic. Since 2004, the head of state is President Heinz Fischer. The President is elected for a six-year term by a direct popular vote and formally sworn into office before the Federal Assembly. The President can be elected for two terms. The President signs bills into law. The President does not have the power to veto bills. His or her signature is a technical formality notarizing that the bill has been introduced and resolved upon accordance with procedure stipulated by the constitution. The President may order a referendum concerning a bill passed by the legislature. The President represents Austria in international relations. Actual foreign policy being cabinet matter, however, this responsibility is exclusively ceremonial. The President accredits foreign ambassadors and symbolically acts as the host for state visits to Austria. The President is the commander in chief, but this too is largely nominal, the actual head of command being the minister of defense. He or she also has the authority to dissolve the National Council on the advice of the Federal Government. The President can also, and frequently does, pardon criminals. The President appoints and swears in judges,

military officers, and federal civil servants. He or she appoints the Chancellor and upon the advice of the Chancellor, the President appoints the cabinet. However, the Chancellor is chosen by the President, but determined by the coalition parties forming a parliamentary majority. The President acts on the Chancellor's advice. Chancellor Werner Faymann has been the head of government since 2008. The Chancellor is considered the most powerful position in Austria politics, and as such is the nation's de facto chief executive. The Chancellor is always the leader of the majority party in the chamber or the biggest party in the governing coalition. The Vice Chancellor is chosen by the President under the advice of the Chancellor. The Vice Chancellor of Austria is Michael Spindelegger. He also serves in the cabinet as Minister for European and International Affairs. The cabinet, or Council of Ministers, consists of thirteen Junior Ministers. The Minister for Agriculture, Forestry, Environment, and Water Management is Nikolaus Berlakovich. The Minister for Economics, Family and Youth is Reinhold Mitterlehner. The Minister for Education, Arts and Culture is Claudia Schmied. The Minister for Finance is Maria Fekter. The Minister for Health is Alois Stoeger. The Minister for Interior is Johanna Mikl-Leitner. The Minister for Justice is Beatrix Karl. The Minister for Labor, Social Affairs, and Consumer Protection is Rudolf Hundstorfer. The Minister for National Defense and Sports is Norbert Darabos. The Minister for Science and Research is Karlheinz Töchterle. The Minister for Transportation, Innovation and Technology is Doris Bures. The Minister for Women and Public Service is Gabriele Heinisch-Hosek. In addition, the Ambassador to the United States is Hans Peter Manz, and the Permanent Representative to the UN is Martin Sajdik. "In a coalition government, the apportionment of the cabinet posts is roughly proportional to the parties' respective strengths in the Nationalrat. The

awarding of particular posts is based on a coalition agreement reached between the two parties. The cabinet is subject to dismissal by the president and the Nationalrat(Wikipedia, 1)". The president can dismiss the entire cabinet without the concurrence of the chancellor, but removal of individual members requires the recommendation of the chancellor. "If the Nationalrat passes a vote of no confidence-- which requires that one-half of the deputies be present--concerning the entire cabinet or a minister, the cabinet or minister is removed from office. The government can be removed from office by either a Presidential decree or by a vote of no confidence in the lower chamber of parliament, the Nationlrat(Wikipedia, 1)".

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