[AT] New legislative push for independent broadcasting

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On 27 March 2025, the National Council (Nationalrat) adopted, with the votes of the ÖVP, SPÖ, and NEOS parliamentary parties, an amendment to the ORF Act (ORF-Gesetz), which was subsequently approved by the Federal Council (Bundesrat) on 10 April 2025. The legislative amendment entered into force on 1 April 2025.

The legislative amendment was adopted in response to a 2023 ruling by the Austrian Constitutional Court (Verfassungsgerichtshof), which found certain provisions concerning the composition of the ORF Foundation Council (Stiftungsrat) and the Audience Council (Publikumsrat) to be unconstitutional. The core changes include:

- Reduction of Government-Appointed Mandates: The number of members appointed to the Foundation Council by the Federal Government has been reduced from nine to six.

- Strengthening of the Audience Council: The Audience Council will henceforth delegate nine members (previously six) to the Foundation Council.

- Qualification Requirements: Appointments of government-nominated members to the Foundation Council must now consider professional qualifications and ensure balanced representation with respect to gender and disciplinary backgrounds.

- Safeguarding Institutional Independence: The premature replacement of Council members by incoming governments is no longer permissible.

The reconstituted ORF Audience Council held its inaugural meeting on 5 June, during which it delegated nine of its members to the Foundation Council. The reconstituted ORF Foundation Council will convene for its constitutive session on 17 June.

The composition of the ORF Foundation Council, the organisation’s principal governing body, is determined as follows: six members are appointed by the Federal Government, six by the parliamentary groups represented in the National Council, nine by the provincial governments (Länder), nine by the ORF Audience

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Council (Publikumsrat), and five by the ORF Staff Council (Betriebsrat). ORF Foundation Council appoints the organisation's senior management - including the Director General, programme directors, and regional directors - by simple majority vote. The next appointment round is scheduled for mid-2026. The Council also adopts the annual ORF budgets and programming schedules and takes decisions of fundamental corporate significance. In the absence of a statutory determination, the level of the ORF household contribution is set by resolution of the Foundation Council.

Currently, however, the amount is set by statute: the household broadcasting levy (Haushaltsabgabe) is fixed at €15.30 per month and will remain frozen until the end of 2029. In addition, a statutory revenue cap has been introduced, stipulating that average annual proceeds from the levy may not exceed €710 million during this period. These provisions are intended to ensure financial planning stability, but they also impose budgetary constraints on the ORF.

The ORF Audience Council (Publikumsrat) comprises 28 members. Fourteen members are directly nominated by institutional stakeholders, including the churches, chambers, the Austrian Trade Union Federation (ÖGB), the Main Association of Austrian Social Security Institutions, and the Austrian Academy of Sciences. The remaining 14 members are appointed by the Federal Government based on shortlists (lists of three nominees each) submitted by civil society organisations representing various sectors of society, including universities, the education sector, the arts and culture, sports, youth, school students, senior citizens, persons with disabilities (who must be represented by a person with a disability), parents and families, ethnic groups (Volksgruppen), tourism, motorists, consumer protection organisations, and environmental organisations. The Audience Council (Publikumsrat) is mandated to represent the interests of the viewing public vis-à-vis the ORF, its executive management, and its staff. Its principal statutory competence lies in the delegation of nine members to the ORF Foundation Council

The ORF Act prohibits individuals who are active or former politicians, party officials, or staff of ministerial cabinets or parliamentary groups from serving on the both Councils for a period of four years following the end of their political functions. Also excluded are shareholders and employees of media companies, including ORF staff—except for the five seats reserved for representatives of the ORF Staff Council. Foundation Council members perform their duties independently of their nominating bodies and are bound by law to act in the interest of the economic well-being of ORF. All members of the ORF Audience and Foundation Councils must submit declarations of eligibility that explicitly refer to the political incompatibility provisions set out in Sections 20 and 28 of the ORF Act. However, prior to the appointment of the governing bodies, several withdrawals occurred: Two members already appointed to the Audience Council

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by the Federal Government stepped down after their political affiliations became public. A further two political functions were revealed only after the constitutive meeting of the ORF Audience Council on 5 June and have since likewise led to resignations.

The legal consequences of a breach of incompatibility provisions remain unsettled. The ORF Act does not explicitly regulate such cases, and there is no established case law.

Although the current reform is considered a necessary step toward reinforcing the independence of the ORF, several political parties—most notably NEOS—are calling for a more comprehensive reform process. Such a process, they argue, should be conducted with public participation and address additional areas such as digital transformation and institutional transparency.

By contrast, the FPÖ has voiced criticism that the reform does not go far enough, reiterating its demand for the abolition of the household levy in favor of direct funding of the ORF through the federal budget.

In sum, the legislative amendment represents a significant step in Austrian media policy, aiming to reinforce compliance with §4 of the ORF Act, which mandates that the public broadcaster operate independently and without political or economic interference. Its long-term implications for the ORF's autonomy and funding remain subject to continuous evaluation.

Beschluss des Nationalrates: Bundesgesetz, mit dem das Bundesgesetz über den Österreichischen Rundfunk geändert wird

https://www.parlament.gv.at/dokument/XXVIII/BNR/21/fname_1675113.pdf

Resolution of the National Council: Federal Act amending the Federal Act on Austrian Broadcasting

VfGH: Teile der Bestellung und Zusammensetzung von ORF- Stiftungs- und Publikumsrat sind verfassungswidrig

https://www.vfgh.gv.at/medien/ORF_Gesetz_Gremien.php

Constitutional Court: Parts of the appointment and composition of the ORF Foundation Council and Audience Council are unconstitutional

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