

[AT] ORF Director-general's private chats between privacy protection and the public Interest

IRIS 2026-8:1/12

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The resignation of Roland Weißmann, the former director-general of Austria's public service broadcaster (*Österreichischen Rundfunks* - ORF), has developed into a noteworthy media law case concerning the boundaries between privacy and investigative journalism. Weißmann resigned as director-general of the ORF on 8 March 2026 after an employee raised allegations of inappropriate conduct and sexual harassment. Weißmann denied the allegations. A subsequent investigation by the ORF's Compliance Office and external compliance experts concluded in April that the conduct examined did not meet the legal definition of sexual harassment under section 6(2) of the Austrian Equal Treatment Act (*Gleichbehandlungsgesetz* - GIBG), while the ORF nevertheless considered compliance and ethical standards to have been violated. The ORF subsequently announced that it would also terminate Weißmann's employment.

A further and, in this context, particularly interesting legal dimension arose from the reporting by the Viennese weekly *Falter*. The newspaper published excerpts from private chat messages between Weißmann and the employee. *Falter* justified the publication on the grounds of the public interest in how the director-general of a public service broadcaster had exercised his professional position of power. The weekly deliberately published only selected passages from the communication; according to its legal representative, Maria Windhager, private passages for which there was no corresponding public interest were not published. Weißmann, by contrast, considered the publication of his private communications to constitute a violation of his personality and privacy rights and initiated several legal proceedings.

In May 2026, Weißmann initially obtained limited relief from the Vienna Commercial Court in proceedings for an interim injunction. He challenged 18 statements and publications by *Falter*, of which the court prohibited the further dissemination of only three. The remaining 15 contested items could therefore continue to be published.

In its assessment, the court referred to the protection of personality rights and private life under sections 16 and 20 of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch* - ABGB), section 1 of the Austrian Data Protection Act (

Datenschutzgesetz – DSG), and Article 8 of the European Convention on Human Rights (ECHR). It also considered section 77 of the Austrian Copyright Act (*Urheberrechtsgesetz* – UrhG), which restricts the publication of letters, diaries and similar confidential records where this would infringe the legitimate interests of their author; the court expressly noted that emails and chat records fall within the scope of this provision. In this context, it also referred to section 7(1) of the Austrian Media Act (*Mediengesetz* – MedienG), concerning media-related infringements of a person's strictly private sphere where the publication is capable of exposing that person to public scrutiny. These interests had to be weighed against freedom of expression and the constitutionally protected role of the press as a “public watchdog” under Article 10 ECHR. In assessing the public interest in the reporting, the court also took into account the ORF's public funding and its statutory mandate as a public service broadcaster, referring in particular to sections 3 and 4 of the ORF Act (*ORF-Gesetz* – ORF-G). While Weißmann's private conduct was in principle to be distinguished from his professional function, the court considered that these characteristics of the ORF gave rise to a public interest where the reporting concerned the assessment of his conduct in a professional context. In assessing the individual publications, the court considered, *inter alia*, their contribution to a debate of general interest, the role or function of the person concerned, the subject matter of the reporting, the person's prior conduct, the content and form of the publication, the manner in which the information was obtained and its veracity. The assessment also took account of the degree of confidentiality of the communication and the sphere of life to which the statements concerned belonged.

On appeal, the Vienna Higher Regional Court went further. At the end of July, it dismissed Weißmann's application for interim relief in its entirety. A central issue was the extent to which Weißmann could rely on the protection of his private life after he had himself publicly discussed his relationship with the employee, including in interviews and public statements. The court held that Weißmann's own public disclosures were relevant to the assessment of the scope of privacy protection afforded to him.

This reasoning also played a central role in parallel proceedings under the Austrian Media Act. On 27 August 2026, the Vienna Regional Criminal Court dismissed Weißmann's claim against *Falter* at first instance. Referring to the case law of the Austrian Supreme Court (*Oberster Gerichtshof* – OGH), the court held that, by making public statements about his relationship with the employee, Weißmann had left the sphere of protection afforded to his strictly private life under section 7 MedienG. In its reasoning, the court also referred to the earlier decision of the Vienna Higher Regional Court in the interim proceedings. The decision was not yet final at the time of reporting.

The significance of the case extends beyond the individual dispute. It raises a well-established balancing question between the protection of private life and freedom of expression, reflected in Articles 8 and 10 ECHR, that has acquired particular relevance in the digital communication environment: to what extent is the private communication of persons holding positions of public power protected where that communication is relevant to the assessment of their professional conduct? And under what circumstances does the public interest in receiving information outweigh the protection of personality rights and private life?

For investigative journalism, the courts' consideration of a person's prior public statements about matters concerning their private life may be particularly significant. The case also highlights the importance of limiting the disclosure of private communications to material that serves a public interest: rather than making the private correspondence as such publicly available, *Falter* selected those passages it considered relevant to informing the public about a matter of public interest. The case thus illustrates that the permissibility of publishing private communications does not depend solely on whether the communications were originally confidential. The decisions to date indicate that the assessment may take account of the context of the publication, the public interest at stake, the position held by the person concerned, that person's own public statements, and the relevance of the specific passages to the matter being reported. Further developments in the proceedings will therefore remain relevant from the perspective of both media law and freedom of the press.

Allgemeines Bürgerliches Gesetzbuch - ABGB

<https://www.jusline.at/gesetz/abgb>

Austrian Civil Code

Datenschutzgesetz -DSG

<https://www.jusline.at/gesetz/dsgvo/gesamt>

Austrian Data Protection Act

Gleichbehandlungsgesetz - GIBG

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20003395>

Austrian Equal Treatment Act

Mediengesetz - MedienG

<https://www.ris.bka.gv.at/geltendefassung.wxe?abfrage=bundesnormen&gesetzesnummer=10000719>

Austrian Media Act

Urheberrechtsgesetz - UrhG

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001848>

Austrian Copyright Act

Tóth, B. , Die Weißmann-Chats: „In meiner Welt haben wir Sex, wenn ich Sex will“, Falter, 2026, April 20 .

<https://www.falter.at/zeitung/20260420/in-meiner-welt-haben-wir-sex-wenn-ich-sex-will>

Tóth, B. , The Weißmann Chats: “In my world, we have sex when I want to have sex”, Falter, 20 April 2026.

European Convention on Human Rights

<https://www.echr.coe.int/european-convention-on-human-rights>

