

AUSTRIA/AUTRICHE

The following procedures have proven their effectiveness in Austria for decades:

- The European Convention on Human Rights (Convention) and the Protocols thereto have the rank of constitutional law in Austria. From this it follows that all ordinary laws and regulations (and all implementing acts) must be in compliance with the Convention.

In case of any concerns regarding the compliance of ordinary law (a regulation or an individual implementing act) with the Convention, this issue can be submitted to the instances of appeal. Finally the Austrian Constitutional Court might be asked for an examination. The Constitutional Court is entitled to review laws and regulations. It goes without saying that the Constitutional Court includes the Convention and the ECHR's specific case-law in its reasoning. It did so for example most recently in a judgment concerning inheritance law (judgment of 9 December 2015, G 165/2015).

- In Austria, the great majority of federal laws - including the pertinent explanations – are prepared by the federal ministries responsible for the respective legal issue. According to established State practice, the federal ministry concerned carries out a general consultation procedure inviting interested parties and those concerned as well as the Constitutional Service at the Austrian Federal Chancellery (*Bundeskanzleramt – Verfassungsdienst*), the offices of the regional governments, the Association of Municipalities and Association of Towns (*Gemeinde- und Städtebund*), and frequently also universities, professional associations, NGOs, etc. to submit their comments. Based on the comments and opinions received, the federal ministry prepares the final draft bill and submits it to the Ministerial Council for adoption. After the Ministerial Council has taken its decision, the draft bill (including the explanations and a comparison [juxtaposition] of the text currently in force and the proposed text) is transmitted to Parliament as a “government bill” for further consideration.

The legislative material (draft, explanations and comparison of texts) contain *inter alia* comments regarding the draft's conformity with the Austrian Constitution and accordingly also the Convention. All draft bills for federal laws and the comments received thereon are accessible to everyone free of charge on the homepage of the Austrian Parliament. The Austrian Parliament can thus generally base its deliberations and take its decisions on a comprehensive documentation of all comments and opinions and any concerns voiced therein. For an in-depth discussion of sensitive socio-political issues, the Parliament also organises enquetes to give, for example, scientific experts and representatives of the civil society the opportunity to discuss issues relating to the Convention.

- The Constitutional Service at the Federal Chancellery is specialised in providing the federal ministries and the federal government with general advice on questions of constitutional law, having regard to the Convention and the ECtHR's pertinent case-law (and also for example, to the EU Charter of Fundamental Rights and the pertinent decisions of the CJEU). It is regularly consulted by the federal ministries for the preparation of a draft bill and for questions of interpretation.