



Legal and policy framework – recent developments and upcoming reforms

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In Austria, the field of (de)radicalisation has recently been particularly dynamic. In 2020, a terror attack took place in Vienna when a single perpetrator killed four people and injured more than 20 others in the city centre. It was the first terror attack with connection to the terrorist militia Islamic State in Austria. It was an unprecedented event and it acted as a “caesura” as incidents involving fatalities have been the rare exception in

Austria.^[1] After 9/11, jihadist terrorism and the terror militia Islamic State had become the primary target of institutions and legal amendments alike. The phenomenon of so-called foreign fighters had a particular sway for the way these amendments have evolved. According to numbers provided by the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism (BVT) by the end of 2019, 326 persons had left Austria to travel to Syria and Iraq to join the Islamic State or intended to do so. This is one of the highest per-capita shares of foreign fighters in Europe.

These developments alongside an ongoing politicization of Islam and Muslim culture led to a number of legal amendments that resulted in the securitization of Islam on the one hand and in the expansion of surveillance laws on the other. After 9/11 and in accordance with the EU framework decision of the council on combatting terrorism,^[2] the federal government introduced three new offences to the Criminal Code (StGB): *terrorist organisations* (leader- and membership; § 278b), *terrorist crimes* (§ 278c) and *financing of terrorist activities* (§ 278d). These punitive measures were expanded in the following years by adding *training for terrorist purposes* in 2010 (§ 278e) and *instruction to commit a terrorist offense* in 2011 (i.e. media work promoting or instructing terror attacks made available online; § 278f). In 2014, the parliament passed another legal package that addressed Islamist terrorism and the recruitment of jihadi combatants singularly. The amendments concerned the Symbols Act, the Border Control Act and the Citizen Act. In 2018, the offence *travelling for terrorist purposes* was added to the Criminal Code. Persons who travel to another country to commit a terrorist offense can be fined with a prison sentence from six months to five years. In December 2020, the federal government introduced a bill that facilitates the withdrawal of citizenship in the event of a final conviction for a terrorist-motivated crime and pursuing action against the spread of extremist and radicalising ideas.^[3] Most recently and in response to the Vienna terror attack, the federal government introduced the Counter-Terrorism Act (TeBG). Besides a number of provisions that intensify the monitoring of terrorist offenders after their conditional release from prison (inter alia via electronic ankle monitor), it addresses money laundering and terrorist financing and introduced case conferences. More importantly, the bill includes the controversial introduction of “Religiously Motivated Extremist Association” (§ 274b StGB), which targets specifically so-called Islamic extremism. Several organisations criticised this for being excessive and discriminatory.

However, legislative changes are not only tied to socio-political developments. In Austria, the institutional framework of counter-terrorism was heavily shaken after a number of scandals connected to the Federal Office for the Protection of the Constitution and Counterterrorism (BVT, Austria’s main domestic intelligence agency) as well as

investigative mishaps that are connected to the Vienna terror attack. The former concerns the so-called “BVT affair”: In 2018, when Herbert Kickl, member of the far-right FPÖ, was Minister of the Interior, a raid was carried out in the premises of the BVT and private residences of its employees. Officers of the taskforce for combatting street crime (a unit which does not possess the required competencies to carry out such a raid) carried away sensitive data, inter alia information on right-wing extremist networks, and left the intelligence service destabilised due to the loss of trust and the far-reaching disarray. The anonymous allegations against the BVT concerned suspected criminal procedures and the passing on of North Korean passport samples to foreign intelligence services. Following these developments, the Washington Post reported that several international intelligence services excluded Austria from their information exchange activities.^[4]

Regarding the investigative mishaps in connection to the Vienna terror attack, the Austrian authorities ignored two concrete warnings. First, the German authorities had informed Austrian authorities about the perpetrator’s links to the jihadi movement in Germany. Second, the Slovakian police reported attempts of the perpetrator to buy ammunition in Bratislava. The events around the terror attack were reviewed by an independent investigative commission. The final inquiry report concludes that the events relating to the November 2020 attack have revealed considerable shortcomings in the fight against terrorism.^[5] These are not only related to the inadequate exchange of information between the agencies concerned, but they also involve organisational problems within the security apparatus. Furthermore, the committee considered it vital to strengthen the competences of deradicalisation institutions. On the one hand, these institutions should play a more active role during the probationary period of offenders who were convicted for terrorist crimes, on the other they should be provided with a secure legal, organisational, and financial basis.

As a reaction to the terror attack and ongoing criticism, the National Council passed a law in June 2021 that provides for the organizational restructuring of the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism. The reform foresees the organisational separation of the areas of state protection and intelligence with the term “protection of the constitution” anchored as an umbrella term for the areas of “intelligence” and “state protection”. The outcome of the implementation and further legal amendments remain unclear.

Overall, this blogpost shows how dynamic the field of deradicalisation has been in Austria and how the legal and policy framework is constantly changing. This dynamic

development needs to be constantly monitored regarding the delicate balance between fundamental rights of respect of privacy and data protection on the one hand and the implemented measures on counterterrorism and surveillance on the other.

For more insights, see the [REPORT >>](#), that provides a conceptual account on existing policies and laws addressing radicalisation, to pinpoint their most critical aspects and best practices, and to develop evidence-based policy and guidelines.

[1] For a more thorough overview see Haselbacher, M. & Reeger, U. (2021): Trends of Radicalisation in Austria. D.Rad Report 3.2. online <https://dradproject.com/>; Haselbacher, M., Mattes, A. & Reeger, U. (2021): Stakeholders of (de)radicalisation in Austria. D.Rad Report 3.1. online <https://dradproject.com/>

[2] Framework decision of the Council 2002/475/JI.

[3] By amending the Citizenship Act, Austrian citizenship can be revoked, provided that the person does not become stateless, if the person concerned has been convicted of leading or participating in a terrorist organisation, committed a terrorist offense, financed terrorism, conducted training for terrorist purposes, instructed others to commit a terrorist offense; travelled for terrorist purposes, incited someone towards or approved of someone committing terrorist offenses, or has been convicted by final judgment to an unconditional or partially conditional custodial sentence.

[4] https://www.washingtonpost.com/world/national-security/austrias-far-right-government-ordered-a-raid-on-its-own-intelligence-service-now-allies-are-freezing-the-country-out/2018/08/17/d20090fc-9985-11e8-b55e-5002300ef004_story.html

[5] See Zerbes, I., Anderl, H., Andrä, H., Merli, F. & Pleischl, W. (2020) 'Zwischenbericht'. Untersuchungskommission zum Terroranschlag vom 02.11.2020. Geschäftszahl BMI: 2020-0.748.397. Geschäftszahl BMJ: 2020-0.752.496; Zerbes, I., Anderl, H., Andrä, H., Merli, F. & Pleischl, W. (2021) 'Abschlussbericht'. Untersuchungskommission zum Terroranschlag vom 02.11.2020. Geschäftszahl BMI: 2020-0.748.397. Geschäftszahl BMJ: 2020-0.752.496

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Detect, Resolve, Reintegrate



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