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# Austria's 2023 Electoral Reform



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The 2023 Electoral Legislation Amendment Act (Wahlrechtsänderungsgesetz 2023) continues the successful approach to implementing e-government-based improvements for Austrian voters. It brings about a number of changes, which will have a significant impact on the use of e-government applications including the Central Electoral Register (Zentrales Wählerregister). Inter alia, the movement of voting cards will be visible and voters will be granted the possibility to personally check their entry in the electoral roll online. The reform came into force on 1 January 2024.



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## 1. HISTORICAL DEVELOPMENT

The historical roots of Austria's Central Electoral Register date back to the mid-1990s. For a long time, the creation of such a register was not possible due to the barriers that existed in constitutional law. Since the responsibility for maintaining voter data lies with the nation's over 2,000 municipalities, an amendment to the Federal Constitution, i.e. a two-thirds majority in parliament, was required in order to set up a centralised database.

In a first step, a Central Voter Directory (Zentrale Wählerevidenz) was set up by legislation in 1992. It was strictly limited to the (ever-growing) number of municipalities that kept voter records with the aid of information and communication technologies (ICT) and its sole purpose was to provide an amalgamated list of all voter data to the parties represented in parliament twice a year in order to facilitate election campaigning<sup>1</sup>. By 2013, this directory contained a more or less complete set of data for all persons entitled to

vote in federal elections, but the local municipal registers were still not connected to each other. Accordingly, the data quality was insufficient from today's point of view, particularly as no provision for data cleansing was laid down in the law. In the first half of 2013, a draft for a modern, centralised electoral register was prepared by the Federal Ministry of the Interior on behalf of the factions representing the governmental parties in parliament and tabled in the form of a parliamentary initiative bill<sup>2</sup>. Due to the upcoming National Council elections in the autumn of 2013<sup>3</sup> and a number of unresolved issues in the discussion about instruments of direct democracy, the governmental parties eventually decided to lay this draft to rest.

## 2. 2016/2017 ELECTORAL REFORM

After the Constitutional Court's decision to overturn the second round of the 2016 Federal Presidential election<sup>4</sup> and the subsequent postponement of the repeat election, the legislator made a new attempt in

the autumn of 2016 to introduce a centralised electoral register. Within the framework of the 2017 Electoral Legislation Amendment Act, (Wahlrechtsänderungsgesetz 2017) the above-mentioned draft of 2013 was almost completely reactivated<sup>5</sup>. In preparing the 2016/17 Electoral Reform, it became obvious that the introduction of a Central Electoral Register, which allowed for a full collection of the nation's voter data, could also bring about another directly noticeable benefit for voters: a distinct reform of the system of public initiatives (Volksbegehren). The antiquated, paper-based system was transformed into a purely digital solution, as had already been envisaged in 2013. Following the reform, voters were able to support public initiatives in every municipality (irrespective of their main residence) and also online with a qualified electronic signature.

On 1 January 2018, the new Public Initiatives Act (Volksbegehrengesetz 2018) came into force<sup>6</sup>. The legislator retained the thresholds and deadlines already enshrined in the previous 1973 Public Initiatives Act<sup>7</sup>. It soon became apparent that registering an initiative and collecting signatures proved to be much easier than in the past. As a result, the number of registered initiatives has increased to unexpected levels over the past five years. While the whole year of 2018 saw 20 registered initiatives, roughly 30 initiatives were registered in the first two months of 2023 alone, with a current total of about 70 public initiatives concurrently running in the initial collecting phase<sup>8</sup>.

### 3. CENTRAL ELECTORAL REGISTER: POSSIBLE EXPANSIONS

Right after the Central Electoral Register went into operation at the beginning of 2018, it became clear that there was potential for further expansion – both “in the width” and “in the depth”. Expanding the register's functions “in the width” would

address the needs in the nine Austrian provinces (Länder), which have their own electoral legislation and are responsible for elections and initiatives within their respective provincial boundaries. Maintaining and cleansing voter data for provincial, municipal and mayoral elections within the framework of the Central Electoral Register turned out to be a major goal during the past five years. This process is still ongoing and may vary significantly from province to province, taking into account specific regulations such as “early voting days”, certain residential criteria or the inclusion of voters living abroad<sup>9</sup>.

With regard to expansions “in the depth”, the 2023 Electoral Legislation Amendment Act has finally set the stage for some long-sought changes (see below). The first expansion was implemented right before the 2017 Electoral Legislation Amendment Act came into force: the possibility to mark a voting card, issued by the competent municipality, in the Central Electoral Register allowed the Federal Ministry of the Interior for the first time to receive a full picture of all issued voting cards before election day without requesting formal statistical reports from subordinate authorities<sup>10</sup>.

In 2019, the so-called Centralised Precinct Database Tool (Zentrales Wahlsprengel-Tool – ZeWaT) was implemented. It was initiated by the Austrian Association of Municipalities<sup>11</sup> and the Austrian Association of Cities and Towns<sup>12</sup> with the support of the Federal Ministry of the Interior and is hosted by the Federal Office of Metrology and Surveying (Bundesamt für Eich- und Vermessungswesen – BEV)<sup>13</sup>. The tool is essentially a “plug-in” to the Central Electoral Register. It provides a complete overview of all precincts and polling stations in Austria, along with additional information such as opening hours, possible barrier-free access and geo-coded address data. Municipalities

are able to administer polling stations within their boundaries in an efficient and convenient way<sup>14</sup>.

#### **4. 2023 REFORM: MORE EXPANSIONS AHEAD**

The 2020–2024 governmental programme contained a chapter on electoral reform issues<sup>15</sup>. Most of the proposed changes were adopted by Parliament within the framework of the 2023 Electoral Legislation Amendment Act.

The three main components were:

- ▶ Improvements for persons with disabilities
- ▶ Extensive changes to the voting card system
- ▶ Extensive changes concerning electoral boards, including remuneration

Concerning improvements for persons with disabilities, every building accommodating one or more polling stations is required to have at least one polling station with voting booths that are accessible to persons with disabilities with effect from 1 January 2024. The framework conditions of § 6 of the Federal Act on Equal Opportunities for Persons with Disabilities (Bundes-Behindertengleichstellungsgesetz) have to be considered when evaluating the specific situation. From 1 January 2028, all Austrian polling stations (including voting booths) must be barrier-free without exception. Further improvements range from modern terminology to improved layouts for printed matter (larger fonts, easy-to-read information, simplified design of voting cards, template for blind or visually impaired voting card voters).

With regard to the Central Electoral Register and ICT-related changes, only the component dealing with the voting card system is of relevance. The 2020–2024 governmental programme stipulated that the “counting of all ballots and postal votes” should be undertaken and complet-

ed on election day (while maintaining all election principles) to make the results immediately available. Postal voting should be facilitated by allowing for an immediate return of a postal ballot to the municipality where it was issued (thereby creating a three-week period of quasi “early voting”). Mobile election commissions should continue to exist, postal ballots should be made “traceable” (at the very least, receipt by the electoral authority should be confirmed) and electronic alternatives to the physical display of electoral rolls in municipalities should be examined.

The implementation of the requirement to make the results of (most but not all) postal ballots available on election day called for a complete change of the system in operation since 2007. Under the legal situation that came to an end on 31 December 2023, postal ballots were collected and counted at the level of the District Electoral Boards at one and the same time (Monday after election day, at 9.00 a.m.). The ever-increasing number of postal ballots at the district level pushed this system to its limits. The solution that came into force on 1 January 2024 is based on a political compromise: postal ballots are still sent to the respective District Electoral Board. All ballots arriving at a District Board by Friday before election day will be transferred to the competent municipalities, distributed to the precincts and counted at the polling station level on election day itself. All postal ballots arriving on Saturday or Sunday will remain at the District Electoral Board level for eventual counting at the district level. It is evident that this hybrid system called for a considerable expansion of the Central Electoral Register’s functions.

#### **5. WHAT CHANGES IN 2024?**

The 2023 Electoral Legislation Amendment Act took effect on 1 January 2024<sup>16</sup>.

Accordingly, the Central Electoral Register provides the following new functions:

1. Each voting card continues to be marked in the register, but instead of simply stating that a voting card was issued, additional information about the movement of said cards between electoral boards has to be stored. Authorities and voters will be able to follow these movements; however, not in the form of constant real-time tracking, but rather by indicating whether the voting card was issued or returned.
2. During an election, Austrian citizens are given the possibility to personally check online whether they are registered with an Austrian municipality and thereby entitled to vote. A qualified digital signature is required. In order to inspect the complete electoral roll and other voter data, the public display period in all municipalities remains in place.
3. Voters who were issued with a voting card, subsequently cast their vote and put the ballot in the post will be able to check online whether it has arrived safely at the competent authority.

An initial plan to also include the data of electoral board members in the Central Electoral Register was dropped during the parliamentary deliberations.

### 5.1 How to check a postal ballot's movement

In the future, voting cards will bear a QR code. This code – which is uniform for one ballot and one electoral event – will be assigned to the person entitled to vote when he or she is issued with a voting card. By linking the issued voting card to a person, the voter can later ascertain whether the ballot was received by the electoral board. For this check, a qualified digital signature is needed.

After a voting card is issued by a municipality, two possible variations of further movement are foreseen in the system:

Source: Federal Ministry of the Interior

Europawahl  
XXXX

Raum für Barcode oder QR-Code

**WAHLKARTE**

Fortlaufende Zahl im Wählerverzeichnis	Vorname, Familienname	Geburtsjahr
Gemeinde	Straße/Gasse/Platz/Hausnummer	Auslandsst. <input type="checkbox"/>

Bezirk	Wahlsprenzel	Regionalwahlkreis
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Ort, Datum	Unterschrift der Bürgermeistern oder die Bürgermeisters/ für die Bürgermeistern oder für den Bürgermeister	Ambs- stempige oder Bildstemp	Die oben genannte Person ist berechtigt, ihr Wahlrecht auch außerhalb des Ortes, an dem sie im Wählerverzeichnis eingetragen ist, auszuüben. Duplikate für abhandlung gekommene Wahlkarten dürfen in keinem Fall ausgefüllt werden. Hinweis und Verfügergebnis im Fall einer Amtsbezeichnung:
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**Feld für die Unterschrift – eidesstattliche Erklärung (bei Briefwahl)**

Hier oben müssen Sie unterschreiben, wenn Sie per Briefwahl wählen. Sie erklären, dass Sie den Stimmzettel selbst ausgefüllt haben. Es hat Sie niemand dabei beobachtet oder beeinflusst. Sie haben selbst entschieden, wie Sie den Stimmzettel ausfüllen.

Nähere Informationen siehe Beiblatt sowie  
 • Hotline: XXXXXXXXXX, Hotline aus dem Ausland: [XXXXXXXXXX]  
 • Internet: XXXXXXXXXX

### New voting card (Wahlkarte)

- ▶ As expressly laid down in the 2023 Electoral Legislation Amendment Act, all municipalities, not only large cities, will be allowed to immediately take back used voting cards without further need to use postal services or other means of delivery to the District Electoral Board.
- ▶ Voting cards received by District Electoral Boards by noon on the Friday before election day will be packed by the District Electoral Boards and transported to the respective municipalities. At the municipality level, these stacks of voting cards will be put together with the voting cards used for immediate voting at the respective municipality.

It was the intention of the legislator that postal ballots should be “pre-sorted” (e.g.

by taking into consideration possible reasons for non-inclusion in the tally, such as a missing affidavit). All stacks will be kept under lock and key, and on election day – if possible before the start of voting – they will be handed over to the precincts. The count will start only after a polling station closes.

The described solution shows the need for sufficient documentation. Since postal ballots will often be transported in larger stacks, the suspicion of manipulation or the fear of a voting card's disappearance can be successfully tackled by tracking it in the system. Stacks of voting cards will be accompanied by "packing lists" generated by the Central Electoral Register. Receiving electoral authorities will thereby be able to quickly check the received number of voting cards for completeness and correctness.

Postal ballots that are not received by a District Electoral Board by Friday before election day will be delivered to the competent district by the Austrian Postal Service before 5 p.m. on election day. In this context, all postal boxes will be emptied once again by 9 a.m. on the Saturday. This nationwide check of mailboxes by the Postal Service was specifically laid down in the law.

### **5.2 Checking one's voting right online**

Along with other changes, the legislator decided to abolish the traditional voters' announcements in the buildings of larger municipalities (with more than 10,000 inhabitants). In many of these cities, the announcements simply indicated the number of persons living in a certain apartment or on a certain floor; in other cities, however,

complete names were listed, which led to discussions about data protection<sup>17</sup>. In the future, municipalities originally posting the above-mentioned announcements will only be required to publish information posters in all buildings; these posters will contain the date of the upcoming election, opening hours for inspection of the electoral roll and a QR code leading to a website of the Federal Ministry of the Interior. Voters with a qualified digital signature will be able to check their personal registration in the electoral roll by visiting a specific portal.

## **6. STEPPING INTO REALITY**

With the exception of some changes in the Public Initiatives Act, which came into force in February 2023, all other legal changes laid down in the 2023 Electoral Legislation Amendment Act eventually came into effect on 1 January 2024. As things currently stand, the 2024 European elections will be the first nationwide electoral event with the new system in place. Full attention is currently being given to instructing the competent authorities with regard to the legal and technical changes that came into effect at the beginning of 2024<sup>18</sup>. In addition to the area of ICT, a strong focus will be placed on instructing the competent authorities with regard to the practical handling of voting cards at the local level.

It would come as no surprise if a number of elements enshrined in the 2023 Electoral Legislation Amendment Act were to be gradually adopted in provincial legislation. If this turns out to be the case, the next expansion of the Central Electoral Register will be only a stone's throw away.

- <sup>1</sup> See § 3 para 5 of the Voter Directory Act (*Wählerevidenzgesetz*) 1973, which was repealed on 31 December 2017.
- <sup>2</sup> See the Parliamentary Initiative Bill IA 2177/A (“Democracy Package”) submitted at the end of the 24<sup>th</sup> legislative period.
- <sup>3</sup> The 2013 National Council Election took place on 29 September 2013, [https://www.bmi.gv.at/412/Nationalratswahlen/Nationalratswahl\\_2013/start.aspx](https://www.bmi.gv.at/412/Nationalratswahlen/Nationalratswahl_2013/start.aspx).
- <sup>4</sup> Constitutional Court decision rendered on 1 July 2016, VfSlg 20.071/2016, [https://www.vfgh.gv.at/medien/Run\\_Off\\_Election\\_of\\_the\\_Federal\\_President\\_must\\_be\\_re.en.html](https://www.vfgh.gv.at/medien/Run_Off_Election_of_the_Federal_President_must_be_re.en.html).
- <sup>5</sup> The 2017 Electoral Legislation Amendment Act came into force on 1 January 2018 (Federal Law Gazette BGBl I Nr 106/2016).
- <sup>6</sup> Public Initiatives Act (*Volksbegehrengesetz*) 2018, Federal Law Gazette BGBl I Nr 106/2016.
- <sup>7</sup> Public Initiatives Act (*Volksbegehrengesetz*) 1973, Federal Law Gazette BGBl Nr 344/1973.
- <sup>8</sup> See the complete statistics on the Federal Ministry of the Interior’s website at [www.bmi.gv.at/volksbegehren](http://www.bmi.gv.at/volksbegehren).
- <sup>9</sup> For example, in the province of Lower Austria (*Lower Austrian Act on Public Initiatives, Referenda and Consultations – NÖ Volksbegehren-, Volksabstimmungs- und Volksbefragungsgesetz*, Provincial Law Gazette LGBl Nr 10/2018).
- <sup>10</sup> Voting cards are a multi-functional tool enabling voters to cast the ballot outside their home precinct, e.g. in another precinct, before a mobile electoral commission or via postal voting (postal ballot, absentee ballot).
- <sup>11</sup> Österreichischer Gemeindebund, <https://www.gemeindebund.at/>.
- <sup>12</sup> Österreichischer Städtebund, <https://www.staedtebund.gv.at/>.
- <sup>13</sup> The BEV is part of the Federal Ministry of Labour and Economy. Its mission is twofold: surveying and geoinformation as well as metrology and verification (see: <https://www.bev.gv.at/en/>).
- <sup>14</sup> See Rabl, *Die Europawahl und das Zentrale Wählerregister*, *Kommunal Online*, 07.02.2019, *Online*: <https://kommunal.at/die-europawahl-und-das-zentrale-waehlerregister> (20.10.2023).
- <sup>15</sup> See <https://www.bmkoes.gv.at/Ministerium/Regierungsprogramm.html>.
- <sup>16</sup> 2023 Electoral Legislation Amendment Act (Federal Law Gazette BGBl I Nr 7/2023).
- <sup>17</sup> See the decision of the Federal Administrative Court of 7 July 2021 (BVwG 07.07.2021, W211 2225445-1).
- <sup>18</sup> The implementation efforts within the Federal Ministry of the Interior ran under the umbrella of a ministerial project structure.

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