Assessing the Legal Impact of the Charter at the National Level
CHAPTER 10

The Legal Importance and Implementation of the Charter in Austria

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1 Introduction

1.1 Overview

This chapter aims to give a first overview of the initial effects of the Charter on the Austrian legal system and the debates on fundamental rights in Austria more than four years after the CFR entered into force. It starts with a description of the perception of the Charter in the media and the political debate, followed by a description on how selected case law has been perceived by the public and finally an overview of the reception of the Charter among scholars (Section 2). The next Section focuses on the CFR’s impact on new and existing legislation including Austria’s Constitution and the surrounding debates (Section 3). Having looked at the laws, another aspect that is analysed are court decisions based on or taking into account the Charter. Here, the focus is on Austria’s Higher Courts and their application of the CFR. Selected decisions are summarised giving an overview of the first four years of decisions, taking into account the Charter’s rights (Section 4).

1.2 Methodology

The basis for this chapter is extensive desk research and interviews with various stakeholders. To get a comprehensive picture of the current status of reception and implementation of the CFR in Austria, a qualitative analysis of the existing data was undertaken in 2013. As a first step, the various fields of research were identified; they form the basis for the structure of this chapter in Sections 3, 4 and 5. Subsequently, the media coverage of the years 2005-2013 as well as parliamentary debates, legislative initiatives and public hearings were screened. In a parallel step, using the existing electronic database, Austrian case law of the Constitutional Court, the Supreme Court, the Higher Administrative Court as well as – as far as available – lower general courts, was screened to identify and analyse case law making reference to the CFR. In a separate step, academic publications were screened for relevant publications, which were subsequently analysed. This culminated in an extensive analysis