

Austria**National Report on Recent Developments in Environmental Law 2026****Submitted by Verena Madner¹****A. Recent Developments in Environmental and Climate Law**

In Austria, environmental law implementation and enforcement in 2024-2025 continues to be challenged by federal-state coordination due to the complex competence regime, resulting in varied implementation practices across regions. This fragmentation is particularly evident in **wildlife management and the divergent responses to recent developments in EU law** regarding the culling of protected species. Consequently, proposals from different federal states for the culling of protected species such as wolves and otters call for relaxed regulations, yet with varying degrees of permissiveness, reflecting differing regional priorities and interpretations of EU legal frameworks.²

Similarly, the **implementation of RED III** (cf. to all of the following in the answers to the general questionnaire) shows divergence among federal states.³ However, while implementation on the federal level remains limited, a draft act aiming to harmonize certain rules on the expansion of renewable energy sources is currently under consideration.⁴ A federal framework that deals with energy supply and introduces a decentralized, participatory energy supply system, has also been passed.⁵ Furthermore, amendments to the general procedural legislation aims to accelerate large-scale procedures.⁶

Two developments merit attention as follow-up to the previous report: First, the **National Energy and Climate Plan** was (belatedly) finalized and submitted to the European Commission at the end of 2024. Second, and less favorably, there is **still no federal climate law**. Although in March 2026 the Minister for Climate and Agriculture (conservative party) presented a draft to his coalition partners, there has been harsh criticism from other parties and NGOs claiming that the draft contained significant gaps compared to the government program presented in March 2025. In the absence of a federal climate law, the city of Vienna has established a local act – the **Vienna Climate Act**⁷ – to introduce binding climate neutrality targets by 2040.

B. Recent Developments in Climate Litigation

- **Mandatory use of rail transport for waste shipments** (VfGH 6.12.2025, [G 216/2024](#))

¹ Martina Scheuch, LLB provided valuable research assistance.

² [Neue Verordnung bringt weiteren Meilenstein im Wolfsmanagement \(Salzburg\)](#), [Landtag erlaubt "präventiven Wolfsabschuss" - Vorarlberg - derStandard.at > Inland](#) (Vorarlberg).

³ Florian Stangl/Christina Riemer, RED III - Umsetzungsradar, RdU-UT 2025/18

⁴ [Erneuerbaren-Ausbau-Beschleunigungsgesetz, Erneuerbaren-Ausbau-Gesetz, Änderung \(449 d.B.\) | Parlament Österreich](#)

⁵ [RIS - Elektrizitätswirtschaftsgesetz - Bundesrecht konsolidiert, Fassung vom 09.04.2026](#)

⁶ [Allgemeines Verwaltungsverfahrensgesetz, Änderung \(249 d.B.\) | Parlament Österreich](#)

⁷ [RIS - Wiener Klimagesetz \(Wr. KG\) - Landesrecht konsolidiert Wien, Fassung vom 28.04.2025](#)

In a recent ruling the Austrian Constitutional Court upheld the statutory obligation to transport certain waste by rail as compatible with the constitution, provided it pursues environmental and climate-protection goals and is proportionate. The framework includes exceptions where rail use is technically infeasible or would impose disproportionate burdens, ensuring tailored application. The Court assessed interferences with property rights and economic freedom and found them justified by overriding public interests of environmental protection. The court (referring also to Klimaseniorinnen) provided climate protection significant weight as a matter of public interest in the proportionality review.

- **Lifting of the total ban on visible photovoltaic systems** The Austrian Constitutional Court (VfGH) recently overturned a total ban on visible photovoltaic installations in certain protected zones in St. Pölten. The regional regulation had prohibited visible PV panels to preserve the townscape and heritage protection zones. The Court ruled that the absolute prohibition was disproportionate and violated constitutional property rights and the principle of proportionality.

- **Fliegenschnee (ECHR [40054/23](#))**

The case concerns complaints raised primarily under Articles 2 and 8 ECHR about the refusal by Austria's Federal Minister for Digital and Economic Affairs to grant the applicants' request for a ban on the sale of fossil fuels to mitigate the effects of climate change. While the National Constitutional Court justified the dismissal of the claim with the lack of the right to issue a particular measure,⁸ the ECHR concluded that these alleged shortcomings are neither sufficient to trigger the applicability of Art 2 ECHR, nor fulfill the applicants the victim status to fall under Art 8 of the Convention.

- **Müllner v Austria (pending, ECHR [18859/21](#))**

In this case, the applicant also challenged Austria's climate policies as insufficient to protect fundamental rights. He suffers from a chronic health condition that is directly affected by global warming. The claim therefore provides a highly individualized approach, which makes the future development of case law something to watch with interest. The case was classified as a high priority by the ECHR.

⁸ VfGH 27. 06. 2025, E 1517/2022-14