

Covid-19-litigation

Judicial Reviews in Austria

- **challenges of restrictive measures affecting FR:**
 - **Challenging emergency laws/regulations <->FR - Const. Court**
 - **Challenging individual separation decisions against individuals – admin. Courts (+CC)**
 - **Challenging prohibitions of assemblies – admin. Courts (+CC)**
 - **Challenging individual fines (misdemeanor cases) – admin. Courts (+CC)**
 - **Challenging compensation decisions for employees – admin. Courts (+CC)**
- **Challenges against Austrian state: state liability (civil courts)**
- **State aid measures for businesses (none)**
- **Compulsory vaccination policy (would have been admin courts)**

- **judicial review system of Constitutional Court:**

- **No emergency procedures/4-6 sessions of CC per year/central organ, “negative legislator”**
- **Jurisprudence CC:**
“individual and direct concern”
- **Challenges if measures in line with FR**
- **Judgements balance FR in light of general principles**
- **Science as a priority lens to examine proportionality**
- **Judgements demand justified reasons in regulations**

- **Critical assessment:**

“effective recourse to courts in case of violation FR”
state aid: not justiciable