PART II

Adoption from care in family service-oriented child protection systems
Adoption from care in Austria

Jenny Krutzinna and Katrin Križ

Introduction

The child has already been living in the household of the now adoptive parents for several years, thus adapting the legal status to the social status. The adoption therefore had to be approved. (Case AAUT05–17 from 2017 court judgment)

Austria is a federal republic, consisting of nine states, with a child population of 1,535,958 as of 1 January 2019 (Statistik Austria, 2019a, 2019b). Austrian federalism is limited, in that only few legislative powers remain with the regional states (‘Länder’). The domain of child welfare and protection is one of them and thus falls under the responsibility of the states. The federal 1989 child welfare law constitutes the basis of child welfare services (CWS) but the nine states have their own laws. Austria’s decentralised and regionalised system, with no nationwide quality criteria, a lack of many standardised and comparable statistics, and large variation in local practices, met with harsh criticism in the past (Reinprecht, 2015). The 2013 Federal Child Welfare Services Law (B-KJHG) introduced uniform criteria for service providers and standardised statistics across the regions; however, it did not change the systemic division of competencies between the federal state and the regions as the implementation of child protection legislation and responsibilities remained at the district and regional levels (Reinprecht, 2015). The local and regional variation in services may be further exacerbated following the devolution of child welfare from the federal level to the nine states after the repeal of the first part of the 2013 Child Welfare Services Law.

Legislation and organisations

Adoption is regulated by Articles 191–203 of the Austrian Civil Code, which set out the conditions for adoption: ‘The adoption of a
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Minor child shall be granted if it serves the child's well-being, and if a relationship [between the child and their adoptive parents] has been established or should be established' (Art 194 Austrian Civil Code).

While the law seems to promote adoption in cases where children have developed a parent–child relationship with their prospective adoptive parents, it is rare that children in foster care are adopted by their foster carers. Based on our own inquiries with the states’ public CWS for the years 2016 and 2017, there are only a few of these adoptions in each of the nine regional states per year. No national statistics on children who are adopted from care are available. We have relied on interviews with several key informants and experts in the field of child welfare to fill the knowledge gaps. The adoptions of children in care by their foster families include: children whose birth parents wish them to be adopted, for example, if they have started a new family and the child is doing well in the foster family; children whose foster parents approach the CWS when the children have not had contact with their parents for a long time to ask the CWS to approach the court regarding adoption of the child; and foster children seeking to be adopted by their current foster parents.

Most children adopted domestically are adopted shortly after birth, either because their parents (mostly mothers) decided that they want the child to be adopted, or because their mothers gave birth ‘anonymously’ at the hospital, that is, without revealing their identifying personal details to the hospital staff. In both cases, the CWS will have custody of the baby and will choose prospective adopters from a long list of adoption applicants. There are currently approximately ten adoption applicants per child, some of whom will have been waiting for up to five years to adopt a child (Braunisch et al, 2018). These children will be placed with adoptive rather than foster families and adoptive parents can already visit the baby in hospital. The baby will stay with their future adoptive parents for six months before an adoption can occur. During this period, the birth mother can withdraw her consent to the adoption without the need for specific reasons.

Unlike many other countries, Austria allows foster parents to apply for full custody of a child they are caring for, provided that this is in the child’s interests, that a parent–child relationship has developed with the foster parents and that reunification with the biological family has been ruled out (Art 184 Austrian Civil Code). This allows foster carers to make decisions concerning the child’s life without intervention by biological parents or the CWS, and without having to first adopt the child. Previously, foster carers retained their right to receive foster child allowance payments following the transferral of full custodial
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rights to them; however, this is now only possible where exceptional personal and financial circumstances of the foster carers necessitate such payments (Art 44 Child Welfare Services Law of Vienna). In practice, this loss of financial support provides a disincentive to applications for full custody by foster families. The level of foster allowance is set by the states and depends on the age and needs of the child (for example, Vienna grants a basic monthly allowance for a child under six years of age of €510 (Stadt Wien, 2020b)). From the child’s perspective, adoption could be seen as preferable because it gives the child more rights in terms of financial support as adoptive parents are financially responsible for the child by law whereas foster parents are not (and, most commonly, biological parents lack the funds to support their children who are placed in care).

Trends and statistics

The Austrian statistics available to the public do not capture the exact ages when children are adopted, nor do they allow a distinction between different types of adoptions. Therefore, we do not have any data on the children adopted from care, as defined in this volume. The adoption statistics by the Austrian Office of Statistics are based on the court decisions about adoptions (Statistik Austria, 2019a). The Federal Child Welfare Services Law requires nationwide data to be collected at the federal level, while previously the states produced their own reports. Since 2015, national numbers have been published in an annual report, which includes numbers on domestic adoptions.

We know that the number of domestic adoptions has declined somewhat from approximately 11 per 100,000 children in 2002 to around six per 100,000 in recent years (Federal Ministry of Labour, Family and Youth, 2019a; Statistik Austria, 2019a). Table 6.1 provides an overview of the number of children who have contact with the Austrian child welfare system; Table 6.2 shows the number of children in out-of-home care; and Table 6.3 shows the number of domestic and inter-country adoptions. A comparison of the tables illustrates how rare child protection adoptions are in comparison to out-of-home care.

While fostering can, in theory, be an entry point to adoption, it is the exception, with children more likely to return to their biological parents or stay with foster parents until the age of legal maturity (18 years in Austria) (Die Presse, 2016a). In Graz, for instance, only one child is adopted by their foster parents every three to four years. This highlights the child welfare system’s clear focus on family reunification or, where this proves impossible, on long-term foster
Table 6.1: Statistics about the child welfare system’s responses, 2018

<table>
<thead>
<tr>
<th>Child welfare in Austria</th>
<th>Statistics</th>
<th>Per 100,000 children</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child welfare statistics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of children receiving child welfare services, including care support services and out-of-home care provision</td>
<td>49,580</td>
<td>3,228</td>
</tr>
<tr>
<td>Number of children receiving care support measures</td>
<td>36,255</td>
<td>2,360</td>
</tr>
<tr>
<td>Number of children receiving out-of-home care provision</td>
<td>13,325</td>
<td>867</td>
</tr>
<tr>
<td>– in residential care</td>
<td>8,110</td>
<td>528</td>
</tr>
<tr>
<td>– in foster homes</td>
<td>5,325</td>
<td>347</td>
</tr>
<tr>
<td>Number of court-ordered measures</td>
<td>5,413</td>
<td>352</td>
</tr>
<tr>
<td>– as out-of-home care</td>
<td>4,784</td>
<td>311</td>
</tr>
<tr>
<td>– as other support services</td>
<td>629</td>
<td>41</td>
</tr>
</tbody>
</table>

Note: * These numbers are only partially adjusted for those cases where a child received support under both categories.
Source: Bundeskanzleramt (2019)

Table 6.2: Children receiving out-of-home care

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of children</th>
<th>Per 100,000 children</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>13,325</td>
<td>868</td>
</tr>
<tr>
<td>2015</td>
<td>13,126</td>
<td>868</td>
</tr>
<tr>
<td>2010</td>
<td>11,088</td>
<td>719</td>
</tr>
<tr>
<td>2005</td>
<td>10,043</td>
<td>622</td>
</tr>
</tbody>
</table>

Source: Federal Ministry of Labour, Family and Youth (2019b)

Table 6.3: Adoptions in Austria (excluding stepchild adoptions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of adoptions</th>
<th>Per 100,000 children</th>
<th>Child populationb</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Domestic</td>
<td>Inter-country</td>
<td>(domestic adoptions only)</td>
</tr>
<tr>
<td>2018</td>
<td>99</td>
<td>11</td>
<td>6.4</td>
</tr>
<tr>
<td>2017</td>
<td>82</td>
<td>20</td>
<td>5.3</td>
</tr>
<tr>
<td>2016</td>
<td>93</td>
<td>28</td>
<td>6.1</td>
</tr>
<tr>
<td>2015a</td>
<td>104</td>
<td>30</td>
<td>6.9</td>
</tr>
<tr>
<td>2010</td>
<td>110</td>
<td>–</td>
<td>7.2</td>
</tr>
<tr>
<td>2005</td>
<td>156</td>
<td>–</td>
<td>9.7</td>
</tr>
</tbody>
</table>

Note: * Inter-country adoptions were not reported prior to 2015. Adoption numbers prior to 2002 not available. b As of 1 January of the relevant year, that is, 2018 data are from 1 January 2019.
Source: Bundeskanzleramt (2019) and Statistik Austria (2019b)
placements until the child reaches maturity, with contact with the birth parent(s). Our own inquiries with the CWS in the nine Austrian states indicate that there are between zero and two adoptions of children living with foster parents per state per year (approximately ten per year in the entire country). In addition, the official statistics indicate that there were 36 anonymous births in Austria in 2018 and five babies placed in baby boxes (Bundeskanzleramt, 2019). These would be infants who, if not ‘claimed’ by their parents within six months, might have been adopted.

**Principles and systemic factors underpinning child protection adoptions in Austria**

The principles of family preservation and subsidiarity are strongly embedded in child welfare legislation and policy in Austria. According to the subsidiarity principle, the state, including the CWS, will provide social assistance only when the family cannot provide it (Reinprecht, 2015). Where adoption is considered the best option for children, it is governed by the principle of permanency for the child – the law supports adoptions of children by caregivers with whom they have established a strong bond. Furthermore, it is governed by the biological principle (parental consent to adoption, retaining legal ties between the child and the birth parents post-adoption, and the child maintaining contact with birth parents), as well as the participation of older children in the adoption process.

The typical approach to permanency for children in care is foster care, not adoption. This is illustrated by the low number of adoptions in comparison to the overall number of children in care. As the quote at the beginning of this chapter indicates, a justification for adoptions of foster children by their foster families typically used by the courts is that the children have already developed an attachment to their foster carers and view them as their social parents. Foster care may be the preferred permanency option over adoption because the CWS work under the assumption that children can eventually be reunified with their family given the provision of enough support to the birth parents by the CWS, as one of our social worker interviewees revealed. In practice, very few children are reunified with their families, with approximately 90 per cent of all children staying in long-term care; also, the CWS will usually not support children’s move back to their biological parents if they have already spent significant time with their foster carers (Braunisch et al, 2018). Unfortunately, the Austrian statistics do not provide any longitudinal information about children
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in care, so we do not know at what age children typically enter care and how long they remain in care.

The strength of the principle of family preservation is related to the strength of the biological principle, which is reflected in Austrian law. A peculiarity of the Austrian system is that: adopted children retain limited legal ties to their biological parents; they have the right to inherit from their biological parents after adoption (Art 199 Austrian Civil Code); and birth parents remain the child’s parents within the construct of the subsidiarity principle. This means that birth parents’ liability to pay child support persists but ranks behind the adoptive parents’ obligation. Thus, birth parents must only financially support the adopted child if the adoptive parents become unable to do so (Art 198 Austrian Civil Code). A peculiarity of the Austrian adoption system is that it allows only for Vertragsadoption (contractual adoption), rather than Volladoption (full adoption), which prevents the adoptive child’s legal integration into the wider adoptive family (Bundeskanzleramt, 2020a). The biological principle also means that strong emphasis is put on the biological parents’ consent to the adoption. Adoptions without parental consent are extremely rare in Austria due to a high legal threshold for dispensing with parental consent (Burns et al, 2019) and a social work culture of hesitance towards cutting all ties between the child and birth family.

Pre- and post-adoption practices and decision-making regarding adoption

Practices with children, birth parents and future adoptive parents

Prospective adoptive parents are required to attend a preparatory course for adoption applicants. These are typically outsourced by the states to charities or non-governmental organisations (NGOs). In Vienna, the association Eltern für Kinder Österreich (Parents for Children Austria) has been commissioned to prepare applicants for adoption (Eltern für Kinder Österreich, 2020a). Special modules are offered depending on the type of adoption, and some elective modules are also offered. The preparatory course consists of lectures, group work, exercises and reflection, and its completion is a prerequisite for the official suitability assessment. In Vienna, the suitability of the adoptive parents is assessed by two professionals of the child welfare services agency (Art 52[1] Child Welfare Services Law of Vienna; see also MAG ELF, 2015).

The CWS emphasise children’s right to know their biological heritage. Thus, the prospective adopters’ understanding of children’s
ancestry as important to children’s development is underscored, and adoptive parents are expected to be honest and open with children (Stadt Wien, 2020a). The child welfare agencies are under a legal obligation to keep documentation about the child’s biological parents for 50 years after the date of approval of the adoption. The child’s custodians may request information for particularly important medical or social reasons, as long as the adopted child has not yet reached the age of 14, after which point the child has this right (Art 49 Child Welfare Services Law of Vienna).

After the CWS agency has found adoptive parents for the child, the birth parents need to grant permission. Birth parents’ declarations of consent must be delivered to the court in person; however, if this causes disproportionate difficulties or costs, or the proceedings have not yet started, parental declaration can be given via a notarised document (Art 86[4] Non-Contentious Proceedings Act 2003). The birth parents can decide to revoke their consent in person or writing until the court decision (Art 87 Non-Contentious Proceedings Act 2003).

Section 6 of the Austrian Civil Code (Arts 191ff) sets out the formal criteria for adoption. Adoptive parents must have legal capacity and be over 25 years of age. Married couples can only adopt jointly unless one parent is the biological parent of the child to be adopted. If the adoption applicants are currently acting as trustees for the child, they must first be released of their responsibilities and prove the discharge of their duties before they can adopt the child. In addition, the consent requirements outlined earlier must be fulfilled.

Decision-making regarding adoption

Decision-making body and consent

Adoptions in Austria typically only occur with parental agreement. They are based on a written contract between the biological parent and the child protection agency (closed adoptions), or the biological and adoptive parents (open adoptions). Adoptive children themselves sign this contract if they have sufficient decision-making capacity. Consent to the adoption must be given by the biological parents, the married adoptive parents or the spouse of the adopting adult, and the legal guardian of the adoptive child. Until mid-2018, a child of 14 years or older also had to consent to the adoption; however, under the current law, only the child’s guardian must give consent. The law imposes a positive presumption of decision-making capacity (Art 192[2] Austrian Civil Code); in practice, some states have set this at age 14
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(Kinder- und Jugendhilfe Oberösterreich, 2019). Where a child is found to lack decision-making capacity, the child’s legal representative will sign the adoption contract on the child’s behalf and in line with the child’s best interests (Art 192 Austrian Civil Code).

Adoptions only become valid if approved by a court (Bundeskanzleramt, 2020b). Adoption proceedings are held at district courts and are presided over by a judge with expertise in family law. These hearings are typically not open to the public. The courts will always ask the CWS for a Stellungnahme (statement of opinion) when making a decision and will typically assess whether there are significant arguments against the adoption, as reported by one of our interviewees. The approval of the adoption by the court renders the adoption official. The adoption contract can be drafted by an attorney, a notary public and the CWS (Land Salzburg, 2019). Strict consent requirements apply: the court can only grant permission for an adoption if the child’s parents, the spouse or domestic partner of the adoptive parent, and the child who has reached maturity but who lacks legal capacity or the legal representative of the minor child consent to the adoption (Art 195 Austrian Civil Code). Although adoption requires parental consent, an exception applies where the location of the parents is unknown for at least six months, or where the parents are incapacitated for longer than a temporary period (Art 195[2] Austrian Civil Code). The court must deny permission to the adoption if a biological child’s care or subsistence is endangered by the adoption (Art 194[2] Austrian Civil Code).

Children have a right to be heard, which may be waived where children are unable to be heard for longer than merely temporarily (for example, due to young age), or where it may endanger the child’s well-being (Art 196 Austrian Civil Code). Typically, children are heard directly by the judge; however, they may also be heard by the youth welfare agency, the family court services, the juvenile court services or by other appropriate means, such as by experts, if they have not reached the age of ten years, if required by their development or state of health, or if it is otherwise unlikely that children will express their sincere and uninfluenced opinion (Art 105 Non-Contentious Proceedings Act 2003).

Other parties with a right to be heard are children’s current foster parents or the manager of the residential home where the child resides, as well as the CWS. This right does not apply to a person who has previously acted as legal guardian for the child in signing the adoption contract on the child’s behalf, or where a hearing could only be arranged with disproportionate difficulties.
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The role of different parties

The preparation for the adoption is done by the child welfare agencies, which: advise and guide the birth parents during the adoption; advise, prepare, assess and train the adoptive parents; and choose suitable adoptive parents based on the child’s needs (see, for example, Article 50 Child Welfare Services Law of Vienna). Until 2020, the legal provisions setting out pre- and post-adoption practices and procedures were found in the Federal Child Welfare Services Law (B-KJHG) but they are now regulated by state laws.

The CWS with district offices (in the eight states) and the CWS Unit of the Social Work Department of the City of Vienna are responsible for drawing up the adoption contract, filing an application with the court and providing an assessment to the court (Bundeskanzleramt, 2020b). There is no legal minimum period that a child has to spend in pre-adoptive care in Austria (Sapinski, 2016a), but children usually live with their prospective adoptive parents for at least six months before an application to court for adoption is made by the CWS. (Unlike foster parents, the prospective adoptive parents do not get paid.)

The CWS meet with the parents to explain the legal consequences of the adoption. The adoptive parents and the biological parents will sign a contract (Bundeskanzleramt, 2020b). The CWS then complete an Adoptionsantrag (application for adoption), which they send to the court. In the case of an adoption from foster care, this application includes a Pflegeaufsichtsbericht (report about the foster carers), which contains: the history of the foster carers; their partnership history and professional status; the child’s history and how well the child has done with the foster parents; the parents’ background; and the fact that everyone agrees to the adoption, that there exists a child–parent relationship between the child and the foster carers, and that this is why the CWS are applying for an adoption. The judge can call a meeting with the parents and/or the adoptive parents and hear older children; typically, the court will rely on the CWS report rather than arrange a hearing with the parents, as reported by one of our key informants. Once an adoption has been approved, there are no further checks by the CWS of the adoptive family. However, post-adoption services, typically in the form of seminars or support group meetings, are sometimes available through NGOs that provide support to adoptive families. In international adoptions, depending on the child’s country of origin (for example, South Africa), the CWS may be obliged to provide post-placement reports to the authorities over a period of several years (see Eltern für Kinder Österreich, 2020b).
The decision, which is written by the judge, is sent to the involved parties in a document that is typically three to four pages long. It contains the name of the court and judge, the date of the decision and the type of decision made by the judge (adoption granted or not), followed by information about the adoptive parents, the child and the birth parents, the date when the decision goes into effect, and the reasoning behind the decision (as specified in Article 89 Non-Contentious Proceedings Act 2003). The section on the judge’s reasoning provides some brief background information about the child’s care trajectory leading to the adoption and explains the reasoning in reference to the law. The decision can be appealed within 14 days but only for very significant legal reasons, for example, when the court that decided the appeal deviated from the case law of the Supreme Court, or the case law is missing or inconsistent (Bundeskanzleramt, 2020b). The appeal is then decided by the next higher-instance court, up to the Supreme Court. District court decisions about adoptions are not publicly available; discretionary approval may be granted by the Ministry of Justice for access for research purposes. The Supreme Court publishes decisions about appeals on the Rechtsinformationssystem des Bundes (RIS) (the legal information system of the federal government) (Bundeskanzleramt, 2020c).

Arrangements for post-adoption birth parent and sibling contact

Austrian law does not grant any rights for contact to birth parents or other family members after an adoption has been approved by the court. Contact rights with regard to children taken into care were extended through the 2013 Law Amending Child Custody and Right to a Name (KindNamRÄG), with the effect that third parties, including siblings, now have a right to contact where there is a close personal or familial relationship between the child and the third party (Art 188[2] Austrian Civil Code). Where contact is deemed to be in the child’s best interests, the court can make the necessary order. Such a third-party contact application may also be filed by the CWS, and contact orders must be made if the child’s well-being would otherwise be endangered. In practice, upon successful application to the court, children may thus continue to have contact with their birth family under the previous contact arrangements post-adoption. We do not know how common such contact applications are or how often the court will grant a right to contact post-adoption. Typically, any arrangements for post-adoption contact with birth parents may be agreed upon in the adoption contract between the parties, though this
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does not give rise to a legal claim and the agreement is non-binding on the parties.

Contact arrangements will also depend on the type of adoption. In Austria, there are three types: incognito, open and semi-open adoptions (Bundeskanzleramt, 2020d). In the case of incognito adoptions, the CWS will try to accommodate the preferences of the birth parents with regard to some characteristics of the adoptive parents (for instance, regarding cultural and religious background), and the birth parents will only receive limited information about the adoptive family, such as age, profession, duration of the marriage and number of children. The names and address will be kept secret, and birth parents will not be able to contact the adoptive family. In semi-open adoptions, the birth parents do not know where their child lives but may contact the child and their adoptive family through their local child welfare agency or the magistrate’s office. They may send letters and photographs, and they can also arrange meetings in neutral locations. Open adoption means that birth parents know where the child and the adoptive family live and can make contact directly without the involvement of the CWS (Bundeskanzleramt, 2020d). From the age of 14, adopted children may request access to their adoption files (Art 49 Child Welfare Services Law of Vienna) and may then choose to contact their birth family. We do not know the prevalence of these different types of adoptions in Austria; however, in Vienna, approximately one third of adoptions are now open (Winroither and Weiser, 2014).

Conclusion

As in many other countries, the Austrian adoption system is currently under-studied and under-reported. The lack of specific data on the various types of adoptions, their numbers and the outcomes of different interventions is met by a research gap on adoptions from care in the scholarly literature. Almost no commentary on the challenges of the adoption system exists, at least not from recent years. Media reporting is mostly limited to the child removal stage of the CWS; adoptions rarely feature independently. As we have argued elsewhere, systematic research would be of critical importance in assessing existing CWS policies and programmes, especially now that the devolution of the CWS has become a reality cemented in law (Križ et al, forthcoming). To our knowledge, there are no empirical studies systematically assessing which child welfare policies appear to be most effective across the country.
In Austria, adoption from care continues to be a ‘niche’ measure when it comes to long-term out-of-home care for children, with foster and residential placements being much more prominent measures. A growing popularity of fostering in comparison to adoption may have several reasons. First, the extremely small number of children available for adoption means that waiting times are long, at around two to three years (Bundeskanzleramt, 2020b) and even longer for babies (Graz, for example, has waiting times for adopting a baby of about five years [Die Presse, 2016a]). The ratio of prospective adopters to children available for adoption is approximately ten to one (Braunisch et al, 2018). For instance, in Lower Austria, there were 123 qualified adoption applicants in 2014, resulting in 16 domestic and 17 international adoptions (Die Presse, 2016b). Second, the regional child welfare agencies have started to promote fostering proactively to meet the constant high demand for foster families (Kraus, 2011); however, some children are very difficult to place, such as children over the age of three years or children with developmental challenges (Tragler, 2018).

There is some empirical evidence from other jurisdictions that adoption may lead to better life outcomes for some children in care than long-term foster care (see Triseliotis, 2002). We do not have outcome data like these for Austria, so it would be impossible to offer evidence-based recommendations here. That said, the failure to actively pursue adoption for children for whom reunification has been effectively ruled out may deprive children in care of the type of legal permanency only adoption can grant, especially those children who enter care as infants or who establish secure attachments with long-term foster carers and do not have positive contact with birth family members. It therefore seems sensible to consider adoption as a route for permanency for these children. However, the strength of the principle of family preservation and the biological principle mean that long-term foster care may remain the welfare measure of choice in Austria for the time being. Another argument in favour of long-term foster care concerns the practical difficulties for children in securing post-adoption contact with birth parents, grandparents and siblings. The CWS also sometimes have very important practical reasons for not promoting adoption; for instance, when birth parents of a child in care decide to give up their child for adoption but the child’s foster carers do not wish to adopt, the CWS will not pursue this further because it may not be in the best interests of the child to experience another change in caregiver, as one of our interviewees made clear.
Future adoption policy outlook

We do not anticipate any major policy changes in the area of adoptions in the foreseeable future. First, adoption from care has not been on the political agenda in recent years, nor does it receive much attention from the media or in public debate. The most significant recent change in adoption is related to a 2015 decision by the Austrian Constitutional Court that granted same-sex couples the same right to adoption as heterosexual couples. Before 2016, same-sex couples could be step- and foster parents but could not adopt (Pickert, 2015). Despite much resistance from political conservatives, the new law came into effect on 1 January 2016 (Ettinger and Aichinger, 2015; Sapinski, 2016b).

Second, the challenges arising as a result of the recent steps towards the devolution of child welfare policy from the federal to the regional states are likely to dominate the child protection domain in the short term. In the longer term, the question related to adoption from care arises as to whether calls for greater focus on preventive measures will be heard. Recently, some organisations, including SOS Children’s Villages and the Austrian Kinder- und Jugendanwaltschaft (Children’s and Youth Ombuds-Office), have called for the government to provide more support for families to prevent children being removed from their homes in the first place (Austrian Ombudsman Board, 2020).

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Notes

1 An exception applies where there is an overriding concern for a biological child of an adopting parent, in particular, regarding the maintenance or upbringing of that child (Art 194[2] Austrian Civil Code).

2 Although excluded for present purposes, it should be noted that adoption of a person over 18 years is possible in Austria, provided that a close (parent–child-like) relationship has existed for at least five years (Art 194 Austrian Civil Code).
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References


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