

# THE RESEARCH FINANCING ACT. A NEW FRAMEWORK FOR PUBLICLY FUNDED RESEARCH IN AUSTRIA AND ITS IMPACT ON EVALUATION

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## INTRODUCTION

On 7 July 2020, the National Council – the first chamber of the Austrian Parliament – passed a package of legislation introducing a new framework for the methods of allocating federal budgets to research, technology, and innovation (RTI). Its core is the Research Financing Act (RFA), complemented by several amendments to existing laws that are necessary for its implementation. Entry into force was on 25 July 2020, the amendments became effective as of 1 January 2021 (BGBl. I No. 75/2020<sup>2</sup>). The RFA is the biggest legislative project in the field of RTI policy since 2004 when the Research Funding Agency (FFG) was established (Pichler et al. 2007, pp. 329-336; Stampfer et al. 2010, pp. 775-776). For the first time, budget law regulations are now aligned with the needs of institutions performing or funding RTI (Pichler 2021). This article outlines the background and content of the RFA and concludes with a view on the significance of evaluation within the new system.

The RFA adds a crucial element to the legal framework for publicly funded RTI in Austria at federal level. In general terms, this framework rests on three major pillars: organisational law, funding and state aid laws, and budget law. As for the first two pillars, RTI specific regulations already exist. Typically, RTI related organisational law establishes research or research funding institutions, mostly as statutory bodies or as publicly owned companies (Pichler 2017). Funding and European state aid laws determine the conditions under which taxpayers' money may be used to incentivise RTI, resulting in specific RTI funding guidelines. Budget law defines the rules and procedures the government itself has to adhere to when it spends public money and hands it over to its agencies. However, before the new legislation, budget law did not comprise any regulations specific to RTI, which had to play along the general rules instead, often suiting its needs not very well. Yet there are examples in neighbouring policy fields for such specific budgetary rules like those provided by university law. Beyond these three pillars there are, of course, other regulatory matters where RTI is addressed, such as tax and labour laws.

## CHALLENGES

Many of the apparent shortcomings within the public RTI system in Austria that have been – not only in recent years – identified can be attributed to the budgetary regulations that were in place until 2020. Among the problems most often referred to were the fragmentation, volatility and short-term nature of financial flows from the government to the various RTI institutions. This was largely owed to general budget law provisions according to which RTI budgets counted as discretionary expenditures (thus potentially threatened by cuts), individual schemes were subject to annual approval by the ministry of finance, limitations to the size of such schemes applied, and possibilities of commitments entailing obligations in future fiscal years remained very restricted.

Therefore, the financing structures of RTI institutions became – for both themselves as well as their principals – increasingly difficult to manage. They featured a broad variety of numbers, dimensions, and periods of financial flows. Each financial commitment came with a separate contract and its own set of rules, not least for evaluation. Come to that, no difference was made between institutions controlled by the federal government in its capacity as supervisory authority or owner and entirely independent institutions eligible for public funding. This meant that unequal subjects were treated equally and hence rules applied that were not equally appropriate.

The complexity of the financing structures combined with the requirements for the programmes and schemes the funds went to resulted in a situation where “[t]here are coordination problems due to an unclear division of labour between agencies and ministries that results in ‘under-steering’ at the strategic and ‘over-steering’ at the operational level.” (OECD 2018, p. 45; cfr. Bühner et al. 2017, p. 140). Because the ministries had to busy themselves with the administration of dozens of contracts every year, they evidently had little capacity left for strategic oversight and steering. The resulting micromanagement left principals and agents deeply intertwined. Inevitably, the evaluation landscape also reflected this structure: the many small, fragmented programmes were followed

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1 Federal Law Gazette.

2 Forschungsfinanzierungsnovelle 2020 including Forschungsfinanzierungsgesetz (FoFinAG): <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20011237>, last retrieved 24 April 2021.

up on by many small evaluation studies, sometimes lacking ambition because of restricted budgets; bigger, more comprehensive exercises like system or institutional evaluations are still rare (Streicher et al. 2020, p. 74). In turn, the strategic input of evaluation fell short of its actual potential.

## NEW APPROACHES – THE NEW LAW AT A GLANCE

Obviously, the RFA is not a catchall law, it rather addresses the crucial issue of fragmented financing structures which caused other elements of the RTI system to fail what they were designed to. The new legal provisions introduce three principal approaches reflecting the need for comprehensive and long-term planning. This means not only financial stability but also reliability of the underlying routines and institutions.

Firstly, the RTI budget chapters of the three major RTI ministries are now devised and decided upon by parliament for three consecutive years rather than one year as usual. These three years' budgets are binding, contrary to the four years' federal medium term expenditure framework whose budget appropriations are – beyond the actual budget year – only indicative. Also differently, the new three years' terms are fixed and follow one after another whereas the four years' medium term framework is rolling year by year. The principle of this revolving three years' cycle is intended to guarantee a continuous, high profile process of planning and reviewing RTI policy and its budgets. This process is centred on the so-called RTI pact which has to be negotiated amongst the federal government every second year of a three years' term determining the priorities and the budgets for the next three years. The RFA also stipulates that the budgets subject to this law must not be cut once passed by parliament (whose privilege it remains, of course, to alter its own decisions). This means no less than RTI expenditures being no discretionary expenditures anymore and the threat of budget cuts being over.

Secondly, those major research and research funding institutions controlled by the federal government are now legally established as "central institutions" in terms of the RFA. Acknowledging their importance and the control the government can exercise, these institutions are now granted a legal claim to federal funding. While this may have less effect on the actual size of the budget allocations themselves, there is a profoundly political argument to the approach of "central institutions": Whatever the current weight of RTI in political debates, a framing pertinent to known and accepted institutional concepts is far more persuasive and likely to succeed than mere budget lines. Fighting for taxpayers' money may very well prove a futile effort without directly connecting this to an institutional face, as it were.

The central institutions are divided into two categories: research performing and research funding institutions.

The central research institutions are:

- Austrian Institute of Technology (AIT)
- Institute of Science and Technology – Austria (IST)
- Austrian Academy of Sciences (ÖAW)
- Silicon Austria Labs (SAL)
- Ludwig Boltzmann Association (LBG)

The central research funding institutions are:

- Austrian Promotional Bank (AWS)
- Christian Doppler Research Association (CDG)
- Austrian Science Fund (FWF)
- Agency for Education and Internationalisation (OeAD)
- Austrian Research Funding Agency (FFG)

Thirdly, the RFA introduces performance and financing agreements as a new governance instrument for which the concept of "central institutions" is a prerequisite. These agreements will each last for three years and match the three years' RTI budget period. They are only applicable for the central institutions and the three ministries responsible for them with their respective RTI budget chapters. Against an international backdrop, this may seem a modest achievement. However, the limitations imposed by budget law as described above have prevented the implementation of such comprehensive agreements in Austria so far. The new law stipulates that for these agreements the limits for future obligations otherwise in place may be exceeded in case of commitments to the central institutions (and the liabilities therefore incurred). This is the key regulatory novelty in terms of budget law. Its effect can be illustrated by the case of FFG when previously far more than 50 single contracts needed to be executed at any one time. These are replaced by just two financing agreements (one per ministry responsible each). Following from that there is a greater chance to disentangle principals and agents and clarify their respective roles. Contending that bigger size leads to greater impact and attracts more attention we may expect that also evaluation gains more importance.

Even though the RFA undoubtedly eliminates or at least mitigates many of the most restricting obstacles, not all hopes and expectations could be met. These related, in the first place, to the budgets themselves whose administration is subject to the new law. It was often presumed that the law would determine the amounts of future budgets or at least an annual growth rate. This, however, is legally impossible, since according to constitutional law, the federal budget must be a single self-contained act so that no separate budgets for specific matters are possible. There would have been the option though to grant specific amounts to individual subjects, i.e. the central institutions. However, this did not seem feasible as the RFA aims at a comprehensive and dynamic system leaving enough room for manoeuvre to adapt to emerging needs and to cater for other than the central institutions.

Another objection regarded the question of autonomy, which is an issue of permanent debate and lasting tensions in research policy (Braun 2003). In the political discussions around the Research Financing Act, the governments involved often put the project into the context of a clearer division of labour and increased autonomy of the central institutions. This would come naturally once the ministries were not burdened with the micromanagement of myriads of single contracts anymore but would deal with big chunks of money instead, the argument went. Yet it is beyond the remit of this law (whose regulatory scope is budgeting of RTI) to provide stipulations on governance issues. Still some of these aspects are taken care of by the amendments to the organisational laws governing the central institutions that came with the RFA in order to incorporate the handling of the new agreements into the institutions' structures and processes.

## BRIEF HISTORY

The idea of what was to become the RFA has been out there for quite some time. It was first conceived by Johannes Hahn (then minister of science and research) who launched it in 2009 on occasion of the Alpbach Technology Talks proposing a “mandatory budget path” and the introduction of performance agreements together with global budgets. Subsequently, the idea figured in the RTI strategy 2020 as well as in the government programmes of 2013, 2017, and 2020. Some of the points raised in the original proposal have later been addressed by the new Federal Organic Budget Act of 2013 such as the introduction of global budgets and medium-term planning.

It was not until the evaluation of FFG and AWS in 2017 and the OECD review of innovation policy in 2018 (OECD 2018; Bühner et al. 2017) that the proposal eventually gained enough pace to rank higher on the political agenda. In August 2018 the council of ministers decided that the (then) ministry of transport, innovation, and technology be mandated to negotiate a draft legislation. A task force was set up involving the ministries of education, science, and research; for digital and economic affairs; of finance, and the chancellor.

In May 2019 the proposal was almost completed when the so-called Ibiza scandal led to the dissolution of the government. A caretaker government took over. Because the legislative project as such had largely been undisputed, it decided to finalise the proposal (renamed “Research Framework Act” in order to avoid any suspicions of effects on future budgets) and conduct the public consultation. Thus, the government incoming after the general elections in September 2019 was put in a position to devise a bill immediately. Delayed by the Corona pandemic, the new government presented the bill proposing the RFA to parliament in June 2020. The parliamentary debate acknowledged the achievement, nonetheless it focused on the question if the government was prepared to ask for budgets high enough so as to fully exploit the potential of the legislation. The opposition parties put forward several parliamentary motions to that effect, failing to gain a majority though.<sup>3</sup>

During all these steps towards the RFA, the issue of evaluation remained ambiguous, lingering in the background somehow, but never managed to become a primary motivation for pursuing that legislation.

## HOW THEY DO IT ELSEWHERE

Obviously, the general approach that is laid out in the RFA has been chosen before in other countries. Yet following such examples is often difficult because the legal and political frameworks differ so much that despite similar challenges copying and implementing solutions found elsewhere is not directly an option. Still there are two examples that proved influential because they were found in neighbouring countries Austria frequently compares itself to, not least in RTI policy.

The German “Pacts for Research and Innovation” served as the benchmark most often referred to. This was primarily owed to the massive political effort behind these pacts propelling RTI into the limelight. However, there are some marked differences between the system of pacts and the Austrian situation. First and foremost, the German pacts are purely political documents having no legally binding capacity whatsoever, thus also ranging beyond parliamentary scrutiny. Their vigour results from the fact that they fit into a long established and carefully balanced system of division of power between the federation and the federal states. Once something is agreed upon among these actors politically, it must hold up. Hence, there is no need for a formally stronger framework. Yet it is exactly this design, which makes financial growth targets possible. The pacts merely proclaim that these targets shall be implemented subject to the respective budgets. But then, everyone knows from experience that this is in fact going to happen.

This mechanism soon became a blueprint for the Austrian discussion, while Germany was much envied for its stability of political commitments. While this (except the terminology “pact”) could not be transferred to Austria – also because obviously the Austrian *Länder* play a much less important role – we find the principle of focusing on major institutions already in the German system covering the predominant “big five” jointly financed by *Bund* and *Länder*. Contrary to the Austrian system, other institutions and their budgets are excluded from the pacts. Moreover, the pacts are concluded for a limited time span (five, now ten years) and must therefore be renewed regularly. As regards evaluation, a monitoring framework hosted by the Joint Science Conference delivers annual monitoring reports based on data the respective RTI institutions are required to provide.<sup>4</sup>

Closer to the approach chosen in Austria is the Swiss system of RTI funding. Likewise, it is based on law (Federal Act on the Promotion of Research and Innovation) providing a legal definition of institutions subject to it, the introduction of performance agreements, and regulations for public financing at federal level including a permanently established revolving process. At regular intervals (four years), the Swiss federal government presents a bill to parliament on education, research and innova areas at federal level. Therefore, the bill also entails the respective four years’ budgets for the eligible institutions. These budgets cover about 80 to 90 percent of all federal RTI expenditures (Widmer et al. 2018, p. 1). In terms of evaluation, Switzerland is known to be very consistent. Article 170 (“Evaluation of effectiveness”) of the federal constitution states “that federal measures are evaluated with regard to their effectiveness.”<sup>5</sup> Accordingly, article 44 of the Research and Innovation Promotion Act installs a periodic review of the Swiss research and innovation policy.<sup>6</sup>

3 For the entire legislative proceedings see [https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I\\_00239/index.shtml#tab-Uebersicht](https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I_00239/index.shtml#tab-Uebersicht), last retrieved 24 April 2021.

4 See <https://www.gwk-bonn.de/themen/foerderung-von-ausseruniversitaeren-wissenschaftseinrichtungen/pakt-fuer-forschung-und-innovation/>, last retrieved 24 April 2021.

5 [https://www.fedlex.admin.ch/eli/cc/1999/404/en#art\\_170](https://www.fedlex.admin.ch/eli/cc/1999/404/en#art_170), last retrieved 24 April 2021.

6 [https://www.fedlex.admin.ch/eli/cc/2013/786/de#art\\_44](https://www.fedlex.admin.ch/eli/cc/2013/786/de#art_44), last retrieved 24 April 2021 (English version unavailable that day).

## MONITORING AND EVALUATION IN THE RESEARCH FINANCING ACT

The German and Swiss examples also present ways to align multi-annual budgetary frameworks with a set of evaluation and monitoring rules and principles already in place. The provisions made in the Austrian case are not much different. At a first glance, the RFA appears moderate in terms of its evaluation requirements. Given its comprehensive scope, one may argue that it should have established an equally comprehensive evaluation framework as well. As said before, the new law is only one, if decisive, element of the legal framework regulating publicly financed RTI in Austria. Therefore, it must take account of evaluation rules already applicable and make its own regulations for evaluation compatible with them.

As a general approach, section 1 of the RFA states as one of the goals “the improvement of RTI performance and the analysis of the outcome achieved.” This clause implies evaluation as a logic consequence from the law. The explanatory notes that accompany the bill proposing the RFA<sup>7</sup> elaborate that in order to guarantee outcome and impact orientation, the performance and financing agreements shall be subject to a consistent monitoring and evaluation system. The monitoring implemented accordingly will facilitate measuring and analysing the outcome achieved as well as identifying room for improvement (pp. 2-3). Said monitoring and evaluation system is set out in section 8 (“monitoring and evaluation”). It establishes an annual reporting system that is indicator based, outcome oriented and highly aggregated. Its results are reported in the annual Austrian Research and Technology Report (which has already been pioneered in 2020, pp. 94-159). Reporting refers to the central institutions (on whose data it is based) and must include a target-performance comparison with corresponding conclusions. Furthermore, an overview of the implementation of the RTI pact has to be provided (sec. 8 para. 1 and 2). The explanatory notes point out that this set-up is also designed to avoid the creation of parallel structures as it uses existing ones for data collection and reporting, and that it is intended to serve as a controlling tool (p. 12).

In the same vein, on evaluation section 8 explicitly refers to section 18 of the Organic Budget Act (BGBl. I No. 139/2009<sup>8</sup>) where evaluation is established as a mandatory legal requirement for almost all public measures at federal level. Because this is a very broad concept, evaluations pursuant to this regulation yield rather unassuming results (Pichler/Steyer 2017). These evaluations are deemed “internal” and “must show ... whether and to what extent the goals and targets have been achieved and what the impacts of the measures are and how great the actual financial impacts on the federal budget are.” (sec. 18 para. 3) The baseline against which legislative proposals and other projects have to be evaluated are the outcome-oriented impact assessments (sec. 17). Such evaluation is applicable to the performance and financing agreements (and, of course, to the RFA itself). In line with the directive of the ministry of finance (BGBl. II No. 489/2012<sup>9</sup>, sec. 11) pursuant to section 18 para. 4

of the Organic Budget Act, the RFA requests that recommendations on the implementation of the agreements and potential improvements be included (sec. 8 para. 3).

For that purpose, under the RFA the central institutions have to supply the necessary data and must provide for an appropriate monitoring system (sec. 8 para. 4 and 5). This is mirrored in the minimum requirements for performance and financing agreements. The agreements have to request the central institutions to collect, supported by a corresponding reporting system, indicators based on which the attainment of the goals and the outcomes can be measured (sec. 6 and 7). The explanatory notes detail that the indicators may take the form of metrics or milestones (in accordance with the aforementioned directive) and should represent categories allowing for comparisons among the central institutions (pp. 10 and 12).

Therefore, the primary approach of the RFA towards evaluation is to limit itself to what is already legally defined by law. This is perhaps also a lesson learnt from numerous other laws demanding evaluation without further specification. This does not mean that the RFA does not also cater for fully-fledged evaluations performed by external experts without, however, making them compulsory. Again, section 8 states that the purpose of the data supplied is “the preparation of scientific analysis and the execution of scientific evaluation measures” (para. 4). The central research funding institutions can also be endowed by the agreements to finance evaluation contracts themselves as accompanying measures (explanatory notes p. 11 to sec. 7). The decision if, how and when to conduct external evaluations is thus left to those responsible for or within the central institutions.

## CONCLUSIONS

The RFA yields no standard recipe for evaluation. Yet it paves the way towards better and more consistent evaluation. The new legal framework offers a unique opportunity to tie loose ends together. Despite the prolonged existence of different legal angels relevant to the implementation of RTI policies – and thus evaluation – there is now a policy cycle in place through the RFA leading to a convergence of policy elements otherwise lacking a coercive common guidance. The new revolving processes of planning the three years’ periods and of developing and implementing the performance and financing agreements should result in a better understanding of the importance of evaluation: better planning needs better evaluation. Not least, the larger chunks of money that are now handed over to the central institutions and the larger programmes that should come with that will call for more attention. In turn, this is likely to raise the need for accountability, justification and evaluation. However, it will remain a combined effort of all those involved to deliver proper evaluation. This still is a matter of cultural change, which no law can possibly decree.

7 See [https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I\\_00239/index.shtml#tab-Uebersicht](https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I_00239/index.shtml#tab-Uebersicht), last retrieved 24 April 2021.

8 <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20006632>, last retrieved 24 April 2021.

9 <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008150>, last retrieved 24 April 2021.

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