

# Norbert Hofer, the friendly face of the populist right

 [democraticaudit.com/2016/10/03/norbert-hofer-the-friendly-face-of-the-populist-right/](https://democraticaudit.com/2016/10/03/norbert-hofer-the-friendly-face-of-the-populist-right/)

By Democratic Audit UK

03/10/2016

*With his friendly, moderate appearance, the right-wing populist Norbert Hofer has come within a whisker of the Austrian presidency. In December a second rerun of the election will determine whether he can lead the Freedom Party (FPÖ) into power. **Fabio Wolkenstein** looks at the extraordinarily wide range of executive powers available to the Austrian president, including the right to dismiss the chancellor and government. Will Hofer take advantage of them, or will he continue to lead the FPÖ into the mainstream and possible victory in parliamentary elections?*



Norbert Hofer in September 2016. Photo: [Franz Johann Morgenbesser](#) via a [CC-BY-NC-SA 2.0 licence](#)

On 4 December, Austria will elect a new president — again. After the candidate of the populist right-wing Freedom Party (FPÖ), Norbert Hofer, lost the run-off in May, his party filed an official complaint about anomalies in the counting of postal votes. The Austrian constitutional court then ordered a rerun, which was scheduled for 2 October. But the rerun had to be postponed because the adhesive seals on postal ballots were found to have come unstuck. Now that the (rather embarrassing) glue issue is resolved, elections will be held in early December.

The main question that preoccupied the international media prior to the first run-off was this: Will this be the first time that a right-wing populist — some even label Hofer radical or extreme right — is elected to the highest office of a Western democracy? This question remains unanswered. And it is far from clear at this stage what the answer will be. In May, the former Green party leader Alexander van der Bellen prevailed only very narrowly over Hofer, and there is little reason to believe that the result will be less narrow this time. The pendulum can swing both ways.

If intellectual honesty demands refraining from making any predictions about the election result, it may be possible to make a prediction about what a Hofer presidency would look like should he be elected on 4 December. In other words, what if this right-wing populist occupied the highest office of his state?

## Would Hofer invoke the secret executive powers available to him?

There are essentially two different scenarios. The first and considerably more dramatic one is that Hofer uses the secret executive powers the presidency equips him with to undermine existing democratic processes and

institutions. I say “secret” because very few people — in Austria and abroad — are aware of the full range of rights the Austrian president is actually guaranteed by the constitution — not least because no president since 1945 has exercised these rights.

Let’s take a brief look at the history of the Austrian constitution to understand this. The original 1920 constitution, engineered by the great legal scholar Hans Kelsen, envisaged a limited, mainly representative role for the president. This changed with an important constitutional amendment in 1929, which was initiated by then-chancellor Ignaz Seipel, a clerical-conservative with authoritarian leanings. Like many conservatives at that time, Seipel looked to parliamentary democracy with disdain. He imagined a president who could “defend the people against its representatives” (quote Seipel) by dismissing the chancellor and the government as he (rather than she) sees fit. The 1929 amendment entrenched the requisite executive powers in the constitution.

Apparently for pragmatic reasons, the provisional government that was installed after World War II decided to ratify the constitution in its 1929 version (and not Kelsen’s 1920 version), and so keep Seipel’s model of presidency with all its autocratic implications. But there is an interesting twist in the story. This is that all Austrian presidents of the so-called Second Republic acted in accordance with the 1920 (not 1929) constitution, which, to repeat, sees the president primarily as a ceremonial figurehead. So even though the president is formally afforded nearly Carl Schmitt-esque sovereign powers, in reality the office of the Austrian president was interpreted more in line with Kelsen’s position. But of course, it remains the case that the president does have the *de jure* right to dismiss the chancellor and the government, amongst other things.

The reason why some commentators — including a number of leading constitutional lawyers — believe that Hofer is willing to exploit the full array of rights he is granted is that he made several ambiguous remarks about what he calls his *neue Amtsverständnis* (new understanding of the presidential office) earlier this year, in the course of the election campaign. Perhaps most famous was his remark that one “will be surprised about all the things that are possible” should he become president. But he also repeatedly emphasised that he would hold “serious talks” with the government if he felt that they were acting in a way that harmed the country.

Is this scenario plausible? Hardly. Acting contrary to a deeply entrenched constitutional convention to the extent that the presidency is turned into a form of autocratic rule seems way too big a risk to take for Hofer. Consider that, if Hofer wins, he will probably win only by a narrow margin. And given that the electorate is highly polarised — the run-off in May signalled that roughly 50 per cent of the voters oppose the idea of a Hofer presidency — using quasi-autocratic discretionary powers could easily trigger intense resistance from across the political spectrum. At a minimum, breaking with the long-standing tradition of presidentship can disgruntle many older, stability-oriented voters on the centre-right, many of whose support Hofer has so successfully gained and harnessed. All of this would seem to give Hofer a strong incentive not to push a hard line.

At any rate, it would be difficult to square this with Hofer’s emphatically moderate appearance. To be sure, Hofer’s political roots are on the hard right, and one may reasonably suspect that his ideological sensibilities are far from moderate. But his uniquely successful formula is to present himself as an eminently electable “centre-right politician with a big social conscience” (his own words), not a loud and shrill right-wing revolutionary (like his party’s chairman Heinz-Christian Strache). And it is precisely his softly spoken, friendly and dialogical style that allows him to tap into segments of the electorate that his party ordinarily struggles to mobilise — to put it simply: those who are dissatisfied with the major parties and sceptical about the effects of immigration, but put off by the aggressive tone and the hard right-affinities of the FPÖ and its leadership.

## Leading the FPÖ into the mainstream

This leads to the second, more plausible scenario of what a Hofer presidency might look like. In this scenario, Hofer simply continues doing what he does best: be moderate in appearance, conciliatory in speech — and occasionally criticise government policy (especially on immigration) to show that he does care about the concerns of “the people”.

Put in another way, this scenario sees Hofer as the representative president that Kelsen envisioned, not the “strong man” that Seipel had wished for — a continuation of constitutional convention.

But even though this second and much more plausible scenario might appear less worrisome, it should give those concerned with the electoral persistence of the FPÖ pause. A moderate and, so to speak, well-behaved FPÖ president would be a great way of signalling electability to those who are still sceptical, consistent with the message Hofer delivered so well in his presidential campaign. It would lend credibility to the FPÖ’s self-image as a reliable centre-right party with the competence to exercise political power in the name of society as a whole. This makes imaginable a comfortable victory of the FPÖ — which consistently has approval ratings higher than those of all other parties — in next general election in 2018. And then Austria would not only have a populist right-wing president, but also a populist right-wing government.

*This post represents the views of the author and not those of Democratic Audit.*

*Fabio Wolkenstein is a postdoctoral researcher at Justitia Amplificata, a research centre for political theory and philosophy associated with the Goethe University Frankfurt and the Free University of Berlin. His work has appeared or is forthcoming in such journals as the American Political Science Review, the Journal of Political Philosophy and Party Politics.*

