

Austria tries to cling on to bank secrecy despite EU pressure

Sharing data

Rules are seen as protection against an overweening state, adding to their durability, says **James Shotter**

Ever since Luxembourg's finance minister said earlier this month that his country would ease its bank secrecy rules, international pressure has been mounting on Austria to follow suit.

Yet for now, Vienna seems determined to cling on to at least part of its web of decades-old protections, which – in the absence of a court order – prevent banks from sharing information about their depositors with the authorities.

Last week Jean-Marc Ayrault, France's prime minister, said bluntly that Austria would not be able to preserve this model. The following day Austria's minister for the economy, Reinhold Mitterlehner, hit

back, insisting that Austria would keep secrecy rules for its citizens even if it lifted them for foreigners.

In part, that Janus-like stance is a reflection of the contentious nature of bank secrecy within Austria's ruling grand coalition. Whereas Maria Fekter, the centre-right finance minister, has pledged to "fight like a lion" to defend secrecy rules, Werner Faymann, the centre-left chancellor, has said Austria is prepared to negotiate about sharing foreigners' banking data with other EU states.

But the contortions

through which defenders of bank secrecy are prepared to go to preserve tradition are also a measure of its importance within Austria.

Proponents of the model, such as Ms Fekter, argue that secrecy rules are a big source of value creation for Austria's economy, and that abolishing them would slow growth and threaten jobs.

Analysts are not so sure. According to data from the Austrian Central Bank (ÖNB), foreigners had

deposits worth €55.5bn in Austrian accounts at the end of February. EU citizens accounted for €37.8bn of these, or roughly 10 per cent of all Austrian bank deposits.

"There would probably be some deposit outflows if Austria got rid of its bank secrecy, but they would not be so large as to damage the banking system," says Stefan Nedialkov, an analyst at Citi. "The impact on bank liquidity and profitability would be very much manageable."

A bigger reason for the durability of the secrecy rules, which date back to 1978, is that they are widely seen as a form of protection against an overweening state, says Christoph Urtz, a professor at Salzburg University and a lawyer at Binder Grösswang.

"It is an emotional, perhaps even an irrational, thing. The man on the street still supports bank secrecy out of a desire for privacy – even though people willingly put all sorts of details about themselves on

the internet, and though our phone and health records are, to a certain extent, already readily accessible," he says.

There is also a hefty dose of political pragmatism in Austria's reluctance to change its stance, says Thomas Hofer, a political analyst at H&P Public Affairs in Vienna. "With anti-EU sentiment strong following

the bailouts in southern Europe, and a general election due in September, no Austrian politician wants to be seen as giving in to the EU," he says.

It seems unlikely, however, that Austria will be able to preserve its secrecy rules in their current form for long after the election.

As well as facing pressure from EU countries to share bank data, Austria is also being pushed by the US to implement the Foreign Account Tax Compliance Act (Fatca), which requires foreign banks to automatically provide data about the offshore accounts of US citizens, or face effective exclusion from the US market.



Switzerland, another longstanding holdout against data-sharing, finally succumbed to US pressure and signed up to Fatca in February. If Austria were to follow suit, it would be hard-pressed to avoid sharing data within the EU as well: the EU's new State Aid directive, in force from the beginning of this year, prohibits member states

from treating third countries better than other EU states in questions relating to tax. Algirdas Semeta, the EU's tax commissioner, has already warned Austria that it could face action from the commission if it breaches that principle.

As a result, most observers expect that Austria will ultimately give in to European demands to share information about foreign depositors, even if it tries to preserve secrecy rules for its own citizens.

However, having one rule for foreign depositors and another for domestic account-holders would be "legally difficult", says Prof Urtz, arguing that it could contravene either Austrian constitutional rules against discrimination or European ones guaranteeing free movement of capital.

He says: "If that were found to be the case, Austria would have to get rid of secrecy for domestic depositors as well, because the alternative - reintroducing it for foreigners - would be politically impossible."



1978

The year that Austria's bank secrecy rules date back to

€55.5bn

Foreigners' deposits in the country at end of February

