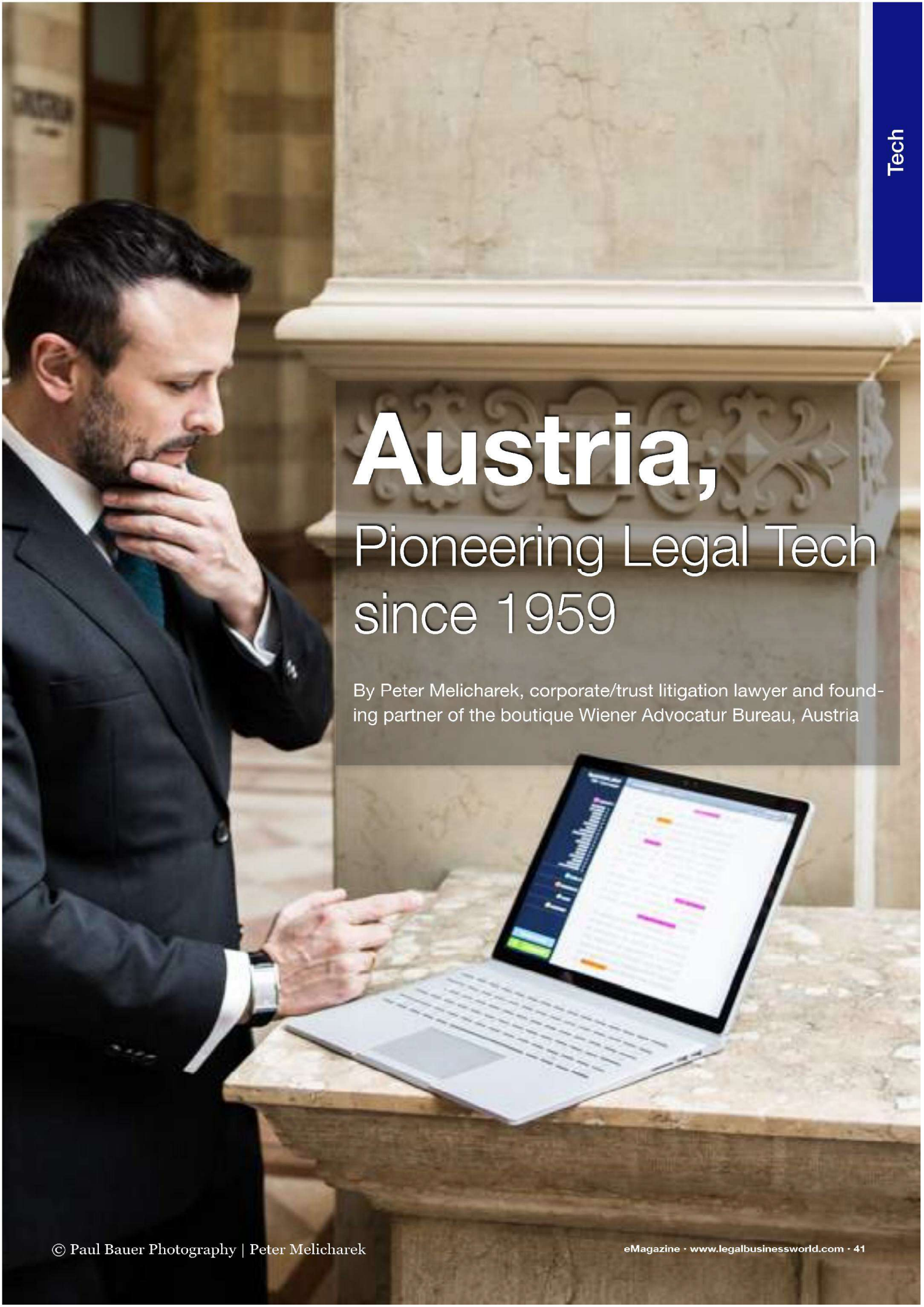

Austria,

Pioneering Legal Tech since 1959

By Peter Melicharek, corporate/trust litigation lawyer and founding partner of the boutique Wiener Advocatur Bureau, Austria

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Vienna has not only been several agencies' first choice world-wide regarding living quality for years. It is also the seat of one of Europe's leading arbitral institutions, where commercial conflicts in the entire CEE region have been resolved for decades. And, in the light of the solid decision quality and relative swiftness of the state's regular judicial system, it has become increasingly popular for parties to choose Austria as their arena for civil litigation, too. The country's role as very early adopter or even pioneer in many fields of e-justice, government tech and legal tech obviously contributed for a great deal to today's status.

The Legal Tech Stone Age

Austria has come a very long way since Empress Maria Theresia introduced a centralized detailed bureaucratic concept 250 years ago, a novelty at that time. And it kept up the pace. Already in 1959, the first electronically assisted governmental process was introduced, a system for calculating and paying out government officials' salaries (source: Festschrift 10 Jahre Bundesrechenzentrum (2007), 11). It was followed by a computer-aided system for levying taxes in 1964, and a computer network for all tax authorities in 1982. (not too surprising, given the fact that more than half of all tax literature ever published world-wide was written in the German language. Although there are no official estimates, it can be said that a good part of it pertains to Austria)

Today's reputation as one of the pioneering countries in e-justice and the inclusion of information and communication technologies in the legal world is based on two pillars. The first pillar is the the Legal Information System ("Rechtsinformationssystem", "RIS", see below), internal preparations for which were made already in 1983, collecting federal and provincial laws and enactments, but most importantly, setting up an environment for all the Supreme Court's, the Constitutional Court's and the Supreme Administrative Court's (and other courts' and authorities') decisions and rulings to be made publicly accessible in 1998, free of charge. The second pillar was the Electronic Legal Communication ("Elektronischer Rechtsverkehr", "ERV"), a secure non-email based communication system mostly replacing the formerly used registered letter, introduced in 1990.

The above core technologies, the state's clear commitment to open government data programmes, the Federal Computing Centre's ("Bundesrechenzentrum", "BRZ") ambition for Innovation and the efficient organizations of legal professionals - all of these factors together prepare the country for "government 4.0" - and helped to overcome some disappointing projects like the original Citizen Card ("Bürgerkarte") programme that (more or less) was designed in 2000 on the assumption that every citizen was going to have a card reader at home.

RIS – the Legal Information System: High Quality Open Government Data

The Legal Information System ("RIS") is an online database of Austrian laws, coordinated and operated by the Austrian Federal Chancellor's Office. The RIS started 1983 as a database for courts and government officials only. At first, federal and provincial legislation was incorporated, then court decisions were included as well. Today, the RIS does not only cover Supreme Court decisions, but also a good portion of the four High Provincial Courts of Appeals' decisions, sometimes even first instance decisions.

It comprises enactments, decrees from several ministries, publications of the social insurance agencies, a number of municipal laws, decisions from the Constitutional Court, Federal and Provincial Administrative Courts, the Data Protection Agency, the Procurement Control Agencies etc, and all historical versions of laws since 1848.

In mid 1997, the RIS was opened up to the public, free of charge, free of copyrights. In 2004, it also replaced the official gazette for publishing new laws. In 2016, the first private company's automatic online research tool LeReTo was introduced and won several awards. LeReTo allows legal professionals to auto-analyse their (or the opponents') legal texts and to auto-link the cited laws and decisions directly to the files found in the RIS. LeReTo also offers interfaces to other legal databases users (subscription based), where literature and commentaries can be auto-accessed and researched.

ERV – Electronic Legal Communication: Fast and Secure Transmission of Documents

What Germany is about to start implementing from 1 January 2018 with its "das besondere elektronische Anwaltspostfach" was introduced to Austria, already 27 years ago. Based on a joint initiative launched by the Ministry of Justice and the Austrian Bar Association, participants of the new electronic communication system are able to file their small claims with the District Courts since 1 January 1990 online.

Applications for enforcements, Statements of Claims and other filings were added later, and the courts used the system to serve their summons, minutes, motions and decisions since 1999. Since 2000, all legal professionals are required to use the ERV system for all their filings.

In 2007, the old ERV System was renewed and partially replaced by "webERV", a new protocol simply referred to as "ERV" today (with the old protocol being suspended in 2009). Technically, it is not based on WWW technology, but on SOAP-/XML-gateways. The new system has been designed as the basis for paperless records and is considered as highly secure. Files that are auto-analysed and auto-linked by LeReTo are 100% ERV-compliant. While Austria currently has about 8.7 Million inhabitants, 14.7 Million ERV documents were sent and received in 2016.

Justiz 3.0: Multimedia Courts

We could mention a couple of other significant projects, like the electronic publication board for bankruptcy and other edicts, various electronic document archives etc (comprehensive report for download here), but let us throw the spotlight on a truly revolutionary and unique project pointing to the future of the legal system: Justiz 3.0 (already in the implementation phase).

Until 2020, all 800 Austrian court halls will be equipped with impressive multi-media and IT systems. The judge (if a senate, each member) will dispose over two big touchscreens that can be tilted horizontally to allow eye contact with the parties and their representatives.
The judge will come to a hearing with his or her tablet carrying the case record and plug it in on the judge's docking station. Using a media control center device, the judge can display parts of the record, for example a piece of evidence or a written affidavit, on a big screen behind him or her. The judge can also display

that file on another touch screen at the witness stand, or submit it to the lawyers attending. The record can also be shared via a secure connection, for instance with other court departments or sworn expert. Where parties had to wait in the past, and a law clerk had to copy maybe thousands of paper pages, can now easily be achieved with a click. What sounds like sci-fi does actually works and it is in use at the Commercial Court of Vienna and other courts.

Forecast

Weren't there lamentations about the loss of traditional paper records? Certainly, and they will continue to be for a while. The same applies for concerns relating security issues, worries about social and economic impacts on the employment market, etc. A world in which people discuss about "robo lawyers", chatbots and AI algorithms taking their place in the legal business needs an environment that also supports the human players. The better their equipment is, the more will they will excel, compared to machines.

About the Author

Peter Melicharek is a high-profile corporate and trust litigation lawyer based in Vienna, Austria. He is founding partner of the boutique Wiener Advocatur Bureau, a law firm mainly engaging in the business segments real estate, art and big data/telematics.
Melicharek, known for his "hands on" mentality and very practical approach is also a venture capital investor and an entrepreneur in blockchain, fin tech and legal tech start-ups.