



General Assembly

Distr.: General
8 November 2010

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Tenth session
Geneva, 24 January–4 February 2010

National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council*

Austria

* The present document was not edited before being sent to the United Nations translation services.

I. Methodology and consultation process

1. This report, submitted for Austria's Universal Periodic Review (UPR) before the United Nations Human Rights Council (HRC), depicts the protection of human rights in Austria and highlights "good practices" as well as existing challenges. In accordance with the HRC Guidelines¹, the report was prepared by the human rights coordinators of the Austrian federal ministries².
2. In drafting this report, the Austrian Government endeavoured to ensure an open and transparent process involving governmental bodies, civil society and other stakeholders. A roadmap for the report was approved by the federal government on 20 April 2010. On the basis of this roadmap, two round tables with civil society representatives were held in Vienna and Graz prior to the first draft. This provided an opportunity to outline the UPR process and to discuss the most important subjects in various working groups.
3. A first draft report was sent to all relevant stakeholders in July 2010, asking for written comments. The draft report was published on the Foreign Ministry's website³; an e-mail account was set up for comments.⁴ After having reviewed the draft in the light of the comments received, the report was presented to civil society and submitted to the federal government for approval. The dialogue with civil society and all relevant stakeholders is to be continued after Austria's oral review by the HRC on 26 January 2011.
4. After adoption by the Government on 5 October 2010 the report was submitted to the OHCHR.

II. Legal and institutional framework

A. Human rights and constitutional legislation

5. Austria is a democratic republic. Its law emanates from the people. The fundamental principles enshrined in the constitution include the democratic, republican, federal, rule of law and liberal principles and the principle of separation of powers. A constituent part of the rule of law and the liberal principle is the protection of human rights. Human rights are guaranteed at constitutional level. Any significant curtailing of human rights would require a comprehensive amendment of the constitution which would only be admissible on the basis of a referendum.
6. Human rights are primarily enshrined in the 1867 Basic Law on the General Rights of Nationals (StGG)⁵ and in the European Convention on Human Rights (ECHR). The StGG provides for numerous important guarantees of fundamental rights such as the principle of equality, freedom of opinion, freedom of belief and conscience, freedom of assembly, academic freedom, and the right to property.
7. The ECHR, which was adopted by Austria in 1958, was granted constitutional status in 1964 and has thus become part of federal constitutional law. The rights laid down in the Convention are therefore directly applicable constitutional law provisions before Austrian courts and administrative authorities. They may be enforced before these bodies and, under certain conditions, also before the Constitutional Court, both by institutions and individuals. All laws must comply with constitutional laws (comprising the ECHR), otherwise they may be repealed by the Constitutional Court. Courts and authorities can only act within the limits provided by the law.
8. Apart from StGG and ECHR, human rights are provided by other constitutional laws such as the Federal Constitutional Law on the Prohibition of all Forms of Racial

Discrimination⁶, the Federal Constitutional Law on the Protection of Personal Freedom⁷ or the 1862 Act on the Protection of the Rights of the Home⁸. Core human rights provisions are art. 7 (equality principle), art. 83 para. 2 of the Federal Constitutional Law (right to legal proceedings before a judge) and art. 1 of the 2000 Data Protection Act⁹. The federal government endeavours to integrate all existing human rights and also new human rights provisions into one single human rights catalogue, which shall form part of the Federal Constitution.¹⁰

9. Fundamental social rights are not provided by the Federal Constitution. However, case-law of the highest courts has interpreted the equality principle to contain specific rights granting entitlements to public benefits; such rights are comparable to social rights. An incorporation of social rights into the Federal Constitution has been debated for a long time: drafts on social fundamental rights were prepared by the Austrian Constitutional Convention¹¹, which discussed proposals for constitutional reform from June 2003–January 2005, and by the Expert Group for State and Administrative Reform¹² at the Federal Chancellery from 2007–2008.

10. In addition, when applying European Union law, Austria is bound by EU human rights law, which may be enforced before national courts, administrative authorities and EU courts. Austria has always supported a strengthening of the human rights protection within the EU and in particular the establishment of the EU fundamental rights agency and also EU accession to the ECHR. Austria welcomes that, upon entry into force of the Treaty of Lisbon, the EU Charter of Fundamental Rights, which guarantees numerous social and economic rights, has become legally binding.

11. Of particular importance for the rule of law in Austria is the separation of the three powers, the legislature, executive and judiciary. Legislation is exercised by parliament, which is composed of the National Council,¹³ elected directly in free elections for a period of five years, and the Federal Council,¹⁴ consisting of representatives of the nine federal provinces. Federal administration is controlled by the state's supreme bodies.

12. Pursuant to the Federal Constitution, the judiciary must be separated from the executive branch in all instances. The judiciary includes the courts and the public prosecutor's offices, which are also judiciary bodies under the constitution. The independence of judges is guaranteed by constitutional law. Judges are free from instructions and may only be removed from office or transferred to another position by virtue of a judicial decision. Judges are only bound by law. Nobody within or outside the judiciary, nor the Minister of Justice or the Federal Ministry of Justice is entitled to instruct judges on a certain case.

B. International obligations

13. As a state party Austria has implemented the majority of human rights conventions: the International Covenant on Civil and Political Rights including its Optional Protocols establishing an individual complaints mechanism and abolishing the death penalty, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child (CRC) including its Optional Protocols on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women including its Optional Protocol, the Convention on the Rights of Persons with Disabilities including its Optional Protocol and the Rome Statute of the International Criminal Court. Austria has signed the International Convention for the Protection of All Persons from Enforced Disappearance, its ratification is being prepared.

14. Apart from the ECHR, Austria is also a state party to numerous other Council of Europe (CoE) conventions and advocates the strengthening of human rights protection by the CoE and in particular by the European Court of Human Rights.

15. As a host and participating state of the Organisation for Security and Co-operation in Europe (OSCE) Austria consistently implements the obligations resulting from the OSCE human dimension and supports the organisation's work in manifold ways.

16. Austria has been a member of the International Labour Organisation (ILO) since 1919, is a state party to all eight ILO-core Conventions; in total Austria is bound by 43 ILO-Conventions.

17. International conventions are concluded by the President and require the approval of the National Council and, in certain cases, also the consent of the Federal Council. In most cases, the provisions of the conventions are directly applicable before courts and administrative authorities provided that they are sufficiently clear and precise. The National Council can exclude the direct applicability of a convention by enacting a reservation of implementation during the approval procedure: such reservation is made primarily to provide legal certainty when a convention concerns an area which is already comprehensively governed by domestic laws and other provisions.

18. Austria cooperates with all international and regional human rights monitoring mechanisms and has rendered a general invitation to all special procedures. Most recently, Austria welcomed official delegations from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) and the European Commission against Racism and Intolerance (ECRI). Austria complies with its periodic reporting obligations vis-à-vis the human rights treaty bodies. The preparation and follow-up of reviews is coordinated by the Human Rights Coordinators of the federal ministries and the federal provinces. By compiling the recommendations of all human rights mechanisms and the respective implementing measures, a systematic follow-up is guaranteed.

19. Austria takes the views of the UN Treaty Bodies very seriously. They enjoy a high level of moral authority and are implemented domestically in good faith.¹⁵

C. Human rights institutions

20. Aside from courts and administrative authorities numerous other institutions exist that are active in enforcing human rights either comprehensively or specifically.

21. It is the responsibility of the Constitutional Court¹⁶ to monitor compliance with the constitution. Based on its role as "human rights court" and its jurisdiction to review laws, decrees and elections, the Court is competent to ensure the effectiveness of the state's legal system which is based on the principles of democracy and rule of law. Apart from the monitoring function of the Constitutional Court, civil and criminal courts are also bound by constitutional laws.

22. An Independent Human Rights Advisory Board¹⁷ (HRAB), whose members include civil society organisations, has been set up within the Federal Ministry of the Interior. The Council advises the Minister and her cabinet in human rights matters and, through its six committees, monitors all police activities and all places where people are detained by law enforcement officers; this ensures rapid action to remedy shortcomings.

23. Other human rights monitoring bodies are the Equal Treatment Commissions¹⁸ and the Office of the Ombudsperson for Equal Treatment¹⁹, the Data Protection Commission²⁰, the Representatives for Legal Protection²¹, the Ombudsperson for Children and Youth²², the Justice Ombudsman Services²³, the Patients' Advocacies²⁴ and the Committee for Monitoring the UN Convention on the Rights of Persons with Disabilities.

24. The Ombudsman Board²⁵ guarantees human rights control within law enforcement and supports victims of discrimination by law enforcement authorities. In the course of the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) the tasks of the national mechanism for the prevention of torture as provided for in OPCAT will be transferred to the Austrian Ombudsman Board. Austria has been host of the International Ombudsman Institute since June 2009; the institute's current Secretary-General is Austrian.

25. The right to legal and psychological assistance during legal proceedings²⁶ safeguards the rights of victims of violence in civil and criminal proceedings. This right includes a victim's preparation for the proceedings (taking into account the emotional strains), legal advice and professional representation.

D. Role of civil society

26. In Austria various civil-society organisations exist, which consist of associations representing the interests of employees and businesses as well as of non-governmental organisations (NGOs). The federal government appreciates the valuable work of NGOs and endeavours to maintain and extend regular dialogue. The state, the provinces and the municipalities give financial support to these NGOs.

27. The recognition of the role of the social partners²⁷ as autonomous self-governing bodies and the promotion of dialogue with them is guaranteed by constitutional law. Civil-society organisations have been involved in government work for many years through representation of social partners in the Equal Treatment Commission working in the field of equal treatment in the workplace and non-discriminatory access to goods and services. NGOs are also represented in the HRAB on a statutory basis where they monitor law enforcement.

III. Protection and promotion of human rights in Austria

28. Austria actively supports the principles of universality, indivisibility and interdependence of human rights as reaffirmed at the 1993 Vienna World Conference on Human Rights. This corresponds with a clear commitment to the full respect for human rights at the national and international level. The following fields shall be outlined in greater detail including an overview over legislation, implementation, "good practices" and existing challenges.

A. Gender equality

29. Gender equality has been of particular concern to Austria for a long time. Since 1920, the constitution's equality principle explicitly prohibits privileged rights of any sex. In 1998, this prohibition was broadened in order to declare actual equality of men and women a national target. Austria ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1982 and its Optional Protocol which introduced new procedures that have been taken up by Austrian NGOs to enforce women's rights.

30. The first comprehensive reforms, resulting in the elimination of blatant discrimination against women, were carried out in 1975 within matrimonial and family law. In 1979, a State Secretariat for Women's Issues²⁸ was set up at the Federal Chancellery: since 1990 members of the government at federal minister rank have been entrusted with the coordination of women's policies. Professional equality for women and men has been

promoted on a statutory level since the enactment of the 1979 Equal Treatment Act.²⁹ Starting in 1992, binding rules to increase the share of women in all positions and at all salary levels until a quota of 45 per cent is attained were introduced at federal level, first at universities and subsequently in all public services. In 1989, major reforms were launched in the area of social policy, including reforms aiming at softening traditional gender stereotypes concerning child care. Paternity leave was introduced and enhanced in 2010 by granting income-dependent child care benefits. External child-care facilities have been regularly expanded.

31. In 2000, the Government set up an Inter-ministerial Working Group for Gender Mainstreaming (GM) as part of the 2009/2013-Budget Law Reform gender budgeting was integrated into the federal government's budget management.

32. The current report on the situation of women in Austria ("2010-Women's Report") reveals deficits in attaining the objective of actual equality of women and men in many areas. Considerable differences in the income of women and men exist and cannot be explained by any non-discriminatory factors. Despite significant improvements concerning the situation of girls and women in the field of education, problems still prevail; to a great extent this is due to the fact that women choose "typically female" jobs, often poorly paid. In addition, giving birth to a child is still a significant impediment to the professional career of many women. Re-entry into employment is often difficult and mostly entails part-time work and thus lower work compensation and pensions. The situation is even worse for girls and women with migration background, as they are often confronted with discrimination.

33. The Government is aware of the barriers for equality of women and, in its government programme, agreed to issue a National Action Plan (NAP) for the Equality of Women and Men in the Labour Market. Together with the social partners and experts a paper containing proposals for the elimination of disadvantages for women has been prepared. This paper defines priorities as follows: diversification of education and career, increase of women in the labour market and their full-time employment in combination with a reduction in gender-specific differences, increase of the share of women in leading positions and reduction of income differentials between women and men. A package of 55 specific measures shall implement these goals, such as mandatory occupational counselling at the 7th and 8th grade level, a review of the curricula and core subjects with regard to stereotypes. Particular attention will be paid to girls with migration background by providing appropriate measures in education and teacher training, continuous nation-wide expansion of child-care facilities, the promotion of paternity leave and the legal obligation for companies to submit reports on the income of women and men (starting 2011 for large companies).

B. Violence against women

34. It is a priority task for the Austrian Government to take efficient measures against all forms of violence within a person's close social environment, in particular violence against women and children.

35. In 1997, the Federal Act on the Protection against Domestic Violence³⁰ provided for comprehensive protection of victims of domestic violence, which was then unique in Europe. Thereby, state-recognised institutions for the protection of victims (domestic abuse intervention centres) and a "Prevention Advisory Council"³¹ were set up. The latter coordinates public and private institutions operating in the field of violence prevention at the federal level.

36. The status of victims in criminal proceedings is important; victim rights have been improved. Since 2006, victims of violence are entitled to free legal and psycho-social assistance during proceedings; this has been continuously advanced.

37. The Second Protection against Violence Act³² entered into force in 2009. A legal framework was established for authorising police or competent courts in cases of domestic violence to instruct the violent perpetrator to leave the apartment, to prohibit him from returning, from staying at certain areas or from having contact with the victim, in order to enable the victims to stay safe in their familiar surroundings. Violence protection centres were established in all provinces with the financing of the Federal Government. Courts and police authorities cooperate closely with the violence protection centres.

38. The Government further supports numerous Women's Service Offices³³, which offer counselling for women affected by violence, and 30 shelters for battered women (offering a total of 750 places). A free 24-hour helpline is available for women throughout Austria. Five regional emergency numbers and a 24-hour women's hotline in Vienna were installed for persons affected by sexual violence.

39. Migrants, who have come to Austria in the framework of family reunification, find themselves in a particularly vulnerable situation. The settlement and residence laws were amended several times to take these circumstances into account. The current legislation provides for a separate residence permit for family members who have come to Austria to join their families; even if the conditions for family reunification are not fulfilled anymore, family members may meet the criteria for residence in Austria. These criteria include evidence of appropriate accommodation, income and health insurance. In certain cases, especially for victims of domestic violence and explicitly in the case of victims of forced marriages, the burden of proof concerning these criteria may be waived. Even victims of violence who are not (yet) legally residing in Austria, may be granted a residence permit if this is required to protect them from continued acts of violence.

40. The training of professionals such as police officers, judges, employees of institutions for the protection of women, health-care professionals is constantly improved. Public awareness campaigns are launched.³⁴

41. Health-care institutions are particularly important as contact points for women affected by violence. In 2010, a first information brochure on health care for women affected by violence was published.³⁵ It helps employees in the health-care sector recognise the consequences of violence, addresses those concerned and offers them targeted help.

42. Austria is also committed to combating violence against women at the international level, in particular at EU and UN level. Austria was actively involved in the preparation of the EU Guidelines on Violence against Women and supports a series of relevant projects, such as the "Women, Gender and Development Directorate" of the African Union, the UN Secretary-General's UNiTE to End Violence against Women campaign or the UN Anti-Violence Fund.

43. Special emphasis is put on the implementation of UN Security Council Resolutions 1325, 1820 and 1888 on the special impact of armed conflicts on women. In 2007, Austria adopted a National Action Plan (NAP) for the implementation of Resolution 1325, containing specific measures in the field of humanitarian, diplomatic, peace-keeping and development-policy activities. A working group composed of representatives of all ministries has been set up to develop the NAP. Representatives of civil society are included. Once a year, the working group reports to the Council of Ministers on the implementation of the NAP.

C. Fight against discrimination, xenophobia, racism and intolerance

44. Austria considers the fight against xenophobia and racism a priority task and takes various measures for the promotion of equal treatment and integration, and for the elimination of racism and prejudice. The government programme provides e.g. for the reinforcement of criminal-law protection against discrimination.

45. Austria ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1972;³⁶ the convention was implemented by a federal constitutional law.³⁷

46. The principle of equal treatment is enshrined in the constitution.³⁸ On this basis, extensive anti-discrimination legislation has been adopted, which is continuously being enhanced.³⁹ In the administrative and civil-law area, the implementation of the relevant EU Directives⁴⁰ has reinforced anti-discrimination legislation in Austria.

47. The Federal Equal Treatment Act⁴¹ which is applicable in the private sector and the Federal Equal Treatment Act for Civil Servants and Employees⁴² contain law provisions on the protection against discrimination at work on grounds of gender, ethnic origin, religion or belief, age and sexual orientation. Outside the working environment, protection against discrimination on grounds of ethnic affiliation is guaranteed in the field of social protection, including social security and health-care services, concerning social benefits, education and access to and supply with goods and services available to the public, including housing. Persons with disabilities are protected by a comprehensive anti-discrimination act. The provinces have adopted their own equal treatment and anti-discrimination acts within their spheres of competence, part of which exceed the scope of anti-discrimination protection guaranteed at federal level.

48. The current legal framework guarantees overall protection against discrimination on grounds of gender, race or ethnic origin and against discrimination on grounds of religion or belief, age or sexual orientation. However, there are different levels of protection. Efforts aiming at a gradual harmonisation of all grounds of discrimination exist.

49. The independent Office of the Ombudsperson for Equal Treatment supports victims of discrimination by providing them with free and confidential advice pursuant to the Equal Treatment Act.⁴³ An increase in human and financial resources is envisaged. Out-of-court procedures before the Equal Treatment Commission provide a confidential and free legal remedy. In addition, claims can be brought before a court. In individual cases, this may be more effective.

50. However, many victims of discrimination are reluctant to bring their case before a court or the Equal Treatment Commission because of high legal fees and long duration of proceedings. The Chambers of Labour⁴⁴ and the Austrian Trade Union Federation⁴⁵ represent their members in proceedings concerning labour and social matters and, in certain cases, bear legal fees.

51. Victims of discrimination by law enforcement officials may file a complaint with the Independent Administrative Senate.⁴⁶ The Senate assesses the lawfulness of the police action but is not authorised to impose any sanctions or grant compensation. Disciplinary measures are to be taken by the superior of the official concerned and/or by a separate disciplinary commission. In the case of misconduct of a law enforcement official, the superior may also bring about an amicable settlement. If the misconduct of the law enforcement official constitutes a criminal offense, it must be reported to the public prosecutor's office, which is obliged to initiate an investigation.

52. In its fourth report on Austria published in 2009 ECRI pointed out that black Africans, Muslims and Roma are most likely to be discriminated against on racist motives

and that asylum seekers, refugees and migrants from non-EU countries are often the target of racist and xenophobic comments.⁴⁷ Austria takes this criticism very seriously. Existing measures, in particular in the field of training and awareness-raising, will be intensified according to the National Action Plan on Integration.

53. The Austrian Criminal Code contains the offense of incitement to hatred⁴⁸ which protects churches, religious communities and ethnic groups. The inclusion of other vulnerable groups is being discussed. Racist and xenophobic comments in political debates are unacceptable and may be prosecuted under criminal law.⁴⁹ In addition, subsidies under the 1984 Journalism Subsidy Act⁵⁰ may be revoked because of defamation or incitement to hatred against certain parts of the population (also defamation of religions) or because of the Prohibition Act; this may affect bodies of a subsidised legal entity (e.g. political parties) or individuals within their sphere of influence.

54. With the re-establishment of the Austrian Press Council⁵¹, a voluntary control mechanism for the media is in place since 2010. On the basis of the journalists' code of honour, the Council shall curtail and eliminate racist incitement and discriminatory news coverage.

55. The criminal-law provisions on racism and revival of Nazism according to the Prohibition Act also apply to acts on the Internet. In 2006, Austria was the first contracting party to the Additional Protocol to the CoE Convention on Cybercrime for the Prevention of Racist Statements on the Internet. The E-Commerce-Act⁵² establishes the responsibility of Internet providers to remove websites with racist content as soon as they obtain knowledge of such sites. Offices to submit respective websites have been set up by the federal government and by private Internet providers.

56. The fight against anti-Semitism is of paramount importance. Major domestic instruments include strict legislation (Prohibition Act, Criminal Code)⁵³ and education, in particular at primary and secondary schools. At the international level, Austria is committed to investigating the causes for anti-Semitism and to combating anti-Semitism, primarily under the Holocaust Task Force/ITF, the CoE and OSCE.

57. With the Act on Registered Partnerships⁵⁴, which entered into force on 1 January 2010, the first legal framework for cohabitation of same-sex couples was created. Consequently, numerous statutory measures took effect which entailed a clear improvement of the legal situation of same-sex partnerships. However, this does not yet include rights such as access to reproductive medicine or adoption of step-children. The association "Gay Cops Austria" was founded in 2007 providing a platform for gay and lesbian police officers; this has reduced prejudice and advanced awareness-raising within the police.

D. Human rights in the administration of justice and law enforcement

58. The criminal justice system and the police play an important role in safeguarding the rule of law and the protection of human rights. There is awareness among the judicial and security authorities of their crucial function for the maintenance of the rule of law, which is indispensable for a democratic state. As infringements do nevertheless occur, the federal government has implemented further law-based measures to guarantee fair and impartial treatment for all, regardless of origin, gender, education or social and economic affiliation.

59. Austria is strongly committed to the absolute prohibition of torture. For this reason, the government programme contains the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the establishment of a national prevention mechanism pursuant to art. 3 OPCAT. The legal preparatory work to implement a national prevention mechanism has already started.

60. With the entry into force of the Criminal Procedure Reform Act⁵⁵ in January 2008, more rights for defendants and additional transparency in proceedings were created. This also resulted in a need to change the procedures to be applied in cases of alleged abuse by law enforcement officials in order to guarantee an effective, swift and impartial investigation. The Ministry of Justice and the Ministry of Interior⁵⁶ agreed on binding measures to guarantee an objective implementation of the proceedings, excluding any form of bias by law enforcement officials. Apart from the condition that official acts must not be delayed, these measures provide, *inter alia*, that investigations may only be carried out by officials who are not biased. In case of abuse or if there are any indications thereof, the police station in charge of the investigation or the Federal Bureau of Anti-Corruption⁵⁷ must report to the public prosecutor's office without delay, however, no later than within 24 hours, attaching a statement of facts.⁵⁸ To avoid any form of bias, it is possible to bring certain cases before a court.

61. Police officers are provided with mandatory human rights training with a special focus on non-discriminatory police work in a multicultural society. The curriculum for the mandatory basic training for police officers provides for 56 hours of human rights education. Human rights education is also part of personality trainings and security police conduct courses. Regular human rights seminars are being held in cooperation with NGOs.

62. A variety of measures has been taken concerning human rights training for judges and public prosecutors. A human rights course is mandatory for all future judges and public prosecutors. Human rights, including equal treatment and anti-discrimination are part of the final exams for future judges. Since 2009, all future judges and public prosecutors have to complete an internship for at least two weeks in an institution for the protection of victims or a welfare institution. Additional human rights courses are offered on a voluntary basis. Judicial administration staff receives special human rights training in the correct dealing with prison inmates and conflict situations.

63. Since 1 April 2010 experts in the field of area studies (focusing on human rights) can be appointed by court under the Court Experts and Interpreters Act⁵⁹ to provide expertise of the political, human rights and cultural situation in third countries, which may be relevant in proceedings, for instance in extradition or asylum cases.

64. The government programme calls for an increase of the share of women in the police at all levels and to develop framework conditions for a better reconciliation of family and career. Equally, the share of migrants shall be increased as the composition of the police force should reflect the demographics of society in order to realize maximum acceptance and efficiency.

65. In early May 2010 Austria was reviewed by the UN Committee against Torture (CAT). The recommendations of the Committee are regularly evaluated and appropriate measures are taken to address existing shortcomings.

E. Asylum and migration

66. A fundamental difference between immigration and the protection from persecution is stipulated both in EU laws and national legislation. Immigration is governed by the Settlement and Residence Act⁶⁰ whereas the protection from persecution is governed by the Geneva Convention on the Status of Refugees and the Asylum Act⁶¹. Both areas have been determined by numerous EU Directives, which Austria has implemented. All decisions are taken on the basis of an assessment of each case.

67. Austria is committed to regulate immigration based on demand. The Settlement and Residence Act establishes the governor as first instance authority for residence issues. Given the key role of the residence law, the appellate authority is the Federal Minister of

the Interior. In 2009, there were 446,548 residence permits and a total of 211,742 applications for new residence permits were filed.

68. Austria acknowledges the right to asylum as a human right and is committed to protection standards laid down in the Geneva Convention, which it ratified in 1954. Austria has a longstanding tradition of receiving refugees. According to estimates by the UN High Commissioner for Refugees (UNHCR) more than two million refugees have been received by Austria since 1945 and almost 700,000 of them stayed in Austria. For years, Austria has been one of the EU Member States with the highest number of asylum seekers and in 2009 it was the country with the fourth largest number of asylum applications (15,821) compared to its total population. In 2009 3,247 applicants were awarded refugee status in accordance with the Geneva Convention.

69. At EU level, Austria advocates a burden-sharing system on the basis of solidarity and takes the view that increased cooperation between Member States and the countries of origin of asylum seekers is necessary. In this context, Austria attaches particular importance to fighting “root causes” of persecution and improving the living conditions in their countries of origin.

70. Austria welcomes the Stockholm Programme on freedom, security and justice, which was adopted by the EU end of 2009 and supports the EU’s efforts to set up a Common European Asylum System with a high level of protection and fair and efficient asylum procedures.

71. The current Asylum Act entered into force on 1 January 2006 and was amended with effect of 1 January 2010. First-instance asylum proceedings are conducted by the Federal Asylum Office⁶². Its decisions may be appealed against before the Asylum Court⁶³, which was established on 1 July 2008 to replace the former Independent Federal Asylum Board⁶⁴ with the objective to accelerate proceedings and reduce the backlog of pending proceedings. The creation of 25 additional posts for judges at the Asylum Court and the increase in personnel by approximately 50 per cent⁶⁵ successfully contributed to reduce the backlog in proceedings and to accelerate proceedings. Decisions of the Asylum Court may be appealed against before the Constitutional Court (in exceptional cases—concerning fundamental decisions—before the Administrative Court).

72. Basic care and services for asylum seekers are guaranteed, at federal level, by the 2005 Act on Basic Care and Maintenance⁶⁶ and by separate provincial laws and the Agreement on Basic Care and Maintenance⁶⁷ between the federal government and the provinces. Basic care includes food, accommodation and other supply services for asylum seekers (health care, arrangements for persons in need, information and counselling, school supplies, clothing). In case of federal competence, these services are provided at the public care institutions. In the provinces, approximately 700 different institutions accommodating refugees have been set up. The provinces are also assisted by numerous NGOs.

73. Austria is committed to act in conformity with human rights provisions of the ECHR with regard to deportations and expulsions. On the basis of the practice of the Constitutional Court, every Austrian authority ordering an expulsion must, in accordance with art. 8 ECHR, weigh the public interest in terminating the person’s stay in Austria against the personal interests of the alien, taking into consideration and reviewing various criteria such as the duration of the alien’s stay in Austria, the existence and intensity of family life or the degree of integration. If this weighing of interests, which is explicitly required by the Aliens’ Police Act⁶⁸, shows that a permanent expulsion is inadmissible, a residence permit must be granted.⁶⁹

74. For persons in need of special protection, a special residence permit on humanitarian grounds exists: Persons aiming at penal and civil litigation in cases of human trafficking, victims of domestic violence or unaccompanied minors for reasons of the child’s well-

being may file an application for a residence permit for special protection, in which case less strict application requirements apply.⁷⁰ Such permit may also be granted *ex officio*.

75. A special challenge for the immigration authorities is to ensure that the expulsion or deportation of persons is conducted in conformity with statutory and human rights provisions. Detention pending deportation may be imposed on aliens provided that the statutory requirements are met.⁷¹ When ordering detention pending deportation, the interests of the individual have to be weighed against the actual need for such security measure. This has to be verified by the authority in each individual case. If less intrusive measures (e.g. regular visits to the police) can be applied, the authority may impose such measures. In the case of minor aliens, the authorities must apply the less intrusive means if available. The lawfulness of detention pending deportation is subject to the review of the Independent Administrative Senates and the Administrative and/or Constitutional Court.

76. The HRAB regularly reviews all detention facilities and talks to inmates and personnel. Every person detained pending deportation is provided with initial information about his/her rights and obligations (forms available in 42 languages) including an offer to contact an NGO in charge of providing assistance to inmates of detention centres.

77. The Austrian authorities are well aware of the problems relating to the detention of persons pending deportation at police detention centres and the resulting “closed-regime-stations”. Therefore, the “open-doors-regime” project, which provides detainees with better and more humane conditions, continues. In accordance with the government programme and starting 2011, a separate detention centre for members of third countries awaiting their return shall be built (capacity: 220 detainees). The new centre will implement a recommendation of the CPT.⁷² In addition, the detainees’ willingness to leave the country on a voluntary basis (in particular under a programme of the European Return Fund) will be encouraged by providing them with special care and extensive pre-return counselling.⁷³ Moreover, Austria is making an effort to improve the detainees’ access to free legal advice.

F. Human trafficking

78. Austria is a party to relevant legal instruments against trafficking in human beings and has taken specific measures to implement its international obligations. In 2004 the Task Force Combating Human Trafficking⁷⁴ was set up to coordinate and intensify these measures. The second Austrian “National Action Plan against Human Trafficking” (NAP) was adopted by Government in 2009 and simultaneously the first Austrian Coordinator on Combating Human Trafficking⁷⁵ was appointed.

79. The 2009-2011-NAP reflects the comprehensive approach to combating human trafficking, which includes national coordination, prevention, victim protection, criminal prosecution and international cooperation. Representatives of civil society play a central role in the preparation and implementation of the 2009-2011-NAP against Human Trafficking and in protecting victims of human trafficking and taking preventive measures.

80. According to NGOs, police and judicial authorities cooperate very well with the institutions for the protection of victims. Since 1 January 2010 victims of human trafficking may be granted a residence permit valid for at least six months. Additionally, they may be included in a witness-protection programme. Issues concerning the residence of identified victims of human trafficking in Austria are also discussed on a regular basis in the Task-Force. A special care institution of the City of Vienna – “*Drehscheibe*” – has been set up for minor victims. The Ministry of the Interior commissioned the NGO “*LEFÖ*” to assist victims of human trafficking throughout Austria. Within the framework of the EU-Return Fund, the Government supports return and reintegration programmes for victims of human trafficking.

G. Children's rights

81. The Government wishes to ensure the best chances for children and recognises the right of children and young adults to a self-determined life and to an optimal and free development as well as to their right to special protection.

82. Austria has ratified the CRC⁷⁶ and its Additional Protocols⁷⁷. In order to strengthen the rights of children, essential children's rights laid down in the Convention shall be incorporated into the constitution. A Government draft has been submitted to parliament for discussion. This draft defines the wellbeing of children as central benchmark for all actions and provides for the right to adequate participation in all matters relating to children. The right to a non-violent upbringing and the right to protection from economic and sexual exploitation have been included. The right to regular personal relationships and direct contact with both parents and the entitlement to special protection and assistance of the state in case the child is removed from his/her family environment are contained as well as the equal treatment of children with and without disabilities and the special care for children with disabilities. Enshrining children's rights in the constitution shall also serve the purpose of building awareness. Education about children's rights is supported by special information⁷⁸ for certain vocational groups, parents and children.

83. All children in Austria shall be able to live in a non-violent environment. In order to implement the prohibition of any form of violence in the upbringing of children (in place since 1989), various instruments for prevention like awareness raising, networking and professionalization have been developed. Support facilities for the protection of victims have been extended and criminal proceedings improved ("Acts on the Protection against Violence").

84. Another major government concern is combating sexual violence. Austria will ratify the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Special working groups have come up with and implement strategies to end violence against children in institutions, against sexual abuse of children in connection with tourism and in the new media and against trafficking in children. These working groups facilitate inter-institutional dialogue and thus make cooperation and coordination easier.

85. In order to substantiate the right to co-determination, in 2007 the voting age was lowered from 18 to 16 years. The importance attributed to the co-determination and self-determination of adolescents is also expressed in the establishment of the Austrian National Youth Council⁷⁹ in 2011, which is independent and on an equal footing with all other social partners in all matters concerning young people.

86. In order to strengthen cultural identity⁸⁰ of children, native-language classes for pupils with non-German mother tongue (including those raised in multi-lingual homes) were reinforced by increasing resources. In the school-year 2008/09 more than 360 teachers at more than 800 schools taught native-language classes to around 30,000 students in a total of 18 languages.

87. Another measure to help children finding their cultural identity, to promote their language development and improve the integration of children from families with migration background is the mandatory kindergarten year, which was introduced with the school-year 2010/11.

88. During the 2010 Children's Health Dialogue a health strategy for children and adolescents was developed, which focuses on health promotion and structural prevention under a "Health in All Policies" strategy.

89. In order to improve the protection and assistance granted to children, a new youth welfare law was prepared in cooperation with the provinces.

90. Austrian criminal law on young offenders entails an abundance of measures taking into account the special situation of adolescents and is primarily aimed at deterring young offenders from committing any additional criminal offenses and to facilitate their social reintegration. Apart from the option to waive a criminal conviction, criminal law also offers a diversion programme. In recent years, sanctions involving the deprivation of liberty have declined.

91. Regarding the problems of unaccompanied minor refugees, separate care institutions have been set up; detention may only be applied as a last resort. Detention pending deportation must not be imposed on persons under the age of 14 and may only be imposed on persons under the age of 16 if it is guaranteed that the available accommodation and care corresponds with the age and development of the adolescent detainee.

H. Ethnic groups

92. Austria's autochthonous ethnic groups enjoy special protection, both at constitutional level⁸¹ and on the basis of numerous other legal sources, including the Ethnic Groups Act.⁸² Ethnic groups are defined as groups of Austrian citizens living in parts of the federal territory and having a mother tongue other than German and heritage of their own. According to this definition, the Burgenland-Croatian, the Slovenian, the Hungarian, the Czech and the Slovak ethnic groups as well as the ethnic groups of Roma have been recognised under the Ethnic Groups Act.

93. People are free to declare themselves members of an ethnic group. Members of ethnic groups must not be disadvantaged because they exercise or do not exercise any rights they are entitled to as such members. The Austrian legal system does not provide for registration of ethnical affiliations.

94. To advise the Government and its ministers in matters relating to ethnic groups, an advisory council has been set up at the Federal Chancellery for each ethnic group. The Government supports ethnic groups in manifold ways under the ethnic group promotion programme. In addition, under certain conditions, the languages of ethnic groups are admitted as official languages before courts and administrative authorities. In certain areas of the Austrian territory, names and signs of topographic character must be indicated both in German and in the language of the respective ethnic group.

95. Regarding the implementation of the judgment of the Constitutional Court of 13 December 2001 on topographical names and signs in the province of Carinthia, the government programme provides that a new regulation with the broadest possible consensus shall be guaranteed at constitutional rank on the basis of the existing proposals. On the basis of these proposals, negotiations are currently being held, primarily at political level, in order to reach consensus for the benefit of the successful coexistence of the different ethnic groups and to guarantee that all parties involved accept the measures to be taken.

96. In addition and on the basis of the government programme, all-embracing discussions are pending with a view to a comprehensive new regulation on ethnic groups, which includes measures in the field of language and education, economic and regional policies as well as the treatment of legal and structural issues. In the framework of ethnic group promotion projects aiming at the promotion of intercultural dialogue, in particular between the minority and majority populations, are also financially supported on the basis of the Ethnic Groups Act⁸³.

97. Special educational programmes play a significant role in preserving the languages of ethnic groups. The federal and provincial governments also subsidise private institutions providing multi-lingual early childhood education. Subsequent education takes place partly

on a statutory basis and partly in state-funded private forms of education and schooling. Apart from these specific forms of schooling for the Austrian ethnic groups, the languages of the ethnic groups are also taught as a subject at general public schools, in various types of schools and in numerous locations. To meet the additional specific needs of the ethnic group of the Roma, targeted measures of assistance in the field of education are taken.

98. The availability of media in the languages of the ethnic groups is noteworthy as well. The (public) Austrian Broadcasting Corporation (ORF) is obliged by law to broadcast an adequate part of its programme in languages of the ethnic groups. A draft law currently discussed by parliament provides that the on-line offers by ORF should also contain sections in the ethnic groups' languages; in practice this is already the case. Print media published in the languages of the ethnic groups or bilingual print media are also subsidised under the ethnic group promotion programme.

I. Freedom of religion

99. In Austria, the state's legal position vis-à-vis religion is based on two core principles: freedom of religion and belief and the constitutional guarantee for religious communities to act as corporate entities in public.

100. The Basic Law on the General Rights of Nationals of 1867 (StGG)⁸⁴ provides for freedom of faith and conscience and, in conjunction with the 1868 Interdenominational Act⁸⁵, lets individuals freely choose his/her affiliation to a church/religious community, to discontinue religious membership or to have no religious affiliation at all. The StGG also defines the corporate status of legally recognized churches and religious communities. They have a public-law status, regulate and administer their internal affairs independently and have the exclusive right to their name, their religious doctrine and to the exclusive care for their members.

101. The right of non-recognised religious communities to publicly exercise their religion was first enshrined in the 1919 Treaty of Saint Germain.⁸⁶ The individual right of freedom of religion, conscience and thought was reinforced by the ECHR. In 1998, the Federal Act on the Legal Status of Registered Religious Communities⁸⁷ introduced new regulations on the procedures to legally recognize religious communities. The constitution provides that Austria takes a neutral approach towards religion, the state's tasks and objectives follow a purely secular orientation.

102. Austria actively supports efforts on the regional and international level to protect freedom of religion and religious minorities worldwide.

J. Human rights in the information society

103. The Austrian Government has been taking specific measures to achieve digital inclusion, in particular of persons from non-academic environments, people with low income, elderly persons, persons with special needs and migrants in order to contain and/or eliminate existing discrimination in relation to gender, age, origin, schooling and income. The objective of these initiatives is to create an information society for everyone.

104. A major goal of the Austrian E-Government Strategy is to offer public service of high quality to everyone. The E-Government Act⁸⁸ forms the legal framework for electronic communication with public authorities. The "Internet guide for official channels"⁸⁹ provides online assistance with Austrian authorities. In order to make these services accessible for people without technical infrastructure, public multimedia stations with Internet access have been installed. Electronic documents are also accessible for visually impaired persons.

105. A special website⁹⁰ offers comprehensive information about the Internet, its opportunities and potential risks.

106. In early 1999 the EU adopted an Action Plan for the promotion of safer use of the Internet in order to effectively combat illegal content. Ever since, the so-called “Safer Internet Programme” has contributed to the establishment of a European network of hotlines and the drafting of codes of conduct for service providers, the development of filtering and classification tools and the promotion of awareness-raising programmes. The new programme focuses on protecting children from illegal content.

107. Internet Service Providers Austria is an umbrella association of the major providers in Austria, and has installed a contact point named Stopleveline⁹¹ for all users who come across child pornographic or neo-Nazi/racist content on the Internet. Stopleveline informs the respective provider, foreign partner hotlines and the competent authorities immediately about illegal content, who take the necessary measures to delete the illegal content and prosecute the offenders. Stopleveline is a member of the International Association of Internet Hotlines, which closely cooperates with hotlines in America and Australia, ensuring that child pornography/neo-Nazi/racist content on non-European servers can be traced efficiently.

108. The Austrian Data Protection Commission, established in 1980, is one of the world’s oldest data protection authorities. Pursuant to the 2000 Data Protection Act⁹² the Data Protection Commission enforces the right to information against data processors in public and private areas. The right to correct and delete data of private processors can only be asserted in court.

109. The Data Protection Commission deals with all types of complaints against police, public service organisations, telecommunication and insurance companies, banks and other financial service providers. Recently, the Commission has been dealing with credit information and video surveillance. A data protection report⁹³ is published biannually.

K. Rights of persons with disabilities

110. On the basis of the equality principle,⁹⁴ the federal, provincial and municipal governments must guarantee equal treatment of persons with and without disabilities in all areas of daily life. The government programme foresees an evaluation and development of laws on the equality of persons with disabilities. An evaluation and a potential expansion of personal assistance for persons with disabilities will be carried out.

111. In 2008, Austria ratified the UN Convention on the Rights of Persons with Disabilities (CRPD).⁹⁵ In October 2010, the first state report on the national implementation of the Convention was submitted to the UN. On the basis of this report and the Government’s report on persons with disabilities of 2008 – a “National Action Plan for Persons with Disabilities 2011–2020” will be prepared.

112. In implementing the CRPD, the Federal Act on Persons with Disabilities⁹⁶ was amended and an independent monitoring body established. It gathers information from administrative bodies concerning individual cases, gives recommendations and reports regularly to the Federal Disability Advisory Board⁹⁷ and the Minister for Social Affairs.

113. The protection of persons with disabilities against discrimination is governed by the Package on Equal Treatment of Persons with Disabilities, which entered into force on 1 January 2006⁹⁸ and is in compliance with the CRPD. The Disability Equality Package provides for a prohibition of discrimination in everyday life, which covers access to and supply with goods and services available to the public as well as the area of the federal administration (Federal Act on the Equal Treatment of Disabled Persons⁹⁹). The provinces

have issued anti-discrimination laws for their own spheres of competence. The Austrian sign language is an officially recognised language pursuant to the Federal Constitutional Law¹⁰⁰.

114. The prohibition of discrimination at work is enshrined in the Act on the Employment of Persons with Disabilities¹⁰¹. The basis for this act was the EU Directive establishing a general framework for equal treatment in employment¹⁰². An independent Ombudsperson for Persons with Disabilities is entrusted with counselling and supporting persons with disabilities in discrimination matters. Persons with disabilities have equal access to all measures that are available for all job seekers. An employment quota for persons with disabilities¹⁰³ shall ensure their integration in the labour market. Companies who do not employ persons with disabilities must pay compensation into a fund. This fund together with resources from the federal budget and the European Social Fund, with approximately EUR 180 million are used to finance contributions to labour costs, workplace equipment and adjustments, integration assistance, support during occupational training, career counselling after school, personal assistance at work and other.

115. The integration of children with disabilities at primary and secondary schools was provided by law in 1993 and 1996. At the parents' request, children in need of special educational support may either attend a special needs school or be taught in a regular school. Integrative education is organised either in integration classes¹⁰⁴ or individually. For several years, more than half of all children in need of special educational support have been receiving integrative education. Special statutory provisions were enacted in order to guarantee continuous assistance for students with disabilities in the upper secondary schools¹⁰⁵. Integrative vocational training is realised by extending the apprenticeship by one year or, in exceptional cases, by two years and/or in the form of partial qualification for a skilled trade with one to three years of training. An amendment of the Vocational Training Act¹⁰⁶ provides for a reduction of the regular daily and weekly working hours for apprentices with disabilities. Universities students with disabilities are supported in all fields of their studies by Disabled Students' Officers¹⁰⁷.

116. The University of Education Lower Austria¹⁰⁸ offers a five-semester training course for teachers of deaf children, several other teacher-training colleges offer courses in Austrian sign language. A Ministerial guideline for teaching in Austrian sign language and sound accompanying and supporting signs is being prepared on the basis of the curriculum. A bilingual data base for schools will be established within 2 years (2010–2011).

117. NGOs call for a comprehensive barrier-free access in all fields of life and the implementation of the principle of self-determination for persons with disabilities.

L. Economic, social and cultural rights

118. Austria has ratified the International Covenant on Economic, Social and Cultural Rights (CESCR) and the European Social Charter and endeavours to fully realise the economic, social and cultural rights provided therein. In addition, when applying EU law, Austrian courts and administrative authorities are also bound by the social and economic fundamental rights laid down in the EU Charter on Fundamental Rights. The potential ratification of the Optional Protocol to the CESCR and the Revised European Social Charter will depend not least on the national agreement about the inclusion of social rights into the Federal Constitution.

119. Although social rights have not been yet included in the constitution yet, extensive social legislation exists for decades. Austria is a welfare state with high social standards and is committed to social market economy.

120. To secure the comprehensive social network even in economically challenging times, the Government takes specific reform measures to achieve full employment and combat poverty.

121. The promotion of education, training and youth employment and the integration of marginalised groups into the labour market are priority areas of the labour market policy. On behalf of the government, the Public Employment Service Austria (AMS) provides employment services, advice, qualification and financial support and thus contributes essentially to preventing and eliminating unemployment in Austria.

122. All services by the AMS are equally available for migrants. Specific courses like orientation courses for persons with non-German mother tongue, courses to improve higher qualified job opportunities, assistance in job application, or German courses promote the migrants' access to the labour market. Special attention is paid to the cooperation between the AMS and various organisations for migrants.

123. The strengthening of social solidarity and combating poverty are central objectives of the Government in all policy areas. In an agreement between the federal Government and the provinces, Austria has decided to introduce a needs-related minimum income scheme, which will contribute to a harmonisation of the social benefits system. Persons who cannot cover their living costs and those with a permanent residence permit in Austria are entitled to this benefit. Those with no health insurance will be included into the State health insurance scheme. These measures shall make the social benefit scheme transparent and poverty-proof. Single parents, who are especially at risk of poverty will profit from this improvement. Persons granted asylum and persons under subsidiary protection – alongside other third country nationals with unlimited residence permits – also have a legal right to a minimum income. One of the core objectives of the needs-related minimum income scheme is the (re)integration of marginalised groups into the labour market.

124. The Government is committed to a strong public health system and to guaranteeing high-quality medical care for everyone in Austria, irrespective of income, age, origin, religion or gender. To increase patient safety, the Austrian government supports a joint initiative of Austrian doctors and other health-care professionals for the implementation of a national error reporting and learning system for the Austrian health-care system, which has been publicly accessible on-line since November 2009.¹⁰⁹

125. The core elements of the Austrian education policy is education and training for everyone, increase of knowledge, abilities and skills, recognition of individual performance and promotion of a value-oriented personal development. Education means promotion of creativity, social competence, intercultural understanding, tolerance and democracy, which is strengthened primarily through political education. Primary and secondary schools have to ensure the highest possible level of education for everyone. Children and young adults in Austria should receive the best possible education. On the basis of equal opportunity and gender equality the school has to ensure a non-discriminatory development for children with different family backgrounds and cultural origins.

126. Austria has taken comprehensive measures in the field of adult education enabling people to obtain school-qualifications in a second chance. Another focus lies on basic education for adults, in particular for migrants, and the acquisition of key qualifications to improve professional opportunities; a network to promote literacy and individual counselling for migrants has been installed.

127. The Government's cultural policy aims at expanding existing cultural diversity and promoting an open cultural climate, cultural participation and specifically promoting contemporary artists. In order to promote cultural education, the Government has been supporting and funding organisations¹¹⁰ which operate in the field of educational

cooperation and cultural dialogue or in schools for many years. Culture is also promoted to parts of the society that do not have access to art.¹¹¹

IV. National priorities

A. Pledges and commitments Austria's candidature for the UN Human Rights Council 2011–2014

128. The promotion and protection of human rights at the global level constitutes a priority for Austria's Foreign Policy. The Human Rights Council (HRC) plays a central role in the worldwide protection of human rights. For this reason, Austria has decided to put forward its candidature for membership in the HRC for 2011–2014. On this occasion Austria issued national and international pledges and commitments.¹¹²

129. Thereby, Austria undertakes to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and to include children's rights into the Austrian Federal Constitution according to the Convention on the Rights of the Child. In addition to the existing criminal law provisions, which have already made any form of torture a punishable offence¹¹³, the inclusion of a definition of torture in the Criminal Code is currently underway. Work is also being done to implement the crimes under the Rome Statute for an International Criminal Court, which includes crimes against humanity and war crimes, into the Austrian penal code. Genocide is already a punishable offence under Austrian criminal jurisdiction.

B. Integration

130. Austria pursues the goal of achieving integration of migrants and their participation in political, cultural and economic life. For this reason, under the auspices of the Ministry of the Interior, a National Action Plan for Integration (NAP) was prepared and adopted by the federal government on 19 January 2010. It is the result of a comprehensive work process with the involvement of all affected stakeholders, including representatives of migrants' organisations. The NAP Integration is seen as an ongoing process, in which new challenges have to be evaluated on a regular basis.

131. German language knowledge, the ability to self-support, a clear commitment to Austria, to its standards and values and the willingness to integration are important requirements for successful integration in Austria. The state's task is to create an adequate framework for successful integration. Integration will be systematically measured and assessed on a regular basis using integration indicators.

132. The NAP has seven spheres of action: language and education, employment and occupation, rule of law and values, health and social affairs, intercultural dialogue, sports and leisure, and housing and the regional dimension of integration. Measures against racism and discrimination are part of the Austrian integration policy.

C. Dialogue of cultures

133. Austria has longstanding experience in serving as a platform for dialogue of cultures and religions. This has traditionally been a strong focus of Austria's foreign policy. Numerous initiatives of dialogue of cultures contribute to mutual understanding. Central

topics of the dialogue include democracy, rule of law, pluralism, antidiscrimination and prevention of radicalisation. The dialogue focuses also on gender equality, networking of young female leaders, civil society and business and the inclusion of eminent religious persons. The activities in Austria include training of Imams, establishment of a network of Jewish, Christian and Muslim theologians, the Arab-European Young Leaders Forum on “responsible leadership” in politics, economy and environment, and the bilateral diplomatic exchange programme “Dialogue of Cultures”.

134. Intercultural learning has been enshrined in the Austrian school system as an educational principle for decades. It has contributed to mutual understanding, realizing differences and similarities, abolishing prejudice. Positive connotation of bilingualism and multilingualism shall be enhanced. Intercultural priorities are being set within the curricula. Since 2006/07, school projects dealing with multilingualism and cultural diversity have been subsidised through the “Interculturality and multilingualism – an opportunity”¹¹⁴ campaign.

D. Human rights education and training

135. Comprehensive human rights education is of special importance for the knowledge and awareness of human rights and thus for their implementation and observance. The objective is to put into practice a human rights culture on all levels. Therefore human rights education is a focus for Austria.

136. Human rights education at school has been integrated into the curricula through “political education” on all levels. Human rights are taught in the mandatory subject of “history/political education” in the 8th grade of all schools and in many institutes of higher education. Special initiatives are launched, for instance on the occasion of the International Human Rights Day. The Austrian Centre for Citizenship Education in Schools “polis” is an educational service institution operating under the Ministry of Education, Arts and Culture which offers teacher’s training courses, teaching material and textbooks which are developed in close cooperation with national and international organisations (ETC Graz, AMNESTY ACADEMY, Council of Europe, etc.).

137 Under the Austrian Presidency of the Human Security Network in 2003 the handbook “Understanding Human Rights” was drafted and published, which has now been translated into 14 other languages. The handbook is used for human rights education in Austria and worldwide with various local partners.

E. International commitment

138. Within the UN Austria actively participates in the development and strengthening of international human rights protection including the advancement of human rights treaties and standards.

139. Austria has repeatedly shown its commitment to the international human rights system by hosting important human rights conferences. The 1993 World Human Rights Conference in Vienna and several follow-up events, most recently the conference on “Global Standards–Local Action” held in Vienna in 2008 (VDPA+15) are especially noteworthy. The Vienna Declaration and the Programme of Action, which was the basis for the establishment of the OHCHR, continue to be of fundamental importance.

140. Austria has been a member of the Human Rights Commission several times and has been actively involved in the HRC as an observer. At the HRC and the Third Committee of the General Assembly, Austria regularly submits resolutions relating to the support and

promotion of the rights of minorities, human rights of internally displaced persons and human rights in the administration of justice.

141. The Austrian development cooperation supports partner countries in Africa, Asia, Central America, and South-Eastern Europe in their sustainable social, economic, rule of law and democratic development and is focused on the millennium development goals. The promotion and protection of human rights is not only a priority but an all-embracing interest of the Austrian development cooperation; particular focus is put on the support of the interests of children, women, persons with disabilities and other groups affected by discrimination. This approach is reflected in specific programmes and projects within the framework of bilateral cooperation and the support of institutions including, e.g. OHCHR, UNDP, UNODC, UNHCR, UNICEF and UNIFEM.

142. As a non-permanent member of the UN Security Council (2009–2010) Austria is primarily committed to the protection of children and civilians in armed conflicts, the due consideration of the role of women for peace and security as well as the observance of humanitarian and human-rights obligations of parties in conflict. In this context, the UNSC, at the initiative of Austria, adopted the groundbreaking Resolution 1894¹⁵ which contributes to a further strengthening of the protection of civilians in armed conflicts. Moreover, the respect for human rights in the fight against terrorism is a priority of Austria's work in the UNSC.

143. Austria has been participating in peace-keeping operations for more than 50 years; so far a total of 80,000 Austrians have been part of these missions. Human rights, including children's and women's rights, form an important part during preparations for such operations.

Notes

- ¹ UN Human Rights Council Resolution 5/1 of 18 June 2007 and General Guidelines for the Preparation of Information under the Universal Periodic Review (A/HRC/6/L/24).
- ² Board of Human Rights Coordinators includes representatives of federal ministries and federal provinces ("Gremium der MenschenrechtskoordinatorInnen").
- ³ See <http://www.bmeia.gv.at/aussenministerium/aussenpolitik/menschenrechte/universal-periodic-review.html>.
- ⁴ UPR@bmeia.gv.at
- ⁵ Staatsgrundgesetz über die Allgemeinen Rechte der Staatsbürger, Law Gazette of the Reich No.142/1867.
- ⁶ Bundesverfassungsgesetz betreffend das Verbot aller Formen rassistischer Diskriminierung, Federal Law Gazette (hereinafter referred to as BGBL) No. 390/1973.
- ⁷ Bundesverfassungsgesetz über den Schutz der persönlichen Freiheit, BGBL Nr. 684/1988.
- ⁸ Gesetz zum Schutze des Hausrechtes, Law Gazette of the Reich (RGBL) No.88/1862.
- ⁹ Datenschutzgesetz 2000: Bundesgesetz über den Schutz personenbezogener Daten, BGBL Nr.165/1999.
- ¹⁰ Government programme for the XXIV. legislative period p. 243, www.bka.gv.at/DocView.axd?CobId=32965.
- ¹¹ Österreich-Konvent.
- ¹² Expertengruppe Staats- und Verwaltungsreform.
- ¹³ Nationalrat.
- ¹⁴ Bundesrat.
- ¹⁵ e.g. Views of the CEDAW Committee under the Optional Protocol of 6 August 2007, Yildirim vs Austria, Communication No. 6/2005.
- ¹⁶ Verfassungsgerichtshof.
- ¹⁷ Menschenrechtsbeirat.
- ¹⁸ Gleichbehandlungskommissionen.

- ¹⁹ Gleichbehandlungsanwaltschaft.
- ²⁰ Datenschutzkommission.
- ²¹ Rechtsschutzbeauftragte.
- ²² Kinder- und Jugendanwaltschaften.
- ²³ Justizombudsstellen.
- ²⁴ Patientenanwaltschaften.
- ²⁵ Volksanwaltschaft.
- ²⁶ Prozessbegleitung.
- ²⁷ The term “social partnership” refers to a cooperative relationship between employer and employee associations (social partners) with the aim of building extra-parliamentary consensus between differing interests relating to economic and social issues.
- ²⁸ Staatssekretariat für allgemeine Frauenfragen.
- ²⁹ Gleichbehandlungsgesetz: Bundesgesetz über die Gleichbehandlung von Frau und Mann im Arbeitsleben, BGBl Nr.108/1979.
- ³⁰ Gewaltschutzgesetz, Bundesgesetz zum Schutz vor Gewalt in der Familie, BGBl Nr.759/1996.
- ³¹ Präventionsbeirat.
- ³² 2. Gewaltschutzgesetz, BGBl 40/2009.
- ³³ Frauenservicestellen.
- ³⁴ See www.frauen.bka.gv.at
- ³⁵ “Gesundheitliche Versorgung gewaltbetroffener Frauen – ein Leitfaden für Krankenhaus und medizinische Praxis“.
- ³⁶ BGBl Nr. 377/1972. Austria recognised complaints by individuals pursuant to art. 14 CERD and thus provided an additional option for complaints in cases of discrimination.
- ³⁷ Federal Constitutional Law on the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination (B-VG zur Durchführung des Internationalen Übereinkommens über die Beseitigung aller Formen rassistischer Diskriminierung), BGBl 390/1973.
- ³⁸ Art. 7 of the Federal Constitutional Law in conjunction with art. 2 of the Basic Law on the General Rights of Nationals, art.1 of the 1973 Federal Constitutional Law on the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination, BGBl Nr. 390/1973, art. 14 European Convention on Human Rights (ECHR).
- ³⁹ In criminal law: sec. 283 of the Criminal Code (*Strafgesetzbuch, StGB*): prohibition of incitement to hatred, sec. 115 StGB in conjunction with sec. 117 para. 3 StGB: xenophobic or racist insults as offenses prosecuted *ex officio*, sec. 33 (5) StGB: aggravating factor “racist motive”, Prohibition Act (*Verbotsgesetz*) State Law Gazette No. 1945/127: prohibition of re-engagement in national-socialist activities; prohibition of public denial, belittlement, approval or justification of national-socialist genocide or other national-socialist crimes. In administrative criminal law: Introductory Act to the Administrative Procedure Acts for the Implementation of the Constitutional Law on the Elimination of all Forms of Racial Discrimination; in the Industrial Code (*Gewerbeordnung*): withdrawal of the trade license in case of discriminatory conduct of license holders; in the Media Act (*Mediengesetz*) and the Act on Associations and Assembly (*Vereins- und Versammlungsgesetz*): prohibition of associations and assemblies whose activities run counter to a statutory prohibition.
- ⁴⁰ See Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
- ⁴¹ Bundesgesetz über die Gleichbehandlung, BGBl Nr. 66/2004.
- ⁴² Bundesgesetz über die Gleichbehandlung im Bereich des Bundes, BGBl Nr. 100/1993.
- ⁴³ Federal Act on the Equal Treatment Commission and the Office of the Ombud for Equal Treatment (Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft), BGBl Nr. 108/1980.
- ⁴⁴ Kammern für Arbeiter und Angestellte.
- ⁴⁵ Österreichischer Gewerkschaftsbund.
- ⁴⁶ Unabhängiger Verwaltungssenat Security Police Act (Sicherheitspolizeigesetz), BGBl I Nr. 566/1991.
- ⁴⁷ European Commission against Racism and Intolerance (ECRI) fourth report on Austria, pp. 36 et seq. <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-IV-2010-002-ENG.pdf>.

- ⁴⁸ See sec. 283 of the Criminal Code.
- ⁴⁹ A politician was sentenced, with final and binding effect, to a fine of EUR 25,000, for racist comments on Muslims during her election campaign in Graz in 2008 which constituted a breach of sec. 283 of the Criminal Code (incitement to hatred).
- ⁵⁰ Publizistikförderungsgesetz BGBl Nr.369/1984. The 1984 Journalism Subsidy Act provides for the promotion of civic education by the political parties.
- ⁵¹ Österreichischer Presserat.
- ⁵² E-Commerce-Gesetz, BGBl I Nr. 152/2001.
- ⁵³ On an annual average, there are around 30 complaints under the Prohibition Act and approximately the same amount of convictions; Verbotsgesetz BGBl Nr.25/1947.
- ⁵⁴ *Eingetragene Partnerschaft-Gesetz*, BGBl I Nr. 135/2009.
- ⁵⁵ *Strafprozessreformgesetz*, BGBl I Nr. 19/2004.
- ⁵⁶ Decrees No. BMJ-L880.014/0010-II 3/2009 and BMI-OA1000/0047-II/1/b/2010.
- ⁵⁷ Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung.
- ⁵⁸ See sec. 100 para. 2 (1) Code of Criminal Procedure (*Strafprozessordnung*).
- ⁵⁹ Bundesgesetz über die allgemein beeedeten und gerichtlich zertifizierten Sachverständigen und Dolmetscher (Sachverständigen- und Dolmetschergesetz), BGBl Nr. 137/1975.
- ⁶⁰ Bundesgesetz über die Niederlassung und den Aufenthalt in Österreich (Niederlassungs- und Aufenthaltsgesetz), BGBl I Nr. 100/2005.
- ⁶¹ Bundesgesetz über die Gewährung von Asyl (Asylgesetz 2005), BGBl I Nr. 100/2005.
- ⁶² Bundesasylamt.
- ⁶³ Asylgerichtshof.
- ⁶⁴ Unabhängiger Bundesasylsenat.
- ⁶⁵ Court of Asylum, 2008 Report on Activities, III-67 of the enclosures XXIV. legislative period.
- ⁶⁶ Grundversorgungsgesetz 2005.
- ⁶⁷ Grundversorgungsvereinbarung.
- ⁶⁸ Cf. sec. 66 of the Federal Act on the Exercise of Aliens' Police, the Issue of Documents for Aliens and the Granting of Entry Permits (2005 Aliens' Police Act; Fremdenpolizeigesetz 2005), BGBl I Nr. 100/2005.
- ⁶⁹ Sec. 44a and sec. 44b Settlement and Residence Act.
- ⁷⁰ Sec. 69a Settlement and Residence Act.
- ⁷¹ Secs. 76 et seq. Aliens' Police Act.
- ⁷² Cf. marginal note 36 of the Report of the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Austria from 15 to 25 February 2009.
- ⁷³ Response of the Austrian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Austria from 15 to 25 February 2009 of 26 January 2010, pp. 9–10.
- ⁷⁴ Task Force Menschenhandel.
- ⁷⁵ Nationale Koordinatorin zur Bekämpfung des Menschenhandels.
- ⁷⁶ BGBl I Nr. 7/1993.
- ⁷⁷ BGBl III Nr. 92/2002 and BGBl III Nr. 93/2004.
- ⁷⁸ E.g. www.kinderrechte.gv.at.
- ⁷⁹ Österreichische Bundes-Jugendvertretung.
- ⁸⁰ Art. 29 Convention on the Rights of the Child.
- ⁸¹ E.g. the provision on the state's objectives in art. 8 para.2 of the Federal Constitutional Law.
- ⁸² Volksgruppengesetz-Bundesgesetz über die Rechtsstellung von Volksgruppen in Österreich, BGBl Nr. 396/1976.
- ⁸³ Cf. sec. 8 para. 2 Ethnic Groups Act.
- ⁸⁴ Staatsgrundgesetz, Law Gazette of the Reich No. 142/1867.
- ⁸⁵ Interkonnessionelles Gesetz Law Gazette of the Reich No.49/1868.
- ⁸⁶ Staatsvertrag von Saint Germain 1919, StGBI 303/1920.
- ⁸⁷ Bundesgesetz über die Rechtspersönlichkeit von religiösen Bekenntnisgemeinschaften, BGBl I Nr.19/1998.
- ⁸⁸ E-Government Gesetz, BGBl I Nr.10/2004.
- ⁸⁹ Elektronischer Amtshelfer www.HELP.gv.at

- ⁹⁰ See SaferInternet.at
- ⁹¹ See <http://www.stopline.at>
- ⁹² Datenschutzgesetz 2000, BGBl I Nr. 165/1999.
- ⁹³ See <http://www.dsk.gv.at/site/6207/default.aspx>
- ⁹⁴ Art. 7 para. 1 of the Federal Constitutional Law.
- ⁹⁵ CRPD, BGBl. III Nr. 155/2008.
- ⁹⁶ Bundesbehindertengesetz BGBl Nr. 283/1990.
- ⁹⁷ Bundesbehindertenbeirat.
- ⁹⁸ BGBl I Nr. 82/2005.
- ⁹⁹ Bundes-Behindertengleichstellungsgesetz-Bundesgesetz über die Gleichstellung von Menschen mit Behinderungen, BGBl I Nr.82/2005.
- ¹⁰⁰ Art. 8 para. 3 of the Federal Constitutional Law, introduced by BGBl I Nr. 82/2005.
- ¹⁰¹ Behinderteneinstellungsgesetz BGBl Nr.22/1970.
- ¹⁰² Directive 2000/78/EC.
- ¹⁰³ Employers must either hire one registered employee with serious disabilities for every 25 employees or make an equalisation payment into a fund.
- ¹⁰⁴ Several children in need of special educational support in the same class and a second full-time teacher with additional training.
- ¹⁰⁵ Refers to technical and vocational schools and colleges and academic secondary school.
- ¹⁰⁶ Behinderteneinstellungsgesetz BGBl I Nr. 40/2010.
- ¹⁰⁷ Behinderteneinstellungsgesetz.
- ¹⁰⁸ Pädagogische Hochschule Niederösterreich.
- ¹⁰⁹ See www.cirsmedical.at
- ¹¹⁰ KulturKontakt Austria, <http://www.kulturkontakt.or.at>
- ¹¹¹ Project “Programm K3 - Kulturvermittlung mit Lehrlingen”.
- ¹¹² In accordance with Resolution A/RES/60/251 adopted by the United Nations General Assembly. See http://www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/2-Aussenpolitik_Zentrale/Menschenrechte/HRC_folder_dt_2605.pdf.
- ¹¹³ See in particular secs. 83, 84, 85, 86, 87, 313, 312, 75 Criminal Code.
- ¹¹⁴ “Interkulturalität und Mehrsprachigkeit – eine Chance!”. See www.projekte-interkulturell.at
- ¹¹⁵ S/RES/1894 (2009).
-