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**HUMAN RIGHTS COMMITTEE**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**AUSTRIA \* \*\***

**Further information received from Austria on the implementation of the concluding  
observations of the Human Rights Committee (CCPR/C/AUT/CO/4)**

[22 July 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* The annex to the present report can be consulted in the files of the secretariat.

1. In connection with the review on 19 October 2007 of the fourth periodic report of Austria under the International Covenant on Civil and Political Rights, the Human Rights Committee has asked the Republic of Austria to present, within one year, additional information on the implementation of the recommendations by the Committee pursuant to paragraphs 11, 12, 16 and 17. In October 2008 the Republic of Austria complied with this request by submitting its comments. After a first review of these comments, the Human Rights Committee has now asked for more additional information in connection with the aforementioned paragraphs. In this connection, the Republic of Austria submits the following additional information.

### **Concerning the recommendation pursuant to paragraph 11**

2. Concerning the independent and impartial investigation of cases of death and abuse of detainees in police custody, the State party would like to report that the Federal Ministry of Justice in its decree dated 15 December 1995, file number JMZ 430.001/30-II 3/1995, revised the existing form sheets for reporting on such cases where preliminary court inquiries or a preliminary investigation were initiated, on the one hand, against officers of the security authorities for alleged maltreatment and, on the other hand, for defamation against persons who have asserted such allegations. One can thus gather from these reports the number of persons against whom preliminary court inquiries or preliminary investigations were actually conducted on the basis of a report to the police in cases in which the proceedings were suspended.

3. Moreover, with its decree dated 30 September 1999, file number JMZ 880.014/37-II 3/1999, the Federal Ministry of Justice requested the public prosecution offices to clear up "allegations of abuse" against officers of the security authorities by way of preliminary court inquiries, if necessary upon an application to launch a preliminary investigation. This also applies to cases in which – without any specific allegation having been made – there are indications for a suspicion in this respect, for example on the occasion of delivering an arrested accused person to a prison, or in the course of an accused person's examination by the investigating judge. In the event of external signs of injuries, an expert opinion would have to be obtained without delay concerning the possible cause of a physical impairment. By way of a decree dated 21 December 2000, file number JMZ 880.014/48-II 3/2000, the Federal Ministry of Justice requested the heads of prisons to follow an appropriate procedure in the event of allegations of abuse against penal enforcement officers.

4. As the reform of criminal proceedings has become effective, the content of these decrees requires review, as the instrument of preliminary court inquiries no longer exists. With the entry into force of Article 90a of the Federal Constitution Act, the public prosecution offices have become agencies of the judiciary. However, this does not rule out that the Federal Minister of Justice may issue instructions for the investigation of cases. Therefore, the Public Prosecution Act (§ 29 (3) and § 29a (1)) expressly stipulates that any such instruction is to be included in the investigation file and thus becomes subject to the control of the parties involved in the proceedings. Finally, it was also stipulated that the Federal Minister of Justice has to report to Parliament, i.e. the National Council, once every year of the instructions issued which de facto rules out any unlawful influence.

5. By way of decree by the Federal Ministry of Justice dated 20 December 2007, file number BMJ-L590.000/0040-II 3/2007, on the exercise of powers involving orders and coercive

measures, the persons applying the law in the justice sector were informed of the decree by the Federal Ministry of the Interior dated 18 December 2007, file number BMI-OA 1370/0001-II/1/b/2007, concerning the documentation, the establishment of facts of cases, and the evaluation of the application of coercive measures. The members of the federal police forces, as well as members of the legal service units who are authorized to exercise powers involving orders and coercive measures, are thus obliged to document and report their official acts when engaging in measures subject to reporting, i.e. especially the use of arms and the use of coercive measures, with such consequences as physical injury or material damage. Whenever such a report is made, the facts of the case must be established. As a matter of principle, any physical injury must be established by a physician. The result of the investigation, obtained after performing the inquiries, must be communicated to the responsible public prosecution office for an evaluation of the criminal-law aspects, in the event of alleged or actual personal or material damage or danger to physical safety.

6. In connection with the investigations and the actual punishment in the case of Bakary Jassay, the Agents of the Austrian Government would like to report that three of the police officers involved in the incident on 31 August 2006 were found guilty of the offence pursuant to § 312 (1) and the first case of § 312 (3) of the Criminal Law Code, and the fourth person was found guilty as a contributing offender, as defined in the third case of § 12 of the Criminal Law Code. They were all sentenced with final and non-appealable effect. The three first-mentioned officers were sentenced to prison terms of eight months, and the contributing offender was sentenced to a prison term of six months. All prison terms were pronounced on the condition of a three-year probationary period.

7. In the subsequent disciplinary proceedings, the officers were sentenced to considerable fines (five monthly remunerations in one case, four monthly remunerations in two cases, and three monthly remunerations in one case), although the disciplinary counsel had moved that the incriminated officers be fired. The disciplinary counsel appealed the decision in these proceedings before the Higher Disciplinary Commission to the Administrative Court, and the Administrative Court suspended it pursuant to § 42 (2) item 1 of the Administrative Court Act (file number Zl. 2007/09/0320-14) dated 18 September 2008. The Higher Disciplinary Commission has therefore initiated new proceedings and currently the case is under its review. The four police officers involved in the incident are currently serving only in back-office positions.

8. It has not been possible, as yet, to pay any compensation to Mr. Bakary Jassay. According to Austrian law, Mr. Bakary Jassay is entitled to compensation under official liability (Official Liability Act, Federal Law Gazette No. 20/1949; taking account of the criteria for compensation as defined in Article 14 of the Convention against Torture). Mr. Jassay has not filed any such action to date, neither through a legal counsel, nor on his own. He also did not take any other initiative – such as, for example, to reach an out-of-court settlement – in order to assert his claim. Several talks were held between the responsible desk officer in the Federal Ministry of the Interior and Mr. Bakary Jassay's legal counsel. The Federal Ministry of the Interior is making every effort to exploit all possibilities in order to bring about an expedient solution of the case.

9. The Federal Ministry of the Interior also drew consequences of a general nature from the incident. A stress study was commissioned, examining excess strain on officers. Moreover, the

deportation procedure was the subject of a comprehensive evaluation. Specifically chartered planes are used increasingly, whenever one must expect resistance in a deportation case.

10. The training of new teams was launched, in order to relieve and replace the escort teams that have been on duty for years. Moreover, the Human Rights Advisory Board is informed prior to performing complex deportations or deportations by chartered plane, in order to make it possible for members of the Human Rights Advisory Board to participate in the preparatory contact discussions and/or in the transfer to the airport.

11. The following can be reported on the introduction of specific compulsory training measures for police officers, judges and enforcement agents:

In the year 2007, a module on fundamental rights was developed by representatives of academia and the professional associations, to be used in the initial and further training of judges and public prosecutors. Since 2008, this module has been compulsory for all prospective Austrian judges and public prosecutors. It deals with fundamental rights in everyday court work, including also the prohibition of torture, as well as the right to education. Since 2008 fundamental and human rights, including equal treatment and non-discrimination law, have also been subjects at the examination for the recruitment as judge (§ 16 (4) item 4 of the Judges' and Public Prosecutors' Service Act).

12. In addition, the justice sector organizes numerous events, as part of the further training of judges and public prosecutors, which deal with the topics of fundamental and human rights in general, and specifically also with promoting tolerance and fighting racism. The following events have been organized since 2007:

- 2007 Judges' Week on the subject of "The Judiciary and Human Rights" (Federal Ministry of Justice);
- Seminar "Islam – Society – Law – Judiciary: An Introduction" (Higher Regional Court Innsbruck);
- Lecture and excursion "*DENK-MAL Marpe Lanefsch*" (Federal Ministry of Justice);
- Seminar "Other Countries, Other Customs – Obvious and Less Obvious Features of Other Cultures; the Right to Asylum and the Protection of Victims" (Higher Regional Court Innsbruck);
- Conference "To Administer Justice – To Prevent Injustice" (Fundamental Rights Unit and Federal Ministry of Justice).

13. Members of the judiciary also participate regularly in international events on the subject of fighting racism. One recent example is the participation in the conference of the international association of public prosecutors in the year 2008 which focused on "hate crimes". For the year 2009, the Thomas Morus Academy – together with other institutions – is planning an international event on how to deal with juveniles with a migration background in criminal-law cases. This event, too, will be appropriately announced to the members of Austria's judiciary.

14. Police officers are obliged to obtain special training in connection with restraint methods. In recent years, the training for such operations was evaluated on an ongoing basis and optimized, especially with a view to human rights aspects. Throughout the entire training, major attention is attached to the preservation of human dignity, to acting without reproach and

prejudice, as well as to the use of adequate language. The police officers are especially alerted to these issues. The ongoing reference to the protection of human rights (especially the respect for human dignity, the prohibition of discrimination, etc.) is meant to contribute towards strengthening these values, as well as to guide the actions of police officers when operating under stress. Moreover, the training for operations is to ensure the implementation of the so-called "3D philosophy in operations" ("Dialog, Deescalation, Durchsetzen" = dialogue, de-escalation, enforcement) in a commensurate manner. In the course of these operations, the principle of proportionality must be observed by continuously reviewing the coercive measures applied with regard to their necessity, proportionality and every possible care.

15. The reports of the Human Rights Advisory Board, of Amnesty International, etc. are reviewed on an ongoing basis, with a view to obtaining suggestions for the training of police officers. By way of a continuous evaluation, for the purpose of quality assurance and optimizing contents, by inter-disciplinary activities and interlinking all legal fields with human rights, it is ensured that adequate attention is paid to communicating human rights in all aspects of training, in parallel to teaching purely legal aspects.

16. Restraining methods are trained with great sensitivity (hog-tying, positional asphyxia syndrome, restraint asphyxia). The combination of handcuffs and ankle shackles never was, and currently is not provided in any regulation and is thus inadmissible.

#### **Concerning the recommendation pursuant to paragraph 12**

17. The following general information is provided concerning the practice applied in connection with hunger and/or thirst strikes:

- Detainees awaiting deportation are given a medical examination upon their admission;
- As of the report of a hunger and/or thirst strike, a daily clinical examination is performed and all parameters, as listed in the hunger strike form used by the chief medical service (which was coordinated with the physicians of the Human Rights Advisory Board), are documented. In addition, a daily check of the pulsoxymetry is compulsory;
- If a detainee goes on a hunger strike or refuses the intake of liquids, he/she must be taken to be seen by a physician immediately. The physician will examine the person and determine the individual critical weight loss. Moreover, the physician has to inform the detainee of the dangers of refusing the intake of food or liquids, in the course of which the physician must discuss the health consequences of a strike, if necessary with the assistance of an interpreter and/or a police officer with language skills (see the ordinance of the Federal Minister of the Interior concerning the detention of persons by security authorities and agents of the public security service, Federal Law Gazette II No. 128/1999 in the version of Federal Law Gazette II No. 439/2005, § 10). In addition, the detainee is handed an information sheet (available in 42 languages), which is explained and the issuance of which is documented. This practice has been observed since 28 October 2002. The respective documentation in the cases of Geoffrey Abba and Yankuba Ceesay is available in their medical records;

- If the enforcement of the detention pending deportation is not possible, on account of a health condition produced by the detainee himself/herself, a residence ban or expulsion is enforceable, and deportation is possible, the head of the court prison may be asked to admit the detainee to the prison hospital. It is to be noted that the Federal Ministry of the Interior – by expanding the scope of the information sheet for detainees and by involving organizations providing care to detainees awaiting deportation – provides for detained persons being informed about their legal status and in particular, about the fact that a hunger strike or self-afflicted injuries will no longer necessarily result in a release from detention pending deportation.

18. Concerning the case of Geoffrey Abba, in particular, the following information is communicated:

- Geoffrey Joel Abba, a Nigerian citizen, born on 20 February 1976, was arrested for the purpose of deportation in the course of a search by the aliens' police in a call centre by officers of the Federal Police Directorate in Vienna, as a valid residence ban was in force against Mr. Abba.
- On 30 August 2006 Mr. Abba went on a hunger strike. Initially, Mr. Abba lost 15 kg of his weight; subsequently, however, he regained some weight. The weight loss may appear to be relatively big. However, since this decline occurred over a period of about 30 days, one had to assume that Mr. Abba continued to take in – albeit small – quantities of food during the hunger-strike period.
- In keeping with regulations, the daily medical checks were made and the findings recorded (blood values RR 140/103, pulse 98). He was offered food three times per day; liquids were available at all times.
- On the basis of the medical examination by the police physician, he was in a state fit for detention. The detention awaiting deportation was upheld.
- On 2 October 2006 the aliens' police (police detention centre) transferred Mr. Abba (as a "detainee awaiting deportation on hunger strike") to the hospital ward of the Vienna-Josefstadt prison, which serves as a special hospital. This action was based on the joint decree by the Federal Ministry of Justice and the Federal Ministry of the Interior dated 13 December 2005, file number BMI-LR1320/0020-II/3/2005, item 5 (legislation and law; own legislation; aliens' police matters concerning § 78 (6) of the Aliens' Police Act). The purpose of the transfer was to have his health status monitored.
- Mr. Abba refused to take in any solid food, as well as to be provided with medication, or to have his blood analyzed. On 8 October 2006, he weighed 49 kg (as compared to 53 kg when admitted). However, no medical coercive measures, as defined in § 69 of the Penal Enforcement Act were required up to his release from the Vienna-Josefstadt prison on 10 October 2006, which was ordered by the aliens' police.
- Before being released from detention awaiting deportation, Mr. Abba was offered suitable food; according to the prison management, he was also given the opportunity to

make a telephone call. He left the Vienna-Josefstadt prison on his own. However, he eventually had to obtain emergency medical assistance at a public hospital, on account of his generally weak condition.

19. As a result of the Abba case, the Federal Ministry of the Interior comprehensively overhauled the rules of the aforementioned decree on the treatment of detainees awaiting deportation on hunger strike, such as those on admission, release, including compulsory examination upon release, organized by the Federal Police Directorate Vienna, the obligation to notify relatives and further referral to another hospital (now: decree of the Federal Ministry of the Interior dated 13 December 2006, file number BMI-LR 1320/0020-II/3/2006). The decree makes sure that, in the future, the appropriate (re-)action is taken in medical emergencies, as well as that the requisite notices are given upon release and/or referral.

20. Moreover, the independent Human Rights Advisory Board investigated the case. An urgent report was prepared, on which the Federal Ministry of the Interior commented officially. No recommendations were issued on the basis of this incident.

21. Concerning the case of Yankuba Ceesay, in particular, the following information is communicated:

- Yankuba Ceesay, born on 2 March 1987 at Latrikunda, Gambia, was taken from the Linz prison to the police detention centre Linz of the police station on 12 September 2005 at 8.40 hrs. in order to enforce his detention pending deportation.
- On 27 September 2005 Mr. Ceesay went on a hunger strike.
- On 4 October 2005, Mr. Ceesay was taken to the office of the police physician by his co-detainees. As he refused to be examined and refused to have his body weight established, it was ordered that he be taken to the out-patient station specializing in internal medicine of the General Public Hospital of the City of Linz.
- On 4 October 2005, at 9.30h, he was taken to that hospital, where arrangements were made to take a blood sample and to examine the detainee. As Mr. Ceesay resisted the taking of a blood sample, this was performed by applying coercive measures. There was no medical reason for a further stay at the hospital and, at the time of the visit to the out-patient station, there was no indication of a life-threatening situation emerging.
- On account of his conduct during the examination, Mr. Ceesay was taken to a security cell (cell with linoleum flooring, no furniture) upon his return to the police detention centre, where he was monitored at short intervals (15 to 30 minutes), as there was the risk that he put himself and others in danger.
- At 12.50 hrs., the officer on duty informed the paramedic that it seemed that Mr. Ceesay was not breathing anymore. The paramedic went to the security cell immediately, in order to check on the vital functions. As it was no longer possible to establish any vital functions, an emergency doctor and the police doctor were called in. Unfortunately, re-animation was without success.

- An autopsy was made of the body of the deceased in order to determine any third-party fault on the part of the officers on duty. The detailed autopsy report showed that a massive shift in electrolytes was the cause of Mr. Ceesay's death, which was primarily the result of an undetected disease, i.e. sickle-cell anemia. The expert opinion showed that the death, ultimately due to an unknown hereditary health disposition of the deceased, was not foreseeable, and that any symptoms of the disease would only have been noticeable if a laboratory examination had been made at an earlier stage, for which there was no indication. As none of the persons involved could be blamed for any misconduct, the public prosecution office Linz discontinued the proceedings pursuant to § 90 (1) of the Code of Criminal Procedure in its old version.

22. Up to that case, there had been no experience in police detention centres concerning the health effects of sickle-cell anemia in connection with a hunger strike.

23. After this regrettable unhappy incident, all medical services of the police were informed immediately, and orders were given to expand the examination of potential risk persons. The already comprehensive medical examination by the police doctors upon admission was expanded in that, in the event of a person going on hunger and, in particular, on a thirst strike, as well as coming from a country where sickle-cell anemia is endemic, a complete differential blood analysis is to be made instead of only determining the hematocrit value.

24. The Ceesay case was also investigated by the independent Human Rights Advisory Board. The result was a detailed report – "Provision of Medical Services during Detention pending Deportation" – with eight recommendations. The report can be accessed at <http://www.menschenrechtsbeirat.at/cms/>. On the basis of this report, a working group was set up at the Federal Ministry of the Interior, which, in particular, prepared a new set of legal principles for the provision of medical services. This was presented at a conference for all staff and freelance police doctors. The relevant forms were adapted accordingly. They are available for download at the "detention file – enforcement administration" (*Anhaltedatei-Vollzugsverwaltung*). The checks by specialists and under service regulations were stepped up by visits to be made by senior doctors and the management department. An intensive exchange with the Human Rights Advisory Board took, and is taking place on this subject. In addition, one should mention the introduction of a tool for paramedics, prepared with practitioners, which is comprised in the detention file.

### **Concerning the recommendation pursuant to paragraph 16**

25. One essential element of the reform of the Code of Criminal Procedure, which entered into force on 1 January 2008, is the improved legal position of accused persons and their rights of defense and participation. Pursuant to § 7 (1) of the Code of Criminal Procedure, accused persons have the right to obtain the assistance of their legal counsel at every stage of the proceedings, which is independent of the issue whether a person has been detained or not. Pursuant to § 58 (1) of the Code of Criminal Procedure, an accused person may establish contact to his/her legal counsel as of the beginning of the investigation procedure, issue a power of attorney to him/her, and discuss the matter with him/her before being interrogated.

26. The criminal police must make it possible for an arrested person to contact a legal counsel. Already in the course of their basic training, police officers are given special training



with regard to the information to be given to persons upon their arrest. Arrested persons are also given an information sheet on this subject (available in 48 languages). Moreover, the criminal police must inform every arrested accused person of the legal counsels on standby duty and, in addition to handing him/her the "Information Sheet for Arrested Persons", must also hand him/her the "Information Sheet concerning Legal Counsels on Standby Duty" (in the respective language version). If so required, an interpreter must be called in.

27. If the detained accused person asks for a legal counsel of his/her choice or a legal counsel on standby duty, he/she must be allowed to make a telephone call to the legal counsel of his/her choice or to the hotline of the service for legal counsels on standby duty. If the circumstances so require (e.g. reasons of language), the telephone call may also be conducted by an organ of the criminal police or, if present, by an interpreter.

28. The wish of the detained accused person to contact or to have contacted a legal counsel via the service for legal counsels on standby duty, as well as the wish to establish contact to the legal counsel directly at the duty station of the criminal police, as well as any refusal to avail himself/herself of these rights, or any possibly established contact with a legal counsel must be put on file in Arrest Report II (item 2 of the sheet on information). It must also be documented appropriately that the information sheet on legal counsels on standby duty was handed to the detained accused person.

29. Pursuant to § 59 (1) of the Code of Criminal Procedure, contacts between a detained accused person and a defence counsel may be monitored by the criminal police, before that person is admitted to the prison, and the contacts may also be limited to the scope required to provide general legal information, but only on the condition that this appears to be necessary in order to prevent any interference with the investigations or the evidence. This restriction on contacts between the defence counsel and the detained accused person is thus only possible in particularly justified cases, and only for a relatively short time, i.e. for a maximum of two days.

30. Pursuant to § 59 (2) of the Code of Criminal Procedure, the detained accused person has the right, as a matter of principle, to communicate with his/her defence counsel without being monitored. However, if the accused person is being detained on grounds of collusion or conspiracy, and if it is feared, on account of particularly important circumstances, that the contacts to the legal counsel might affect the evidence, then the public prosecution office may order the monitoring of the contact with the defence counsel. Before admitting the accused person to the prison, the criminal police have this right to issue an order to this effect. The monitoring must not be concealed, and it must be terminated at the end of two months after the arrest or upon the bringing of charges.

31. Moreover, pursuant to § 164 (2) of the Code of Criminal Procedure, the accused person has the right, as a matter of principle, to call in a defence counsel when being interrogated. However, one may depart from this practice, whenever it appears to be necessary, in order to prevent any risk to the investigations or an impairment of the evidence. In these cases, an audio or video recording should be made, to the extent possible. As can be gathered from the cited provisions, restrictions concerning the procedural principle pursuant to § 7 of the Code of Criminal Procedure, as required by the European Court of Human Rights, are only possible if justified reasons prevail. In addition, the specific features of the respective individual case must also be taken into account. Important reasons for restricting contacts to legal counsel may be that

the accused person is suspected of being a member of a criminal organization, of which the other persons involved have not yet been interrogated. As the accused person has the right, in accordance with § 106 (1) of the Code of Criminal Procedure, to object to violations of a substantive right, or to being denied procedural rights by the criminal police or the public prosecution office in the course of investigative proceedings, it is ensured that there is court control over the lawfulness of the acts undertaken by the criminal police or the public prosecution office.

32. Any possible restriction of the contacts to the legal counsel are therefore not at the discretion of the officers, as there are clearly defined statutory requirements the observation of which is reviewed by independent courts.

### **Concerning the recommendation pursuant to paragraph 17**

33. Detention pending deportation is currently still being carried out at police detention centres of the federal police authorities.

34. Very high demands are being put to the police detention system, especially in connection with detention pending deportation. In recent years, considerable efforts have been made in order to decisively improve the quality of detention. In particular, adequate standards were created so that any detention pending deportation will merely serve the purpose of preventive detention and not have any penal character.

35. One should mention here, in particular, the further implementation of so-called "open stations" and/or the "opening of cell doors/detention rooms". An "open station" is a separate, closed homogenous building section in a police detention centre, available to accommodate detainees awaiting their deportation, where detention pending deportation can be implemented in an improved and more humane setting.

36. The Federal Ministry of the Interior and its various subordinate service units make every effort to continue, with efficiency and effectiveness, the improvement of detention conditions, within the framework of available financial, staff and technical resources. For example, in the years 2006 to 2008 the Federal Ministry of the Interior spent EUR 1,045,000 only on building improvements at Austrian police detention centres. It was possible to achieve major improvements in the enforcement of detention by the ongoing implementation of several "open stations" (police detention centres at Linz, Salzburg, Innsbruck, Bludenz, Graz, Eisenstadt, Klagenfurt, Villach, Wels, and Vienna/Women's Section).

37. At present, an "open station" is being built at the police detention centre Vienna-Hernalser Gürtel for 50 male detainees awaiting deportation. The work will be completed in June 2009 (expenditure: about EUR 150,000).

38. It ought to be pointed out, in particular, that it is planned to set up a modern centre for third-country nationals who will be returned to their home countries. With a view to meeting national and international standards and guidelines in an optimum manner, when the aliens' police enforce deprivation of liberty, it is planned to build a new centre for third-country nationals pending their return to their respective home countries.

39. Detention pending deportation, used as a preventive measure, is applied with great sensitivity and only as a "means of last resort". According to the present case law of the highest courts, detention pending deportation – especially in “Dublin” cases – is admissible only if there is really a need for detention in a specific individual case.

40. The figures and their development after the entry into force of the legislative package for aliens in 2005 show a clearly downward trend – after an initial upward trend.

41. In the enclosed annex, the Committee will find a comparison concerning orders for detention pending deportation, deportations and voluntary return to the respective home countries.

42. With regard to the length of the detention pending deportation, one can state that it lasted 24.14 days on average in 2008 (the mean duration of detention pending deportation is 11 days, i.e. one half of the detentions pending deportation last up to 11 days, the remaining half more than 11 days).

43. Concerning access to qualified legal assistance for detainees awaiting deportation one can state that, at present, free access to gratuitous legal assistance is not provided (the possibility to consult a legal representative is listed in the regulations on detention). Only those detainees awaiting deportation, who instruct a person to represent them, are provided with legal advice. Detainees awaiting deportation who apply for asylum in Austria in any case receive free legal advice and/or representation in the framework of the asylum procedure.

44. The highest possible level of legal information will be ensured in the future, on account of the obligation to inform the persons concerned systematically about their rights and obligations, as well as about the house rules. If the third-party national concerned wishes to challenge the decision in connection with his/her return to the respective home country, the third-country national concerned can obtain legal advice, legal representation and language assistance pursuant to Article 13 of the EU Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (2008/115/EC of 16 December 2008, OJ No. L 348/98 of 24 December 2008). Upon application, third-country nationals must be granted the necessary legal advice and/or representation for free, in accordance with the relevant legal regulations or provisions of the individual States on assistance in connection with procedural costs. With the implementation of the aforementioned EU directive on home-country return, the guarantees for legal protection will be improved and free access to legal representation will be facilitated.

45. Moreover, in connection with the subject of legal protection/legal advice during detention pending deportation, one must mention the "Working Group Legal Protection", set up and directed by the Human Rights Advisory Board. This working group – involving human rights experts and practitioners – has drawn up recommendations and published a report. These recommendations will be examined more closely for their realization in the present context in the course of the imminent implementation of the EU directive on home-country return.

46. In this connection, one must also mention, in particular, the preparation for return. The preparation for return is provided on a voluntary basis (on the basis of promotion agreements) by private assistance organizations (always one organization per police detention centre). This also

includes information provided to the person concerned on the facts and the legal circumstances, and it serves to generally support enforcement in conformity with the standards of the aliens' law. This also ensures that the staff members of the organizations preparing detainees for their return inform their clients about pending proceedings and the possibility of a voluntary return. However, the legal advice and/or representation of the detainees awaiting deportation receiving this preparation are not part of the promotion agreement.

47. The medical care of detainees awaiting deportation is to be guaranteed by the Federal Ministry of the Interior. Depending on its size, every police detention centre has one or several general practitioners at its disposal, who are available for different lengths of time. Specialists for psychiatry were engaged under contract to provide out-patient acute treatment. At the police detention centres, a police physician pays a visit on a daily basis.

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