

# **International Covenant on Civil and Political Rights**

## **5<sup>th</sup> Report of the Republic of Austria**

### **List of Issues**

#### **Item 1:**

1.1. The Covenant has the status of a federal law in the Austrian legal order. While the Covenant itself is not directly applicable, the rights enshrined therein are comprehensively protected by a number of human rights provisions which are directly applicable in Austria: Civil and political rights are protected by the Austrian Constitution itself, the European Convention on Human Rights and its Protocols (which enjoy constitutional law status in Austria) and the Charter of Fundamental Rights of the European Union (whose provisions can be invoked as constitutionally guaranteed rights in proceedings before the Austrian Constitutional Court in all cases where it is applicable). The domestic courts thus primarily refer to these human rights instruments.

In addition, according to established case law of the Constitutional Court the rights protected by Austrian law, including those protected by the Austrian Constitution, must be interpreted in light of public international and, thus, also in light of the Covenant. Since the rights enshrined in the Covenant are comprehensively protected by the Austrian Constitution and the human rights instruments referred to above, both Austrian legislation and the Austrian administration always strive to ensure that full effect is given to protecting human rights within the Austrian legal order.

The Austrian courts (civil and criminal courts, administrative courts and the courts of public law) are the country's most important actors when it comes to assess the implementation of human rights obligations. The Austrian Constitutional Court plays a key role in this context as it reassesses the compliance of laws, regulations and administrative acts with constitutional standards (and, thus, essentially also the rights enshrined in the CCPR) and has the power to repeal such acts should they infringe the Constitution.

There are also numerous – low-threshold – specialised bodies which enforce and monitor the protection of human rights in Austria. These include, for example, the Equal Treatment Commission and the Ombud for Equal Treatment, the commissioners for legal protection, the ombudsman boards for children and young people, the judicial ombudsman boards, patients' ombudspersons and residents' representatives and the Austrian Monitoring Committee for the implementation of the UN Convention on the Rights of Persons with Disabilities.

Moreover, the Austrian Ombudsman Board, whose services are available free-of-charge to everyone, investigates possible maladministration within public administration, in particular in connection with alleged violations of human rights. The AOB is the Austrian national human rights institution (for more details please also see Item 2).

The Austrian Federal Government is currently drawing up a National Action Plan on Human Rights. Current plans foresee the adoption of this NAP at the end of 2015. Detailed discussions are being held with all stakeholders to identify any measures which need to be implemented as a result of international human rights provisions and guarantees and of recommendations forwarded to Austria.

1.2. Views adopted by the UN Human Rights Committee under the Optional Protocol to the CCPR which determine a violation of human rights) are dealt with by the relevant bodies with a view to ascertaining how such matters can be resolved and preventing any similar violations in future. If no consensus can be reached with the author, the latter is free to turn to the AOB. Any redress is made on an “*ex gratia*” basis.

## **Item 2:**

The Austrian Ombudsman Board, whose independence is guaranteed by constitutional law (Article 148a para. 6 Federal Constitutional Law), contributes substantially to the implementation and protection of human rights. Accessible free-of-charge to everyone, the AOB is responsible for the monitoring and investigation of maladministration within the federal administration, especially with respect to allegations of violations of human rights. The AOB is the Austrian national institution human rights institution. Its mandate was considerably expanded on 1 July 2012 and now also includes the preventive monitoring of public and private institutions in which individuals are or might be deprived of their liberty. In its function as national preventive mechanism (as defined in the Optional Protocol of the Convention against Torture), the AOB – together with six independent regional commissions appointed by the AOB – examines places where people are detained and/or deprived of their liberty and, at the same time, monitors the activities of the law enforcement bodies. The AOB’s mandate covers not only prisons and police stations but also military barracks, mental health institutions and nursing homes, crisis centres and flat-sharing communities for juveniles. A total of 4,000 public and private institutions are thus monitored on a regular basis. The AOB is also authorised to monitor the conduct of law enforcement bodies in the deployment of coercive measures (e.g. police operations during demonstrations).

The AOB is supported in its work by the Human Rights Advisory Council, which advises on the definition of areas of focus for the monitoring process, on the report of findings and on the development of recommendations. The Members of the Council consist in equal measure of senior civil servants and representatives of NGOs..

Moreover, the AOB also serves as an independent monitoring body pursuant to Article 16 (3) of the UN Convention on the Rights of Persons with Disabilities. In this capacity, it monitors institutions and programmes for persons with disabilities in order to prevent any form of exploitation, violence or abuse. The independent commissions appointed for this purpose perform spot checks in dedicated establishments for persons with disabilities.

As a consequence of the observations made during such checks, monitoring proceedings may subsequently be initiated. The primary goal of such proceedings is to address the underlying structural problems in the system.

As a further consequence of the expansion of its mandate, the AOB can now – in addition to the activity report it submits to Parliament on an annual basis – also report to Parliament on individual observations made during its monitoring activities.

The three members of the AOB are each elected by the Austrian Parliament for a six-year term. They are elected on the basis of a joint recommendation, with each of

the three political parties with the largest number of seats in Parliament entitled to nominate one member (Article 148g, Federal Constitutional Law). This election procedure guarantees the necessary democratic legitimacy that is essential in a parliamentary democracy (similar to the appointment of judges by the Federal President or the Minister of Justice). The three members of the AOB exercise their function with full independence. They cannot be removed from their function or dismissed from office during their six-year term. The extension of the AOB's mandate to include OPCAT competences and responsibilities, which involves working in close cooperation with human rights experts in the independent monitoring commissions and on the Human Rights Advisory Council, ensures an ongoing dialogue and a constant exchange of experience with civil society.

In the Province of Vorarlberg, the competences and responsibilities pursuant to the OPCAT and the UN Convention on the Rights of Persons with Disabilities have been entrusted to the Independent Regional Ombudsperson of Vorarlberg.

When appointing the expert members of the commissions referred to above, particular attention must be paid to achieving both a gender balance and an adequate representation of ethnic groups and minorities as well as to ensuring that the composition of said committees is independent, inter-disciplinary and pluralistic. The AOB has its own budget and can draw on an extensive pool of experts on Austrian law, including human rights legislation.

### **Item 3:**

3.1. With regard to protection against discrimination in the access to supply of goods and services, most of the Austrian federal provinces (*Bundeslaender*) provide full protection, while the Equal Treatment Act (*Gleichbehandlungsgesetz*) currently only covers gender and ethnic origin as grounds for discrimination. In 2014, an evaluation of the legal and institutional antidiscrimination framework was initiated. As part of this evaluation, experts on anti-discrimination law are analysing the effectiveness of the existing legal framework. They are also examining possible options for improvement, including the fact that responsibility for protection against discrimination is currently shared by a number of institutions. The political debate on increasing protection levels and on including age and sexual orientation as prohibited grounds for discrimination is still ongoing. The current hesitant attitude can be attributed for the most part to the difficulties that are being encountered in achieving agreement at EU Council level for the proposed horizontal Anti-Discrimination Directive.

Plans are also in place to produce a guideline that offers a better overview of the institutions responsible for equal treatment and/or anti-discrimination in the individual cases and, thus, improve access to such facilities. This guideline will take the form of a questionnaire, which can be used by the individual to identify the relevant authority in a particular case. It will also summarise the tasks and services provided by each of the different equal treatment and/or anti-discrimination institutions.

The Austrian Federal Ministry for Europe, Integration and Foreign Affairs has also been operating an Anti-Discrimination and Intolerance hotline since February 2015. Everybody affected by discrimination can contact the hotline to find out which institution is responsible for dealing with his/her particular case. The hotline acts as a clearing centre and provides callers with a quick and concise overview of the different anti-discrimination institutions. The hotline works with two partner organisations,

namely the Ombuds for Equal Treatment (*Gleichbehandlungsanwaltschaft*) and ZARA (*Zivilcourage und Antirassismusstelle*), an association established to combat racism and promote civil courage.

3.2. At the provincial level, a diversity-oriented integration policy was adopted, for instance, in 2011 in the Province of Styria (*Steiermark*) with its “*Charter of Coexistence in Diversity in Styria*”. The charter focuses on countering discrimination, dismantling physical and mental barriers and establishing gender equality. Anti-discrimination, anti-racism as well as the prevention of violence are thus declared principles of action in all areas of public life and social coexistence in Styria. The Styria has also established a dedicated Provincial Integration Office.

#### **Item 4:**

4.1. To combat the radicalisation of extremist groups, Austria is intensifying and fostering its cooperation at international level, within the European Union (e.g. the Radicalisation Awareness Network – RAN), with intelligence and security agencies as well as in the science and research context (universities).

In line with EU and Council of Europe initiatives, the investigative powers of the Austrian police have been revised. Austria has also stepped up its cross-border intelligence and police cooperation to prevent travel by potential jihadists and facilitate the prosecution of returning combatants. The Federal Office for the Protection of the Constitution and Counterterrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung* – BVT) has also hired a substantial number of specialised staff to deal with the rise in Islamic extremism.

Austria has taken extensive measures to counter politically and ideologically motivated radicalisation, including right-wing extremism. These measures include:

- awareness-raising workshops organised by the BVT to train police officers in correctly recognising and interpreting signs of radicalisation in the population;
- the opening of an extremism information and advice centre in December 2014 to provide advice to relatives who have noticed that a family member is potentially attracted by terrorism or is becoming radicalised. The centre was set up based on recommendations from the “*Islam*” dialogue forum and the EU Council’s conclusions on “*de-radicalisation and disengagement from terrorist activities*”. Intervention is effected by a network of civil society actors, with the BVT assuming the role of a network partner. The centre’s main goals are to develop a pool of information on extremism, to assist people in recognising threats and to create a solid basis for a comprehensive de-radicalisation process;
- awareness-raising workshops for prison staff with regard to radicalisation and recruitment by extremists in prisons. To assist early detection and prevention and develop relevant measures, the EU project “*Violent radicalisation – recognition of and responses to the phenomenon by professional groups concerned*” aims at raising the awareness of front-line staff confronted with the phenomenon of radicalisation.

4.2. The following projects are of particular note from a prevention of radicalisation perspective:

- in the education sector: alongside the measures taken to prevent violence, numerous activities have been launched over the past few years to prevent religious and political radicalisation. On a general level, it should be emphasised here that human rights education is already an integral part of the “*political education*” syllabus. In order to ensure that a human rights culture is established at all levels, this syllabus is being incorporated into large parts of the education system and a number of corresponding projects have been launched.
  - A project aimed at preventing and reducing racist prejudice and patterns of behaviour by offering children and teenagers the opportunity to approach “the unfamiliar” in a positive, playful setting that permits an inter-cultural learning process in an environment that is free from fear and prejudice.
  - A comprehensive range of programmes has been put together for schools to enable them to provide workshops that meet their individual requirements with regard to the prevention of violence and radicalisation.
  - “*Holocaust education*” programmes are being organised and extensive material and information provided on this topic.
  - As part of the cooperative-communicative religious education initiative in schools, churches and religious societies have initiated a joint project in which pupils of different religions to learn together about their respective faiths;
  - In their efforts to avoid religious conflicts, the *Kirchliche Pädagogische Hochschule Wien-Krems* (University College for Teacher Education of Christian Churches Vienna-Krems) and the Islamic Teacher Training College in Austria (IRPA) operate a joint competence centre designed to serve as a point of contact and/or help desk for teachers.
- Counter-narrative initiatives include a brochure produced in cooperation with the Islamic Community in Austria, which provides counter-narratives and information on how Islam is being abused by terrorists and which clearly condemns the barbaric actions of “IS”. The brochure is available in four languages and has been distributed in mosques and prayer rooms across Austria.
- A platform has been established to facilitate the sensitization of mothers to early signs of radicalisation and raising their awareness of their own potential to prevent this phenomenon. It also serves as a discussion forum for teenagers.

4.3. With a view to combating any advocacy of racial or religious hatred, anti-Semitism and/or xenophobia, the Criminal Law Amendment Act (*Strafrechtsänderungsgesetz*) 2015, which is to enter into force by 1 January 2016, will include (among others) the following changes:

- The extension of aggravating factors for punishable offences committed for particularly reprehensible motives (Article 33 para. 1 sub-para. 5, Austrian Criminal Code) to include offences directed against a Church or religious society, or another group defined by criteria of race, skin colour, language, religion or belief, nationality, origin or national or ethnic background, gender, disability, age or sexual orientation or against a member of any such group.
- The establishment of or participation in associations whose purpose is that of “incitements” within the meaning of Article 283 of the Criminal Code fomented by their members will become a punishable offence.
- Statements or comments inciting people to violence will become punishable offences if “*they are made in public in a manner that is accessible to many people*”; the term “*in public*” refers as a rule to approximately 10 and the term “*many people*” to around 30 individuals. If such acts are accessible to the “*general*” public (approximately 150 individuals), they will be punishable with a maximum of three years of imprisonment.
- Anyone who through his/her own actions or deeds causes other persons to exercise violence against a protected group or against a member of any such group as a consequence of his/her affiliation with this group will face a prison sentence of between six months and five years.

4.3. Article 283 of the Criminal Code provides for the prosecution of hate speech irrespective of the medium through which it is communicated. Accordingly, racist content publicised on the internet is covered by this provision if it exceeds a certain threshold.

The association of Austrian internet providers has set up a virtual contact point (<http://www.stopline.at>) for all internet users who happen to come across, for instance, any neo-Nazi content. Once the content has been identified and verified as illegal, the respective provider, foreign partner hotlines and competent authorities are promptly informed to enable them to take necessary action. Stopline cooperates in this context with the Austrian Federal Ministry of the Interior as well as with its relevant reporting offices (e.g. the Reporting Office for National Socialist Activities or the Reporting Office for Extremist and Radicalising Videos).

4.4. The latest figures on racist, ethnically motivated and discriminatory incidents reported to the Ombud for Equal Treatment<sup>1</sup> show that the most frequent cause for discrimination is ethnic origin. For detailed data please see Annex 1.

The National Security Report issued jointly each year by the Ministry of Justice and the Ministry of the Interior also provides information on the outcome of criminal proceedings involving racist/xenophobic elements. This report is available on the website of the Austrian Parliament. The annual criminal court statistics published by Statistics Austria also provide information on the total number of sentences passed, including those for racially motivated criminal acts, broken down by perpetrator age, gender, nationality and severity of sentence.

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<sup>1</sup> As published in its Report to the Austrian Parliament for the years 2012/2013, <http://www.gleichbehandlungsanwaltschaft.at/site/7803/default.aspx>.

For purposes of completeness, a mention should also be given here to the fact that a special working group was set up in response to the recommendations following the latest UPR Review. This working group analyses the data that have already been collected on racially motivated crimes and identifies the extent to which existing statistics can be utilized. A harmonisation of Austrian crime statistics and judicial statistics is the goal of a new project.

4.5. Since the National Action Plan (NAP) on Integration entered into force in 2010, a lot of progress has been made on the subject of integration, both in terms of structure and in terms of substance. The area of integration was for the first time included in the Federal Ministries Act and thus identified as a primary responsibility of the Federal Government. Following the integration of the State Secretary's Office on Integration, established in 2011, into the Foreign Ministry in March 2014, the latter's name was changed to "Federal Ministry for Europe, Integration and Foreign Affairs". This not only facilitated the use of new synergies but also illustrated the socio-political importance attributed to integration in Austria. The underlying concept "Integration from the very beginning" has been pursued since 2012. Since then, a specifically designated integration commissioner has been working at the Austrian Embassy in Ankara for example. In 2014 such a function was also established at the Austrian Embassy in Serbia in order to promote a welcoming culture already in these two countries of origin, the largest groups of immigrants in Austria are coming from.

An Expert Council and an Integration Advisory Council were set up in order to evaluate and further develop ongoing integration measures. These bodies also include civil society representatives. Integration indicators, developed on a scientific basis, facilitate quantifying the success of integration processes.

The implementation of the NAP on Integration is an ongoing process. Both the measures taken and the status of implementation are described in detail in the Integration Reports 2013 and 2014, which are publicly available. In order to ensure equal participation of immigrants in economic and social life, further measures in the fields of language assistance, integration into the labour market and recognition of professional qualifications will have to be adopted. Concrete plans providing for an expansion of early childhood language classes at institutional child care facilities have already been prepared. Furthermore, additional first contact points, so-called "welcome desks" will be established throughout the country to provide immigrants with the information they need for a successful start in Austria. A website that provides assistance and information on the recognition of foreign school and college degrees has been set up, negotiations concerning a Recognition Act for professional qualifications acquired abroad are currently ongoing.

In addition to the measures covered by the NAP on Integration, Austria is currently preparing a National Action Plan on Human Rights which will also contain a section on measures to counter racism, racial discrimination, xenophobia and related intolerance. It is therefore not planned to develop a separate Action Plan on these areas.

## Item 5:

5.1. The Criminal Law Amendment Act 2015 (*Strafrechtsänderungsgesetz 2015*) mentioned above (see Item 4) also provides for a reduction of penalties for offences against property. It is expected that this will lead to a reduction in the number of detentions pending trials and imprisonment sentences and consequently to a decline in the percentage of non-Austrian prisoners.

The Criminal Law Amendment Act 2008 introduced the possibility for a (conditional) release of non-Austrian prisoners. The enforcement of the full sentence (for those having served half their sentence) may now be waived for the time being if the foreign prisoner agrees to leave the country (Article 133a Act on the Execution of Sentences, *Strafvollzugsgesetz*). In 2014 Article 133a represented the third most frequent reason for termination of imprisonment (see Annex 2).

5.2. In executing their tasks police forces are obliged by law to refrain from any activity that could lend itself to even giving the impression of partiality. In the context of the efforts aimed at avoiding even the most rudimentary development of racism and discrimination, like racial profiling, among police forces, the range of training and advanced training activities on the topic of human rights was expanded: Police officers have to attend a seven-day module “Fundamental Rights” during their basic training. Commanding officers have two modules on human rights in their training and the mandatory advanced training also comprises of a human rights module. These training activities not only raise police officers’ awareness of their own behaviour, but also enable them to better identify, handle and process racially-motivated crimes.

Human rights education and advanced training is based *inter alia* on a manual developed by the European Union Agency for Fundamental Rights aimed at promoting more effective police work. In 2012 the subject area “*Ethnic profiling*” was integrated in a series of seminars entitled “*A World Of Difference*”, which was specifically developed by the American citizens’ rights organisation *Anti-Defamation League* for training Austrian police forces

5.3. On 1 August 2014, the Federal Minister of the Interior issued a decree that set out new regulations on how to handle a complaint against police action that is *not* considered a criminal offence. A special complaints management department was also established at the Federal Ministry of the Interior.

In Austria there is no independent investigation body possessing comprehensive investigative powers to examine allegations of ill-treatment/misconduct, as demanded by NGOs. Legal protection is provided by the existing system of independent courts and public prosecutors, the additional disciplinary law mechanisms and the opportunity to file a complaint with the independent provincial administration courts.

In the field of jurisdiction, the public prosecutor’s offices were upgraded to jurisdictional authorities in 2008 (Article 90a Federal Constitutional Law), which guarantees independent and impartial investigations in their area of jurisdiction; victims, moreover, are entitled to obtain a judicial review of any cessation of procedures on the part of a public prosecutor.



Furthermore, allegations of misconduct by law-enforcement officials are subject to examination by the Austrian Ombudsman Board (AOB) under its general mandate relating misconduct in the public administration. However during such examinations – contrary to adversarial proceedings – the AOB cannot summon witnesses nor interrogate those accused under oath.

#### **Item 6:**

In 2012 Article III, para. 1, sub-para. 3 Introductory Act to the Administrative Proceedings Laws (*Einführungsgesetz zu den Verwaltungsverfahrensgesetzen*) was amended in order to extend the scope of the offence. Previously, persons who “*subject persons to unjustified discrimination exclusively for reasons of race, colour of skin, nationality or ethnic origin, religious denomination or disability or prevent such persons from entering premises or from obtaining services available for general public use,*” were deemed to have committed a punishable offence. Hence, discrimination went unpunished when it was not “exclusively” on grounds of racism.

Now discrimination against anybody on the grounds of race, skin colour, national or ethnic origin, religious denomination or disability, or prevention of access to any place or service intended for use by the general public, constitutes a punishable offence. The justification previously invoked can thus no longer lead to acquittal.

#### **Item 7:**

7.1. According to the latest data from 2013, 33.7 % of leading positions in the public service are held by women, this is an increase of two percentage points since 2011. The share of women in the public service in general amounted to 41.2 % in 2013 and is thus 0.6 percentage points higher than in 2011 (40.6%).

##### A brief overview of examples from the federal provinces:

In the province of Salzburg the representation of women in decision-making positions increased from 31.73 % in 2007 to 36.52 % in 2014.

In Styria, the representation of women in the provincial administration stands at 40.6 %, the share of female mayors is 5.6 %.

In Vorarlberg, 24 % of municipal councillors and 7.3 % of all mayors are women. 11% of decision-making positions in the provincial administration are held by women and 28% of supervisory board members in enterprises in which the province holds a stake are female.

7.2.1. In its fifth periodic report to the CCPR (cf. para. 18), Austria referred to a decision by the Federal Government on the introduction of a women’s quota for supervisory boards of enterprises close to the state. Meanwhile the fourth progress report was submitted in March 2015. In the 57 enterprises covered by this decision, 110 supervisory board members appointed by the Federal Republic were female. The annual progress report 2015 shows that the share of women on the boards of

enterprises in which the government holds a stake rose from 26% in 2011 to 37% in 2014.

7.2.2. Data on the representation of women in executive management positions and on the boards of the top 200 publicly listed companies in Austria's private sector is published annually by the Austrian Chamber of Labour.<sup>2</sup> In the top 200 companies, the share of women in CEO positions has risen only slightly from 5.1 % in 2012 to 5.9 % in 2015. Among board members, the increase was more pronounced: between 2012 and 2015 the share of women increased from 11.2% to 16.2 %.

In its fifth periodic report to the CCPR, Austria also referred to a leadership programme for women in Austria ("*Future.Women*"; cf. para. 31). In the meantime eight courses have been organised under this ongoing programme and were completed successfully by a total of 176 female participants. Austria also referred to a publicly accessible database for female supervisory board members (cf. para. 33). Currently more than 410 women are registered in this database.

#### A brief overview of examples from the federal provinces:

Upper Austria:

- The training course on "women on supervisory bodies" contributed to raising the share of female supervisory board members to 33 %. In cooperation with LIMAK Austrian Business School, the Province of Upper Austria since 2014 has assisted female junior executives, women job-market returners and young female entrepreneurs and promotes their management and leadership skills. Under the Cross-Mentoring Programme, established eleven years ago, mentors assist future female executives in their professional careers over a period of nine months.

Styria:

- The guideline on the acquisition, holding and management of stakes in enterprises by Styria, adopted on 10 July 2013 by the Styrian Government, stipulates that the target to be met by 31 December 2018 is a 35% share of women in the positions that are filled by the province government.

7.3. As of May 2015, women accounted for 31 % of all members of the National Council (*Nationalrat*). Their representation has thus progressed from 28 % in 2011. For further details please refer to Annexes 3 and 4.

7.4. In six province parliaments (*Landtage*) female representation on legislative bodies increased in 2015 (compared with 2011). Vienna registered a slight decrease, while no change was recorded in Burgenland and the Tyrol. In two federal provinces the office of President of the Province Parliament (*PräsidentIn des Landtages*) is held by women. (For details, please refer to Annexes 3 and 4.)

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<sup>2</sup> For more details please refer to "Frauen.Management.Report 2015" at [http://media.arbeiterkammer.at/PDF/AK\\_Frauen\\_Management\\_Report\\_2015.pdf](http://media.arbeiterkammer.at/PDF/AK_Frauen_Management_Report_2015.pdf)

7.5. In the *National Council*, women's representation is as follows: Social Democratic Party (SPÖ): 33%, People's Party (ÖVP): 28%, Greens: 54%, Freedom Party (FPÖ): 18%, Neos: 11%, Team Stronach: 45% (as of May 2015).

#### **Item 8:**

8.1. One of the basic principles of Austrian labour market policy is equal treatment of all workers, irrespective of their affiliation with any ethnic group. Therefore the Public Employment Service (*Arbeitsmarktservice*, AMS) uses diversity management to promote labour market integration of people facing difficulties because of their ethnicity, belief, sexual orientation etc.

The Equal Treatment Act provides protection against discrimination on the ground of ethnic background in the labour market and in access to supply of goods, services and housing. The relevant regulations also include an obligation to advertise jobs and housing in a non-discriminatory way. In 2011 a special administrative criminal law provision on discriminatory advertising of housing was included in the Equal Treatment Act.

Similar anti-discrimination and/or equal treatment laws were adopted by the federal provinces.

As it is also important to inform the public about existing legal opportunities for fighting discriminating actions and activities, the Ombud for Equal Treatment (*Gleichbehandlungsanwaltschaft*), for instance, is very active in the field of awareness raising and outreach work. It has published multi-lingual folders, a biannual activity report to the National Council and also operates a website that is easily accessible.

8.2.1. Measures taken to promote the six national (autochthonous) minorities (*Volksgruppen*) in Austria and/or their relevant associations can be summarised as follows:

As in previous years, the budget allocated in the Federal Chancellery for the support of national minorities amounted to 3,868,000 euros of which 39.2 % were used for project funding and 60.8 % for structural funding (staff expenses, cost of materials and capital expenditure). These funds were made available to associations for their ethnic group work.

Project funding was directed at the following sectors: media (37 %), culture (30 %), education (20 %) and science and research (8 %).

The funding was fully invested in activities to encourage the respective national minority's culture and use of the national minority's language (fostering the continued use of the national minorities' languages, putting the national minorities' cultures into practice and filling them with life – and to pass both languages and cultures on to young people).

Structural funding has become an indispensable element of ongoing national minority work.

Annex 5 provides an illustrative overview of the activities of the six national minorities' associations which used national minorities' funding in 2014.

As regards the Slovenian minority in Carinthia it can be reported that, apart from the activities outlined above, a forum for dialogue involving civil-society institutions (central organisations of Carinthian Slovenes), established in 2011 according to the “*Memorandum*” mentioned in para. 259 of Austria’s fifth periodic report to the CCPR has met on a regular basis.

Provided with a new legal and financial basis, the Slovenian school of music/*Glasbena šola* will be integrated as an independent school of music in the music school system of the Province of Carinthia.

8.2.2. With respect to measures designed to improve the situation of the Roma minority in Austria, reference can be made to the implementation of the EU Framework for National Roma Integration Strategies:

Within its broader social inclusion policies, Austria introduced an integrated set of policy measures focusing on Roma in 2012. These policies aim at the gradual elimination of the marginalisation of socially disadvantaged groups (including some Roma communities) in the fields of education, employment, housing and health. Such measures consist of both general integration activities and activities that are specifically targeted on Roma.

A National Roma Contact Point was established at the Federal Chancellery. Under this concept, a dialogue platform involving representatives of the Roma community, administrative authorities at federal, regional and local level as well as academia was established to discuss and monitor the implementation of the integrated set of policy measures aimed at promoting the integration of Roma in Austria.

In the context of the related efforts, Austria provides 1 million euros from the European Social Fund (ESF) annually to support employment market measures targeted on Roma: The first call was published in April 2015 on [www.esf.at](http://www.esf.at), the deadline for the submission of projects was 30 June 2015. This first call involves instruments to develop and implement labour market measures (especially consulting and qualification measures) and to prepare a one year curriculum for key players in the field of empowerment for Roma. As regards project selection, applications from Roma will receive a preferential ranking. The selection will be finalised by 30 September 2015; projects may thus start as of 1 November 2015 at the earliest.

Besides ongoing measures aimed at supporting employment, attention may be drawn to the counselling centre for Roma set up by the local Roma organisation of the town of Oberwart and the initiative THARA - both are co-funded by the Federal Government. THARA has supported the interests of Roma in the Austrian employment market since 2005. THARA’s main aim is to promote and facilitate the integration of Roma and Sinti into the labour market and to take a stand against the discrimination and persecution of Roma and Sinti in Europe.

Since 2000 the Roma organisation “*Romano-Centro*” has organised – multi-lingual – Roma school-assistance and mediation programmes with a view to improving communication between schools and parents. In addition, information on Roma culture and history is provided to students and teachers in order to promote mutual understanding and foster Roma students’ self-confidence.

8.2.3. The National Action Plan (NAP) on Disability 2012-2020, which is the Austrian Federal Government's Strategy for the Implementation of the UN Disability Rights Convention, includes 250 measures to improve the participation and inclusion of people with disabilities in political and public life: a supervisory group for the NAP on Disability, involving organisations of people with disabilities, was established in 2012; the Federal Disability Advisory Board was expanded to include a person with learning difficulties who also has the right to vote on this board; annual financial support for the "*Österreichische Arbeitsgemeinschaft für Rehabilitation*" (ÖAR, the Austrian umbrella organisation of people with disabilities) was increased.

The NAP on Disability also includes a chapter on "Participation in Political and Public Life" which sets out *inter alia* the following measures:

- Accessible education on political and public life and information in easy to read format. Continuous reduction of barriers impeding access to adult education by the Ministry of Education.
- Information about participation in elections in an accessible and understandable format, in printed and electronic form. Amendments introduced in the Austrian Election Law in 2013 and 2014 simplified the voting system in order to make it easier for blind and visually disabled people.

Long-term care benefit in cash is intended to provide people with disabilities who require nursing care a flat-rate compensation for additional costs incurred due to their requirement for care, and to help enable people with disabilities to lead an independent life oriented towards meeting their individual needs. The goal is to ensure the necessary provision of care and support, enabling people in need of care to participate in public life in a self-determined way.

#### **Item 9:**

In 2012 368 allegations of ill-treatment of prisoners in police custody were registered, in 2013:364 and in 2014:357. For more detailed data please see Annex 6.

There are no known cases of torture.

In the years 2013 and 2014 there were no convictions and/or cases settled through diversions for ill-treatment by prison guards.

#### Case of ill-treatment of a detainee in the Suben prison (in 2012):

In May 2012 a prison guard ill-treated a detainee in the Suben prison in as much as in accompanying the detainee to see the prison doctor he used a half-nelson grip and pushed him against the wall, then ran his right hand over the detainee's face, eyes, the area of his mouth and hit him with his right hand against the back of his head. As a consequence the detainee suffered bodily injuries including a mild contusion of his right eyeball, bruises on the right upper and lower eyelids as well as a subconjunctiva haemorrhage.

The events were well documented by images from a surveillance camera. The prison guard was charged with inflicting negligent physical injury and committing a punishable offence by abusing his official position (Articles 83 para. 2, 313 Austrian Criminal Code). In the main trial before the provincial court at Ried im Innkreis the accused was offered the opportunity of a settlement under

Article 204 in conjunction with Article 198, 199 of the Austrian Criminal Code and, following payment of the standard costs, proceedings were then officially closed by decision.

In disciplinary proceedings the prison guard was sentenced to a fine of 600 euros and reimbursement of the costs for the proceedings amounting to 120 euros.

#### **Item 10:**

On 1 September 2014 a decree on banning net beds in psychiatric and social welfare institutions was enacted under which the use of net beds is prohibited as of 1 July 2015. Seven of the nine Austrian federal provinces had already stopped using net beds before; some of them even many years ago. Vienna and Styria were the only provinces which still used net beds at the time the decree was adopted. Nursing homes in Styria stopped using net beds entirely in mid-2014.

Vienna availed itself of the deadline of 1 July 2015 defined in the decree.

The Austrian Ombudsman Board as Austrian NPM monitors the nation-wide ban of net beds and its possible consequences.

#### **Item 11:**

11.1. The adoption of the Act Amending the Criminal Law governing Sexual Offences 2013 (*Sexualstrafrechtsänderungsgesetz*) marked another important step towards improving the protection of sexual integrity and self-determination:

Under Article 64 para. 1 sub-para. 4a domestic jurisdiction was expanded to include the offences of rape (Articles 201 Austrian Criminal Code) and sexual coercion (Article 202 Criminal Code), while the offence of human trafficking was expanded and the level of punishment increased, the minimum level of punishment for rape being raised from the previous six months to one year and the level of punishment was raised for acts that qualify as sexual coercion, grooming for the purpose of establishing sexual contact with minors, the promotion of prostitution and pornographic performances of minors as well as procuring. Moreover the protection age for sexual abuse of young people by exploiting a situation of distress was raised to 18 years. The range of activities in which a person who has committed a sexual offence against a minor is prohibited from working was also extended. In the field of sexual abuse of minors the fact that the offence places the victim in a traumatic state or degrades the victim in a particular manner over a longer period of time represents another criterion for raising the level of punishment accordingly. At the same time mandatory psychosocial support for potential victims of sexual abuse under the age of 14 was intensified. Moreover, a special “criminal record certificate for children and youth welfare services” was created to ensure that any records of convictions for sexual assaults are taken into account when assessing the aptitude of a person for any professional or voluntary activity involving the supervision, support, care or education of minors. The Central Violence Protection Register (*zentrale Gewaltschutzdatei*) established at the beginning of 2012 enables law enforcement officials to retrieve background information on potential perpetrators and covers the whole of Austria.

The 2013 amendment of the Security Police Act resulted in considerable improvements in the protection of minors from domestic violence. It contains an expansion of the area covered by the denial of access to schools, etc. including the relevant surroundings. In addition, law-enforcement officials are obliged to immediately inform the competent centre for protection against violence as to any denial of access imposed on a perpetrator. The centre also contacts persons at risk and offers support.

Following ratification of the *Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)* Austria on 26 August 2014 adopted a National Action Plan on Protecting Women against Violence 2014 – 2016 (for more information please refer to item 12). In implementing this NAP, further measures aimed at protecting women and children against violence were integrated in the draft Criminal Code Law Amendment Act 2015 (already referred to under Item 4) including, for instance, the ban on forced marriages and the introduction as an offence of “*violation of sexual self-determination*”.

In response to some incidents of sexual abuse of juveniles in Austrian prisons, an interdisciplinary “Task Force on Juvenile Detention” was created. There is general consensus that pre-trial detention for juveniles should be imposed only when absolutely necessary and that the focus must be placed on social rehabilitation. The final report prepared by the task force contains 35 recommendations for improvement, for instance on avoiding/shortening pre-trial detention for juveniles, building a separate juvenile prison in Vienna or the establishment of a nation-wide juvenile court assistance service. Implementation of these recommendations is ongoing.

Under Chapter 10.1.3 (victims of sexual offences) the Criminal Court Statistics, which form the basis for the annual Security Report, provides an overview comparing accused and victims of crimes against sexual integrity, broken down by gender and nationality:

**Comparison of victims and accused  
for crimes against sexual integrity**

	Victims	%	Accused	%
Total	6,019		4,806	
Gender registered	5,607	100%	4,569	100%
Thereof female	4,325	77.1%	434	9.5%
Thereof male	1,282	22.9%	4,135	90.5%

	Victims	%	Accused	%
Total	6,019		4,806	
Nationality known	5,266	100%	4,232	100%
Thereof Austrian	4,538	86.2%	3,183	75.2%
Thereof non-Austrian	728	13.8%	1,049	24.8%

[source: Austrian Security Report 2013, p. 181 et. seq.]

For more detailed data from the Austrian Crime Statistics please see Annex 7.

There is a nationwide network of intervention centres and anti-violence centres that provide support and assistance to persons affected by domestic violence and persistent persecution. The centres are open to persons who were referred by the police or another authority or institution and for persons who contacted the centres directly. In 2013 and 2014 structural improvements were undertaken and the allocated budget was increased (2013: 2.4%; 2014: 5.5%)

Moreover, a victim protection facility for women affected by human trafficking and forced labour was entrusted with the provision of comprehensive holistic counselling and support to affected women. If necessary, the support provided also includes accommodation in emergency or transitional flats. The accompanying and counselling services provided are adapted to the victims' specific situation.

Since August 2013, counselling and emergency accommodation for women and girls affected by forced marriage has received state funding. A team of six female experts of the Vienna-based NGO "Orient Express" provides nationwide counselling and support services to girls and young women, who are threatened or affected by forced marriage. The services include (anonymous) online-counselling.

Moreover, specific support is provided to counselling centres that work in a targeted manner with perpetrators by providing long-term therapies in order to sustainably prevent potential future crimes.

In November 2010 the Federal Ministry of the Interior initiated the "*Alliance against Violence*" and also established a coordination centre. Information and outreach activities launched in the context of this project aim at raising public awareness of the issue of violence and identifying violent situations already in their initial stages. The goal is thus to facilitate anticipating potentially violent situations and enable timely reactions to prevent violence and the evolution of spirals of violence.

Across Austria some 700 individual projects and initiatives aimed at preventing violence have been presented and recommended as good practice examples, with comprehensive and freely accessible information and documentation provided for all projects. One such project is MedPol under which in cooperation with the Austrian Society for Forensic Medicine and the Austrian Medical Chamber prepared a checklist for health professionals that enables standardisation of the documentation of injuries giving rise to suspicion of third-party responsibility.

Under the project "Complex Work with Victims" a standardised approach (checklist) is currently being developed to facilitate identification of neglected and abandoned children.

With respect to *juveniles* the relevant figures and measures adopted can be summarised as follows:

Specifically trained "prevention officers" who belong to the police are active across Austria visit schools and implement projects together with parents, teachers and students. To this end, special subject areas are defined in preliminary discussions with the respective school's administration. Account is taken of special events or incidents at school or in the school environment, and the latest developments and new phenomena of juvenile delinquency are given particular attention.



Standardised projects being implemented on a nationwide basis include “*All Right – Alles was Recht ist!*”, “*Click & Check*” and “*BLEIB SAUBER – Jugend OK*” (stay clean – youth OK), which reached out to a total of 97,074 young people across Austria in 2014.

“*All Right – Alles was Recht ist!*” uses video clips to promote legal awareness among juveniles. Relevant legal information is provided, moral courage is being supported and particular focus is placed on managing conflicts among juveniles without resorting to violence.

“*Click & Check*” focuses on raising young people’s awareness in the use of mobile phones and the Internet in a responsible manner.

“*BLEIB SAUBER – Jugend OK*” is organised annually at defined intervals and provides information on current issues. Depending on the issues addressed, events are not only organised at schools but, as necessary, also in youth and educational facilities, in shops, pubs, betting shops and sports facilities.

11.2. In each of the Children’s Ombuds-offices operated by the nine Austrian provinces, there is a special ombudsperson for children in residential out-of-home care. These contact persons visit the care providers and strive to establish relationships of trust with children and young people in these alternative, out-of-home care settings (for more detailed information please see the report on the Expert Group Meeting [http://www.kija.at/images/stories/aktuelles/tagung\\_herausgerissen\\_2012.pdf](http://www.kija.at/images/stories/aktuelles/tagung_herausgerissen_2012.pdf)).

#### A brief overview of relevant activities at province level:

##### Upper Austria:

On 1 January 2009, a quality assurance guideline for socio-pedagogical institutions was adopted. It defines standards for care services, personnel employed, infrastructure and documentation. This guideline serves as a basis for approval procedures for institutions and regular professional inspection by the Youth Welfare Office of Upper Austria.

These institutions’ compliance with the guidelines is checked by comprehensive professional inspections performed without prior notice at least every two years. Any complaint about deficiencies in the care provided in these socio-pedagogical institutions is verified without delay by the Youth Welfare Office in the context of a professional inspection performed in response to such a complaint.

A number of child protection centres that are open to all children, young people and adults were established. The most important objective pursued by these centres is to prevent and end any form of violence as well as to mitigate the consequences of such violence against children and young people.

##### Salzburg

Against the background of disclosed cases of violence against young people in youth welfare facilities and taking account of the UN Convention on the Rights of the Child, a specific provision for the protection of children and young people was included in the recently adopted the 2015 Child and Youth Welfare Act for the Province of Salzburg according to which children and young people who live in socio-educational youth welfare facilities are entitled to assistance by an external person of trust.

Vorarlberg:

The Province of Vorarlberg set up a specialised body on the prevention of violence and established a fund for projects aimed at preventing violence and endowed with 70,000 euros.

The incidents that occurred in the former “educational establishment” *Jagdberg* are currently being evaluated. By adopting the Child and Youth Welfare Act and the core services regulation based on this Act, Vorarlberg defined new professional standards which also contain new (“stricter”) provisions for the supervision of children and young people who are accommodated out of home.

## Item 12:

Cooperation with NGOs is particularly close in fighting violence against women. Funding provided to institutions, facilities and projects dealing with violence totalled 4,945,747 euros in 2014. Special mention is to be made of

- the Women’s Helpline against Male Violence operated by the *Verein Autonome Österreichische Frauenhäuser* (AÖF, Austrian Women’s Shelter Network), free of charge within Austria offers professional counselling 24/7, anonymous and free of charge, 365 days a year, also in Arabic, English, Bosnian-Croatian-Serbian, Romanian, Spanish and Turkish,
- the information centre against violence operated by the AÖF,
- women’s service centres, counselling facilities for women and girls, emergency hotlines as well women’s shelters/emergency flats.

Support for women affected by violence is provided by numerous facilities that offer both legal and practical help. English-language information on the violence protection centres/intervention centres, the 24-hour women’s emergency helpline operated by the City of Vienna and the Viennese women’s shelters as well as a (non-exhaustive) list of relevant facilities is available at [https://www.bmbf.gv.at/enfr/women/violence\\_against\\_women/aid\\_facilities.html](https://www.bmbf.gv.at/enfr/women/violence_against_women/aid_facilities.html). In 2014 the national network of violence protection centres (including the Vienna-based intervention centre) offered support, counselling and protection to a total of 16,634 persons (+2.31% or +376 persons compared with 2013). In total there are six such emergency helplines for women in Austria.

The fem:HELP app for Android mobile phones and iPhones, available in Bosnian/Croatian/Serbian, Turkish and English since November 2013, is designed for women in emergency situations in Austria. The user-friendly app enables quick connection with help facilities (including the emergency hotline for those with impaired hearing) and police emergency hotlines. Experiences of violence can be documented in a pin code protected area. The app was developed in close cooperation with experts from women’s facilities.

Very pertinent activities are being launched in the context of the campaign “*GewaltFREI leben*” (Living FREE of Violence), which focuses especially on sensitising the general public and relevant professional groups to the topic. In the context of this campaign, chief medical staff at hospitals are advised on the implementation of violence protection measures, and a handbook on handling cases of domestic violence directed at hospital staff is being prepared.

In this connection attention should again be drawn to the National Action Plan (NAP) on the Protection of Women against Violence that was mentioned earlier. It is the first comprehensive action plan to tackle violence against women and also implements the Council of Europe's Istanbul Convention. (please also refer to <https://www.bmbf.gv.at/frauen/gewalt/nap.html>, in German only).

**Item 13:**

Formal identification of victims of trafficking in human beings is performed by the police and in particular the Central Office for Combating People Smuggling and Human Trafficking and the specialised investigation units in the federal provinces which report to it. The guidelines for conducting criminal investigations also cover human trafficking. A National Referral Mechanism for child victims is currently being finalised.

At the end of 2013, the men's health centre MEN was established as a pilot project with the support of the Federal Ministry for Labour, Social Affairs and Consumer Protection. The centre provides specialised care services for male victims of human trafficking and has already supported a number of victims since the beginning of 2014. MEN strives to achieve a similarly comprehensive set of care services as provided by the non-governmental organisation LEFÖ-IBF, which deals with female victims of trafficking.

Furthermore, the drop-in centre for undocumented employees UNDOK, operated by an association of Trade Unions (GBH, GPA-djp, PRO\_GE, vida), the Austrian Chamber of Labour (AK), the Austrian National Student Union (ÖH), NGOs such as LEFÖ-IBF, self-organized migrant organisations and anti-racist activists, was established in 2014. Persons working in Austria without a residence and/or work permit who are not paid the agreed wage or disadvantaged by their employers in any other way are provided with basic counselling about labour law, right of residence and social security matters. Assistance with administrative procedures is also provided.

No cases of child victims of prostitution who were treated as offenders and incurred administrative fines have been reported in Austria. However, there have been cases where administrative fines were imposed on adult individuals for infringing laws on prostitution, who later turned out to be victims of human trafficking.

Fighting child trafficking and sexual exploitation of children are the two priorities dealt with by the national coordination body "*Task Force on Human Trafficking*". Its working group on child trafficking is currently working on expanding the range of publicly available information material for government and non-government institutions.

As Austria is both target and transit country for human traffickers, the *Regional Implementation Initiative for Preventing and Fighting Human Trafficking* was launched in 2010. The publicly funded initiative focuses not only on cross-border cooperation in all relevant areas – with special attention being paid to labour exploitation and the consideration of the gender perspective, but also on cooperation with all relevant players/stakeholders (police, victim protection facilities, NGOs, IOs and the judiciary).

**Item 14:**

14.1. Professional, independent and free legal counselling services are available from the start of any proceedings when the *prima vista* analysis performed by the asylum authorities with respect to individual cases might potentially be unfavourable. In line with Austrian law, such asylum seekers are in any case provided with free legal advice during the initial admission procedure and the appeals procedure. After admission, asylum seekers are provided with legal counsellors upon request.

Unaccompanied minors or minors separated from their families are assisted during the entire procedure by legal representatives. The legal representative must *inter alia* be present during any hearing.

Since July 2015, the scope of legal advice provided has been expanded by way of example insofar as legal counsellors have to participate in court hearings.

Austrian asylum law defines minimum quality criteria for legal counsellors.

14.2. The Youth Welfare Office is the legal representative of unaccompanied minor asylum seekers as well as unaccompanied minor migrants against whom a procedure to end their irregular stay has been started. For measures ordered by the Immigration Police such as detention and deportation procedures, please see Annex 8. The *ex officio* legal representation ends when the respective asylum seeker or irregular migrant reaches the legal age of majority, i.e. at 18.

**Item 15:**

In general, family reunifications are possible for nuclear families, married or registered partners of recognized refugees and beneficiaries of subsidiary protection. The Austrian legal situation is fully in line with EU legislation.

The number of asylum-related family reunifications per year is constantly rising: from 548 in 2011; to 895 in both 2012 and 2013; 1,939 in 2014, and to 3,048 during the first six months of 2015.

**Item 16:**

Detention of persons pending deportation is ordered only as a last resort. The strict application of the principle of proportionality and the fact that an increasing number of people now returns home voluntarily have led to a constant decrease in the number of detainees (see Annex 8).

The average duration of detention in 2014 amounted to 13.45 calendar days. Families with children and unaccompanied minors are generally not detained, the detention of minors under the age of 14 is prohibited by law.

According to Austrian law, the proportionality of the detention has to be checked every four weeks for each individual case. If the grounds for detention are no longer valid or the maximum duration of detention (i.e. two months for minors above the age of 14, four months for adults with a possible extension up to 10 months within 18

months ) has expired or deportation is not permissible or possible, the person concerned is released immediately.

If a person cannot be deported due to factual or legal obstacles, he or she is allowed to stay in Austria temporarily ("*Duldung*"). This temporary stay is generally limited to one year, but may also be prolonged or lead to the granting of a humanitarian residence permit.

Austrian authorities are well aware of the legal and humanitarian problems involved in detention while awaiting deportation. Following the successful re-organisation of the system of detention pending deportation, persons awaiting deportation are now being separated from criminal prisoners, stay exclusively in special detention facilities and an "*open door regime*" is being applied there.

In January 2014 the new detention centre in *Vordernberg*, built according to state-of-the-art international standards, became operational. This detention centre is used for migration-related detention only and has a capacity of 200 persons.

#### **Item 17:**

Amendments to the Law on the Recognition of Islamic Religious Communities became necessary as social realities in Austria have changed completely over the last hundred years or more. When the law was originally adopted in 1912, Austria was the first European country to officially recognize Islam as a religion. Today, approximately 570,000 Muslims live in Austria and make up about 7% of the total population. Muslims are the second largest religious group in Austria, after Christians. The original Islam Law no longer lived up to modern legal and societal expectations. It was the express wish of the Islamic Community in Austria (IGGiÖ) that a new legal basis be created, and the Islamic Community (IGGiÖ) was comprehensively involved in all phases of the development process, which took about three years (2012 – 2015). The Islamic Alevi Community supported the draft law and all of its content from the beginning; the Islamic Community (IGGiÖ) consented after numerous negotiations. The new Islam Law was thus adopted by the Austrian Parliament on 25 February 2015.

The reform followed the model of the laws on other religious communities in Austria. The new law explicitly stipulates that Islamic religious communities are free in belief and teaching and have the right to manifest their religion in public (see Article 2 para. 1). It defines their rights and obligations, in the same manner as for all the other 14 religious societies in Austria.

It was the wish of the Islamic Community (IGGiÖ) to strengthen its organisational structure and to dissolve associations who claim to speak in the name of Islam but do not comply with the official faith as represented by the IGGiÖ. Just as no association outside the Catholic Church can claim to speak on behalf of Catholicism [as was confirmed by the Austrian Constitutional Court], no association outside the IGGiÖ can claim to speak on behalf of the IGGiÖ. However, this rule does not impede diversity among Islamic communities – if the statutes of an Islamic association include a faith-based denomination which is not covered by the IGGiÖ, the association can continue to exist.

All new religious communities who want to be registered as a new legal religious society must differ in their teachings from already existing ones. In order to be able to

examine compliance with this provision, the teachings of all communities have to be available and explained. For registration as a state-registered religious denominational community the religious communities must provide an outline of both their teachings and their principle sources of faith in the German language.

With regard to the issue of receiving funds from abroad, the law highlights that one-time donations from outside Austria are still allowed. Only the “ongoing, daily conduct” of a religious community must be financed from within Austria. This is based on the principle of ability of self-sufficiency with regard to financial aspects that must be observed by each registered religious community.

#### **Item 18:**

18.1. The amendment to the Civilian Service Act of 1991 facilitated access to alternative civilian service by eliminating the examination of conscientious objection. Following this amendment, alternative civilian service became more attractive and easier to access. Young men who choose to perform alternative civilian service, are not subject to Military Criminal Law and Disciplinary Law, do not have to wear uniforms and most importantly do not have to live in barracks. In order to address these advantages compared with military service, the Austrian legislature extended the duration of alternative civilian service compared with the length of conscript military service.

Military and civilian service are mandatory public services in line with Article 9a of the Federal Constitutional Law. This service is based on compulsory military service – regardless of the fact that the activity performed by the person doing civilian service is not a military one. The difference in terms of length between basic military service and civilian service (service time of 6 and 9 months respectively) must be considered from a holistic perspective taking account of the level of exertion involved in the two services and – according to the supreme courts – does thus not violate the principle of equality.

18.2. Austria is State Party to the Convention on the Rights of the Child as well as to its Optional Protocol on the involvement of children in armed conflict. Article 9, Article 41 para. 2 and Article 57 of the Defence Act 2001 (*Wehrgesetz 2001*) comply fully with the requirements set out by this Convention. It is possible in Austria, however, to join the army voluntarily at the age of 17, provided certain conditions are met. According to Article 9 in conjunction with Article 57 of the Defence Act 2001, a 17-year-old has to act of his own accord and requires the written consent of a parent or legal guardian to be able to join the army. The idea behind this rule is to provide young men, who have successfully completed their apprenticeship or education at the age of 17, with the opportunity to join the army. Most employers consider the completion of the mandatory military service or the substitute civilian service as a necessary prerequisite for offering a job. The Austrian Federal Army, however, does not actively advertise this opportunity and does not promote the recruitment of under 18-year-olds in any way.

**Item 19:**

On the federal level, a wide range of legislative and organisational measures have been taken over the past two decades to assist persons with disabilities as much as possible in the voting process.

In Austria, the necessary requirements are in place to enable voters with disabilities (including blind or visually impaired people) to vote without assistance. If people with disabilities need assistance when casting their vote, they are entitled to designate a person of trust to help them. This person does not act as a proxy but merely supports the actual voter in exercising his/her voting right. The competent electoral board has to be informed about this accompanying person.

Each municipality should have at least one barrier-free polling station. Stations are regularly equipped with special guiding systems for blind or visually impaired voters. If blind or visually impaired voters wish, they can get a ballot paper template when casting a vote and receive instructions on the contesting parties and candidates from the polling officer. The template is made of cardboard, contains holes and has to match the design of the actual ballot paper. No Braille inscriptions are currently being used on federal election templates as the number of people who know Braille is constantly decreasing.

So-called “flying election commissions” are set up for voters who are bed-ridden or otherwise (physically) unable to leave their homes or the facilities they are staying at (e.g. elderly people, people in hospitals, prisoners).

**Item 20:**

In line with general Austrian national practice, reports by State parties prepared with respect to international law human rights instruments are drawn up exclusively by governmental bodies. Human rights coordinators at the Federal Ministries and at the Provincial Government Offices play a pivotal role in this process. This approach thus differs from the preparations for the Universal Periodic Review, which are conducted as a transparent process involving civil society.

This fifth Periodic Report of the State party is the result of close consultations between the federal ministries and the federal provinces. Following submission to the UN Human Rights Committee it will be made accessible both in German and English on the website of the Federal Chancellery. Publication of these answers to the questions set out in the List of Issues on the Federal Chancellery’s website is also envisaged.

The Public Prosecutor’s Office and the Ombud for Equal Treatment were explicitly informed of the preparations and invited to provide information on relevant activities for the purpose of presenting them accordingly.

For the sake of completeness it must be stated that civil society is involved in the dissemination and implementation of international recommendations. In the context of the UPR process and the drawing-up of the NAP on Human Rights, relevant recommendations made by international bodies are discussed in a systematic dialogue with civil society. Where appropriate, there are also thematic dialogues.