



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

**Information provided by the Government of Austria on
the implementation of the concluding observations of the
Committee on the Elimination of Racial Discrimination
(CERD/C/AUT/CO/17)***

[19 August 2009]

* 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.

Information provided by the Republic of Austria in the course of the follow-up process in connection with the review on 7 and 8 August 2008 of its fifteenth, sixteenth and seventeenth periodic reports under the International Convention on the Elimination of all Forms of Racial Discrimination

1. Following consideration of the fifteenth, sixteenth and seventeenth periodic reports of Austria, the Committee on the Elimination of Racial Discrimination asked Austria to present, within one year, additional information on the implementation of the recommendations contained in its concluding observations in paragraphs 14, 17 and 23.

2. In this connection, the Republic of Austria submits the following information.

Concerning the recommendation pursuant to paragraph 14

3. The Constitutional Court's ruling of 13 December 2001 set aside parts of the Ethnic Groups Act (*Volksgruppengesetz*), the Slovene Topography Ordinance (*Topographieverordnung*) and the ordinance of the Völkermarkt District Authority. The rescission became effective after 31 December 2002. As a result, Article 7 para. 3 of the State Treaty of Vienna was directly applicable since 1 January 2003 in the entire political district of Völkermarkt - which has the highest Slovene-speaking share of the population. With a view to legal security, Austria has made the following considerable efforts since 2002 to solve open questions.

4. Already during the XXIst legislative period a consensus conference was set up on 25 April 2002 in order to find a solution acceptable to all those representing the interests concerned. In the XXIInd legislative period, these efforts were understood according to the Government Programme as a "solution of the municipal signs issue in the sense of the accord offered to the autochthonous ethnic group reached during the consensus conference at the Federal Chancellery between the parties in the regional parliament and the National Council"; these efforts were continued, but unfortunately could not be brought to a successful conclusion. The consensus conference was subsequently replaced by less media-effective direct political talks especially with the communities concerned.

5. With the Topography Ordinance for Carinthia, Federal Law Gazette II no. 245/2006, the 1977 Topography Ordinance became ineffective. Due to the accord reached so far, however, only the municipalities included in the 1977 regulation plus two further municipalities laid down in the rulings issued in the meantime by the Constitutional Court (thus a total of 94 municipalities) were included in the new Topography Ordinance for Carinthia.

6. The Topography Ordinance for Carinthia, Fed. Law Gazette II no. 263/2006, comprising 142 municipalities, will enter into force as soon as this is provided for by federal constitutional law.

7. On 4 July 2007, a federal law amending the Ethnic Groups Act, was introduced into the National Council as an initiative (263/A XXIII.GP); it could not be determined in the XXIIIrd

legislative period anymore.

8. In its Government Programme, the Federal Government stated among others for the XXIVth legislative period (2008 until 2013) that the regulation for implementing the Constitutional Court's rulings regarding place name signs, is to be secured by constitutional law on the basis of the highest possible consensus with the autochthonous ethnic groups and existing proposals. This is the current process.

Concerning the recommendation pursuant to paragraph 17

9. First, the Republic of Austria would like to point out in general that the abuses known to the Committee are exceptions, which we regret. Austria's 27,000 police officers perform several million official acts each year. The number of complaints is extremely low; even if the "non-reporting" issue is certainly also being discussed in Austria, it must on the other hand, be stressed that all those involved are constantly being informed and made aware of the delicacy of this issue:

10. Police officers become active on the basis of clearly defined legal orders, with all officers always trying to comply with these orders in a totally unbiased manner. This certainly includes avoiding any discrimination on the ground of sex, colour, national or ethnic origin, religion or political views, in particular ill-treatment.

11. The Austrian police (Office for Internal Issues (*Büro für interne Angelegenheiten*)) examines each individual complaint about an abuse in the required objective manner, informing the competent independent authorities and courts thereof. It also reports to the independent Human Rights Advisory Council (*Menschenrechtsberat*), which reviews on a regular basis police activities in the light of safeguarding human rights, and – on the basis of its work – makes suggestions for an improvement. The examination of the complaints about an abuse by the Office of Internal Issues and the Public Prosecutors is accompanied by the commissions of the Human Rights Advisory Council, which are especially considering the issue of creating structures for safeguarding human rights, if necessary.

12. Especially during the last decade there have been successful efforts on the part of the federal ministers and top public officials to prevent from the outset any form of abuse by the police. These efforts range from comprehensive tolerance training during basic and further education to operational training where the human rights issue is certainly a relevant aspect.

13. Detention pending deportation is currently exclusively being carried out at police detention centers of the federal police authorities. Very high demands are being put on the police detention system especially in this field.

14. Considerable efforts have been made in recent years to improve the quality of detentions on remand – which have a purely safeguarding effect without a penal character – and to create adequate standards. One should mention here, in particular, the establishment 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 center, available to accommodate

certain detainees awaiting deportation, where detention pending deportation can be implemented in a setting with greater freedom.

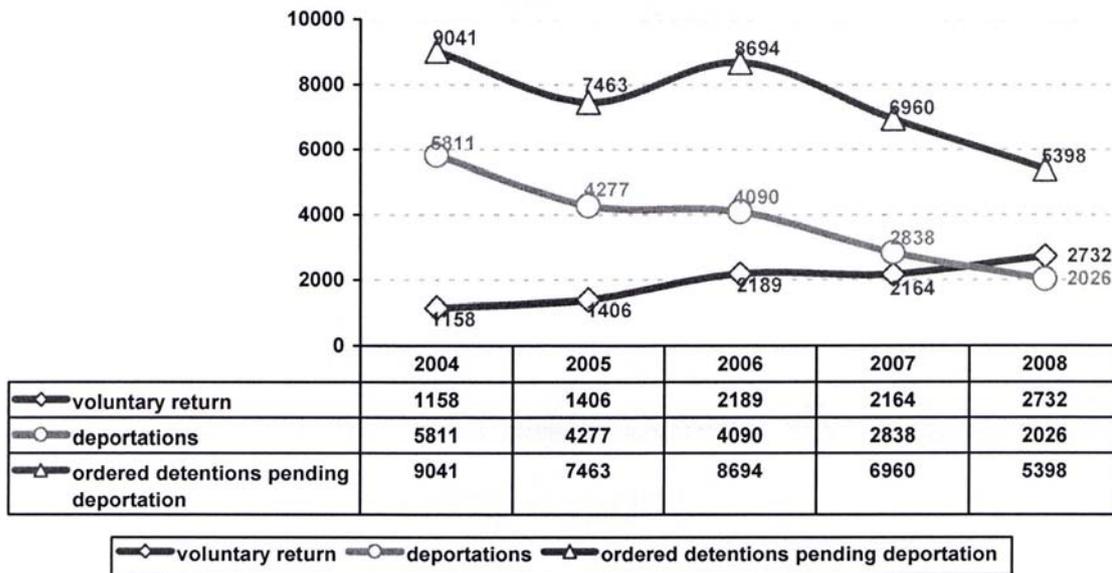
15. The Federal Ministry of the Interior and its various subordinate service units make every effort to continue, with efficiency and effectiveness, the improvement of detention conditions, within the framework of available financial, staff and technical resources. For example, in the years 2006 to 2008 EUR 1,045,000.00 were spent only on building improvements at Austrian police detention centers. It was possible to achieve major improvements in the enforcement of detention by the ongoing implementation of several “open stations” (police detention centers at Linz, Salzburg, Innsbruck, Bludenz, Graz, Eisenstadt, Klagenfurt, Villach, Wels, and Vienna/Women’s Section).

16. An “open station” was built at the police detention center Vienna-Herjalsger Gurtel for 50 male detainees awaiting deportation. The work was completed in June 2009 (expenditure: about EUR 150, 00.00).

17. It ought to be pointed out, in particular, that it is planned to set up a modern center for third-country nationals who will be returned to their home countries in order to meet national and international standards and guidelines for enforcing deprivations of liberty by the aliens’ police in the best possible manner.

18. 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 with “Dublin relevance” – is admissible only if there is really a need for detention in a specific individual case. This is evident from the figures and their development from 2004 to 2008, which after an initial increase, show a clearly downward trend.

19. The following comparison concerning orders for detention pending deportation, deportations and voluntary return to the respective home countries may be presented to the Committee for information.



20. 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).

Concerning the recommendation pursuant to paragraph 23

21. A National Action Plan for Integration is currently being prepared under the overall control of the Federal Ministry of the Interior. In this respect, the Republic of Austria considers the variety of its people an enrichment without failing to realise inherent challenges. The plan is to permit for the first time a strategic steering of all activities of integration policy by the federal ministries, state, city and local administrations and social partners. At the same time, it is intended to safeguard the continuity of the Government's previous integration initiatives. The Action Plan is being prepared and will be implemented in cooperation with the federal ministries, state, city and local administrations and social partners. The active involvement of civil society organisations is also an important factor.

22. The National Action Plan is based on an introductory paper prepared by the Federal Ministry of the Interior. The presentation of problematic issues and possible solutions in the field of integration is based on expert reports and consultations of the integration platform, the data contained in the Statistical Yearbook for Migration and Integration as well as on the consensus paper on integration measures by the Chamber of Workers, Caritas, Diakonie, the Trade Union Federation (*Gewerkschaftsbund*), Hilfswerk, Association of Industrialists (*Industriellenvereinigung*), the Austrian Agricultural Chamber, the Red Cross, the Economic Chamber and Volkshilfe.

23. A steering group consisting of representatives of the federal ministries, state, city and local administrations and social partners meets once a month for the preparation of the National Action Plan. The problematic issue defined in the introductory paper are considered during expert talks. Civil society organisations are also invited to formulate concrete proposals for adequate measures. It is intended to adopt the National Action Plan for Integration in the autumn of 2009. Information on the progress of the preparation process is available on the specifically established homepage <http://www.integration.at/>.

Equal Treatment Act and Ombudsman's Office for Equal Treatment

24. We would like to recall that comprehensive measures have been taken in Austria for the implementation of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Anti-Racism Directive), reference being made in particular to the Equal Treatment Act (*Gleichbehandlungsgesetz*) and the Federal Law on the Equal Treatment Commission and the Equal Treatment Ombudsman's Office (*Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft*).

25. The Equal Treatment Ombudsman's Office also deal with complaints aimed at the implementation of the right to equal treatment irrespective of ethnic origin regarding access to goods and services. The personnel resources of the Equal Treatment Ombudsman's Office were extended during the last year.

26. Between August 2008 and the end of December 2008 a total of 42 requests were recorded by the competent ombudswoman for equal treatment, concerning anti-racism with regard to goods and services (54 requests were received in the comparable period from August 2007 to December 2007). It can generally be said that during the last two years the number of requests in this field have largely been the same. It can be observed, however, that the requests, which were rather of a general nature when the Equal Treatment Ombudsman's Office started work, are becoming increasingly specific. This indicates a much stronger legal awareness of those concerned and can be regarded as proof of an effective implementation of the Austrian equal treatment law.

27. The Equal treatment Ombudsman's Office published a comprehensive brochure in June 2009 providing information on protection against discrimination (enclosure), considering in particular the issue of racism in connection with goods and services.

28. In addition, the Equal treatment Ombudsman's Office issues a newsletter several times a year, providing information on relevant legal questions, successfully completed or highly interesting cases in which it has given advice, schedules and further important equal treatment issues. More detailed information is available under:
http://www.gleichbehandlungsanwaltschaft.at/site/cob_35842/6464/default.aspx

29. To mark the 30th anniversary of the Equal Treatment Act for Women and Men and the 5th anniversary of the Equal Treatment Act relating to other grounds (for example ethnic origin), the Equal treatment Ombudsman's Office will organise an expert meeting for interested persons and stakeholders already in December 2009.

Special measures by the Vienna city administration

30. The city administration of Vienna, which has the highest share of non-Austrian citizens throughout Austria, has been pursuing an integration-oriented policy of diversity for several years. Numerous measures are oriented towards the need for a changing and further developing city administration. Special attention is given to the question to what extent the offers and services of the city of Vienna are equally accessible to all Viennese citizens irrespective of their origin and to what extent the needs and living situation of people with a migration background requires an adjustment (strategy of integration-oriented diversity management).

31. As service provider and employer, the city of Vienna pursues two major aims:

- Equal quality of services for all Viennese citizens; intercultural competence in providing services;
- Equal opportunities when commencing an employment relationship and for further development within the Vienna city administration; raising the number of employees of the city administration with a migration background.

32. The responsibilities for this new orientation were defined and the necessary structures created in 2004. For that purpose, diversity orientation was regarded as a cross-sectional task concerning all spheres of business, department and service units. Moreover, a new department for integration and diversity issues was established within the organisational structure, which is not only in charge of integration measures but also supports the Vienna city administration in this development as service provider and centre of competence.

33. Since then, intensive efforts have been made towards a diversity-oriented administration. First relevant interim results going beyond individual departments and relevant measures for the entire city administration are as follows:

- Vienna presents itself as an employer which particularly welcomes applications by persons with a migration background;
- Communication within the city administration: articles in newspaper for employees, video clips on employees with a migration background in the intranet;
- Seminars for employees to promote intercultural competence;
- Creating a voluntary subject on “intercultural education” at the vocational school of the City of Vienna;
- Providing more information and data: adapting the “personal sheet” for employment by the city; possibility to record the language abilities of employees in the electronic personnel register VIPER;

- Including job-specific diversity objectives in the contract of all departments of the directorate for integration, women's issues, consumer protection and personnel;
- Establishing a working group for "diversity" in the directorate for health and social affairs;
- "Vienna speaks many languages" (*Wien spricht viele Sprachen*): web presentation of the city of Vienna on www.wien.at with information provided in Serbian/Bosnian/Croatian, Turkish and English.
