



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to submission of the sixth periodic report of Austria\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the recommendations contained in the Committee's concluding observations on the fifth periodic report of the State party,<sup>1</sup> including statistical data, and report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's concluding observations. Recalling the Committee's most recent concluding observations (para. 8),<sup>2</sup> please provide information on the mechanisms in place for the implementation of the Committee's Views under the first Optional Protocol to the Covenant, in accordance with the right to an effective remedy, including compensation, and provide information about any measures taken to raise awareness of the complaint procedure under the Optional Protocol.

#### B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Please provide information regarding the measures taken to give full effect to the provisions of the Covenant in domestic law and on the implementation of the Covenant across the State party, including at the federal and provincial levels. Please describe the steps taken to raise awareness of the Covenant among judges, prosecutors, lawyers and the general public. Please provide examples of cases in which the provisions of the Covenant have been invoked or applied by national courts.

3. In the light of the Committee's most recent concluding observations (para. 10), please indicate what measures have been taken by the State party to enable the Austrian Ombudsman Board to discharge its functions fully and effectively and in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by: (a) ensuring that the process for the selection and appointment of its members is sufficiently broad and guarantees full transparency and political independence; (b) guaranteeing pluralism and diversity in its membership and staff

\* Adopted by the Committee at its 141st session (1–23 July 2024).

<sup>1</sup> CCPR/C/AUT/CO/5.

<sup>2</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's concluding observations on the fifth periodic report of the State party (CCPR/C/AUT/CO/5).



composition; and (c) enhancing and formalizing its working relationships and cooperation with civil society organizations and human rights defenders.

#### **Non-discrimination (arts. 2, 19, 20 and 26)**

4. Recalling the most recent concluding observations of the Committee (paras. 11, 12, 17 and 18), please provide information about: (a) the legislative and other measures taken during the reporting period to prevent and combat discrimination on the basis of race, sex, religion or belief, age, disability, ethnicity, nationality, political or other opinion and/or sexual orientation and gender identity; (b) any efforts made to strengthen its relevant legislative framework, including the Equal Treatment Act and relevant provincial laws, to protect against discrimination on all the grounds enumerated in the Covenant, in the private and public sectors, including with regard to access to social protection, social benefits and education and access to and the provision of goods and services, including housing; and (c) the measures taken to ensure affordable and effective access to justice and remedies for victims of discrimination.

5. In connection with the Committee's most recent concluding observations (paras. 15 and 16), please describe the measures taken during the reporting period to curb hate speech and combat acts or advocacy of racial or religious hatred by public officials, political figures, media outlets and private individuals. Please indicate any efforts taken to adopt a national action plan against racism and to establish a comprehensive and systematic data collection system on instances of hate speech and hate-motivated violence.

6. In the light of the Committee's most recent concluding observations (paras. 19 and 20) and the evaluation of the information on follow-up to the concluding observations on the report of the State party,<sup>3</sup> please provide information on the efforts undertaken to prevent and combat racial profiling and police misconduct on the basis of physical appearance, colour or ethnic or national origin. Please indicate: (a) the steps taken to clearly prohibit, in law, racial profiling by the police; (b) whether any racial sensitivity training has been provided to law enforcement officials; and (c) the measures taken to ensure that law enforcement officials are held accountable for offences against persons belonging to racial, national or ethnic minority groups, including statistical data on the number of investigations carried out, and prosecutions and convictions handed down during the reporting period for cases of racial profiling or police misconduct.

#### **Gender equality (arts. 3 and 26)**

7. Please describe the measures taken to achieve the equitable representation of women in the public and private sectors, including in political decision-making positions and in managerial positions. Please also provide information on the steps taken to narrow the gender pay gap and to address stereotypes and bias concerning the social and family roles of women and men. Please provide information on equal opportunities between men and women in the service industry and the health sector and any targeted measures taken to prevent, mitigate and/or remedy any gender disparities.

#### **Violence against women and domestic violence (arts. 2, 3, 6, 7 and 26)**

8. Please describe the legislative and other measures taken by the State party, including information on the specific impact of the Protection against Violence Law and the Inter-Ministerial Working Group on the Protection of Women against Violence, in preventing and combating all forms of gender-based violence against women and girls, including domestic and sexual violence, and punishing the perpetrators. In this regard, please report on steps taken: (a) to encourage reporting by victims of violence against women, including by combating social stigma and increasing access to justice for victims; and (b) to ensure adequate funding for victim support services and the availability of shelters throughout the country, especially for victims of domestic violence and their children. Please provide disaggregated data on the number of complaints, investigations, prosecutions and convictions, including the penalties imposed, during the reporting period.

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<sup>3</sup> CCPR/C/125/2/Add.1.

**Voluntary termination of pregnancy and sexual and reproductive rights (arts. 6, 7 and 8)**

9. Please report on any measures taken during the reporting period to facilitate access to adequate and affordable sexual and reproductive health services for all, in particular women and adolescents. Please describe in particular the efforts made by the State party: (a) to fully decriminalize abortion and ensure adequate access to safe and legal abortion services, especially in rural areas; and (b) to provide education and awareness-raising programmes, especially youth-friendly programmes, on sexual and reproductive health. Please provide information on efforts taken to ensure the effective prohibition of sterilizations, as set out in section 255 of the Civil Code, in particular of women and girls with disabilities, and to ensure that accessible information about sterilization procedures and the protocols and comprehensive guidelines are in place for hospitals and care facilities to provide accessible counselling on sterilization and its implications.

**Children with variations of sex characteristics (intersex children) (arts. 7, 9, 17, 24 and 26)**

10. Please describe the legislative and other measures taken to prohibit medically unnecessary surgery and other procedures on intersex children until they have reached an age at which they are able to give their free and informed consent for such procedures. Please indicate the status of: (a) the draft law introduced in 2021, which seeks to provide legal protection to intersex children and adolescents against medically unnecessary treatment; and (b) the development of data on surgery and other treatments on intersex children, as stipulated in the motion for a resolution 1594/A(E) on the protection of intersex children and adolescents from medically unnecessary treatment of their sexual characteristics made by the parliamentary Equal Treatment Committee, adopted in 2021. Please also provide information on the steps taken to provide equal access to justice and redress, including adequate compensation and rehabilitation for victims.

**Climate change and the right to life (art. 6)**

11. In the light of the Committee's general comment No. 36 (2018) on the right to life (para. 62), please provide information on efforts to prevent and mitigate the effects of climate change and environmental degradation, including on the right to life, and on efforts to promote the sustainable use of natural resources. Please also share any information regarding measures taken to adopt a precautionary approach in order to protect persons, including those who are in the most vulnerable situations, in particular children and older persons, from the negative impact of climate change and natural disasters.

**Treatment of persons deprived of their liberty (arts. 2, 7 and 10)**

12. In the light of the Committee's most recent concluding observations (paras. 22 and 24) and the evaluation of the information on follow-up to the concluding observations on the report of the State party,<sup>4</sup> please describe the measures taken to collect and make public statistics on the number and nature of reported incidents of torture and ill-treatment in police custody, and provide updated statistical data on the number of reported allegations of torture and ill-treatment of detainees, disaggregated by the age, gender and ethnic origin of victims, and on the number of convictions and, if found guilty, the sentences or sanctions imposed on the perpetrators. Please also indicate the efforts made during the reporting period to improve prison conditions and ensure access to adequate medical and mental health care in places of detention and correctional institutions, including for persons with intellectual or psychosocial disabilities and older persons in correctional institutions. In this regard, describe the steps taken: (a) to increase the number of health-care staff in correctional settings; and (b) to strengthen the training provided to prison staff, including medical staff.

<sup>4</sup> Ibid.

### **Excessive use of force (arts. 6, 7, 10 and 21)**

13. Please provide information on the State party's legal framework on the use of force by law enforcement officials, including during demonstrations, and whether the relevant laws are aligned with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. Please provide information on the number of complaints received, investigations carried out and prosecutions and convictions handed down during the reporting period concerning excessive use of force by law enforcement officials, and indicate whether the State party has taken steps to establish an independent police oversight body, as approved by Parliament, to receive and investigate allegations of excessive use of force by law enforcement and security forces.

### **Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)**

14. With reference to the Committee's most recent concluding observations (paras. 25 and 26), please report on measures taken during the reporting period to combat trafficking in persons and in particular the measures taken: (a) to improve the identification and effective protection of victims of labour exploitation and groups in vulnerable situations, including children, asylum-seekers and seasonal migrant workers; (b) to establish a comprehensive nationwide identification and referral system, reporting also on the implementation and impact of the activities of the national referral mechanism on identifying and working with potential victims of child trafficking; and (c) to provide protection, rehabilitation, reparation and reintegration services to victims. Please also indicate the efforts made to establish a coherent data collection system on trafficking in persons and provide statistics for the period under review on the number of complaints of trafficking in persons received and the number of investigations conducted and their outcome, including the sentences handed down to the perpetrators.

### **Treatment of aliens, including migrants, refugees, asylum-seekers and stateless persons (arts. 7, 9, 12, 13 and 24)**

15. Please report on the measures taken to ensure that all persons applying for international protection in the State party have access to fair and efficient asylum procedures, protection against refoulement and an appeal mechanism with suspensive effect against negative decisions on asylum. In that regard, please describe the compatibility of the Austria Plan with the provisions of the Covenant, especially as it pertains to proposals: (a) to establish asylum centres in third countries; and (b) to transfer foreign convicted offenders to serve their sentences in third countries.

16. In view of the Committee's most recent concluding observations (paras. 27 and 28), please provide information on the steps taken during the reporting period to prevent and address the disappearances of unaccompanied asylum-seeking children, including by adopting federal provisions ensuring immediate guardianship for such minors upon their arrival. In that regard, please report on the status and content of the current legislative proposal by the Ministry of Justice. Please provide information about measures taken to prevent and address statelessness within the State party, including information about efforts made to retrospectively identify and register individuals who were not registered at birth. In addition, please respond to information received that, despite cases of children being born stateless in the country, no child has been naturalized under the provisions of the Austrian Nationality Act of 2022, which provides for such children to acquire citizenship when they are adults.

17. In the light of the Committee's most recent concluding observations (paras. 29 and 30) and the evaluation of the information on follow-up to the concluding observations on the report of the State party,<sup>5</sup> please describe the measures taken to review the detention policy of the State party with regard to children between 14 and 17 years of age to ensure that children are not deprived of their liberty except as a measure of last resort and for the shortest possible period of time. Please provide updated statistical information on the number of

<sup>5</sup> Ibid.

individuals, including unaccompanied minors, held in pre-deportation detention during the reporting period, also indicating the length of detention as well.

#### **Independence of the judiciary and the right to fair trial (arts. 2 and 14)**

18. Please report on: (a) the measures taken to guarantee, in law and in practice, the full independence, impartiality and competence of judges, including information on the current procedures and criteria for the selection, appointment, promotion, suspension, disciplining and removal of judges, in particular with regard to the most senior judges and prosecutors; (b) the rules for the promotion of judges and prosecutors; and (c) the safeguards against undue interference with the judiciary.

#### **Right to privacy (art. 17)**

19. Please provide information about the legislative and other measures in place to uphold the right to privacy within the State party, including details of the regulatory framework governing the collection, storage, use and retention of personal data, by both government and non-State actors. Please indicate the legal safeguards applied to the surveillance regime in the State party, in particular as regards the use of drones and facial recognition technology by law enforcement officials and new electronic surveillance system for individuals on conditional release from prison, as stipulated under amendments of the Counter-Terrorism Act. Please provide information on any independent mechanisms to oversee such personal data and surveillance and whether such oversight is applied in a non-discriminatory manner.

#### **Freedom of conscience and religious belief (arts. 2, 18 and 26)**

20. With reference to the Committee's most recent concluding observations (paras. 31 and 32), please provide information on steps that have been taken to uphold freedom of conscience and religious belief within the State party. In this regard, please report on the progress made in ensuring that the legislative framework, including the amendments of 2015 to the Law on the Recognition of Islamic Religious Communities, does not impose restrictions on the rights to freedom of religion and association that are contrary to the Covenant. Please describe how independent and effective oversight of the registration of religious organizations is ensured, and respond to information received about religious minorities facing barriers in their legitimate claim for legal recognition and restrictions on access to financial resources.

21. Recalling the Committee's most recent concluding observations (para. 34), please report on the measures taken to provide all conscientious objectors with an alternative to military service that is not punitive or discriminatory in terms of its nature, cost or duration. Please clarify whether the State party intends: (a) to revise article 1 (2) of the Civilian Service Act establishing a time limit on the submission of applications for recognition of a conscientious objector status; (b) to amend the legal framework to allow for serving members of the armed forces to apply for early release for reasons of conscience; and (c) to raise the minimum age for voluntary recruitment into the military to 18 years of age.

#### **Freedom of expression (arts. 19 and 20)**

22. Please report on the legislative and other measures taken by the State party to promote and protect the right to freedom of opinion and expression, and discuss the measures taken to protect human rights defenders and journalists against any form of surveillance, intimidation, harassment or verbal and physical attacks, to investigate effectively all allegations of such violence and to provide victims with effective remedies. Please respond to reports of an increase in the number of attacks on press freedom and strategic litigation against public participation suits against journalists and human rights activists. Please provide information on the Freedom of Information Act passed in January 2024 and its compatibility with the provisions of the Covenant.

#### **Right of peaceful assembly (art. 21)**

23. Please describe the State party's existing legislation on the right of peaceful assembly, and its compatibility with article 21 of the Covenant and the Committee's general comment

No. 37 (2020) on the right of peaceful assembly, and all measures taken by the State party to ensure the right of peaceful assembly. Please provide information covering the reporting period on: (a) any protests that have not been allowed or that have been dispersed, in particular pro-Palestinian protests, including the details of the legal basis; (b) the detention of and judicial proceedings brought against protesters; and (c) any complaints received in relation to the disproportionate use of force by law enforcement officials during protests.

**Participation in public life (art. 25)**

24. Please describe the measures taken: (a) to facilitate the exercise of electoral rights by all without discrimination; (b) to ensure full accessibility and comprehensive support for all persons with disabilities; and (c) to provide to voters information about elections and the voting process in accessible formats. Please also indicate what steps are being taken to empower individuals with disabilities and persons belonging to national or ethnic minority groups, as well as Roma persons, to participate in political and public life, including in the legislative and executive bodies.

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