



**United Nations Human Rights Council
Universal Periodic Review: Austria**

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About ICAAD

ICAAD combats structural discrimination and promotes human rights norms consistent with public international law. Structural discrimination refers to systems of inequality that provide a social, political, cultural, or economic advantage to a dominant group while furthering barriers of exclusion that make marginalized communities more susceptible to violence and indignity. Structural discrimination is often operationally reliant on unresolved vestiges of direct discrimination in past eras, and may include direct discrimination in the law. By leveraging partnerships, ICAAD brings together passionate multidisciplinary teams of lawyers, data scientists, and design strategists to improve access to justice for women, girls, and other vulnerable groups while strengthening the capacity of civil society.

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Executive Summary

Despite the presumptions that come with its status as a developed Western European state, Austria has been criticized over its weak implementation of measures to reduce sexual and gender based violence against women and increase the protection of minorities and their rights. One of these is the implementation of a national action plan, the quantifiable effects of which have been difficult to measure. Austria has also created legislative protections for ethnic minorities like the Slovenians in the country's South, but has similarly been criticized for lack of implementation – even in the face of federal court decisions. Meanwhile, the status of the Roma people in Austria is concerning in regards to acceptance, access to language, and the preservation of culture. A variety minorities, ethnic and religious, report hate crimes and xenophobic attacks.

Drawing on ICAAD's research, this submission highlights issues of structural discrimination that impact Austria's women and minorities. The research examines Austria's compliance with its international human rights obligations, and follows up on the implementation of recommendations accepted during the last Universal Periodic Review; covering: women in the labor market, violence against women and domestic violence generally, racism and xenophobia, the status of the country's Slovenian minority, and the rights of Roma people in Austria.

I. Women's Rights Issues

A. Women in the Labor Market

1. Systemic Discrimination

(1) In 2010, Austria created a National Action Plan for the advancement of women. However, in its first Universal Periodic Review (January 2011), multiple states (e.g., from Colombia, Cuba, Trinidad & Tobago, Algeria, the Republic of Korea, Bosnia & Herzegovina, and Mexico)¹ issued recommendations specifically drawing attention to the gender disparity in workplaces nationwide. Austria accepted these recommendations.

2. State Response

(2) In 2010, with the stated aim of advancing the place of women nationally, Austria created a so-called National Action Plan on Gender Equality in the Labor Market.² Austria has also created quotas for state-owned and partially state-owned companies, requiring a certain percentage of board members are women. For companies that are at least 50% federally owned, at least a quarter of appointed board members must be women.³ Austria has also created a quota for civil service workplaces, requiring that one half of staff be women.⁴ Austria states that between 2012 and 2014, it spent 15 million euro annually in expanding access to childcare in a bid to improve conditions for working mothers.⁵

3. Remaining Challenges

(3) The National Action Plan on Gender Equality in the Labor Market is a welcome development. However, the fact that Austria had to answer multiple recommendations from states representing a wide

variety of political systems and geographic locations *after* creating the National Action Plan indicates some trouble with implementation of the 55 concrete measures outlined in the 2010 Plan.

4. Recommendations

(4) Austria must align its policies and practices with its obligations under CEDAW, to which it is a party, and in pursuance of its own policies regarding the status of women. Concretely, Austria should publish data relating to the increased, or not, presence of women in workplaces around the country. CEDAW Article 2 contains plenty of starting-point recommendations Austria may consider in this campaign.

(5) If any particular region or municipality is in violation of, for example, the quota systems for women, the federal government should correct this through the court system. Austria should continue its commendable awareness of the difficulties women generally and working mothers and minorities in particular face in career advancement.

B. Violence Against Women

1. Systematic Discrimination

(6) Violence against women, particularly in the context of domestic violence, is a well-documented problem in Austria. According to Women Against Violence Europe's 2012 Country Report:

The first national prevalence of violence survey conducted in Austria in 2011 indicated that the majority of women in Austria suffer from psychological violence, sexual harassment and physical violence. Furthermore, nearly 30% of women have experienced sexual violence. Domestic violence and intimate partner violence are also common in Austria as 29.1%, 10.7% and 44.6% of women suffer from physical, sexual and psychological violence from their intimate partners, while 25.2%, 2.7% and 37.2% suffer from violence committed against them by other relatives.⁶

(7) Austria accepted recommendations from Switzerland and Canada in particular calling for better enforcement of its domestic violence laws. Canada's recommendation called on Austria to strengthen its efforts to prevent and sanction domestic violence.⁷

2. State Response

(8) Austria, which has ratified CEDAW, claims to have a "strong legal framework" in place to combat domestic violence, founded in the Second Federal Act of the Protection Against Violence in the Family.⁸ Meanwhile, the Criminal Code contains sections allowing a court to issue restraining orders to abusive partners (e.g., § 107b).

(9) Law enforcement officers also undergo required trainings and "awareness-raising" measures related to domestic violence, trafficking, and other issues disproportionately affecting women. In the same vein, new judges undergo two-week trainings within domestic violence intervention facilities or shelters for victims.⁹

(10) In July 2013, Austria ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CAHVIO).¹⁰ One material consequence of this is the

presence of domestic violence desks at public prosecutors' offices. There is also a national women's help line that operates 24/7 and is funded by the Ministry of Women's Affairs.

3. Remaining Challenges

(11) Austria's "strong legal framework" would be greatly bolstered by better data collection. While there is plenty of literature on statutes and other policies in place, Austria has provided little information in the way of concrete numbers on the increase or decrease of incidences of sexual and gender based violence; or other indicia that would provide a useful framework to fully understanding how women's access to justice and ability to seek redress is being improved.

4. Recommendation

(12) Austria should prove the effectiveness of its policies by publishing concrete data, and identify problem areas with implementation. One special area of concern is victim intake. Austria should take measures to ensure the presence of women in police stations and prosecutors' offices is a safe space in which they can file complaints. While the legislative measures are commendable, Austria must prioritize the pre-prosecution process so that victims of domestic violence are aware of the resources available to them and are incentivized to report such violence. Another area of concern is a need for psychological counseling and support services. Echoing the Council of Europe's Taskforce Recommendations, there is a need for additional women's shelters.¹¹ The number of shelters (30) falls short of what is required to adequately address the need according to the Wave-Network.

II. Minority Rights Issues

A. Xenophobia

1. Systematic Discrimination

(13) Austria does not do enough to collect and/or report disaggregated data on racist, xenophobic, or otherwise discriminatory acts or incidents, according to a rejected recommendation from Brazil,¹² and a nearly identical, but accepted, recommendation from the Russian Federation.¹³ Roma, Turkish, Muslim, and Jewish minorities collectively reported over 100 hate crimes to police in 2013, but xenophobic incidents often go unreported.¹⁴

(14) Austria has been criticized by recommending States for its apparently lax treatment of neo-Nazi and other ultra-right and xenophobic incidents targeting members of minority groups.¹⁵ At the UPR, multiple recommending states (for example Indonesia and the Russian Federation) noted Austria's failure to censure public figures who have incited to violence on ethnic or national grounds.¹⁶ Meanwhile, Israel called on Austria to draft or amend national legislation treating incitement to hatred and attacks against all minority groups.¹⁷ A recommendation from Pakistan referred to a "tendency" among Austrian political figures to target and stigmatize ethnic minorities.¹⁸

2. State Response

(15) On follow-up, Austria noted a litany of laws purporting to combat xenophobia and public manifestations of xenophobia. For example, Criminal Code § 283 was amended following the first UPR in order to create a two-year prison penalty for incitement to hatred on ethnic grounds (Federal Law Gazette Vol. I No. 103/2011). The punishment is applied to “whoever publicly stirs up hatred or slanders” a protected group “in a manner violating human dignity.”

(16) Meanwhile, the Federal Office for the Protection of the Constitution and Counter Terrorism keeps records of criminal convictions held to have been committed on racist or xenophobic motives. These are published in the Federal Agency for State Protection and Counter Terrorism’s annual report.¹⁹ Finally, a National Action Plan on Integration (NAP-I) is claimed to contain measures “to combat racism and xenophobia.”²⁰

3. Remaining Challenges

(17) One Austrian NGO, the Initiative Human Rights Now (IHRN), stated on follow-up that Austria has taken “no action” on racism and xenophobia and, worse, that the NAP-I actually “omits” the issue of racism and xenophobia.²¹

4. Recommendations

(18) Austria must come into compliance with its obligations under CERD, to which it is a party, by ensuring that, in addition to writing laws criminalizing racist and xenophobic acts like incitement to hatred, those laws are strictly enforced. CERD Article 2 states as much.²² This goes without saying for xenophobic acts of violence. Austria should also amend its existing legislation to explicitly address racism and xenophobia, if it claims that such laws are written to “combat” racism and xenophobia. There should also be trainings and “awareness-raising” for law enforcement and community relations programs implemented.

(19) In order come into compliance with CERD Article 5(b), Austria must put on paper, in the form of federal legislation, its intent to protect the rights of minorities from bias attacks.²³

B. Status of Slovenians

1. Systematic Discrimination

(20) The Carinthian Slovenes are an indigenous Slovenian-speaking group in the southern state of Carinthia. Their status is guaranteed, in principle, by the Constitution of Austria. However, much of the protections Austria purports to offer seem incomplete. Their community leaders complain of funding levels for cultural institutions that are essentially nominal in nature. Another recommendation called on Austria to increase state funding for Carinthian Slovene cultural institutions to 1995 levels in real terms.²⁴ Slovenia and the United States both called on Austria to come into compliance with a ruling by the Constitutional Court of Austria to improve the status of Carinthian Slovenes.²⁵

2. State Response

(21) Austria claims to be in compliance with the Constitutional Court ruling, pointing to 2011 amendments to the Ethnic Group Act.²⁶ Like other issues raised at the UPR, Austria has provided limited evidence of how these laws have been implemented and its impact on the Slovenian population.

3. Remaining Challenges

(22) The Austrian Centre for Ethnic Groups (ACEG) is clear that recommendations calling for improvements to the treatment of the Carinthian Slovenes have not been realized.²⁷ In fact, ACEG states that the amendments to the Ethnic Group Act are actually just a revision of wording from the 1955 Treaty of Vienna.²⁸

4. Recommendations

(23) Austria must bring its policies and practices in line with its obligations under CERD, especially Article 5(b), by condemning violence and incitement to violence, and by ordering municipal authorities to comply with the national court ruling regarding the status of Slovenes in the Carinthia province.²⁹

(24) Austria must also take steps to align its treatment of the Carinthian Slovenes with ICCPR Article 27, which guarantees minorities' rights to enjoy their culture and language.³⁰

C. Status of Roma, Sinti, and Travellers (RSC)

1. Systematic Discrimination:

(25) Roma, Sinti, and Travellers (RSC) in Austria face the same problems as in other areas of Europe – direct discrimination in employment and other spheres, as well as trouble integrating generally. They are also often the target of hate or xenophobic violence. One recommending State notes Austria's failure to “ensure the full respect of the rights of migrants and minorities including the Roma” including by strengthening criminalization, investigation, and prosecution of acts of racial intolerance and xenophobia.³¹

(26) Austria rejected a recommendation by Ecuador that it “guarantee Roma children the right to education in their own language and in a relevant way to their own culture.”³²

2. State Response

(27) On follow-up, Austria again points to administrative details without giving any concrete statistics or other information relating to the status of RSC people in Austria. For example, Austria states that it submitted a report to the ILO entitled *Roma in Austria – An EU Framework for National Roma Integration Strategies up to 2020* in 2012.³³

3. Remaining Challenges

(28) The IHRN notes “some changes” in Roma policy.³⁴ However, Austria has given no information indicating that anything has been done to improve the status of RSC people in Austria.

4. Recommendation

(29) Like all other issues discussed in this report, Austria should demonstrate concretely the material effects of purported changes to legislation, especially in light of its obligations under CERD and the ICCPR as highlighted in other sections of this report. If minority rights have been “implemented,” as Austria claims, it should show this to be true.³⁵

¹ See *Austria*, MID-TERM IMPLEMENTATION ASSESSMENT (UPR-Info, Geneva, Switz.), Nov. 4, 2013, at 51-61.

² See BUNDESKANZLERAMT OSTERREICH, BUNDESMINISTERIN FÜR FRAUEN ÖFFENTLICHEN DIENST, NATIONAL ACTION PLAN: GENDER EQUALITY IN THE LABOUR MARKET (2010)

³ UPR-Info, *supra* note 1, at 57.

⁴ *Id.* at 56.

⁵ *Id.*

⁶ Women Against Violence Europe, Country Report: Violence against women and migrant and minority women – 2012, p. 36, available at <http://www.wave-network.org/sites/default/files/06%20AUSTRIA%20END%20VERSION.pdf>.

⁷ UPR-Info, *supra* note 1, at 58.

⁸ Federal Law Gazette Vol. I No. 40/2009.

⁹ UPR-Info, *supra* note 1, at 53.

¹⁰ *Id.*

¹¹ Women Against Violence Europe, Country Report 2013, p. 39, available at <http://www.wave-network.org/sites/default/files/02%20Austria.pdf>

¹² UPR-Info, *supra* note 1, at 65.

¹³ *Id.* at 15.

¹⁴ See OSCE ODIHR Hate Crime Reporting 2013, available at <http://hatecrime.osce.org/austria>.

¹⁵ See, e.g., *id.* at 50.

¹⁶ See, e.g., *id.* at 10 (“Take further resolute action to deal with the problems of reported instances of hate speech by politicians, targeting migrants, asylum-seekers, refugees, and persons of African origin in a comprehensive manner.”)

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 10.

¹⁹ *Id.* at 26.

²⁰ *Id.* at 15.

²¹ UPR-Info, *supra* note 1, at 28.

²² International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195 [hereinafter *CERD*], Article 2(1)(b) (“Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”).

²³ *Id.*, Article 5(b) (“In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour [sic], or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:” for example, “The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;”).

²⁴ *Id.* at 39.

²⁵ UPR-Info, *supra* note 1, at 20.

²⁶ Austria Federal Law Gazette Vol. I No. 46/2011.

²⁷ UPR-Info, *supra* note 1, at 29.

²⁸ *Id.*

²⁹ *Supra* note 20.

³⁰ International Convention on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 117 [hereinafter *ICCPR*], Article 27.

³¹ UPR-Info, *supra* note 1, at 31.

³² *Id.* at 39.

³³ *Id.* at 33.

³⁴ *Id.* at 39.

³⁵ UPR-Info, *supra* note 1, at 33