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The Permanent Mission of Austria to the Office of the United Nations and its Specialized Agencies in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, Anti Discrimination Unit, and has the honor to transmit the Austrian responses to the questionnaire prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to Decision PC.1/10 of the Preparatory Committee of the Durban Review Conference at its First Session (A/62/375).

The Permanent Mission of Austria avails itself the opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 12 March 2008

Office of the United Nations  
High Commissioner for Human Rights  
Anti-Discrimination Unit  
United Nations Office at Geneva  
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**Preparatory Committee of the Durban Review Conference;  
Austrian Responses to Questionnaire**

**1. Can you assess the implementation of the Durban Declaration and Programme of Action in your country?**

The Austrian government, together with authorities at the regional level (*Bundesländer*), has undertaken concerted efforts in order to implement the Durban Declaration and Programme of Action in recent years.

In 2004 and 2006, a new legislative framework in the field of non-discrimination was introduced. The Act on the Equal Treatment Commission and the Ombudspersons' Office for Equal Treatment (*Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft*) was passed; the Equal Treatment Act (*Gleichbehandlungsgesetz*) and the Federal Equal Treatment Act (*Bundes-Gleichbehandlungsgesetz*) were amended. The Act on Equal Treatment for Persons with Disabilities (*Behindertengleichstellungsgesetz*) was passed, and the Act on the Employment of Persons with Disabilities (*Behinderteneinstellungsgesetz*) was amended. As a result of these changes, the protection hitherto afforded against gender discrimination is now also applied to discrimination on grounds of ethnic origin, religion and ideology, sexual orientation, disability, and age. These legislative changes are in line with EU Council Directive 2000/43/EC and EU Council Directive 200/78/EC.

In particular in the context of the EU Action Program on Combating Racism and Discrimination 2001-2006, numerous initiatives were taken to raise awareness of discrimination issues. Inter alia, key personnel of the Ministries of the Economy and Labour, of Justice and of the Interior received awareness-raising training; police forces were given comprehensive sensitization training on interaction with persons and groups from diverse ethnic and cultural backgrounds; and the measures in the field of tolerance and human rights education in schools were further intensified.

**2. Can you assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance as well as initiatives in this regard with a view of to eliminating them in your country?**

Austria gathers information on all forms of discrimination, including racist, xenophobic and related intolerance in the country in various ways. The Austrian government cooperates closely with the EU-Fundamental Rights Agency (FRA) as well as its predecessor, the EU Monitoring Centre on Racism and Xenophobia (EUMC), in particular regarding racial violence and issues of legislation, education, housing and employment related to racial discrimination. Austria regularly submits comprehensive information and contributes to the funding of the FRA. The Ministry of the Justice and the Ministry of the Interior collect data on national socialist activities as defined in the National Socialist Prohibition Act and on the crime of Incitement according to s. 283 of the Penal Code. The Austrian authorities monitor closely the information collected, and adapt the efforts to combat discrimination and intolerance to the needs thereby identified.

Due to its geographical location, Austria is a country of destination and transit for victims of human trafficking. Austria has signed and ratified all relevant international legal instruments to combat human trafficking. In order to coordinate and intensify national efforts to combat human trafficking, a multidisciplinary committee called “Task Force against Trafficking” was set up by decision of the Council of Ministers in 2004, which includes not only government representatives, but also external experts and NGOs. In March 2007 the Council of Ministers adopted the National Action Plan against human trafficking, which contains specific measures regarding coordination, prevention, victim protection and compensation, prosecution, international cooperation, data collection, monitoring and evaluation.

**3. Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action.**

The Advisory Board for Human Rights is an independent body responsible for monitoring, from a human rights perspective, the activities of the security authorities, of authorities otherwise subordinate to the Federal Minister of the Interior, as well as of agencies authorized to apply immediate powers of command and coercive powers. Commissions of experts support the Board by undertaking on the spot visits in places of detention of persons and at large-scale police activities. The Board works analytically to identify possible structural deficits, and submits recommendations to the Federal Minister of the Interior. Such recommendations have been issued on discriminating use of language, large-scale police operations, hunger strikes by persons detained prior to deportation, border-surveillance posts, and pre-deportation detainees in prisons. In response to the recommendation on avoiding racist expressions, the Federal Minister of the Interior issued a decree in 2002 concerning the use of appropriate language by law-enforcement officers.

In the field of employment, further legislative measures have been taken to combat discrimination: In defining pay criteria, in-company classification schemes and collective labour law regulations have to take due account of the principle of equal pay for equal work or work of equal value, and may not set out separate criteria that could lead to discrimination. Moreover, job vacancy announcements must not include any discriminatory criteria.

In October 2007, the Austrian government launched the process of an “Integration Platform” which is coordinated by the Ministry of the Interior. As a starting point, a number of experts undertook studies assessing of the status of integration in eight core fields (basic values and rights, education and language, employment and economics, security, housing, municipalities, participation, culture and media), which were published in January 2008. At the same time, public debate was initiated by a series of consultations launched by the Minister of the Interior including representatives of civil society, religious communities, municipalities and social partners. In addition, an interactive website was set up ([www.integration.at](http://www.integration.at)) to further encourage public debate, and an information campaign, including public events and exhibitions, will be initiated in spring 2008. This process will result in a comprehensive report with recommendations to be published in summer 2008.

One of the major aims of the Austrian education system is the promotion of values and principles of justice, equality and non-discrimination, democracy, fairness and friendship, tolerance and respect. The Federal Ministry of Education, Arts and Culture, in co-operation

with NGOs and international partners, implements a wide range of measures and initiatives aimed at combating and eliminating manifestations of racism in education. These measures focus on citizenship and human rights education on the national and local level in order to encourage citizens to take a stand against racism, as illustrated in school curricula and in the education principle of “citizenship education”. In 2001 the Federal Ministry for Education launched a nation-wide project on “National Socialism and the Holocaust – Remembrance and the Present” to encourage and support teachers in promoting classroom initiatives and projects to foster the long-term engagement of Austrian pupils with combating National Socialism, anti-Semitism and xenophobia. The Ministry of Education encourages schools to develop educational activities, both curricular and non-curricular, to raise awareness against racism, and offers teaching and learning material and free trainings in this field to teachers.

In the military, officers and NCOs receive training aimed at promoting the development of their cognitive and affective competencies, so as to promote a positive approach towards persons of diverse cultural backgrounds and to develop inter-cultural skills. In addition, all military personnel assigned to foreign deployment undergo specific training on the culture and religion of the population in the deployment area. In 2008, the Federal Ministry of Defence will conduct a research project on „Military Service as an Integrative Factor“, in order to assess the status quo of inter-ethnic and inter-cultural relations in the Austrian military, and to propose adequate measures.

Access to public services in Austria must be provided in a non-discriminatory manner. Specific measures are taken to facilitate access to social services for people with migrant backgrounds, since they face a particularly high risk of poverty and social exclusion. Such measures include specific guidance by job market services for persons whose mother tongue is not German; offering opportunities to complete lower level secondary education; specific training courses to enhance migrants’ access to labour market segments requiring higher qualification; and programmes assisting in filing job applications. In addition, specific focus is placed on improving children’s language skills in order to enhance their school performance. Most recently, two new measures have been introduced for children who do not speak German, early language tutorials at kindergarten and language tutorials at elementary schools. In the forthcoming National Report on Strategies for Social Protection and Social Inclusion 2008-2010, the Austrian Government will focus in particular on the social situation of people with migrant backgrounds.

As regards civil law provisions, legislative changes in 2004 established a new procedural and institutional framework for discrimination cases. The Equal Treatment Act prohibits inter alia any form of direct and indirect discrimination on grounds of ethnic origin or religion in connection with an employment relationship, and in other areas such as social protection, including social security and health services, social benefits, education, access to and provision of goods and services that are available to the public, including housing. The sanctions provided are compensation for the pecuniary damage, i.e. positive damage and loss of profit, the obligation to establish a situation free of discrimination and compensation for the intangible damage of having suffered a personal impairment. The new Act allows for the participation of NGOs in court proceedings on discrimination cases as third parties.

Under the 2004 Equal Treatment Act, the Equal Treatment Commission, which had hitherto only dealt with cases of gender discrimination, was tasked to deal also with cases of discrimination on grounds of ethnic origin, religion or ideology, age or sexual orientation in the working environment, and equal treatment without any distinction as to ethnic origin in

other fields. Individuals may, in addition or alternatively to court proceedings, file complaints before the Commission, which offers unbureaucratic access to extra-judicial conciliatory procedures conducted by specialists in the field of discrimination. The views issued by the Commission are legally non-binding, but courts in subsequent court proceedings that wish to deviate from the views of the Commission are obliged to motivate this decision. The Ombudspersons' Office for Equal Treatment, which offers free and confidential legal information and advice to victims of discrimination, was enlarged considerably in 2004. While up until then the Office consisted only of one Ombudsperson who dealt with gender discrimination cases, it now comprises three Ombudspersons. Each of them is specialised in one of the following fields: gender discrimination; discrimination on grounds of ethnicity, religion and ideology, age and sexual orientation in the working environment; discrimination on grounds of ethnicity in other fields.

A number of criminal law provisions pertain to the incitement to racial discrimination and racist acts: The criminal offence of incitement in s. 283 Penal Code prohibits the incitement to the commission of a hostile act against a church or religious community or against a group identified by belonging to a race, a nation, or an ethnic group. The National Socialist Prohibition Act prohibits activities inspired by National Socialism. Both offences are to be prosecuted ex officio. Furthermore, any criminal offence is aggravated when committed with racist or xenophobic intent (s. 33 (5) Penal Code). Discrimination on grounds of race constitutes an administrative offence under Art. IX of the Introductory Provisions to the Laws on Administrative Procedure.

**4. How would your Government assess the effectiveness of the existing Durban follow-up mechanism and other relevant United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them?**

Austria considers the Durban follow-up mechanism to be a valuable forum for advancing global efforts to combat racism and related forms of intolerance through the implementation of the Durban Declaration and Programme of Action. However, the current accumulation of procedures, working groups and ad hoc committees established under the umbrella of or in relation to the Durban Review process presents a clear risk of overlap and duplication. Moreover, the proliferation of mechanisms created within the framework of the United Nations Human Rights Council on a non-consensual basis may ultimately undermine the United Nations' efforts to effectively address racism and related forms of intolerance. Austria therefore suggests that emphasis be given on a focused and streamlined approach that operates on the principle of consensus in order to enhance effectiveness in combating racism and related forms of intolerance through the implementation of the DDPA. In order to generate synergies by drawing on already existing expertise, cooperation should be strengthened between the main fora preparing for the Durban review conference, in particular the Preparatory Committee, and the various other UN mechanisms existing in the field of racial discrimination and related forms of intolerance, in particular the UN special procedures.

**5. What are the steps taken by your Government to ratify and/or implement the International Convention on the Elimination of All Forms of Racial Discrimination and give proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination?**

When ratifying the International Convention on the Elimination of All Forms of Racial Discrimination in 1972, Austria adopted a special Constitutional Act in order to ensure the implementation of the Convention in Austrian law. This Federal Constitutional Act of 3 July 1973, implementing the International Convention on the Elimination of All Forms of Racial Discrimination, provides that any kind of discrimination on racial grounds is prohibited.

Austria takes the recommendations of the Committee carefully into account. As regards the most recent recommendations of 2002, the following examples can be given regarding their implementation: Pursuant to the Committee recommendation to enact a law affording general protection against racial discrimination, new legislation was adopted in 2004. In reply to concerns by the Committee about reports on incidents involving persons of a foreign origin or members of ethnic minorities, the Federal Minister of the Interior ordered, by way of decrees dated 10 November 2005 and March 2003, that the Public Prosecutor's Office and the Office for Internal Matters, set up as a separate department of the Federal Ministry of the Interior in order to provide oversight over all police personnel, must be informed immediately about all complaints relating to alleged ill-treatments by bodies of the public security services. This includes complaints regarding ill-treatment on racial grounds. Furthermore, the Security Academy of the Federal Ministry of the Interior, which provides training to police officers, included sensitization training on combating racism, xenophobia and anti-Semitism in its curricula. Pursuant to the concerns expressed by the Committee in 2002 regarding the basic care for asylum seekers, the 2005 Federal Basic Care and Maintenance Act was adopted, and an agreement between the federal government and the *Bundesländer* was concluded to ensure the necessary supply of services to needy asylum seekers.

**6. Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance in your country.**

Public authorities in Austria, both on the federal and the regional level, put a particular focus on anti-discrimination training for public agents. The formation programme for judges and prosecutors includes seminars on anti-racism and anti-discrimination training that has been extended in January 2008 to three days compulsory training for all trainees. The Federal Ministry of Justice organizes a wide range of optional seminars on issues like anti-discrimination and the effects of judicial decisions on asylum-seekers, which are highly popular. In 2007 the annual conference of the judiciary (*RichterInnenwoche*) was dedicated exclusively to human rights issues, including anti-discrimination. Since 2002, the Ministry of the Interior together with the NGO Anti-Defamation League have been organising compulsory training seminars for police officers regarding inter-cultural sensitisation under the heading "A World of Difference". Comprehensive annual training courses on intercultural police work are offered on a voluntary basis. In 2007, The Viennese police together with the city of Vienna have launched a pioneer project to encourage more people with migrant backgrounds to apply for jobs with the police. The campaign has received a highly positive response by migrant communities, and is likely to be extended to other parts of Austria.

The city of Vienna has promulgated the aim that the great diversity of the Viennese population should be reflected both in the break-down of recipients of municipal services and in the staff structure of the city's administrative authorities. In 2004, a new Municipal Department on Integration and Diversity Issues was set up as a centre of competence on integration and diversity issues in order to support the municipal administrative authorities in implementing that goal and has been highly successful as a centre of competence and an interface between migrants' organizations, NGOs and the City of Vienna.

A highly appreciated dialogue exists between public authorities and the main religious denominations in Austria, including the Islamic and Jewish communities. In particular the federal government and the governments of several *Bundesländer* and municipalities have been highly active in intensifying this dialogue.

In the context of the 2007 European Year of Equal Opportunities for All, Austria carried out a comprehensive information campaign addressing in particular discrimination on grounds of ethnic origin and religion which aimed at fostering tolerance among the population. As part of the campaign, Austrian authorities set up a website entitled “equal opportunities” ([www.chancen-gleichheit.at](http://www.chancen-gleichheit.at)), developed TV and radio spots, organised a public event, the “Day of Equality” in November 2007 in Vienna, and issued a brochure and flyer containing an overview of Austrian equality law and a list of contact addresses to turn to in cases of discrimination.