



Joint Submission

for the 23rd Session of the Universal Periodic Review

AUSTRIA

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Under the auspices of and coordinated by the
Austrian League for Human Rights

<http://liga.or.at>

This joint submission was drawn up by the Austrian NGO Platform on Human Rights, **human rights. now**, created for the purpose of the UPR in 2010. It consists of 270 NGOs, coordinated by the Austrian League for Human Rights. The report is supported by a further 100 organizations: overall roughly 370 organizations.¹

I. Summary

On its path to a „human rights democracy“² Austria may still unearth significant potential. Lacking a comprehensive human rights catalogue, international obligations can only be applied by courts selectively, as most provisions are subject to implementation provisos. The federal structure, which sets clear limits on the Federation’s legislative powers yet makes for very distinct application in the nine provinces, exacerbates the lack of coordinated and unified application. The human rights coordinators at both levels, who are assigned a vital implementation role, have too few structural and other resources to balance out the challenges. The lack of awareness of human rights obligations is particularly stark in those areas where little or no political gain may be yielded: interaction with marginalized groups, particularly asylum seekers, migrants, minorities, victims of violence but also the reform of prisons and large care institutions.

II. Background and Framework

A. Scope of international obligations

1. The ratification of CED, OP-CAT, and the Council of Europe Istanbul Convention, the withdrawal of the CRC reservations³ and the pledge to withdraw the CEDAW reservations are welcomed. The ratification of the following Conventions and Protocols is necessary:

- III. Optional Protocol CRC
- UN Convention for the Protection of All Persons from Enforced Disappearances*
- Convention on Cybercrime and Optional Protocol*
- Protocol 12 European Convention on Human Rights
- Convention on the Protection of Children Against Sexual Exploitation*
- Accept the jurisdiction of the Committee on Social Rights

B. Constitutional and legislative framework

2. There is still no comprehensive constitutional human rights catalogue. Seven of the 54 provisions of the CRC were adopted with qualified majority,⁴ further enacting legislation is lacking. A provision against torture⁵ and against enforced disappearances⁶ were introduced as well as a decree banning net-beds.⁷ In addition to most CRC provisions, CEDAW, CESCRC and CRPD – the latter save for Article 16/3⁸ and partially Article 33/2⁹ – are legally not fully implemented. There is no comprehensive protection against all forms of discrimination.

- Withdrawal of reservation for United Nations treaties
- Enactment of a comprehensive fundamental rights catalogue in the Constitution*
- National implementation of UN treaties in accordance with Art 50 (2) Constitutional Act*
- Revision and harmonization of anti-discrimination laws to ensure equal protection on all grounds of discrimination for all areas of life*

C. Institutional and human rights infrastructure

3. The competencies of the Austrian Ombudsman Board were extended to cover, among others, OP-CAT (NPM) as well as Art 16/3 CRPD, however, the Board still lacks A Status. The Board’s procedural requirement to waive the right to a court procedure (Section 148a Federal Constitutional Act) makes for insurmountable problems once a rights violation is established.

- Improvement of the Ombudsman Board’s mandate

→ Improvement of the transparency, political independence and criteria of appointment of Ombudsman

4. There are more than 50 bodies in charge of various human rights violations at Federal and Provincial level. Implementation gaps of human rights obligations are regularly justified with the federalist structures.¹⁰ The mandate, resources and institutional status of the human rights coordinators are inadequate.

→ Strengthening of equality bodies, clarification of competencies and provision of sustainable resources

→ Strengthening of the mandate, resources and institutional status of human rights coordinators

5. Several cities and regions have instigated anti-discrimination initiatives, also some cities, including Graz and Vienna, have declared themselves human rights cities and have foreseen selective measures.

6. The UPR Recommendations were partially implemented.¹¹ National Action Plans such as the Integration Action Plan still lack measures against racism,¹² a new Action Plan on the CRPD was not adequately coordinated with the provinces and lacks appropriate budgetary resources, the Action Plan on Protection Against Violence for Women was concluded in 2014. The current government's work program foresees a National Action Plan on Human Rights.¹³ The platform **human rights. now** emphasizes the necessity of a comprehensive plan based on a thorough analysis of the human rights situation and the need to go beyond existing recommendations. Financial assistance is based on subsidies and grants, which are subject to discretionary power and thus counteract sustainability of civil society work.

→ Elaboration of the National Action Plan (NAP) Human Rights based on OHCHR recommendations

→ Ensure financial resources for the implementation of the NAP Human Rights

→ Baseline study and realistic and measurable indicators for the NAP Human Rights

→ Transparent consultation of civil society in the elaboration of the NAP Human Rights

→ Formulation of specific projects based on international obligations, including all rights

→ Transparent documentation of overlaps with existing action plans

→ Improvement of the CRPD Action Plan with consultation of the provinces, heeding the CRPD Committee recommendations

7. Lack of financial support for civil society has significant impact on the quality of dialogue with governments – federal as well as provincial. Neither the State nor private donors have developed a culture of (financial) support for human rights advocacy. Discussions about an amendment of the Trust Law to strengthen charitable giving have thus far not yielded results. Since 2011 there is more regular and better engagement with civil society but falls short of a fully engaging process due to lack of resources. However, expectations are disconnected from resource considerations and thus crisis-prone. The federal government's commendable Rules of Engagement¹⁴ are implemented sparingly. A reasonable prospect for the discussion of the government's Second UPR was given.

→ Establishment of financial resources for civil society work based on international best-practice

→ Continuation and improvement of dialogue with civil society

→ Translation, dissemination and implementation of international recommendations*

→ Strengthening of public discourse about international human rights mechanisms*

III. Implementation of international human rights obligations

1. Equality and non-discrimination

8. Levelling-Up for all grounds of discrimination – ensuring equal protection against all forms of discrimination – has not been achieved in spite of considerable efforts;¹⁵ access to services can be limited on the grounds of religion, age, and sexual orientation. Public discourse on equality has narrowed to assimilatory hierarchical security focus, patriarchal patterns and stereotypes still dominate mainstream.¹⁶ Pledged measures against racism and Islamophobia¹⁷ are unfulfilled; the discourse on hate speech is narrowed down to militant religious phenomena, particularly Djihadism. Hate speech and the incitement of violence should also be punishable when they are directed against asylum seekers, refugees or foreigners as a general group. Persons lacking residency status who become victims of violence or who would require police assistance for another reason, refrain from so doing for fear of repercussions.

- Revision and harmonization of anti-discrimination laws to ensure equal protection on all grounds of discrimination for all areas of life*
- Measures against Islamophobia and structural racism (e.g. National Action Plan)*
- Specific measures against racism in the National Action Plan Integration as well as Human Rights
- Protection against Hate Speech for asylum seekers, refugees and foreigners
- Improvement of victim assistance in police work focused on anti-racism
- Measures against discrimination through structural measures such as enhanced diversity management

9. Welcoming the introduction of a women's quota for boards of public companies,¹⁸ such a measure would be urgently needed for political participation.¹⁹ A federally unified prohibition of sexist advertising as well as adequate sanctions would be necessary as well as measures to narrow the gender pay-gap in spite of a recent amendment.²⁰

- Increase financial resources for the implementation of NAP Gender Equality
- Increase of availability of high standard child care to improve reconciliation of work & family²¹
- Further measures to narrow the gender pay-gap
- Federally unified prohibition of discriminatory advertisement, including adequate sanctions and resources for implementation by an expert body

10. Protection against discrimination based on the Yogyakarta Principles for lesbian, bisexual and trans* women is wanting. Notably, access to reproductive measures has been improved as well as the right of adoption for gays and lesbians. The amendment of the hate crime provision covers “sexual orientation” but not “gender identity.”

- Implementation of the Yogyakarta Principles
- Addition of “gender identity” to the hate crime provision

11. Children without Austrian citizenship are systematically worse off, there are no unified standards for the treatment of unaccompanied minors. The inadequacy of the treatment is exacerbated because agencies receive only half of the funding of the juvenile welfare institutions.²² The usage of recognized minority languages as an official language is not guaranteed;²³ in spite of constitutional guarantees Austrian Sign Language is not offered in preschools nor systematically used in primary education. Rules for physical accessibility, particularly in the various Building Codes, are still implemented inadequately. The extension of the deadline to ensure accessibility of public buildings is highly problematic. The number of persons residing in care facilities is unknown, independent living and de-institutionalization are discussed at a superficial level, specific measures are limited to pilot-projects. The

provision waiving penalization of the abortion of a foetus suspected to be impaired until the commencement of labour is discriminatory.²⁴

- Unified treatment standards for unaccompanied minors
- Adjustment of the daily rates for unaccompanied minors
- Support for the use of minority languages as official languages
- Establishment and promotion of Austrian sign language as language of instruction*
- Increase of physical accessibility of public buildings by providing injunctive powers²⁵
- Implementation of the CRPD recommendation on discrimination in cases of abortion

12. There is alarming stigma around beggars and a criminalization by media and political discourse. Specific forms of begging such as „aggressive begging“ are prohibited in provincial laws for „security reasons“ and beggars are frequently penalized disproportionately.

- Repeal of the begging prohibitions and ensure effective human rights based measures against poverty*
- Ensure all human rights, particularly social, economic and cultural for beggars and economic migrants

2. Right to life, liberty and security of the person

13. The State's positive obligation to protect the right to life was affirmed by the Constitutional Court following the death of Umar Israilov in January 2009.²⁶ Reports about excessive use of force, particularly by police, are still frequent. The racial bias, discrimination and ill-treatment of ethnic minorities by the executive forces is repeatedly an issue.²⁷ The processing of allegations of ill-treatment is in huge need of improvement with regard to independence and transparency; the rehabilitation of victims is equally dire: e.g., Mr. Bakary J., who was tortured in 2006 waited more than five years for financial compensation as well as an official apology. Data about allegations of ill-treatment is also in stark need of improvement.²⁸

- Independent inquiry bodies for cases of police ill-treatment and adequate handling of cases of ill-treatment (including compensation)*
- Improvement of the processing of ill-treatment allegations with regard to accountability, efficiency, desegregated data and rehabilitation measures
- Ensure all allegations and reports of inhumane treatment and torture are investigated based on the standards set in the Istanbul Protocol
- Enhance efforts to make current use of ethnic & racial profiling visible to enable its discontinuation

14. Arbitrary and disrespectful interaction²⁹ by executive forces are frequently reported in spite of commendable efforts to provide human rights trainings. Particularly sex workers point to inadequate behaviour and choice of words. Beggars are subjected to harassment and degrading treatment by the police. An overhaul of the composition and accountability of decisions by disciplinary commissions could strengthen ongoing efforts.

- Continuation of training and advance training for executive forces with due regard to mid- and high-level management
- Measures to further the implementation of the Guideline Decree for Executive Forces³⁰
- Overhaul of the disciplinary proceedings, particularly their effectiveness in supporting human rights abiding officers

15. Requests to lodge a report about human trafficking with the police are regularly rejected or the necessary interpretation is denied. There is a lack of coordination among authorities

with regards to human trafficking, particularly related to forced labour, also there is no National Rapporteur on Human Trafficking.³¹ Persons without an established residence status have an ambivalent relationship with the police, consequently, there's a lack of trust to seek assistance, also in cases of human trafficking. The "mix-up" of prostitution and human trafficking by the police is a further point of criticism. There is a lack of basic data on child prostitution.³² The Istanbul Protocol³³ on Treatment of Torture Victims is not yet implemented.

- Training measures including the perspective of applicants by involving self-advocates
- Adequate resources to implement the NAP to Combat Human Trafficking and the appointment of a National Rapporteur on Human Trafficking
- Implementation of the Istanbul Protocol

16. The number of prisoners has increased dramatically, the conditions of detention are inadequate, particularly for juvenile offenders but also elderly and persons in need of care, the provision of alternative means of detention is slow in coming. The detention of persons with psycho-social or psychiatric impairment (preventive or forensic commitment) – often far – beyond the allotted jail-time requires urgent reform.³⁴ The number of persons detained in preventive/forensic commitment without a residency status is alarming.

- Measures to strengthen the principle of re-socialisation
- Improvement of alternatives to criminal detention
- Overhaul of preventive detention based on Article 14 CRPD
- Implementation of the recommendations of the Ministerial Working Group on Juvenile Detention
- Implementation of recommendations of the Ministerial Working Group Forensic Commitment
- Increase resources for human rights based detention

17. The registry of criminal convictions has 211 entries for persons who were convicted based on Section 209 Criminal Code for same sex intercourse with minors under the age of 18, which was abolished in 2002.

- Removal of all entries of Section 209 Criminal Code convictions

18. Resources for victims of violence for existing as well as additional institutions specifically for women as well as emergency services to ensure state-wide professional assistance and support are lacking. Furthermore, the provision of support services in native language is inadequate. The appropriate referral of victims by executive authorities as well as health institutions requires improvement, there is also a need for further training of personnel of these institutions. Protection measures combating violence against women is not implemented effectively and some measures are lacking, respectively,³⁵ e.g., access to women's shelters independent of legal status. Also, the NAP Gender Equality is financially inadequately resourced.

- Improvement of the financial resources to ensure the effective free-of-charge access to victim support for asylum seeking women, women without residence permit as well as women with disabilities
- Improvement of information for women who become victims of violence about the possibilities to receive an independent right to stay
- Resources for new women-specific support and treatment centers (specially for sexual violence) to ensure state-wide comprehensive support for women who are victims of violence
- Improvement of native language support for victims of violence
- Improvement of communication and referral competence of executive authorities and health institutions vis-à-vis women's shelters
- Further training measures for executive forces and health services on victim protection

3. Administration of justice and the rule of law

19. The long-standing call for reform of the administrative courts was heeded as of January 1, 2014. The Constitutional Court judgements regarding the recognition of towns with a 10% contingent of persons with linguistic minority are not implemented fully as the 2011 amendment only targets towns with a 17,5% contingent. Also, the amendment does not cover the province of Styria. Provisions of the 1955 State Treaty and the State Treaty of St. Germaine remain unfulfilled.³⁶

- Implementation of the 1955 State Treaty and the Constitutional Court judgements on minorities*
- Unification of the Ethnic minority rights based on the 2009 expert draft*

20. The provision against hate speech was expanded³⁷ but is still not comprehensive enough, among others “gender identity” is not covered. The low level of application – compared to other criminal provisions – is worrying. The narrowing of the discussion to militant religious group is highly troubling as it negates the wider challenges, particularly with regard to generally xenophobic aspects. The prohibition of hate crimes is inadequately regulated, the application is also comparatively low. Generally, racially motivated crimes are neither documented or punished as such inspite of a pertinent provision in the Criminal Code and a related recommendation.³⁸

- Improvement of the provision against hate crime and hate speech
- Improvement of the application of the provision against hate crime and hate speech

21. A few trials drew public attention due to their substantiation and proportionality: animal rights activists stood trial for more than a year for allegations of having conspired to form a criminal organization and were acquitted. Equally, a trial for alleged migrant smuggling - commercial assistance for the illegal entry exit and continued travel - was criticised for its (lack of) substantiation. The inadequate interpretation services of the trial were problematic, a generally frequent criticism of court proceedings.

- Repeal of Section 114 Alien Police Act - smuggling, if considered an offence should be an administrative charge
- Complete de-criminalization of flight assistance if illegal migrants prove grounds based on the Geneva Convention

22. The escalation of demonstrations³⁹ was the focus of a trial against German student Josef S.; again questions about the substantiation of the indictment, the role of the executive forces and the proportionality of the trial, were raised.

- Overhaul of the Breach of the Peace provision

23. Structural problems are compounded by a lack of judges, public prosecutors and administrative staff in the judiciary.⁴⁰ This also has repercussions for the handling of complex corporate crime cases with political implications. The slow progress of some of these cases as well as the publication of draft directives of the Ministry for Justice in cases, which also involved political leadership figures, have raised doubts about transparency standards as well as the implementation of rule of law principles and increase the appearance of fraudulent tendencies.⁴¹

- Measures to further strengthen the independence of the judiciary, restructuring and increase of resources also in the field of corporate crimes*

24. Professional and timely interpretation is essential for a fair trial. Access to justice is made difficult due to the – compared to other European States – very high court fees. The very low lump sum for attorneys' fees in case of acquittal (Section 393a Criminal Procedure Code) is particularly inadequate for longer trials, which can endanger the means of existence.

- Measures to ensure sufficient and qualified interpreters
- Lessening of court fees
- Increase of the lump sum for attorneys' fees

25. The continued violations of the rights of asylum seekers are exacerbated, among others, by the speeding of procedures. The accommodation of asylum seekers is particularly dire; resettlement is de facto unknown. The pressures and consequences of interviews for traumatized people are completely ignored, reasonable accommodation is not provided at the most basic levels. The Istanbul Protocol is yet to be applied. The assessment of the security situation in other countries is often questionable.

- Improvement of the procedural guarantees for asylum proceedings
- Measures for the adequate accommodation of the consequences of trauma on applications, communication, particularly interviews and process design

26. Appeal deadlines have generally been tweaked, particularly for economically marginalized persons the brevity amounts to an undue burden. The lack of expedited procedures for applications and decisions that endanger economic existence or burden persons with psycho-social impairments is problematic. There is no availability of legal aid in the first – evidence gathering – instance and there is a no possibility to add fact in the appeals procedure.

- Provision of legal aid in the first instance, right to independent legal counsel for administrative procedures
- Guarantee of independent legal counsel for asylum procedures
- Establishment of expedited trials for matters endangering economic existence or which are a potential burden for persons with psycho-social impairments

27. The self-governance of professional associations has disproportionate consequences. One case in the point is the restraint on trade caused by the lack of support of the Chamber of Commerce for an amendment of the Trade Regulation Code.

- Overhaul of the self-governance of professional associations
- Amendment of the Trade Regulation Code

28. In 2005 Austrian Sign Language was recognized in Article 8 Para. 3 Federal Constitutional Act. The long-standing request to implement measures such as language and culture promotion, protection of the minority from discrimination when using sign language and support of sign language as language of instruction are unfulfilled.

- Abolish the legal reservations of Article 8 Para. 3 Federal Constitutional Act and implement measures to promote the linguistic and cultural rights of persons who use Austrian sign language

29. Democratically problematic are the dramatic cuts to comment on draft laws, which regularly undercut the long-established time frame of six weeks. The aspiration for meaningful participation is counter-acted, suggestions are frequently disregarded.

- Application of the government's Standards of Public Participation

4. Right to privacy, marriage and family life

30. Reports of authority action with video taping as well as passing on of photographs and data by executive forces to the media, particularly from sex workers, are problematic.

- Repeal of the registration obligation at police and other authorities for sex workers
- Improvement of code of conduct application

31. The tension between security measures and the right to privacy and data protection, respectively is dealt with very superficially in public discourse, particularly with regard to sex workers.

- Upholding and increased regard for data protection and the right to privacy

32. Same-sex couples are still barred from marriage even though rules for adoption and reproductive medicine provide for broad equality.

- Rights for same-sex marriage according to international standards

5. Freedom of belief, expression, association and peaceful assembly, right to information

33. Religious oaths in various procedural laws⁴² counteract the protection of freedom of belief.⁴³ A non-religious oath necessitates the disclosure of the lack of affiliation to a religious community.

- Amendment of the pertinent procedural provisions currently requiring religious oath forms

34. The recently adopted Islam Law discriminates the Muslim Community compared to other religious groups. Particularly the reference to the precedence of Austrian law is superfluous but also amounts to bad faith given existing rules (Article 15 State Basic Law). Contrary to Christian religious groups there is no separate regulation for the Alevi Community, a move that is inexplicable given the example of Christian Communities.

- Amendment of the Islam Law

35. Financial subsidies for the press to ensure the freedom of expression of minorities are in need of up scaling. Reports about the threat of advertising cuts by political entities as well as corporations in response to critical coverage is worrying.⁴⁴ There are no rules for whistle-blowers and no culture for dealing with persons who convey confidential or otherwise protected information to the public.

- Improvement of the accuracy of financial subsidies for the press, particularly for minorities
- Rules for the protection of whistle-blowers
- Improvement of measures to promote civil courage

36. The self-governance of ethical minimum standards for press coverage has been improved formally by the renewal of the Press Council, the practice of the press continues to be questionable. The repeatedly instigated ethnicisation of crimes continues to be practiced and of late has targeted beggars. Noteworthy is a letter by the National Soccer Team, which states among others: "As representatives of a sport where fair-play, respect, reliability, justice, acknowledgement and team spirit are crucial criteria, as public persona and therewith role models for many – particularly young – people in our country we feel the responsibility to raise our voice and to vehemently demand truth, the protection of dignity and fairness in media coverage."⁴⁵

→ Improvement of measures to ensure human rights based coverage

37. Recently escalations at assemblies and protests were reported, occasionally the impression of criminalization of such events emerged. Long-standing demands have thus gained traction, e.g., the identification of executive servants through numbers. The repeated impression of interference of the work of media representatives is worrisome. The potential ban of assemblies as well as preventive limitations of assembly applications should be subject to expedited procedures.

→ Obligatory identification of executive forces by number

→ Overhaul of the code of conduct to ensure media coverage of assemblies

→ Establishment of expedited procedures for assembly applications

38. The right to information is unknown in Austria. The current rules enable government and administration to keep information – such as procurement for companies, politicians' expenses or arms trade deals – confidential. The lack of a remedy to access documents and data of public interest limits freedom of expression. 2013 Austria was found to violate Art 10/2 ECHR because a civil society organization was unlawfully barred from accessing information.⁴⁶

→ Pass a Freedom of Information Act based on international standards

39. Article 20 Federal Constitutional Act enshrines the public confidentiality clause, which obliges public officials to keep most information received in their function secret. The current draft of the Freedom of Information Act would not improve the situation significantly as it contains new, far-reaching confidentiality clauses. Furthermore, the draft does not provide for an Ombud for Freedom of Information who could ensure that citizens have easy, free-of-charge and timely access to public information they desire.

→ Revision of Article 20 Federal Constitutional Act to conform with Freedom of Information requirements

→ Establish an Ombud for Freedom of Information

6. Right to work and to just and favourable conditions of work

40. Access to affordable housing is increasingly difficult. In addition to a general lack of public housing, homeless and persons without residency as well as youth but also an increasing number of persons in precarious employment and frequently asylum seekers cannot afford adequate housing. A structural issue is the highly fragmented Tenant Act, reforms of which have failed due to pointlessness. The problems of securing housing are exacerbated by the improper use of public housing funds. The conditions for evictions are regulated differently in each province, the prevention of eviction is not stipulated in all provinces.

→ Measures to improve affordability of housing, particularly for marginalized persons

→ Amendment of the Tenant Act

→ Increase transparency of public housing funds and their management

→ Ensure eviction protection in all provinces

41. Social benefits, particularly needs-based minimum benefits⁴⁷ are calculated differently in the provinces, conditions and requirements as well as calculation forms and amounts thus exist in nine variations. Care allowance⁴⁸ has been cut, the initial level having been completely abolished, a value adjustment is long overdue.

→ Unified standards for social benefits, particularly needs-based minimum benefits

- Reinstatement of all care levels and value adjustment of care allowance
- Adjustment of the basic coverage for refugees to minimum benefit levels

42. Past practice shows that a state-wide unified standard for the needs-based minimum benefits could not be guaranteed by an inter-state agreement (Article 15a Federal Constitutional Act). Provincial regulations, which contradict the agreement cannot be sanctioned by the Constitutional Court.

- Ensure state-wide unified standards based on the constitutional competence for providing guiding legislation⁴⁹

43. The growing complexity of applications is a great concern, alarming is circumstantial evidence about the appointment of guardians to complete administrative procedures, particularly for social benefits. Many social benefits are frequently paid as subsidies or grants, which are subject to discretionary power, the sustainable planning of projects is thus often impossible. Particularly needs-based minimum benefits are often paid via privatized entities, without a legal claim.

- Revision of forms in easy to understand language and form
- Easy to understand information about authorities' competences for federal and provincial level
- Ensure all needs-based minimum benefits are legally enforceable rights⁵⁰

44. An information service for illegalized workers is a positive development in the field of employment. The right to work, however, is still not realized for asylum seekers, there are no visible efforts to recognize the skills and knowledge of asylum seekers adequately. Workers sans papiers - working without documents and threatened with residency issues if discovered - are growing in numbers. Their remuneration but particularly their social benefits are largely way below standard. Work placement is impacted by the constant threat of sanctions and the services' discretionary powers, which often come across as arbitrary: 1/3 of job seekers fear being in contact with the employment service.

- Ombud for Unemployment and Social Advocacy to enforce rights
- Participation of self-advocates in planning, implementation and evaluation of employment policies (ILO Convention 122, ILO Recommendation 202)

45. Unemployed who are forced to work in the secondary labour market receive a lower lump sum instead of the collective bargaining wage, which would also credit previous employment. Persons with disabilities who work in sheltered workshops receive "pocket money" and have no pension benefits. Asylum seekers are allowed to work in highly restricted seasonal jobs after three months or in community jobs where they receive "pocket money" only.

- No circumventing of collective bargaining wage in the second labour market, regular employment agreements and income in sheltered workshops
- Right to freely chosen work for asylum seekers following review (latest after three months)
- Unconditional access to the labour market for asylum seekers six months after filing asylum application

46. In the last two years the deduction of partner income for social benefits has been calculated in such a way that recipients – mostly women – are confronted with drastic cuts and occasionally complete loss of benefits.⁵¹ The receipt of incapacity benefits is limited to three months, if the application is not concluded – even in case of appeal - the person has to report for employment. The abolishment of the limited incapacity benefits and the limitation of the pension advance to three months causes numerous cases of hardship: many invalids are simply assessed as "employable" and have to be available for hiring processes and courses, otherwise they lose their benefits. Those persons who are assessed as fit for rehabilitation

have to follow a rehabilitation scheme set by the pension insurance without any participation rights (no right to freely choose a doctor or treatment), at the threat of losing their benefits.

- Reinstate the pension advance until the final decision about employability is rendered
- Right to self-chosen second expert in court proceedings as well as legal aid for industrial court proceedings
- Right to choose rehabilitation in accordance with Article 26 CRPD

7. Right to health

47. Access to child health services,⁵² particularly early diagnosis and early intervention continue to be insufficient. The health care at the federal and regional level varies greatly. This is also true of abortion services, which are unavailable or only attainable at high cost in Tyrol and Vorarlberg.

- Overhaul of and resources for early diagnosis and early intervention measures for children
- Ensure access to sexual and reproductive health care services, including abortions, in public hospitals state-wide

48. Aftercare for victims of violence, particularly therapeutic assistance that corresponds to the form of violence experienced and ensures adequate psycho-social support has to be guaranteed comprehensively.

- Ensure adequate needs-based psycho-social support for victims of violence

49. Compulsory health checks for sex workers are still foreseen, which is highly problematic. Diagnosis are not shared and tests such as for pregnancy and drug abuse are conducted illegally. Rumours have it that sex workers are labeled the same as drug abusers for potential organ donations.

- Repeal of the compulsory health checks, replacement with a recommendation for checks
- Comprehensive expansion of free of charge and high quality health services for sex workers

8. Right to education

50. The Court of Auditors found earlier this year that pilot projects were undertaken in half of the 5.800 schools, largely to circumvent the rigid legal structures. Because special solutions have to be found for individual classes and school years there were 5.367 pilot projects overall. "Pilot projects are the Austrian method of indecision," the education expert Professor Hopman recently observed.⁵³ Socio-economic segregation as well as ethnic and linguistic, continues to be high in Austria's education system. Special schools exist and are frequently attended by children whose first language is not German. Children who do not have permanent residence in Austria have difficulty in attaining compulsory school attendance.

- Reform of the education system and safeguarding of social inclusion and accessibility*
- Increase of the education budget in the primary and tertiary sector to 7% GNP*
- Meaningful access to education for asylum seekers, including those beyond compulsory school age

51. There is still no inclusive education system; on the contrary: the extension of pilot-projects is part of the current government's work program: inclusive model regions. The work program also foresees a strengthening of political education, with an emphasis on human rights education.

- Establishment and promotion of Austrian sign language as language of instruction*
- Enhance the provision of Human Rights Education in schools, including by improving the quantity and quality of teaching materials and training for prospective and practicing teachers

52. School curricula do not cover questions of sexuality, consent and forms of abuse, also to ensure awareness at schools about violence and sexualized violence.

- Extension of school curricula to include sexuality, consent and forms of abuse

9. Corporate responsibility and international cooperation

53. The human rights obligations of corporations are interpreted very narrowly, a shift of paradigm is necessary to make human rights obligations the primary consideration rather than trade and investment law. Furthermore, human rights diligence of corporations has to be extended both in civil as well as criminal law.

54. The recommendation to increase the ODA has not been fulfilled; the Austrian contribution has fallen to 0.27% - below the EU average.⁵⁴ Humanitarian aid is particularly underfunded and fragmented. A concentration of the competences of international cooperation and humanitarian aid as well as an increase of the ODA directed at LDCs is paramount.

- Increase of ODA to 0,7% GNP, reduction of indirect measures*
- Overhaul of the competencies for international cooperation and humanitarian aid
- ODA Increase to LDCs
- Promotion of the human rights based approach, including inclusion and participation of structurally marginalized persons

¹ The following organizations contributed to the submission as members of the Platform:

Agenda Asyl (5 member organizations: Asylkoordination Österreich, Diakonie Österreich, Volkshilfe Österreich, Verein Projekt Integrationshaus, SOS Mitmensch); Arbeitsgemeinschaft Globale Verantwortung (43 member organizations: AAI Wien, ADRA, AMREF, ARGE Weltläden, Ärzte ohne Grenzen, Austrian Doctors for Disabled, CARE Österreich, Caritas, Das Mali Projekt, Diakonie Auslandshilfe, Dreikönigsaktion - Hilfswerk der Katholischen Jungschar, Entwicklungshilfeclub, EWA - Entwicklungswerkstatt Austria, EZA Fairer Handel GmbH, Fairtrade Österreich, Frauensolidarität, GEZA Gemeinnützige Entwicklungszusammenarbeit GmbH, Hilfswerk Austria International, HOPE´87, HORIZONT3000, ICEP, Jugend Eine Welt, Katholische Frauenbewegung Österreich, Klimabündnis Österreich, Label STEP, Licht für die Welt, Oikocredit Austria, Ökosoziales Forum, Österreichisches Rotes Kreuz, Society for International Development, Sonne-International, SOS Kinderdorf Österreich, Südwind Agentur, Tierärzte ohne Grenzen, Unsere Kleinen Brüder und Schwestern, VIDC - Wiener Institut für internationalen Dialog und Zusammenarbeit, Welthaus Graz, Welthaus Linz, Welthaus Wien, Weltumspannend Arbeiten, WIDE - Women in Development Europe, World University Service Austria, World Vision); Asyl in Not; Asylkoordination Österreich (33 member organizations: Asyl in Not, Caritas Eisenstadt, Deserteurs- und Flüchtlingsberatung, Diakonie Flüchtlingsdienst, Don Bosco Flüchtlingswerk, Europäisch-tschetschenische Gesellschaft, Fluchtpunkt Innsbruck, Flughafensozialdienst, Hemayat, Aktion Mitmensch Wiener Neustadt, SOS Mitmensch Burgenland, Hilfsforum Judenburg, Zebra, Projektgruppe "Integration von Ausländern", SOS Kinderdorf Salzburg Clearinghouse, SOS Menschenrechte, Unterstützungskomitee zur Integration von Ausländern, Volkshilfe OÖ Flüchtlingsbetreuung, Verein Projekt Integrationshaus, Verein Zeit!Raum, ISOP, SOS Mitmensch, Initiative Minderheiten, Interkulturelles Zentrum, Evangelische Studentengemeinde, Südwind, Weltladen Amstetten,

VIDC fair play, Alternative und Grüne GewerkschafterInnen, Grüne BG 10, Grüne Alternative BG 15, Aktion Kritischer SchülerInnen, Verein Maiz); Bundesarbeitskammer (BAK); DÖW - Dokumentationsarchiv des österreichischen Widerstandes; ECPAT Österreich - Arbeitsgemeinschaft zum Schutz der Rechte von Kindern vor sexueller Ausbeutung (11 member organizations: Dreikönigsaktion - Hilfswerk der Katholischen Jungschar, Missio Austria, Jugend Eine Welt, respect - Institut für Integrativen Tourismus & Entwicklung, Kindernothilfe Österreich, Katholische Frauenbewegung Österreichs, Ludwig Boltzmann Institut für Menschenrechte, ejö - Burg Finstergrün, Salzburger Landesjugendbeirat, Österreichische Kinderfreunde und Rote Falken, World Vision); European Training and Research Centre for Human Rights and Democracy Graz; Helping Hands; Homosexuelle Initiative (HOSI) Wien; Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern (19 member organizations: BIZEPS - Zentrum für Selbstbestimmtes Leben, dabei - Dachverband berufliche Integration Austria, Helping Hands Graz, HOSI Wien, ISOP - Innovative Sozialprojekte, LEFÖ, Ludwig Boltzmann Institut für Menschenrechte, maiz - Autonomes Zentrum von und für Migrantinnen, Österreichischer Gehörlosenbund, Plattform Menschenrechte Salzburg, Rechtskomitee Lambda, Reiz - Selbstbestimmt Leben, Selbstbestimmt Leben Innsbruck, Selbstbestimmt-Leben-Initiative Oberösterreich, SOMM - Selbstorganisation von und für Migrantinnen und Musliminnen, SOPHIE - Bildungsraum für Prostituierte, TransX - Verein für TransGender Personen, Verein österreichischer Juristinnen, ZARA - Zivilcourage und Anti-Rassismus-Arbeit); LEFÖ - Beratung, Bildung und Begleitung für Migrantinnen; Licht für die Welt; Netzwerk Kinderrechte (33 member organizations: 9 Österreichische Kinder- und Jugendanwaltschaften, Österreichische Bundesjugendvertretung, Kinderfreunde/Rote Falken, Katholische Jungschar Österreichs, Kinderbüro Steiermark, Akzente Salzburg, Pfadfinder und Pfadfinderinnen Österreichs, SOS-Kinderdorf Österreich, Ludwig Boltzmann Institut für Menschenrechte, Kuratorium Kinderstimme, Österreichisches Komitee für UNICEF, Pro Juventute, Asylkoordination Österreich, Fice Austria/Kinderrechtbüro Österreich, Welt der Kinder, Österreichische Gesellschaft für Kinder- und Jugendheilkunde, KiB Children Care, Österreichische Gesellschaft für Kinder- und Jugendpsychiatrie, Österreichische Liga für Kinder- und Jugendgesundheit, Österreichischer Kinderschutzbund/Verein für gewaltlose Erziehung, ECPAT Österreich, Don Bosco Flüchtlingswerk Austria, Verein wienXtra, Österreichisches Institut für Kinderrechte & Elternbildung, boJA - Bundesweites Netzwerk Offene Jugendarbeit); NGO-CEDAW-Komitee (9 partner organizations: Verein autonome österreichische Frauenhäuser, Interventionsstelle gegen Gewalt in der Familie, Verein Österreichischer Juristinnen, LEFÖ, International Alliance of Women, ÖPA - Österreichische Plattform für Alleinerziehende, Europäische Frauenunion, Ludwig Boltzmann Institut für Menschenrechte, WIDE - Women in Development Europe) Österreichische Arbeitsgemeinschaft für Rehabilitation (78 member organizations: Allgemeine Unfallversicherungsanstalt, Ambulatorium Sonnenschein, ASSIST, assista Soziale Dienste GmbH, Balance, Bandgesellschaft, BBRZ Reha GmbH - BBRZ Österreich, Behinderten-Förderungsverein Neusiedl am See, Behindertenhilfe Bezirk Korneuburg, Behindertenhilfe Klosterneuburg, Behindertenintegration Ternitz Gemeinnützige GmbH, Caritas Österreich, CBMF - Club behinderter Menschen und ihrer Freunde, Club Handikap, Dachverband berufliche Integration Austria, debra-austria, design for all - Zentrum für barrierefreie Lebensräume, Diakonie Österreich, Die Steirische Behindertenhilfe, Elternselbsthilfe sehgeschädigter Kinder Österreich, Förderverein Odilien, Gesellschaft für ganzheitliche Förderung und Therapie NÖ GmbH, Gewerkschaft der Post- und Fernmeldebediensteten, Grete Rehor-Hilfsfonds für behinderte Menschen, Hilf selbst mit, Hilfsgemeinschaft der Blinden und Sehschwachen Österreichs, HPE-Österreich, Initiativ für behinderte Kinder und Jugendliche, Institut für Sozialdienste Vorarlberg, Institut für Soziales Design, Jugend am Werk, Kriegsopfer- und Behindertenverband, Lebenshilfe Österreich, Multiple Sklerose Gesellschaft Wien, Muische Arbeitsgemeinschaft, OÖZIV - Oberösterreichischer Zivil-Invalidenverband, Österreichische Multiple Sklerose Gesellschaft, Österreichische Autistenhilfe, Österreichische Blindenwohlfahrt, Österreichische Gesellschaft für Muskelkranke, Österreichische Hämophilie-Gesellschaft, Österreichische Vereinigung

Morbus Bechterew, Österreichischer Behindertensportverband, Österreichischer Blinden- und Sehbehindertenverband, Österreichischer Gehörlosenbund, Österreichischer Schwerhörigenbund, Österreichischer Verband für Spastiker-Eingliederung, Österreichisches Hilfswerk, Österreichisches Hilfswerk für Taubblinde und hochgradig Hör- und Sehbehinderte, ÖZIV - Österreichischer Zivil-Invalidenverband, Physio Austria, PlatO - Plattform anthroposophischer therapeutischer Organisationen in Österreich, pro mente austria, pro mente Wien, RollOn Tirol, Selbsthilfegruppe Down Syndrom, Seraphisches Liebeswerk der Kapuziner, SOB 31 Verein zur Förderung kultureller Aktivitäten von Menschen mit Behinderung, Sozialtherapeutikum Eggersdorf, Sprachrohr für Menschen in anthroposophisch orientierten Lebens- und Werkstätten, Steirische Vereinigung für Menschen mit Behinderung, Therapiezentrum für halbseitig Gelähmte, UNIABILITY - Arbeitsgemeinschaft zur Gleichstellung von Menschen mit Behinderungen und chronischen Erkrankungen an Österreichs Universitäten und Hochschulen, Verband aller Körperbehinderten Österreichs, Verband der Querschnittgelähmten Österreichs, Verein der Ganzheitsmedizin für Menschen mit und ohne Behinderung, Verein für berufliche Ausbildung und soziale Integration, Verein KoMiT, Vereinigung zugunsten körper- und mehrfachbehinderter Kinder und Jugendlicher, VertretungsNetz, Wien Work - Integrative Betriebe und AusbildungsgmbH, Wiener Hilfswerk); Österreichischer Gehörlosenbund; Österreichische Liga für Menschenrechte; Österreichisches Volksgruppenzentrum (8 member organizations: Artikel-VII-Kulturverein für Steiermark - Pavelhaus / Kulturno društvo člen 7 za avstrijsko Štajersko - Pavlova hiša, Minderheitsrat der tschechischen und slowakischen Volksgruppe in Österreich / Menšinová rada české a slovenské větve v Rakousko, Österreichisch-Slowakischer Kulturverein / Rakúsko-slovenský kultúrny spolok, Burgenländisch-Ungarischer Kulturverein / Burgenlandi Magyar Kultúregyesület, Verein Roma, Kulturverein österreichischer Roma, Kroatischer Kulturverein in Burgenland / Hrvatsko kulturno društvo u Gradišću, Rat der Kärntner Slowenen / Narodni svet koroških Slovencev); ÖZIV - Österreichischer Zivil-Invalidenverband; Rechtskomitee Lambda; WIDE - Netzwerk Women in Development Europe (18 member organizations); ZARA - Zivilcourage und Anti-Rassismus-Arbeit

The following organizations support the submission:

Amnesty International Austria; ARGE Evangelischer Gefängnisseelsorger; ARGE Katholischer Gefängnisseelsorger; Armutskonferenz (33 member organizations: Aktionsgemeinschaft der autonomen österreichischen Frauenhäuser, Anton Proksch Institut, Arbeiter Samariter Bund Österreich, ARGE MigrantInnenberatung Österreich, ASB Schuldnerberatungen GmbH, Bundesarbeitsgemeinschaft Wohnungslosenhilfe, Bundesdachverband für Soziale Unternehmen, Caritas Österreich, Dachverband Berufliche Integration, Diakonie Österreich, Europäisches Zentrum für Wohlfahrtspolitik und Sozialforschung, Evangelische Akademie Wien, Forum Kirche und Arbeitswelt, Die Heilsarmee, Katholische Aktion der Erzdiözese Wien, Katholischer Familienverband Österreichs, Katholische Frauenbewegung Österreichs, Katholische Sozialakademie Österreich, Kolping Österreich, Netzwerk Österreichischer Frauen- und Mädchenberatungsstellen, Neustart, Österreichische HochschülerInnenschaft, Österreichische Plattform für Alleinerziehende, Österreichischer Berufsverband der SozialarbeiterInnen, Österreichischer Gewerkschaftsbund/Frauenabteilung, Österreichischer Verein für Drogenfachleute, promente austria, SOS Mitmensch, St. Virgil Salzburg - Bildungs- und Konferenzzentrum, Telefonseelsorge, VertretungsNetz - Sachwalterschaft, Patientenanwaltschaft und Bewohnervertretung, Volkshilfe Österreich, Wiener Hilfswerk); Austrian Federal Association of Autonomous Rape Counselling Centres; BIZEPS - Zentrum für Selbstbestimmtes Leben; Bruno Kreisky Stiftung für Verdienste um die Menschenrechte; ESRA - Psychosoziales Zentrum. Zentrum für psychosoziale, sozialtherapeutische und soziokulturelle Integration. Ambulanz für Spätfolgen und Erkrankungen des Holocaust- und Migrations-Syndroms; FIAN Österreich; Forum Informationsfreiheit ; GrüZe -

GründerInnenzentrum für Menschen mit Handicap; Hemayat - Betreuungszentrum für Folter- und Kriegsüberlebende; Integration Tirol; Interventionsstelle gegen Gewalt in der Familie; Land der Menschen Oberösterreich; Lebenshilfe Österreich; Ludwig Boltzmann Institut für Menschenrechte; Netzwerk Soziale Verantwortung (29 member organizations: Amnesty International Österreich, Betriebsrat der Generali VIS Informatik GmbH, Betriebsrat des Austrian Institute of Technology AIT, Dreikönigsaktion - Hilfswerk der Katholischen Jungschar, fairea, Katholische Jugend Österreichs, Frauensolidarität, GEZA Gemeinnützige Entwicklungszusammenarbeit GmbH, Gewerkschaft der Chemiearbeiter, Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier, Gewerkschaft Metall-Textil-Nahrung, Gewerkschaft vida, Globale Verantwortung - Arbeitsgemeinschaft für Entwicklung und Humanitäre Hilfe, Greenpeace CEE, HORIZONT3000, ksoe - Katholische Sozialakademie Österreichs, Ludwig Boltzmann Institut für Menschenrechte, Mobilkom Austria Personalvertretung, ÖKOBÜRO, Österreichische Liga für Menschenrechte, Österreichischer Gewerkschaftsbund, ÖZIV - Österreichischer Zivil-Invalidenverband, Sozialökonomische Forschungsstelle - SFS, Südwind Agentur, The World of NGOs, Verbraucherrat am Österreichischen Normungsinstitut, Volkshilfe Wien, World Vision Österreich, ZARA - Zivilcourage und Anti-Rassismus-Arbeit); Neustart; Österreichischer Frauenring; Österreichische HochschülerInnenschaft; ÖPA - Österreichische Plattform für Alleinerziehende; Österreichisches Rotes Kreuz; Plattform Menschenrechte Salzburg; Sex Workers Forum, iBUS – Information and Support for Sex Workers in Innsbruck, Association PiA Salzburg, IKF - Institute of Conflict Research, LEFÖ - Counselling, education and accompaniment for migrant women, Platform 20000 Women, Women's Service Graz; SOS - Menschenrechte Österreich; SOS Mitmensch; Soziale Gerichtshilfe; Verein Aktive Arbeitslose; Verein Projekt Integrationshaus; Verein Österreichischer Juristinnen; VertretungsNetz; VIDC - Vienna Institute for International Dialogue and Cooperation.

² Compare, Manfred Welan, Wiener Zeitung, 18. August 2014.

³ UPR Recommendation 93.04.

* **Recommendations marked with an asterisk (*) were also suggested in 2011.**

⁴ Federal Law Gazette I Nr. 4/2011.

⁵ § 312a Criminal Code; UPR Recommendation 92.3.

⁶ § 312b Criminal Code.

⁷ Effective July 2015.

⁸ Protection against violence for persons with disabilities.

⁹ Monitoring CRPD, see also CRPD Committee CRPD/C/AUT/CO/1, para 53.

¹⁰ Compare pertinent recommendations by the CRC, CESCR, CRPD Committees.

¹¹ Every effort is made to refer to the UPR recommendations.

¹² UPR Recommendations 89.40-42.

¹³ Compare Federal Government Work Plan, see further the UPR Recommendations 93.20 & 93.21.

¹⁴ Compare: Standards of Public Participation www.partizipation.at.

¹⁵ UPR Recommendations 89.35-36.

¹⁶ Compare UPR Joint Submission 2011.

¹⁷ UPR Recommendations 88.50.53.

¹⁸ UPR Recommendations 92.43.

¹⁹ Compare Concluding Observations CEDAW Committee.

²⁰ See income transparency based on Equal Treatment Act, UPR Recommendation 88.79.

²¹ UPR Recommendation 92.27.

²² UPR Recommendation 93.12, 92.67, 92.88.

²³ UPR Recommendations 92.18, 92.87, 92.96, 92.97, 93.54, 93.54.

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- ²⁴ CRPD Committee para 15.
- ²⁵ CRPD Committee, para 13.
- ²⁶ Judgment Constitutional Court, B 567/11.
- ²⁷ UPR Recommendation 92.86.
- ²⁸ Compare also Concluding Observations CAT Committee.
- ²⁹ Compare, particularly Section 5 Guideline Decree for Police.
- ³⁰ Guideline Decree for Police - *Richtlinienverordnung*.
- ³¹ UPR Recommendation 92.73/74.
- ³² UPR Recommendation 92.75.
- ³³ Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- ³⁴ Compare also the visit by the Council of Europe CPT, September 2014.
- ³⁵ See, among others, UPR Recommendations 92.15 & 92.72.
- ³⁶ UPR Recommendations 92.18, 92.87, 92.96/97 & 93.54.
- ³⁷ UPR Recommendations 92.23, 92.30, 92.47-49, 92.93, 93.9, 93.11, 93.32, 93.43.
- ³⁸ UPR Recommendation 83.31.
- ³⁹ Compare also below.
- ⁴⁰ See particularly European Union Justice Score Board 2014.
- ⁴¹ Compare the identical observation, UPR Joint Submission 2011.
- ⁴² Example Section 240a, 305 Criminal Procedure Code; Art XL EGZPO.
- ⁴³ European Court of Human Rights 21.2.2008, Nr 19516/06 *Alexandris vs Greece*.
- ⁴⁴ Compare the latest example: „Monthly Datum report on fake postings results in advertising cancellations,“ http://www.wienerzeitung.at/nachrichten/kultur/medien/732964_Datum-nach-Fake-Posting-Bericht-mit-Anzeigen-Stornos-konfrontiert.html
- ⁴⁵ Open Letter by the Austrian National Soccer Team addressed to the Daily „Österreich“, 13 November 2013: <http://www.oefb.at/spieler-schreiben-an-tageszeitung-ber22981>.
- ⁴⁶ CASE OF ÖSTERREICHISCHE VEREINIGUNG ZUR ERHALTUNG, STÄRKUNG UND SCHAFFUNG EINES WIRTSCHAFTLICH GESUNDEN LAND- UND FORST-WIRTSCHAFTLICHEN GRUNDBESITZES v. AUSTRIA (*Application no. 39534/0739534/07*), 28 November 2013.
- ⁴⁷ German: „Mindestsicherung.“
- ⁴⁸ German: „Pflegegeld.“
- ⁴⁹ In the area of welfare for the poor Article 12 Para 1 Z 1 Federal Constitutional Act.
- ⁵⁰ Compare, German Federal Constitutional Court, BVerfG 9.2.2010 - 1 BvL 1/09, Rz 136.
- ⁵¹ Judgment Constitutional Court.
- ⁵² UPR Recommendation 92.83.
- ⁵³ On the occasion of the presentation of the process for a National Action Plan on Human Rights, Ombudsman Office 9 May 2014.
- ⁵⁴ UPR Recommendation 93.33.