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18 May 2011

Dear Minister,

OPEN LETTER RE: AUSTRIA'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership of the UN Human Rights Council in the elections scheduled for 20 May 2011. We note your submission of election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the letter dated 11 March 2011 from the Permanent Representative of Austria to the United Nations to the President of the General Assembly.

The Office of the UN High Commissioner for Human Rights has issued guidance in the form of a framework for voluntary pledges and commitments by Member States when presenting candidatures for the Human Rights Council, including that these should make specific, measurable and verifiable commitments.¹ We also recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.² We take this opportunity to make some comments on Austria's election pledges and to note some additional opportunities for your government to promote and protect human rights on the occasion of its candidature.

1. Commitments at the international level:

■ *Ratification of international human rights instruments*

While we welcome Austria's commitment to ratify both the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, we regret that Austria rejected the recommendations, made during its recent Universal Periodic Review, to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. We encourage your government to take this opportunity to reconsider its position regarding the above Optional Protocol and also to commit to ratifying the remaining outstanding human rights standards.

■ *Cooperation with the Special Procedures*

We welcome your commitment to continue to support the work of the Special Procedures and that you have already issued a standing invitation the Special Procedures to visit Austria. We note that the Independent Expert in the field of cultural rights recently visited Austria and we take this opportunity to encourage you to give consideration to the recommendations arising from this mission and to report to the Council on steps taken to give effect to these.

¹ Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council prepared by the Office of the High Commissioner for Human Rights <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>

² Operative paragraph 9.

■ *Cooperation with the treaty monitoring bodies*

We welcome your pledge to continue to support the work of the treaty monitoring bodies and take this opportunity to ask you to establish, in consultation with civil society, an adequate mechanism or process to ensure and facilitate systematic follow-up to and implementation of treaty body recommendations, including by making all views and concluding observations concerning Austria publicly available in German and by engaging in a regular substantive dialogue with civil society on these recommendations.

■ *Participation in the deliberations of the Human Rights Council*

We note your willingness, expressed in your election pledges, to cooperate with all members of Council, to implement the Council's mandate, and to foster cross-regional cooperation and problem-solving in the Council. In this regard, we urge you to work towards better use of the Council's broad range of working methods and practices to address situations that require its attention and to improve the follow up by the Council of initiatives, including by its expert mechanisms and subsidiary bodies.

■ *Engagement with the Universal Periodic Review*

We note your commitment to contribute to further strengthening the Universal Periodic Review. In this regard, we welcome Austria's efforts to establish, in consultation with civil society, a regular substantive dialogue on the follow-up to the Universal Periodic Review and encourage you to ensure the full and prompt implementation of the recommendations made during Austria's review in January 2011.

2. Commitments at the national level:

■ *National human rights policy*

We note your commitments to incorporate the rights of children in the Constitution. However, we regret that the constitutional amendment adopted in January 2011 covers only some of the provisions in the Convention on the Rights of the Child and includes a general reservation to those rights that allows severe limitations of those rights in practice.³

We note your commitments to engage in the fight against racism and xenophobia, including through human rights and anti-discrimination training for judges, civil servants and the police. In this context, we reiterate our call for the adoption of a National Action Plan on Racism and Xenophobia, in close consultation with civil society, to replace the existing National Action Plan on Integration which does not adequately address these issues. We would also encourage you to systematically tackle issues of impunity and structural racism in the criminal justice system, as documented in the Amnesty International report of April 2009.⁴ In particular, we recommend the introduction of a comprehensive and coherent data collection system for recording and monitoring racist crime in Austria, to take steps to investigate and punish as appropriate all allegations of racist misconduct by law enforcement officials, and to prepare a study on the scale of direct and indirect racial discrimination in the criminal justice system, as recommended during the Universal Periodic Review.⁵

We welcome your efforts to criminalize torture in domestic law and encourage you to set a precise timeframe for the incorporation of a definition of torture in the Criminal Code in accordance with Article 1 and Article 4, paragraph 2 of the UN Convention against Torture, as recommended by the UN Committee against Torture. We also welcome your commitment to establish a national preventive mechanism and encourage you to ensure that it meets the requirements set by the Optional Protocol to the Convention against Torture, in particular with regard to its independence and funding, and to do so in consultation with civil society.

We welcome the pledges and commitments already made by Austria and encourage your government to use this opportunity to further strengthen these by including the additional elements listed above. We encourage your government to announce the steps it will take to fulfil its electoral pledges, whether

³ Es fehlt die Verankerung der Rechte auf Gesundheit, Bildung, Freizeit und Spiel, Lebensstandard/Kinderarmutsbekämpfung, der spezifische Schutz von Kindern und Jugendlichen vor jeglicher Diskriminierung oder Rechte von Kinderflüchtlingen.

⁴ Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system, AI Index: EUR 13/002/2009, 9 April 2009

⁵ UPR recommendation 93.45.

successful in gaining a seat on the Council or not, and to regularly inform the Council of progress in implementing these commitments. This could, for example, be done in the form of an oral or written statement to the Council.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

Yours sincerely,

A handwritten signature in black ink, reading "Steve Crawshaw". The signature is written in a cursive, flowing style.

Steve Crawshaw
International Advocacy Director
Amnesty International