

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Austria: UPR Midterm review – work in progress**

Amnesty International welcomes that Austria has chosen to conduct a mid-term review of its efforts under the Universal Periodic Review (UPR) of the UN Human Rights Council.

Amnesty International welcomes Austria's willingness to consult with civil society in the follow-up process to the UPR and the establishment of a steering group, thematic working groups and annual government—civil society organizations (CSO) meetings to work on the implementation of the recommendations made to Austria in the UPR<sup>1</sup>. The organization calls on Austria to ensure and further promote the formation and regular meetings of thematic government-CSO working groups.

However, while government officials meet with civil society from time to time to discuss specific human rights concerns, there is no mechanism or process in place to ensure and facilitate a regular substantive dialogue with civil society on current and structural human rights concerns, including systematic follow-up to and implementation of Treaty Body and other human rights-related UN recommendations<sup>2</sup>.

Amnesty International welcomes Austria's ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Revised European Social Charter, and calls on the Austrian authorities to sign and ratify outstanding human rights instruments, to ensure full and effective implementation of all human rights enshrined in treaties to which Austria is a party and to withdraw any reservations to these treaties.<sup>3</sup>

Despite supporting several recommendations to this effect, to date, Austria has failed to establish a National Human Rights Institution with A status in accordance with the Paris Principles,<sup>4</sup> Amnesty International draws the government's attention to the CERD Committee's Concluding Observations of July 2012, which while welcoming the broadening of the mandate of the Austrian Ombudsman Board to work as a national preventive mechanism under the Optional Protocol to the UN Convention against Torture, remains concerned about the independence of its board members and recommends that their appointment fully comply with international standards.<sup>5</sup>

Amnesty International further notes that, to date, Austria has failed to develop a National Action Plan on Human Rights. Amnesty International is particularly concerned about Austria's negative stance on adopting a National Action Plan (NAP) against Racism as required by the 2001 Durban Declaration and Programme

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<sup>1</sup> Recommendations 92.36, 92.37, 92.38

<sup>2</sup> Recommendations 92.41, 92.88

<sup>3</sup> Recommendations 92.1, 92.2, 92.3, 92.4, 92.5, 92.6, 92.7, 93.3, 93.4, 93.5, 93.12, 93.34

<sup>4</sup> Recommendations 92.21, 93.14, 93.17, 93.18. By contrast, Austria rejected Recommendations 93.15, calling on it to consolidate existing mechanisms into a single National Human Rights Institution in accordance with the Paris Principles and seek A-status accreditation by the ICC, and Recommendation 93.16, calling on Austria to bring its National Human Rights Institution in line with the Paris Principles.

<sup>5</sup> Recommendations 92.11, 92.19, 92.20; Amnesty International Report 2013: Austria; CERD Concluding Observations, CERD/C/AUT/CO/18-20, par 8

of Action, arguing it has already adopted "concrete measures [...] provided for in the National Action Plan (NAP) on Integration."<sup>6</sup> However, Amnesty International considers that the NAP on Integration contains too few and weak measures to ensure protection from discrimination on grounds of racial and ethnic origin and religious affiliation.<sup>7</sup>

The organization regularly receives reports of ill-treatment and excessive use of force by law-enforcement officials and racially motivated police misconduct, from victims, other NGOs and the media. The organization calls on the Austrian government to take steps to ensure that all allegations of racist misconduct by law enforcement officials are effectively investigated and appropriately punished and that the victims have full access to reparation. The Austrian government must send a strong message to law enforcement that such racially motivated misconduct will not be tolerated. Further, the organization recommends the establishment of a fully resourced independent mechanism to investigate such allegations of serious human rights abuses by law enforcement officials, including racist misconduct, with the power to order disciplinary proceedings against the perpetrators and to refer cases directly to the judicial authorities where appropriate.

Amnesty International remains concerned that foreign nationals and members of ethnic minorities appear to be more at risk than Austrian citizens of being suspected by police of having committed a crime.<sup>8</sup> Amnesty International urges the Austrian authorities to ensure that police investigations are carried out in an impartial and non-discriminatory manner and not based on ethnic profiling.<sup>9</sup>

Austria does not systematically collect and publish comprehensive and coherent statistics on racist incidents, misconduct by law enforcement officials. The absence of such statistics undermines any action to counter racially motivated crimes. Amnesty International welcomes and encourages to further step up recent efforts by the competent ministries to harmonize data collection systems for recording and monitoring racially motivated crimes in Austria.<sup>10</sup>

Amnesty International welcomes Austria's acceptance of UPR recommendations to strengthen and harmonize anti-discrimination measures and the announcement by the government of legislative proposals aimed at mainstreaming and "levelling up" protection against all forms of discrimination in consultation with civil society. However, Amnesty International regrets that in 2011 and 2013 legislative proposals that would have ensured protection from discrimination in all spheres of life on grounds of age, sexual orientation, religion and belief, were blocked at the last minute, based on the argument that the proposals would excessively infringe on the right to property. The organization urges Austria to ensure equal protection from all forms of discrimination, including by harmonizing its anti-discrimination laws in close consultation with civil society.<sup>11</sup>

Amnesty International is also concerned that the best interests of the child, the specific needs of children and unaccompanied minors and child-specific persecution grounds are not adequately taken into consideration during asylum procedures. Furthermore, the organization is concerned that access to legal

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<sup>6</sup> Human Rights Council: Report of the Working Group on the Universal Periodic Review, Austria, Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/17/8/Add.1, 1 June 2011, Recommendation 93.20; CERD Concluding Observations, CERD/C/AUT/CO/18-20, par 9

<sup>7</sup> Recommendation 92.28, Amnesty International Report 2013: Austria; Amnesty International Submission to CERD, p.5-6

<sup>8</sup> For example as noted by CERD (August 2013) and as documented by Amnesty International in its report 2009: In August, the CERD Committee criticized Austria's failure to provide statistical data on the ethnic composition of its population and expressed concern about reports of racial profiling and stop-and-search practices on people from ethnic minorities. It also criticized the failure to adequately prosecute and punish law enforcement officials for offences against people with migration backgrounds. For more information, see also Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system, AI Index: EUR 13/002/2009, 9 April 2009

<sup>9</sup> Recommendation 92.68

<sup>10</sup> Recommendations 92.51, 93.24, 93.29, 93.30

<sup>11</sup> Recommendations 92.24, 93.8, 93.10, 93.35, 93.36, 93.37, 93.38, 93.44

counselling for asylum seekers is not consistently provided for all levels of the asylum procedure and will be further restricted with the entry into force of the new Asylum Law on 1 January 2014. Moreover, Amnesty International regrets that the wording and structure of recent asylum and aliens law amendments, including their explanatory remarks, may foster xenophobic sentiments in the general public.

Amnesty International calls on the Austrian government to ensure effective and adequate access for all asylum-seekers to independent legal advice throughout the entire asylum procedure.<sup>12</sup>

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<sup>12</sup> Recommendations 92.76, 92.90, 92.94, 93.51