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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

* The present document was not edited before being sent to the United Nations translation services.

Austria welcomes the recommendations made in the course of its Universal Periodic Review on 26 January 2011. After broad consultations and careful evaluation of the recommendations, Austria is pleased to provide the following responses:

93.1 Austria **does not accept** the recommendation.

Signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights are being examined by Austria as a long-term project. In doing so, further developments on the international and European levels, such as future experiences of the Council of Europe Member States with the European Social Charter collective complaints procedure and especially the position of other EU Member States, are being closely watched.

93.2 Austria **does not accept** the recommendation.

See 93.1.

93.3 Austria **accepts** the recommendation.

The question of a withdrawal of reservations is being examined by Austria at regular intervals. In doing so, no gaps or shortcomings in legal protection have been identified so far. The Austrian reservations serve to clarify the relationship of certain obligations according to international law to other international obligations in the field of human rights.

With the exception of the prohibition of occupations hazardous to health, the withdrawal of which would represent a change for the worse in specific areas of the protection of safety and health at the workplace and is therefore not envisaged, all reservations with respect to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have already been withdrawn.

93.4 Austria **accepts** the recommendation.

See 93.3.

93.5 Austria **accepts** the recommendation.

See 93.3.

93.6 Austria **accepts** the recommendation.

Austria accepts this recommendation assuming that it refers to the ILO recommendations on the application of Convention No. 111 on Non-discrimination in Employment and Occupation according to paragraph 8 of the document "Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 – Austria" (A/HRC/WG.6/10/AUT/2) of 11 November 2010.

93.7 Austria **does not accept** the recommendation.

The incorporation of a catalogue of social rights into the Federal Constitution has long been a matter of intensive constitutional debate in Austria which however has not yet finished. Though Austrian federal constitutional law indeed comprises only a limited number of explicit fundamental social rights, the Austrian legal system in general provides for a dense network of social rights. Moreover, in implementing European Union law Austria is bound to the EU Charter of Fundamental Rights, which explicitly provides for numerous social rights.

- 93.8** Austria **accepts** the recommendation.
- A long-term harmonisation of the protection level is intended. Equal treatment legislation is subject to continuous evaluation; with an amendment which entered into force on 1 March 2011, the remit of the Equal Treatment Commission, which is responsible for the private sector, was extended. A consolidation of all relevant regulations in one law and under one institution is, however, not possible, amongst others because of the requirement of differentiated provisions for certain groups and for reasons of the federal structure of the State. In the framework of the European Union Austria supports an extension of anti-discrimination provisions.
- 93.9** Austria **accepts** the recommendation.
- A government bill on this matter was transmitted to Parliament.
- 93.10** Austria **accepts** the recommendation.
- See 93.8.
- 93.11** Austria **accepts** the recommendation.
- See 93.9.
- 93.12** Austria **accepts** the recommendation.
- See 93.3. Austria has not entered a reservation to article 18 of the Convention on the Rights of the Child.
- 93.13** Austria **accepts** the recommendation.
- Austria implements all its international legal obligations either through direct application of the international treaties or through corresponding laws.
- 93.14** Austria **accepts** the recommendation.
- Besides the courts, which have the primary responsibility for human rights protection, the Austrian Ombudsman Board, whose independence is guaranteed by constitutional law, substantially contributes to the implementation and protection of human rights. It is intended to enlarge its mandate, extending it to the review of human rights violations in general. The Ombudsman Board will thus assume substantial responsibilities of a national human rights institution. In addition, further strengthening of court structures is planned, e.g. through the intended establishment of administrative courts of first instance.
- 93.15** Austria **does not accept** the recommendation.
- The specialisation of different Ombudsman institutions in Austria has proven effective. An application for re-accreditation of the Austrian Ombudsman Board is currently being examined by the ICC Sub-Committee on Accreditation.
- 93.16** Austria **does not accept** the recommendation.
- 93.17** Austria **accepts** the recommendation.
- See 93.14.
- 93.18** Austria **accepts** the recommendation.

See 93.14.

93.19 Austria **does not accept** the recommendation.

For budgetary reasons, an increase in the resources of the Office of the Ombudsperson for Equal Treatment is currently not being considered.

93.20 Austria **does not accept** the recommendation.

Separate national action plans on specific topics, as they currently exist in Austria, are more effective than a general action plan on human rights; drafting of such a plan is therefore currently not envisaged. A national action plan against racism is also not envisaged since Austria is already taking a number of concrete measures in this area which are inter alia provided for in the National Action Plan on Integration.

93.21 Austria **does not accept** the recommendation.

See 93.20.

93.22 Austria **accepts** the recommendation.

93.23 Austria **accepts** the recommendation.

93.24 Austria **accepts** the recommendation.

93.25 Austria **accepts** the recommendation.

See 93.9.

93.26 Austria **accepts** the recommendation.

In the framework of legal provisions, steps to further strengthen social, economic and educational support to school children from immigrant minorities in Austria are continuously being taken.

93.27 Austria **does not accept** the recommendation.

Austria continuously takes a series of measures to enhance awareness raising and education on the principles of non-discrimination and tolerance. The provision of (additional) education in the mother tongue is dependent on sufficient demand and in particular on existing personnel and budgetary resources. With regard to these circumstances, a considerable expansion of existing educational programmes is not envisaged for the time being.

93.28 Austria **accepts** the recommendation.

93.29 Austria **accepts** the recommendation.

Taking into account the freedom of each member of an autochthonous minority to declare his or her ethnicity, data are being comprehensively collected in Austria as far as this is useful to take targeted measures to improve the situation of the groups concerned and as far as it is in accordance with data protection provisions. In doing so, international developments are being taken into account.

93.30 Austria **accepts** the recommendation.

Austria takes appropriate measures to counter discrimination against minority groups. In addition, see 93.29.

93.31 Austria **does not accept** the recommendation.

Such a data collection only takes place in the context of law enforcement activities but not for the purpose of evaluating the situation of minorities.

93.32 Austria **accepts** the recommendation.

See 93.9.

93.33 Austria **accepts** the recommendation.

Austria is committed to the United Nations Millennium Development Goals aimed at combating poverty, hunger and illness worldwide. Austria strives to reach the goal of 0.7% of GDP for ODA until 2015. In view of the necessary austerity policy the required financial means can however not be made available to an appropriate extent in the budgetary years 2011 to 2014. The necessary financial steps to attain the United Nations development goals will be taken in the future within the scope of budgetary possibilities.

93.34 Austria **accepts** the recommendation.

The recommendation is being accepted with the understanding that the question of a withdrawal of reservations is being examined by Austria at regular intervals. In addition, see 93.3 and 93.13.

93.35 Austria **accepts** the recommendation.

See 93.8.

93.36 Austria **accepts** the recommendation.

See 93.8.

93.37 Austria **accepts** the recommendation.

See 93.8.

93.38 Austria **accepts** the recommendation.

See 93.8.

93.39 Austria **accepts** the recommendation.

Austria is continuously striving to further implement measures for the equality of women and men on the labour market. It is noted that the 55 measures are proposals presented by the Federal Minister for Women's Affairs and Public Service to the Federal Government.

93.40 Austria **does not accept** the recommendation.

See 93.20.

93.41 Austria **does not accept** the recommendation.

See 93.20.

93.42 Austria **does not accept** the recommendation.

See 93.20.

93.43 Austria **accepts** the recommendation.

The Federal Act on Public Funding for Political Education – Publicity Funding Act 1984 provides for the funding of civic education performed by political parties. Envisaged amendments should provide for the possibility of reducing funds under certain circumstances, in which the recipient has

committed an act punishable by criminal law such as religious vilification, defamation and incitement to hatred.

93.44 Austria **accepts** the recommendation.

See 93.8.

93.45 Austria **does not accept** the recommendation.

Detention practices are continuously being evaluated, with data being collected and disaggregated inter alia on the origin of defendants. In addition, appropriate training arrangements for judges and prosecutors as well as in the area of prison administration are provided to prevent direct or indirect discrimination. Therefore a study concerning this matter would not bring any additional value.

93.46 Austria **does not accept** the recommendation.

In Austria, children under 14 are never placed under detention. Children of 14 years and older can only be placed under detention under strict preconditions.

93.47 Austria **does not accept** the recommendation.

The option of performing the military service starting at the age of 17 is based solely on the voluntary enlistment of the person concerned and requires the consent of his legal guardian. Neither the direct participation in combat nor the voluntary enlistment for military service in international operations is admissible. Under these provisions, full respect of the entire Convention on the Rights of the Child including its Optional Protocol is guaranteed.

93.48 Austria **accepts** the recommendation.

Austria complies with this recommendation in the framework of Directive 2008/115/EG of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (article 13 para 3 and 4). Austria intends to extend its system of stand-by legal counselling service (Rechtsanwaltlicher Journdienst) for criminal proceedings in accordance with developments on the European level, in particular in the context of the expected proposal for a directive on legal aid.

93.49 Austria **does not accept** the recommendation.

A case is currently pending before the European Court of Human Rights on this matter, the outcome of which will have to be taken into account.

93.50 Austria **does not accept** the recommendation.

In accordance with the Minority Language School Law for the Federal Province of Burgenland, language courses in Burgenland Romani are offered in the Burgenland school system. Outside of Burgenland, (additional) mother tongue education is also offered in different Romani variants and depending on demand and resources. Moreover, NGO projects for additional out-of-school learning assistance as well as language and cultural projects are continuously being sponsored. An extension of these offers, in particular also in the direction of a bilingual school system is currently not planned.

93.51 Austria **accepts** the recommendation.

Austria complies with this recommendation in the framework of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status as well as Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (article 13 para 3 and 4).

93.52 Austria **does not accept** the recommendation.

The Austrian legal system provides for police custody to secure transfer abroad. In the framework of detention pending repatriation, increased use of open models is being extended. Special consideration for minors and victims of human trafficking is guaranteed by law.

93.53 Austria **does not accept** the recommendation.

During the last few years, financial support for intercultural projects of the six autochthonous minorities was increased, supporting amongst others also projects of the Slovenian minority. For budgetary reasons, further expansion of the support is currently not possible.

93.54 Austria **accepts** the recommendation.

The financing of the Slovenian-language music school in the province of Carinthia is being secured by the Federal Government and the Federal Province of Carinthia. Additionally, a systemic solution for future financing and concerning organisational structures is intended.
