



Joint Submission

Universal Periodic Review 2020

(Austria - Third Circle, 37th Session)

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A. Background and framework conditions

1. The extent of international obligations

1. The withdrawal of the last reservation on CEDAW¹ on 10.06.2015 is welcomed, whereas the call for effective national implementation remains. Concerning the European Social Charter, Articles 30 and 31 on poverty, social exclusion and housing remain excluded from application.

2. The ratification of the following instruments is still pending:

PoAI. Ratification UN Convention on the Rights of all Migrant Workers and Members of their Families dated 18.12.1990 (ICRMW)

- PoA2. Ratification Additional Protocol to the European Social Charter on Collective Complaints dated 09.11.1995 and the Declaration on Article D of the European Social Charter (revised) dated 03.05.1996 must be accepted in accordance with the procedure laid down in the said Protocol*
- PoA3. Ratification Articles 30 and 31 of the European Social Charta.*
- PoA4. Ratification 12th additional protocol EMRK dated 04.11.2000*
- PoA5. Ratification The Budapest Convention on Cybercrime dated 23.11.2001 and its additional protocol of 23.11.2001*
- PoA6. Ratification Optional Protocol to the International Covenant on Economic, Social and Cultural Rights of 10.12.2008*
- PoA7. Ratification 3rd Optional Protocol to the Convention on the Rights of the Child (CRC) of 17.06.2011*

3. Additionally, participation at the following international negotiations is required:

- PoA8. Give a mandate to the European Commission to draw up a legally binding international treaty to bind transnational corporations and companies to human rights (Resolution A/HRC/RES/26/9).*
- PoA9. Ensure the constructive cooperation by Austria in the relevant Open Ended Inter-Governmental Work Group on transnational corporations and other business enterprises with respect to human rights.*

2. Legal framework (constitution and ordinary law)

4. A comprehensive catalogue of fundamental rights is still missing, as is comprehensive protection for all grounds of discrimination (levelling-up). In 2011, the elevation of individual provisions of the CRC to constitutional status remained incomplete. Despite the ratification of the Istanbul Convention², which was mentioned positively in the League's last Joint Statement, national implementation of rights remains incomplete, particularly in preventing violence, guaranteeing victims' rights and financing adequate protection for victims. In addition, there is a lack of legally binding regulations for companies to respect human rights.³ Recent tendencies to restrict personal basic rights and freedoms, especially in the name of "public safety", are alarming.⁴

- PoA10. Implement a comprehensive catalogue of fundamental rights in the constitution.*
- PoA11. Levelling-Up: Comprehensive protection against discrimination in all areas of life.*
- PoA12. Create legal regulations that impose binding and enforceable due diligence obligations to respect human rights and the environment on all Austrian companies and groups of companies domestically and abroad (mandatory human rights and environmental due diligence) and commit to the creation of a general cross-sectoral regulation at EU level.*
- PoA13. Raise other provisions of the CRC to constitutional status, in particular social rights, the right to an adequate standard of living and the right to health care.*
- PoA14. Consider international human rights instruments effectively when drafting national legislation and develop a best practice in the formulation of draft legislation that gives preference to the formulation of standards that conform to fundamental rights.*

3. International and human rights infrastructure and political measures

5. In the field of child and youth welfare, competencies have been shifted from the federal level

to the regional level, which endangers the uniformity of standards. On the other hand, it is seen positively that about one third of the population lives in human rights cities, namely Vienna, Graz, and Salzburg, which have made special regional commitments. The foundation of the International Centre for the Promotion of Human Rights in Local and Regional Authorities in Graz at the 39th General Conference of UNESCO in 2017 gives an important impetus.⁵

PoA15. Increase awareness for the importance of human rights in all regional administrations.

PoA16. Ensure nationwide uniform legal quality standards in areas relevant to human rights, such as child and youth welfare and youth protection.

6. The situation of national action plans (NAP) in the field of human rights deteriorated during the review period. After initial progress, discussions between the government and NGOs⁶ have almost come to a standstill since 2017. However, it is positive that the commitment to the creation of a comprehensive NAP for Human Rights in Austria has been included in the last government programme.⁷ Less positive is the fact that this was done exclusively in the context of security policy.

7. A NAP against racism and discrimination is provided for in the last government programme but has not yet been implemented.⁸ The NAP for the protection of women against violence is still missing budgetary resources and a body has yet to be set up to monitor implementation.

8. A NAP, which has been planned for the implementation of the UNGP Human Rights⁹, has still not been developed. Recent results of proceedings before the Austrian National Contact Point on the OECD Guidelines for Multinational Enterprises also show the inadequacy of the current non-binding mechanism.¹⁰

PoA17. Prepare and formulate a comprehensive NAP on human rights based on the OHCHR recommendations 2011 and 2015.

PoA18. Support a status quo collection and formulation of realistic and measurable indicators in the context of the NAP on Human Rights.

PoA19. Ensure transparent consultation of civil society in the preparation of the NAP on Human Rights.

PoA20. Develop a specific NAP for the protection of children's rights based on the recommendations of the UN-CRC¹¹.

PoA21. Develop a NAP on economy and human rights.

PoA22. Improve the NAP on disability in consultation with countries, people with disabilities and organisations representing them and take the recommendations of the CRPD Committee into account.

PoA23. Ensure that the NAP on anti-discrimination covers the fight against all forms of racism (e.g. anti-Muslim racism, anti-Semitism, anti-gypsyism, etc.) and includes realistic and measurable indicators.

PoA24. Secure budgetary resources for the implementation of the NAP on Human Rights and the thematic NAPs.

9. Support for civil society organisations from the public sector deteriorated during the review period. Similarly, the financing of public authorities with legal protection functions has stagnated. For example, since 1 July 2017, the regional offices for Equal Treatment¹² have been made responsible for advising people discriminated based on their religion and belief, sexual orientation, ethnicity or age without corresponding increase in resources.¹³

PoA25. Strengthen the discourse on international human rights obligations.

- PoA26. Create financial resources for civil society work based on international best practice models.*
- PoA27. Strengthen the regional offices for Equal Treatment and sustainable protection of resources.*
- PoA28. Ensure legal protection of the child and youth advocates of the federal states, with a uniform mandate.*

B. Implementation of international human rights obligations

1. Equal treatment and anti-discrimination

10. Austrian equality law is characterised by a fragmentation of the grounds for discrimination. Regarding access to goods and services, federal law provides protection against discrimination only on the basis of disability, ethnicity and gender - but not on the basis of age, religion and belief and sexual orientation. Equality, between men and women has not yet been achieved.

- PoA29. Introduce uniform protection against discrimination throughout Austria: Amend the Equal Treatment Act¹⁴ and other anti-discrimination laws to ensure material and procedural protection against discrimination on all prohibited grounds.*
- PoA30. Introduce quota regulations in politics, business and on management levels to increase the proportion of women.*
- PoA31. Implement further measures to reduce the gender pay gap.*
- PoA32. Implement campaigns and measures for equal distribution of unpaid reproductive work between men and women (domestic work, childcare and care of the elderly).*
- PoA33. Include women with disabilities in all political programmes for women.*
- PoA34. Promote gender-sensitive language.*
- PoA35. Support nationwide ban against sexist and discriminatory advertising.*

11. An essential element of equality and non-discrimination of children is their meaningful and effective inclusion and participation in decision-making processes. In the Austrian media, girls and boys with disabilities are also often portrayed as weak, helpless and incompetent persons who would be dependent on charitable support.¹⁵

- PoA36. Strengthen participation opportunities for children and young people at a local level.*
- PoA37. Review existing forms of participation of children in all educational, care and work/training institutions.*
- PoA38. Strongly focus on political education to strengthen the Federal Youth Representation.*
- PoA39. Present children with disabilities as equal citizens also in the media.*

2. Right to life, freedom and safety of the person

12. The number of murders of women has risen sharply, with countless cases of domestic violence against women remaining unresolved. Attempts to counter increased violence by legal amendments¹⁶ are not effective, focusing too much on (harsher) punishment of perpetrators and too little on prevention.

- PoA40. Create a new National Action Plan "Protection against Violence for Women" which also considers women with disabilities, precarious residence permits, asylum seekers and women with mental illness.*

PoA41. Ensure unlimited contractual coverage of existing women's shelters and women's and girls' counselling centres in all federal states and provide for the necessary resources for new barrier-free, women-specific care and counselling facilities.

PoA42. Improve data collection on gender-based violence and femicide.

13. A comprehensive strategy to protect children from violence is missing. The reorganisation of competences in the Austrian Constitution in 2019, which eliminated federal competence in the field of child and youth welfare and transferred the matter to the federal provinces, jeopardises uniform, non-discriminatory quality standards. In addition, a nationwide protection concept for underage victims of human trafficking has been missing for many years. There is a lack of specialised care services and shelters.¹⁷

PoA43. Develop a strategy and implementation plan for the protection and prevention of violence against children.

PoA44. No shared custody of the parents in case of violence.

PoA45. Finance nationwide campaigns on violence against women and children and raise awareness of support facilities.

PoA46. Create binding nationwide quality standards for child and youth welfare services, including care by foster families.

PoA47. Create a legal obligation for all institutions (private, church and public) that care for children and young people to implement child protection guidelines and safeguarding concepts.

PoA48. Create a nationwide protection concept and specialised care facilities with appropriate safety standards (protective housing) for minors affected by human trafficking.

14. Racist misconduct on the part of the police was a recurring theme during the period under review, whereby especially the handling of such allegations in terms of independence and transparency needs to be greatly improved. Access to legal protection measures for those affected and statistical data collection must be greatly improved. Furthermore, the principles of orientation for a human rights-based job description of the police force developed within the framework of the "Police.Power.People.Rights Project"¹⁸ need to be actively implemented.

PoA49. Ensure an independent investigative body for cases of police abuse and adequate treatment of cases of abuse.

PoA50. Offer effective protection against secondary victimisation in the complaints procedure and balance the structural power advantage of the police over complainants.

PoA51. Set up efforts to make ethnic profiling transparent and develop countermeasures.

3. Administration of justice, impunity and rule of law

15. There are structural problems within the judicial system, due to the lack of judges, prosecutors and administrative staff.¹⁹ The public prosecutor's offices continue to ultimately report to the Minister of Justice and is therefore not independent of party politics.²⁰ The political appointment of presidents at administrative courts does not comply with European standards.²¹

PoA52. Take measures to strengthen the independence of the judiciary.

PoA53. Ensure financial resources for the judiciary at all levels.

PoA54. Create a politically independent top management of the public prosecutor's offices and full transparency in instructions.

PoA55. Provide mandatory training for judges and prosecutors on human rights and children's rights.

PoA56. Adapt the appointment procedures of the presidents of the administrative courts.

16. The problem of high court fees persists in civil proceedings.²² Reimbursement of costs in criminal proceedings in the event of an acquittal does not regularly cover the representation costs. In criminal proceedings, too little attention is often paid to the fact if the person concerned has understood his or her rights.²³ In administrative proceedings, the lack of procedural assistance in first instance proceedings can lead to systematic discrimination. There has been a sharp drop in the number of court interpreters available and there is no guarantee that the services will be adequately remunerated.

PoA57. Reduce court fees.

PoA58. Earmark court fees and fines for judicial improvements.

PoA59. Implement measures to ensure sufficient qualified interpretation services (including sign language and support in simple language).

PoA60. Increase the flat-rate contribution to the costs of the defence in the event of an acquittal in criminal proceedings.

PoA61. Improve the comprehensibility of legal instructions, especially for defendants in criminal proceedings.

PoA62. Ensure procedural assistance if necessary also at first instance before the administrative authorities.

17. In criminal justice, the statistical data on crimes with discriminatory or racist motives is insufficient for the development of effective future strategies. Not all judges and public prosecutors have sufficient background knowledge of gender-specific violence. The abolition of the once existing organisationally separate juvenile court system has proven to be a lasting mistake. Recently provisions for young adults have deteriorated, such as an increase in the penalty range.

PoA63. Implement a consistent application of the "special reasons for aggravation" according to § 33 StGB (Austrian Criminal Code) in proceedings concerning crimes with discriminatory or racist motives.

PoA64. Ensure traceable documentation and recording of the development crimes with discriminatory or racist motives.

PoA65. Use the planned legal instruments appropriately (custody, requirements for anti-violence training, extension of investigation procedures), especially in cases of sexual and domestic violence.

PoA66. Offer compulsory further training for judges and public prosecutors in the field of gender and domestic violence.

PoA67. Create organisationally separate juvenile courts and detention facilities.

PoA68. Evaluate the achievement of the objective of preventing juveniles and young adults who have committed crimes for the first time from pursuing a criminal career.

18. Problems remain unresolved in the penal system and preventive custody²⁴. There is overcrowding in prisons, inadequate work and employment opportunities, shortage of staff and the poor condition of premises²⁵. There are long confinement times²⁶ and no guarantee of the separation of prisoners on remand and prisoners in the regular penal system²⁷. Despite international

standards²⁸, there is no free legal advice for inmates after a criminal conviction. Visiting facilities, times and rooms are not geared to the needs of the children of imprisoned parents and need to be improved in line with international standards²⁹. Additionally, reforms on preventive custody have not yet been implemented.³⁰

PoA69. Implement measures to reduce the number of detainees.

PoA70. Extend work and employment opportunities for detainees.

PoA71. Increase medical and psychosocial staff, but also of the judicial guard.

PoA72. Create free legal advice facilities for prison inmates.

PoA73. Ensure confidential patient interviews without the presence of the judicial guard.

PoA74. Improve visiting and contact opportunities for children of detained parents.

PoA75. Fully implement the recommendations of the UN study on child detention.

PoA76. Adapt the maximum stopping days in house arrest (114 StVG) to international recommendations.

PoA77. Promote the reform of preventive custody on the basis of Article 14 of the CRPD.

PoA78. Continue to implement recommendations of the 2015 Reform Report for preventive custody.

4. Right to private and family life

19. The shift of constitutional responsibility for the welfare/protection of children from a national level to the federal states hinders uniform, non-discriminatory and high-quality services for children in families and alternative care facilities. Very often children are taken away from parents with disabilities instead of enabling assisted parenthood.

PoA79. Nationwide uniform, legally binding standards, which are regularly monitored on an evidence-based basis with the participation of technical experts and guarantee improvement of standards.

PoA80. Expand federal child and youth welfare statistics, including analysis and planning instruments.

PoA81. Implement the concepts on Assisted Parenthood for parents with disabilities.

20. The extension of the incitement provisions - i.e. the criminalisation of the public call to violate human dignity and the fundamental rights and freedoms of certain groups of the population - still does not cover the "gender identity" of victims. Human dignity should also be at the centre of protection when it comes to hatred on the Internet.

PoA82. Amend the incitement provisions of § 283 StGB to include the victim group on the basis of gender identity.

PoA83. Protect human dignity as a central legal good, also in cases of hatred on the internet.

5. Freedom of thought, conscience and religion, freedom of speech and assembly, freedom to participate in public and political life

21. The current ban on headscarves/religious clothing for children in the kindergarten and the proposal to ban them in primary schools is disproportionate regarding religious freedom. This regulation puts additional pressure on girls and increases the possibility of their social exclusion.

PoA84. Develop a comprehensive set of measures in schools addressing gender equality and diversity from a sensitive children's rights perspective.

22. Drastic shortening of review periods in the legislative process causes concern in terms of democratic policy. In recent years, many attempts have been made to hinder or exclude parliamentary discussions by introducing extensive legislative proposals without adequate assessment procedure by initiative proposals of pro-government parliamentarians, or by setting short deadlines and unusual committee assignments by means of rules of procedure.

PoA85. Apply the standards of public participation in the parliamentary process.

PoA86. Ensure the effective work of the Parliament.

6. Right to social protection and adequate life standards

23. During the review period, attempts were made to reduce support services for the poorest members of the population ("needs-based minimum income"), particularly in families with several children. Furthermore, attempts were made to exclude foreign-language speakers from support.³¹ Although these regulations were partially repealed by the Constitutional Court,³² legal uncertainty and inconsistent regulations throughout Austria now exist.

PoA87. Re-establish a uniform needs-based minimum income scheme throughout Austria that covers the full basic needs of life.

24. Indicators such as cost development, availability, overcrowding or the use of homeless assistance services increase significantly during the review period. In 2019, access restrictions for non-Austrian citizens and persons treated as such in non-profit housing were introduced (§ 8 subpara. 3 Non-profit housing act)³³. Those affected by discrimination are also disadvantaged in terms of access to affordable, permanent and inclusive housing.

PoA88. Establish a right to housing in the Constitution.

PoA89. Apply the protection of the tenancy law comprehensively to all types of housing.

PoA90. Guarantee an effective regulation of rent levels to create affordable housing for all, including marginalised groups.

PoA91. Promote non-discriminatory access to non-profit housing through anti-discrimination work.

PoA92. Abolish discriminatory regulations in the Non-Profit Housing Act (WGG).

PoA93. Obligate non-profit developers to allocate housing to particularly disadvantaged people on a pro rata basis.

25. Women often work in low-paid or part-time jobs. Especially single mothers, migrant women, women with disabilities, women in old-age pensions, but also women affected by violence are often particularly at risk of poverty or are even below the poverty line. The compatibility of work and family is not always guaranteed for parents.

PoA94. Provide sufficient high-quality childcare places on a national level to improve the compatibility of family and career.

PoA95. Guarantee financial protection against female poverty, especially for single mothers and their children and women with disabilities.

PoA96. Give support in housing for women affected by violence to enable them to break out of a violent relationship in the long term.

PoA97. Establish an independent residence title for women, independent of their husbands, within the framework of family reunification also in case of separation.

7. Right to health

26. Paediatricians are increasingly moving to the elective doctor sector, which must be privately pre-financed causing a shortage in affordable therapy places for children. Also, psychotherapy for traumatised children and adolescents is not sufficiently provided. The protection of children from marketing strategies for unhealthy products is not pursued systematically.

PoA98. Ensure a sufficient number of paediatric practices and other therapy places for children and adolescents with a direct contract with statutory health insurances.

PoA99. Implement a child-centred approach to food marketing, including a binding law on the advertising of foods with high salt, saturated fat and sugar content.

PoA100. Expand multilingual/native language health services for children and families with a migration background.

PoA101. Ensure compulsory training in communication with children and young people for medical professions.

PoA102. Raise the awareness of medical staff regarding children's rights and include children's rights in the training curricula of medical professions.

27. Hospitals, doctors' practices, other health care facilities are often not oriented towards a "universal design" on comprehensive accessibility regarding the architectural environment, information (sign language or easy language on site and on the websites, etc.), and medical equipment.

PoA103. Ensure comprehensive accessibility in hospitals, medical practices and other health facilities

PoA104. Establish child-friendly rehabilitation facilities for children and young people with disabilities and avoid placing children and young people with disabilities in facilities for adults.

PoA105. Sensitize and raise the awareness of medical staff for the respectful treatment of people with disabilities and recognition of their role as experts concerning their disabilities.

28. The health sector is an important contact point for women affected by violence, but there are still few referrals from women affected by violence to, for example, women's shelters.

PoA106. Implement nationwide training and information campaigns in the health sector on the topic of violence against women and domestic violence.

PoA107. Implement measures to provide adequate care for mentally ill women and women affected by violence.

PoA108. Ensure nationwide appropriate psychosocial care for victims of violent crime, as well as psychotherapeutic support on the basis of a health insurance certificate.

PoA109. Women have a right to decide about pregnancy, the time-phase solution for the termination of pregnancy must not be restricted.

8. Right to education

29. Protection against racial discrimination in the education system needs to be greatly improved. The combination of migration background, situations of poverty and language differences continues to lead to serious disadvantages and exclusion. The inclusion of children with disabilities in the regular system is also insufficient and there is a trend towards segregated schools.³⁴

PoA110. Strengthen human rights education through explicit, cross-curricular consideration of children's rights in all curricula and in compulsory teaching content for all school levels.

PoA111. Establish and finance additional school support systems across Austria for pupils with (sometimes multiple) problems.

PoA112. Provide for more school support staff, social workers, school psychologists, external partners and similar contact persons at all educational institutions.

PoA113. The Austrian school laws (SchPflG, SchOG, SchUG) should include inclusive education in the sense of the UN Convention on the Rights of the Child and the UN Disability Rights Convention.

PoA114. Establish and promote Austrian sign language as a teaching language.

PoA115. Develop a comprehensive and mandatory strategy for the de-institutionalisation of children with disabilities, including needs-based family support and personal support services.

PoA116. Allocate financial resources for the construction or renovation of special facilities for children with disabilities.

PoA117. Rapidly integrate children with little knowledge of German into regular school life without separate classes such as "bridge classes" or "German support classes".

30. School curricula do not sufficiently cover the topics of sexuality, self-determination and consent issues in the relationship context. Greater awareness of violence, especially sexualised violence, is needed.

PoA118. Extend the curricula on the subjects of consent, respect and forms of violence.

PoA119. Implement Austria-wide violence prevention programmes in the curriculum in cooperation with violence protection institutions.

PoA120. Problematiser traditional gender stereotypes.

31. Children attending the kindergarten and compulsory schools do not have the same opportunities for cultural education throughout Austria. In professional schools,³⁵ little or no consideration is given to the artistic field in the curriculum.

PoA121. Strengthen cultural education in all school types

PoA122. Establish an inter-ministerial work group on cultural education (Ministries of Education, Culture and Social Affairs).

9. Persons with disabilities

32. The NAP on Disability 2012-2020 only includes a non-binding catalogue of measures, no indicators, and remains largely unfulfilled. Inconsistent regulations between the federal states and the lack of public funds prevent implementation.

PoA123. Revise the NAP on Disability with measurable target indicators and provide for adequate financial resources to implement the obligations under all articles of the UN-CRPD

PoA124. Preparation of a comprehensive strategy to de-institutionalise children with disabilities

33. Unemployment among people with disabilities has been constantly increasing and many people with disabilities who have been declared incapable of working are de facto excluded from the

labour market for their entire lives.

PoA125. Focus political strategies and measures on the participation of all people with disabilities in an inclusive labour market.

PoA126. Make sure that people with disabilities are not being classified as "unable to work".

PoA127. Guarantee legal entitlement to support services that make it possible to work to secure one's livelihood.

34. People with disabilities, including deaf people in Austria are still prevented by numerous barriers from exercising fundamental freedoms and human rights.

PoA128. Provide information from public authorities in accessible formats (easy reading, subtitles or supertitles, digital ticker in audio-visual formats, sign language insertion), sign language interpreting service and accessibility via telephone, video chat, SMS, e-mail.

PoA129. Offer barrier-free websites, subtitling of public and private TV broadcasters, barrier-free access to theatre and film presentations, museums, galleries, etc.

PoA130. Establish the "two-senses principle" in public institutions, transport and communication and information systems.

PoA131. Provide for free sign language courses for hearing parents of deaf children and deaf parents of hearing children (CODA).

10. Minorities

35. There is a lack of use of minority languages recognised in Austria by public authorities. Media offers in the minority languages are not sufficient both quantitatively and qualitatively. While at the primary school level still more bilingual instruction in German and the minority languages is observed, bilingual instruction at the secondary school level is significantly reduced.

PoA132. Increase staff with language skills in the recognised minority languages public authorities.

PoA133. Enhance bilingual education in German and the recognised minority languages in secondary education.

PoA134. Increase the support of ethnic groups through the funds of the Ethnic Groups Advisory Council.

36. Although Austrian Sign Language (ÖGS) is recognised as a language in the constitution, the deaf community is not accepted as a linguistic minority and therefore cannot claim the rights of a recognised linguistic minority.

PoA135. Recognise the deaf and hearing-impaired sign language community as a linguistic minority.

11. Migrants, refugees and asylum seekers

37. In recent years, many welfare state regulations for migrants and asylum seekers have been made more rigid. In 2017, a tightened system of restrictions on freedom and deprivation of liberty was established partially in contradiction with the rights of asylum seekers. In 2018, the access of asylum seekers to teaching professions was blocked, contrary to EU and international obligations. In addition, benefits from family allowances for children of migrant workers were indexed to the price level of the children's country of residence³⁶.

PoA136. Abolish the international indexation of family allowances.

PoA137. Abolish systematic restrictions on the freedom of asylum seekers that go beyond what is allowed against nationals.

PoA138. Give effective access to education and teaching for asylum seekers, including those who are no longer minors.

PoA139. Give access to the labour market for asylum seekers at the latest six months after the asylum application has been lodged, in order to enable them to make an independent contribution to financing their lives.

PoA140. Ensure complete decriminalisation of escape aid if it can be proved that illegal immigrants had reasons to flee in accordance with the Geneva Convention.

38. The handling of unaccompanied children and young people as asylum seekers regarding their origin, cultural characteristics, transcultural psychology and pedagogy and the role of the absent family is not satisfactory. Attendants often do not have the cultural sensitivity to establish a relationship with the unaccompanied children and their network.

PoA141. The care of unaccompanied minor foreigners must be guaranteed by child and youth welfare services from the first day of their arrival in Austria.

PoA142. Unaccompanied and accompanied minor refugees must be placed on an equal footing with young people from Austria and the EU area.

39. In interviews by asylum authorities, there are no sufficient measures to help persons concerned to give full testimony with regard to their vulnerability. Decisions in the asylum procedure taken by the first authority are often based on personal opinions of advisers and include biased questions and the use of stereotypes.³⁷ Interrogations often take place in an atmosphere of distrust. By the end of 2020, the Federal Agency for Care and Support Services, a state organisation under the supervision of the Ministry of the Interior, is to take over the legal counselling of asylum seekers completely, so that the fundamental right to an effective legal remedy in accordance with Article 47 EU-GRC³⁸ is endangered.

PoA143. Establish a mechanism to ensure the identification of vulnerable persons in asylum and return procedures.

PoA144. Train officials and judges involved in asylum procedures for the identification of vulnerable persons in cooperation with specialised civil society organisations

PoA145. Better consider the impact of trauma on asylum-seekers in asylum procedure communication

PoA146. Carry out regular external evaluation of the accommodation arrangements in asylum-seekers' reception centres

PoA147. Ensure independent legal advice for asylum-seekers and, if necessary, cover the costs of advice from professional legal advisers or civil society organisations.

12. Right to development³⁹

40. Lack of financial resources prevents the implementation of the right to development. But also deficiencies in structure, coordination and coherence reduce the effectiveness of the support provided. There are no clear political objectives or strategies.

41. The objectives of gradually increasing Austria's ODA to 0.7% of GDP and developing a strategy for humanitarian aid in the new government programme are positive steps in the right direction, which require appropriate implementation. It can be reported positively that civil society has become more involved in consultation processes, but there is still a lack of transparency.

PoA148. Implement the government's work programme through binding roadmaps and clearly formulated plans to implement the increase in ODA to 0.7% of GDP as quickly as possible.

PoA149. Develop an overall coherent strategy for the Austrian Development Cooperation that includes all actors and stakeholders and is in line with the goals of the 2030 Agenda for Sustainable Development.

PoA150. Child rights must be explicitly considered in all development cooperation and SDG processes.

PoA151. Strengthen the role of Parliament in the legislative process in assessing the potential impact of proposed legislation on development objectives.

PoA152. Implement the "Standards for Public Participation" to guarantee the participation of all relevant actors.⁴⁰

¹ Convention on the Elimination of All Forms of Discrimination against Women dated 18.12.1979.

² Convention of the Council of Europe to prevent and combat violence against women and domestic violence (Istanbul Convention)

³ International examples: France: Loi relative au devoir de vigilance; EU: branch-specific due diligence regulation of the wood trade regulation 995/2010 and the conflict minerals regulation 2017/821

⁴ See *Neisser* in *Liga Menschenrechtsbefund* 2018.

⁵ Focus on research, capacity building in the sense of counselling and human rights education, information dissemination ("Clearing House") and international cooperation

⁶ <https://volksanwaltschaft.gv.at/praeventive-menschenrechtskontrolle/nationaler-aktionsplan-menschenrechte-1#index-lead>

⁷ Die neue Volkspartei/Die Grünen – Die Grüne Alternative: Aus Verantwortung für Österreich. Government programme 2020-2024, p.212

⁸ Die neue Volkspartei/Die Grünen – Die Grüne Alternative: Aus Verantwortung für Österreich. Government programme 2020-2024, p. 208.

⁹ United Nations Guiding Principles on Business and Human Rights – UNGP

¹⁰ In the Xaburi-Laos complaint case, for example, only non-binding recommendations and an accompanying mediation in case of dispute were submitted, which cannot guarantee effective law enforcement of the persons concerned;

<https://www.bmdw.gv.at/The.men/International/OECD-Leitsaetze-multinationale-Unternehmen-OeNKP/Einigung-im-Xayaburi--Laos-Staadamm-Beschwerdefall.html>

¹¹ February 2020

¹² Gleichbehandlungsanwaltschaft, according to Federal Law Gazette I No. 66/2004 as amended.

¹³ Federal Gazette II, 126/2017 decree: Establishment of regional offices for Equal Treatment in the federal states

¹⁴ Gleichbehandlungsgesetz, Federal Law Gazette I No. 66/2004 as amended.

¹⁵ This has been repeatedly criticised internationally, e.g. 2013 from the UN-CRPD- and 2020 from the UN-CRC-Committee

¹⁶ Protection against Violence Act 2019, Federal Gazette I No 105/2019.

¹⁷ repeatedly criticised in the context of monitoring processes by international organisations, e.g. Evaluation reports (Country Reports) of the GRETA Committees of the Council of Europe, <https://www.coe.int/en/web/anti-human-trafficking/austria>

¹⁸ „Polizei.Macht.Menschen.Rechte“, <https://bmi.gv.at/408/PMMR/start.aspx>

¹⁹ See also Perception report of the last minister of justice Prof. Dr. Clemens Jabloner,

<https://www.justiz.gv.at/home/justiz/aktuelles/2019/wahrnehmungsbericht-des-bundesministers-fuer-verfassung-reformen-deregulierung-und-justiz-dr-clemens-jabloner~38f.de.html>

²⁰ See *Koller* in *Liga Menschenrechtsbefund* 2019

²¹ as addressed also by the Council of Europe in the "Situation Report 2017" on the situation of justice in Europe

²² Proceeds from court fees and fines exceed the budget needs of the judiciary, but are included in the general budget, see e.g. *Helige* in *Liga Menschenrechtsbefund* 2019

²³ *Zach/N. Katona/M. Birk, Die ersten 48 Stunden – Beschuldigtenrechte im Ermittlungsverfahren* (2018)

²⁴ *Maßnahmenvollzug, custody for persons not criminally responsible, but endangering themselves or others*

²⁵ *N. Katona/P. Hamedl, Prison Conditions in Austria* (2019), p. 12; *Stuefer/Schöch: Handbuch Strafvollzug, Fakten-Rechtsgrundlagen – Mustersammlung* (2018), p. 52

²⁶ sometimes 23 hours a day (24 hours in bad weather) in multi-person detention rooms for months to years, *Volksanwaltschaft, Report 2018, Präventive Menschenrechtskontrolle* (2019), p. 126

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- ²⁷ Volksanwaltschaft, Report 2017, Präventive Menschenrechtskontrolle (2018), p. 143
- ²⁸ European Prison Rules, Rule 23.1. and Mandela Rules – United Nations, Minimum principles for the treatment of prisoners, Rule 61
- ²⁹ the Convention on the Rights of the Child, the UN study on the deprivation of liberty of children published in 2019 (Download at <https://omnibook.com/global-study-2019>) and the recommendations of the Council of Europe (Recommendation CM/Rec(2018)5 of the Committee of Ministers to the Member States on children of detained parents)
- ³⁰ Maßnahmenvollzug, see also Liga Menschenrechtsbefund 2016 and 2017
- ³¹ Federal law on principles of social assistance (Sozialhilfe-Grundsatzgesetz, SH-GG), Federal Law Gazette I No. 41/2019
- ³² Decisions dated 24.12.2019, G 164/2019-25 and G 171/2019
- ³³ Wohnungsgemeinnützigkeitsgesetz
- ³⁴ The UN Committee on the Rights of the Child already criticised the institutionalisation of children with disabilities in 2012 and confirmed this clearly in 2020
- ³⁵ Berufsschulen, Berufsbildenden Mittlere Schulen, Berufsbildenden höhere Schulen
- ³⁶ § 8a Family Equalization Fund 1967, Federal Gazette No. 376/1967
- ³⁷ See also OHCHR Report of October 2018
- ³⁸ EU-Charta of Fundamental Rights
- ³⁹ See also Annex III, JS-APDHA
- ⁴⁰ Chancellor's Office, Ministry of Life: Standards for Public Participation, 2009