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促进和保护所有人权——公民权利、政治权利、  
经济、社会和文化权利，包括发展权

## 对奥地利的访问

以雇佣军为手段侵犯人权并阻挠行使民族自决权问题工作组的  
报告\* \*\*

## 概要

以雇佣军为手段侵犯人权并阻挠行使民族自决权问题工作组 2018 年 6 月 21 日至 29 日访问了奥地利。根据任务授权，工作组重点考察了外国战斗人员作为雇佣军相关行为者的现象以及该国的私营保安业。工作组注意到，在欧洲国家中，奥地利是 2014 和 2015 年前往主要冲突地区的人均公民人数最多的国家之一。报告探讨了促使个人前往伊拉克和阿拉伯叙利亚共和国等冲突地区的动机因素。报告还重点论及一家跨国私营保安公司在沃尔登贝格开办的移民拘留中心以及私营保安业的总体监管框架。工作组就解决外国战斗人员和私营保安公司问题提出了建议。

\* 报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。

\*\* 本报告逾期提交，以反映最新动态。



## Annex

### **Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination on its visit to Austria**

#### **I. Introduction**

1. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination visited Austria from 21 to 29 June 2018, at the invitation of the Government. The delegation comprised two members of the Working Group, Gabor Rona (Chairperson-Rapporteur) and Saeed Mokbil, accompanied by staff of the Office of the United Nations High Commissioner for Human Rights.

2. In accordance with Commission on Human Rights resolution 2005/2 and Human Rights Council resolution 33/4, the Working Group is mandated to study and identify sources, causes, manifestations and trends with regard to mercenaries and mercenary-related activities, and their impact on human rights, particularly on the right to self-determination. The Working Group is also mandated to monitor the activities of private military and security companies and their effects on human rights.

3. Since 2014, the Working Group has explored the linkages between the phenomena of foreign fighters and of mercenaries, and their impact on human rights. It has undertaken visits to several countries to assess these phenomena and has since issued reports in which foreign fighters were identified as mercenary-related actors, where the motivation to engage in armed conflict was for financial or material gain.

4. In connection with the Working Group's mandate, the Human Rights Council emphasized its utmost concern, in its resolution 33/4, about the activities of private military and security companies operating in privatized prisons and immigration detention facilities and the impact of those activities on human rights. In 2017 the Working Group presented a report to the General Assembly in which it assessed the use of private military and security companies in places of deprivation of liberty and the impact on the human rights of persons deprived of their liberty (A/72/286).

5. During the visit, the Working Group held meetings in the states of Vienna and Lower Austria, in the town of Garsten in Upper Austria and in the towns of Leoben and Vordernberg in Styria. It met with representatives of the federal Government, including representatives of the Ministry for Europe, Integration and Foreign Affairs, the Ministry of the Interior, the Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, the Ministry of Defence, the Ministry for Digital and Economic Affairs, the Federal Chancellery and the Chancellery's Department for Families and Youth. It also met with Members of Parliament and representatives from the Ombudsman's Office. In addition, the delegation met with prisoners at Garsten prison, with detainees at the Vordernberg immigration detention facility, with representatives of civil society organizations, with academics and with young persons on deradicalization programmes.

6. The Working Group thanks the Government of Austria for its cooperation in facilitating the visit and for the factual comments that it made regarding the draft report. The delegation was able to hold open and frank discussions with all the State representatives it met. The Working Group also warmly thanks all the non-government interlocutors who gave of their time to meet and hold discussions with the delegation. The Working Group appreciates the support and assistance it received from the United Nations information centre in Vienna.

## A. Definition and scope

7. A mercenary is defined in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries as someone who is specially recruited locally or abroad in order to fight in an armed conflict, is motivated essentially to take part in hostilities by a desire for private gain, and is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party. A mercenary is neither a national of a party to the conflict, nor a resident of the territory controlled by a party to the conflict, is not a member of the armed forces of a party to the conflict, and has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

8. There is no international legal definition for foreign fighters, nor any specific legal regime governing them. The Working Group has noted that the term “foreign fighters” is generally understood to refer to individuals who leave their country of origin or habitual residence to engage in violence as part of an insurgency or a non-State armed group in an armed conflict (A/70/330, para. 13).

9. Both mercenaries and foreign fighters are external actors who intervene in an armed conflict. Mercenaries are neither nationals of a party to the conflict nor residents of a territory controlled by a party to the conflict. Similarly, foreign fighters, while they may or may not be nationals of a party to the conflict, do not reside in the State affected by the conflict and have travelled from abroad to join the insurgency. Both mercenaries and foreign fighters may be recruited abroad or locally (*ibid.*, para. 14).

10. The right to self-determination, in its contemporary manifestation, encompasses political struggles for greater democracy and human rights. This right is referred to in Article 1 (2) of the Charter of the United Nations as a fundamental principle necessary for the purpose of strengthening universal peace. In its general comment No. 12 (1984) on the right to self-determination, the Human Rights Committee recognized this right as an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights (para. 1). This right is also broadly understood as the right of peoples to determine their own political and economic system, including by participatory political processes.

11. The Working Group defines a private military or security company as an entity that provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities.

## B. Background

12. Austria is a parliamentary representative democracy with a population of approximately 8.7 million. The capital and largest city, Vienna, has a population exceeding 1.8 million. According to the human development index, Austria has a high standard of living and in 2018 was ranked at number 20 out of 189 countries and territories in the world, in the very high human development category.<sup>1</sup> Austria has been a member of the United Nations since 1955 and joined the European Union in 1995.

13. As a federal republic, Austria is comprised of nine federal states or provinces: Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg and Vienna. Its official language is German (spoken by 88.6 per cent of the population). Croatian is also spoken, with smaller percentages of the population speaking Slovene and Hungarian. According to recent studies, an estimated 64 per cent of Austrians are Roman Catholics, 5 per cent are Protestants and 8 per cent are Muslims.

14. Migration to Austria has resulted in a diverse and multi-ethnic population. The conflicts that have recently taken place in countries such as Iraq and Syria have resulted in

<sup>1</sup> See [hdr.undp.org/sites/default/files/Country-Profiles/AUT.pdf](http://hdr.undp.org/sites/default/files/Country-Profiles/AUT.pdf).

an influx of individuals seeking asylum or passing through Austria to other countries in the region for the same purpose. In 2016, some 1.9 million people with a foreign background (with both parents born abroad) were living in Austria. A large majority of these individuals were born abroad, while around 480,000, who were born in Austria and are descendants of foreign-born parents, have often been referred to as “second generation” immigrants. Vienna remains the prime destination for international migration to Austria, and most migrants have settled in the eastern part of the country in close proximity to the capital.

15. From 2011 to 2016, an increasing number of nationals of European countries travelled to conflicts such as those in Iraq and the Syrian Arab Republic. During this period, an estimated 42,000 foreign fighters from over 120 countries joined armed conflicts. Of those, around 5,000 were estimated to come from Europe.<sup>2</sup>

16. From 2014 and 2015, Austria was reported as having one of the highest per capita rates in the European Union of foreign fighters travelling to major conflict zones. An estimated 317 individuals attempted to join groups such as Islamic State in Iraq and the Levant (ISIL), also known as Daesh, and the group known at that time as the Nusrah Front. Around 60 individuals were intercepted while attempting to travel to the conflict zones, and many of them were tried and convicted under anti-terrorism legislation. About 93 persons were known to have returned from the conflict zones, but there are no definitive statistics on the numbers of persons killed in conflict.<sup>3</sup>

### C. Legal and institutional framework

17. Austria has ratified many international human rights conventions, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention relating to the Status of Refugees and the Geneva Conventions of 12 August 1949 and the Protocols additional thereto, in which “mercenary” is defined.<sup>4</sup> Austria has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

18. The Working Group notes that most individuals who were reported to be travelling to participate in armed conflicts abroad were charged and convicted under section 278 of the Penal Code, which covers anti-terrorist legislation. Participation in a criminal organization, as defined in article 278a of the Code, constitutes a criminal offence, while leading or participating in a terrorist group is criminalized in article 278b. In further defining such participation, the law stipulates that this applies to anybody who, inter alia, supports a criminal group by providing information or assets or in any other way that promotes the group or its criminal acts. The recruitment of members of armed associations and the financing of such associations are criminalized under article 279, and these offences are punishable by imprisonment of up to three years.

19. The Working Group also notes that offences relating to persons who have travelled to engage in conflict because of financial incentives, or to those who may be deemed mercenary-related actors, could also fall under section 278 of the Penal Code. Furthermore, support for criminal organizations acting outside the country is punishable if a supportive act has been carried out in Austrian territory. The recruitment of members of a criminal organization can be considered as a supportive act.

20. Austrian law contains specific regulations to prohibit the use and distribution of symbols attributable to ISIL or Al-Qaida. Border authorities are permitted, by regulations, to prevent minors from leaving Austria upon suspicion that they will participate in fighting

<sup>2</sup> Radicalisation Awareness Network, *RAN Manual: Responses to returnees: Foreign terrorist fighters and their families* (Amsterdam, 2017).

<sup>3</sup> As ascertained in discussions with interlocutors during the visit.

<sup>4</sup> Protocol I, art. 47.

activities abroad. Authorities may withdraw citizenship from an Austrian dual national who voluntarily and actively participates in fighting in an armed conflict. The Office for the Protection of the Constitution and Counter-terrorism, which is the key counter-terrorism agency within the Ministry of the Interior, has reported ongoing efforts to address radicalization to violence by extremist groups, including those identified by the Office as Islamist extremist groups.

21. In response to issues concerning foreign fighters, law enforcement agencies have focused on intelligence gathering and investigations, while integration officials have engaged in public outreach to prevent radicalization to violence. In 2017, a number of pieces of legislation were approved on the use of stringent surveillance measures, with far-reaching surveillance powers being granted to the Government's security agencies. These measures have raised concerns relating to their implications on, *inter alia*, the right to assembly, the right to freedom of expression and the right to privacy.

22. Austria supports the work of the Security Council, in particular its Counter-Terrorism Committee and its Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities. Austria has financially contributed to, and thus enabled the start of, the Global Programme against Terrorism by the United Nations Office on Drugs and Crime. Austria has taken an active approach to implementing Security Council resolution 2178 (2014) to counter foreign terrorist fighters and resolution 2199 (2015) to counter ISIL, and has taken steps to incorporate the Global Counterterrorism Forum's good practices on foreign terrorist fighters.<sup>5</sup> It is also a member of the international counter-ISIL coalition and its working groups on foreign terrorist fighters and on stabilization.

23. Austria is party to several bilateral and multilateral treaties in the field of mutual legal assistance in criminal matters and extradition, including the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol, and the European Convention on Extradition and its Second Additional Protocol.

24. At the time of the visit, the Working Group was informed of a draft national strategy on deradicalization and prevention of violent extremism, which had yet to be adopted. The Working Group noted the critical need to ensure the valuable contributions of civil society organizations and community groups to the content of this strategy and to ensure that it would not focus exclusively on security and law enforcement measures but would also cover the multidimensional areas with which violent extremism and radicalization are linked. In that regard, the National Network for Preventing and Countering Violent Extremism and De-radicalization, which was founded by the Ministry of the Interior in 2017 and involves approximately 70 experts from multiple sectors of society, including health, education and the media, can significantly assist with the programmes on deradicalization and countering violent extremism.

25. The national human rights institution is the Austrian Ombudsman Board. In recommendations contained in the country's universal periodic review in 2015, reference was made to the need to ensure that the appointment of board members complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (see A/HRC/31/12).

26. The private security industry in Austria is not regulated by sector-specific legislation. Rather, it is covered by a general commercial law, the Trade, Commerce and Industry Regulation Act 1994. This law does not allow a company to provide armed private security services unless a special licence has been granted to it by the national authority in charge of drafting and amending legislation in this area, the Gewerbebehörde or Trade Authority. This authority is responsible for controls and inspections, and may impose administrative and penal sanctions.

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<sup>5</sup> See [www.thegctf.org/About-us/GCTF-documentsf](http://www.thegctf.org/About-us/GCTF-documentsf).

## D. Positive observations

27. Having ratified the majority of the international human rights conventions, and with its Constitution and legislation providing strong protection for fundamental human rights, Austria is often seen as a beacon of democracy and the rule of law.

28. With regard to the foreign fighter phenomenon, the Working Group notes that the Government has engaged in multiple strategies, engagements and forums – nationally, regionally and internationally – to address this challenge. At the time of the visit, the Government’s aims of deradicalization and of countering and preventing violent extremism had been credited with stemming the flow of fighters to conflict zones.

29. The Working Group notes that there has been collaboration among the security sectors of the State, with a network of civil society and non-governmental organizations addressing deradicalization and assisting in the prevention of violent extremism. Some of these actors were from local communities, and they included religious experts, social workers, counsellors, academics and representatives of non-government groups.

30. The delegation noted a number of positive initiatives, including public-private partnerships. For example, a programme was being run by DERAD, a national association working mainly with extremist prisoners, and the Radicalisation Awareness Network of the European Commission had brought together numerous practitioners from around Europe to work on the prevention of radicalization.<sup>6</sup> Other initiatives included sports and youth activity groups that dealt with radicalization and worked with persons at risk of violent extremism. The Government’s support of and engagement with these initiatives is crucial, as the sustainable solutions and actions that are needed to address the phenomenon of foreign fighters requires collaboration among multisectoral actors in the public, private and non-governmental spheres.

31. The efforts made by Austria to counter violent extremism have included cooperation between the Ministry of Foreign Affairs and the Islamic faith community in conducting information campaigns in mosques, Islamic organizations and community centres. This initiative included education outreach to encourage Austrians to differentiate between Islam and what is understood as violent extremism. In an effort to counter radicalization and to improve the integration of newly arrived refugees, the Foreign Ministry’s Integration Office developed an educational programme focused on German language acquisition and education on gender equality and democratic principles. The Government of Austria has established and maintained a counselling centre<sup>7</sup> and a 24-hour helpline, which any member of the community may use to contact social workers and counsellors in order to ask questions or discuss issues related to violent extremism and radicalization. The Working Group noted the valuable work provided by the counselling centre, having visited it and met with some of the young people it served, including a young refugee from the Syrian Arab Republic.

32. With regard to private military and security companies, Austria provides a positive example in that it has not followed the trend of contracting private military and security companies – whether domestically or from abroad – for core government functions such as military services and the operation of prisons. The Working Group was pleased to note that there are constitutional prohibitions against such outsourcing, and that there were no specific concerns relating to such operations. Article 79 of the Constitution states that the military defence of the country is the exclusive responsibility of the Austrian Armed Forces, and that it is therefore inadmissible for other (potentially outsourced) institutions to act within the framework of national military defence. In Austria, private security companies primarily carry out functions such as the guarding of events and public and private institutions.

<sup>6</sup> See [ec.europa.eu/home-affairs/what-we-do/networks/radicalisation\\_awareness\\_network\\_en](http://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network_en).

<sup>7</sup> See [www.boja.at/english/](http://www.boja.at/english/).

## II. Overview of findings

### A. Foreign fighters

33. The foreign fighter phenomenon is not new to Europe. In the past, conflicts in the former Yugoslavia, Chechnya, Afghanistan and elsewhere attracted foreign fighters, including from Austria. However, the volume of those travelling in connection with the crises in Iraq and the Syrian Arab Republic from 2011 to 2015 was unprecedented. Terrorist attacks in Europe gave rise to fears regarding those returning from conflict zones. This prompted a series of measures, some of which were largely punitive, although others focused on rehabilitation.

34. The phenomenon of travelling to conflict zones from Austria began some time after 2011, peaking around 2015. During 2013 and 2014, around 8 to 10 youths were reported to have left Austria for the Syrian Arab Republic. According to an organization working on deradicalization, staff received reports at their various youth centres in Vienna in 2011 and 2012 that many young people were beginning to discuss the conflict in the Syrian Arab Republic. Several of them with a Muslim background had questions related to religion, which spurred these discussions. Not long after that, information began to emerge of individuals travelling to join groups such as ISIL and the Nusra Front in the Syrian Arab Republic.

35. By September 2015, 230 identified individuals had left Austria for the Syrian Arab Republic or Iraq, 120 were still in the conflict zone and at least 34 had died. According to the authorities, the number of returnees exceeded 70 at this time. Seventeen women had left Austria by February 2015 for ISIL-controlled territory, some of them having been under 18 years of age at the time of their departure. At the time of the visit, the overall number of foreign fighters from Austria was estimated to be over 300.

36. Many of those who were intercepted entered prison or the criminal justice system, most of them having been charged or convicted under the anti-terrorism legislation contained under section 278 of the Penal Code. During the visit, the Working Group was informed that the number of persons travelling to engage in conflict had declined significantly, and that no individuals were known to be attempting to travel at that time. The military suppression of ISIL had gained momentum during the period of the visit, and measures by the Government to address the phenomenon of foreign fighters had taken effect.

37. The Austrian security and law enforcement agencies and officials from the Office for the Protection of the Constitution and Counter-terrorism were routinely cooperating with representatives of other States in various types of investigation, ranging from the informal sharing of preliminary investigative information to joint multilateral investigative projects and enforcement operations. Border security forces were making effective use of security measures, including biographic and biometric screening at ports of entry, and were sharing information internally and with other European Union countries. Border security officials at ports of entry have discretion when determining which documents and passengers are subject to screening on arrival.

38. While security measures were being implemented to address issues concerning persons travelling to conflict zones, emphasis was being placed on better understanding the reasons that prompted individuals to travel to take part in conflicts.

#### **Motivation and recruitment**

39. There is no standard profile for Austrians who travel abroad to fight, and diverse factors motivate different individuals. Some of the main factors include ideology, religious conviction, a search for identity and a sense of belonging, economic and financial gain, and adventure. Financial gain is of particular interest to the Working Group with regard to its mandate and, given the wealth that groups such as ISIL have accumulated through illicit means, there was a likelihood of individuals being drawn to become members of those groups primarily for material and financial gain. The delegation was informed of a case in

which an individual was promised that, if he went to the Syrian Arab Republic, a payment of €4,000 would be made to his family. Other recruits were reportedly promised salaries in excess of those paid to local fighters and, in some cases, even houses and cars. In a number of cases, the motivation could comprise a combination of financial and other factors.

40. The Working Group was informed that humanitarian assistance was also a common motivation. When the crisis in the Syrian Arab Republic began in 2011, a number of individuals from the region travelled to the conflict zone to fight against the Assad regime and to provide services to combatants, for example as doctors. Some interlocutors stated that they were certain that some individuals who had travelled from Austria, particularly those from the older generation, were classic mercenaries. Many stated that young people were more likely to travel for ideological reasons – in order to find a group where they felt they could belong or to obtain status or respect – or because of their religious belief, involving an imagined paradise and the attraction of living in a community of shared religious values and practices. Some young people became foreign fighters in rebellion against or in opposition to their families. The general age range for those travelling was reported to be from 18 to 35 years.

41. Although most fighters have been men, women have also travelled, mainly to join their husbands or friends. Young women and girls were mostly reported to have travelled to conflict zones in order to become brides of ISIL or Nusrah members. In April 2014, two Austrian teenagers of Bosnian descent, aged 15 and 16, travelled to the Syrian Arab Republic to marry ISIL fighters. Both the girls were reportedly recruited through a mosque whose preachers held violent, extremist ideologies. Their cases became well known due to their ages, as did the fact that they had been radicalized without their family's knowledge – a trend that would soon be evident among youths travelling to conflict zones.

42. One particular feature of the foreign fighter phenomenon in Austria is that around 50 per cent of the fighters who have travelled have been of Chechen origin. While many people who spoke to the delegation said that some individuals had been radicalized to join groups such as ISIL due to their ideological leanings, others pointed to the fact that quite a number of Chechens viewed the war in the Syrian Arab Republic as an extension of the war between the Russian Federation and Chechnya, and thus joined the conflict as an act of retaliation. There is a large Chechen diaspora in Austria, and nationals of various Balkan countries with refugee status have been particularly targeted by recruiters. Alleged foreign fighters have included Afghans, Austrians, Bosnians, Kurds, Russians, ethnic Serbs and Turks. Many fighters from the older generation were said to have been affected by the wars that they had experienced in their countries of origin and to be likely to travel to conflict zones. The trauma that many of them had experienced made it difficult for them to integrate into society, and they were thus more likely to be drawn back into conflict.

43. In some cases, entire families, including children, have travelled together. The Working Group noted that many of the individuals who became radicalized were from a migration background and from disadvantaged and poor communities, and had reportedly experienced racism, religious discrimination, poverty, lack of opportunity, social and societal rejection and mental health issues. This prompted much discussion about discrimination against particular ethnic and religious groups, the need for better integration and social cohesion and the need to pay attention to the specific circumstances that led the foreign fighters to be radicalized in the first place. Some of the political discourse in the country was seen as having strong anti-migrant elements and as contributing to the challenges hindering the integration of migrants and their sense of belonging in society.

44. The Working Group learned that, in many successful cases of deradicalization, individuals had shared their experiences of victimization through racism, poverty and lack of opportunity. This highlights the need to address the root causes of radicalization and violent extremism, rather than focusing exclusively on the symptoms. The Working Group commends the engagement and active involvement of social actors in the National Network for Preventing and Countering Violent Extremism and De-radicalization and reiterates the need to maintain a human rights-based approach to tackling the root causes of this phenomenon.



45. According to the Office for the Protection of the Constitution and Counter-terrorism, 296 Austrian-born persons are known to have actively taken part in conflict in Iraq and the Syrian Arab Republic. At the end of 2016, 280 of them were in Austria and were put under surveillance by the authorities.<sup>8</sup> This number has since been shrinking, however, due to the consequent criminal prosecution and sentencing of suspects.<sup>9</sup>

46. The fact that there are people living in Austria whose thinking is close to extremist ideology has been demonstrated by a study involving young people conducted by the authorities of the city of Vienna. Out of the 401 young people who were surveyed, 27 per cent showed positive feelings towards extremely religious people who were willing to go to war for their faith. These respondents viewed the West as the “suppressor”, and agreed that Islam had to be protected with violence.<sup>10</sup> From 2014 to 2017, the 24-hour helpline for the prevention of extremism (see para. 31 above) was contacted 2,399 times. In over 40 per cent of cases brought to the service, the questions concerned religiously motivated extremism, a general predisposition to violence and intercultural issues.

47. In 2017, 63 individuals were in Austrian prisons due to their participation in terrorist associations.<sup>11</sup> The number of convictions under section 278 of the Penal Code had increased since 2015. Special security measures were taken and particular support services were offered to those in Austrian prisons considered to be jihadists.<sup>12</sup> Research on 39 former inmates with radicalized backgrounds, focusing on their imprisonment, their motives and their ideology, found that most of them were radicalized before their time in prison and did not have criminal records beforehand. It was shown that deradicalizing measures, including anti-violence training and political education provided by experts, organizations and programmes such as DERAD, had had positive effects.<sup>13</sup> The work of organizations such as NEUSTART, which provides special services and legal support, had also been helpful.

48. Although mosques were commonly suspected to be a major locus of recruitment, a number of foreign fighters were recruited in public places, including parks, sports centres and local neighbourhoods, while many were recruited through online platforms. Both men and women were actively involved in recruitment, and children and young people were often targeted due to their vulnerability.

## B. Measures for foreign fighters

49. In line with its obligations under the human rights conventions it has ratified, Austria has the opportunity to address the phenomenon of foreign fighters through measures based on human rights principles and standards. Such measures could better enhance efforts to achieve deradicalization, to prevent violent extremism and to stem the flow of foreign fighters, while enhancing integration and promoting social cohesion for migrants and foreigners, who are often affected. However, the Working Group was concerned about some of the human rights implications of the measures taken to address the phenomenon of foreign fighters.

50. The Working Group notes that the majority of those in prison who had been convicted under section 278 of the Penal Code had been arrested and charged merely for posting messages on social media sympathizing with the aims of groups such as ISIL. For instance, a youth had been prosecuted under article 278b of the Code for posting a message

<sup>8</sup> Michael Berger, “Polizisten im Visier der IS-Terrormiliz”, *Kurier*, 9 September 2016.

<sup>9</sup> Austria, Ministry of the Interior, *Verfassungsschutzbericht 2016* (Vienna, 2016), p. 20.

<sup>10</sup> City of Vienna, *Jugendliche in der offenen Jugendarbeit: Identitäten, Lebenslagen und abwertende Einstellungen* (Vienna, 2016).

<sup>11</sup> “Dschihadismus: Deradikalisierung im Gefängnis”, *ORF Steiermark*, 14 June 2017.

<sup>12</sup> Austria, Ministry of Justice, “Radikalisierung im Strafvollzug: Justizminister Brandstetter setzt auf Know-How von internationalen Experten”, 23 April 2015.

<sup>13</sup> “Terrorismus: Weitere Maßnahmen zur Deradikalisierung in Justizanstalten nötig”, *Vienna Online*, 31 January 2017; Veronika Hofinger and Thomas Schmidinger, *Endbericht zur Begleitforschung: Deradikalisierung im Gefängnis* (Vienna, Institute for the Sociology of Law and Criminology, 2017).

on social media that was deemed to be in alignment with violent extremism. Given the wide interpretation of this law, it is possible that various situations that are not necessarily terrorist activities may end up being encompassed. The breadth of the legislation could lead to the criminalization of mere beliefs and to discriminatory enforcement. The Working Group cautions that placing excessive emphasis on law enforcement not only favours symptoms over causes, but may also lead to further stigmatization of migrants and foreigners.

51. The delegation was informed about initiatives being taken by the authorities to address and combat “radicalized jihadism”<sup>14</sup> or violent extremism associated with Islamism. At various points the delegation heard the term “political Islam” and learned of government initiatives to combat this.

52. The Working Group was informed of measures involving the investigation and closure of certain mosques that had been identified by the Government as espousing radical Islamism. At the time of the visit, around seven mosques had been closed. In addition, a number of imams were being investigated, with the possibility of their residence permits not being extended if their salary arrangements were found to violate the Islam Law, which bans foreign funding for those whose salaries are not funded domestically.

53. The Working Group notes that the focus on the Islamic faith can often have human rights implications on the general Muslim population, even if the original intention is to address a dangerous form of ideology that may be associated with religion. It further notes the importance of ensuring that any initiatives that may focus on a particular ideology, religion or community of faith do not further fuel discrimination and stigmatization of a particular group.

54. The Working Group has concerns about policies that may be specifically used to target migrants, foreigners and members of Muslim communities. Even measures to enhance integration have had human rights implications. Under one particular policy, social welfare benefits may be reduced if the target group fails to actively participate in integration in Austrian communities. The Working Group has noted the importance of ensuring successful integration in Austrian communities. Yet, instead of punitive security measures, preventive and more socially orientated efforts to address the root causes of the problem need to be applied.

55. A policy that disadvantages migrants and foreigners who fail to cooperate with integration programmes by denying them social benefits may be morally attractive and effective in many cases, but it can be counterproductive in other cases. The Working Group believes that, in spite of the many positive facets of initiatives aimed at improving social cohesion and reducing radicalization and violent extremism, some of these measures, if they are not implemented with due respect for non-discriminatory human rights standards, can actually lead to further marginalization and radicalization.

56. During the universal periodic review of 2015, States observed that one of the greatest challenges in Austria was the influx and transit of refugees from the Syrian Arab Republic and other countries. Although measures had been taken to ensure the successful integration of these individuals, a number of States called on the Austrian authorities to address xenophobia, racial discrimination, hate speech, the resurgence of extremist nationalist ideologies and intolerance towards migrants, refugees and persons belonging to certain ethnic groups. Discrimination against Muslims, Roma and persons of African descent was highlighted, and references were made to the need to ensure that measures taken do not exacerbate the situation of groups that are already marginalized and discriminated against, which can create fertile ground for individuals to be radicalized and drawn into violent extremist ideologies.

<sup>14</sup> The Working Group notes that terminology such as “radicalized jihadism” or even “jihadist” or “jihadism” maybe considered vague and abstract. In this context, based on its common use and the understanding of interlocutors, this terminology is mainly used to refer to groups with profiles such as that of ISIL.

## Returnees

57. The Working Group was informed of various cases of Austrians who wanted to return to Austria but were unable to do so as they were stuck in detention facilities in Iraq or the Syrian Arab Republic or within a conflict zone. Individuals wanted to return for various reasons. Some were disillusioned or remorseful; some were still driven by their ideology but wanted better living conditions; some were being sent to carry out an attack in their country or region of origin; and some had been captured or returned unwillingly. Some interlocutors working on the foreign fighter issue were often contacted by parents and relatives seeking assistance with the return of their loved ones. Foreign fighters who managed to escape from conflict zones and to make contact with their consular offices were reportedly not able to return. Government authorities were said to have little desire to assist in bringing these individuals home due to their perceived threat as returnees.

58. In this connection, the Working Group expressed its concerns about the revocation of citizenship for those categorized as foreign fighters and charged under section 278 of the Penal Code. The Government noted that this measure was applied on a case-by-case basis and concerned those who possessed dual citizenship in order to avoid statelessness. However, there are still implications with citizenship revocation, as it tends to stigmatize immigrants and their descendants and to perpetrate the unequal treatment of minorities, particularly Muslims.<sup>15</sup> The Working Group reiterates that the right to citizenship should not be taken away when to do so would render an individual stateless.

59. While many concerns related to returnees who posed a risk of further harm, there were also cases where returnees were contributing constructively to deradicalization efforts. Those who had been successfully rehabilitated and reintegrated were few in number, however, as many returnees were imprisoned and had not been fully assessed as fit for release or to participate in rehabilitation programmes. Successfully rehabilitated returnees provided the most effective counter-narratives, as they were perceived to have greater legitimacy than other sources of information, they were able to explain the realities of fighting and they could convey important messages for shifting people's mindsets about ideologies or religious beliefs supporting violent extremism.

60. The Working Group was informed of an Austrian national known as Oliver N, who joined ISIL. At 15 years of age, he travelled to the Syrian Arab Republic, where he joined young fighters from Australia, Belgium, Canada, Germany, Mexico and the United Kingdom of Great Britain and Northern Ireland. He later left ISIL to return home after witnessing the brutality of the armed group in the conflict zone. He spent 20 months in prison, wrote a book about his experience and was now actively working with deradicalization programmes and assisting with the reintegration of former radicalized Islamists back into society.

61. The general and common approaches to returnees have involved criminal prosecutions and imprisonment. Many of these individuals have witnessed extreme violence in the conflict zone, and have most likely suffered from psychological problems including post-traumatic stress disorders. Such problems can manifest themselves in aggression and violence if they are not dealt with, if there has been no successful rehabilitation or if deradicalization efforts have not been made for the returnee. Indeed, these individuals can pose a threat to national security, as has been demonstrated by terrorist attacks in the region. The Working Group notes the need to make tailored and individual assessments of returnee cases in order to prevent the further radicalization of individuals in prisons and to encourage the rehabilitation and reintegration of individuals who have successfully completed deradicalization programmes.

62. As one interlocutor mentioned, the persons at risk of further radicalization and violent extremism were likely to be those who had been intercepted when travelling and were now incarcerated. These individuals had clear intentions to travel into conflict zones and needed to be assessed for the purpose of deradicalization. Furthermore, there was a

<sup>15</sup> Meghan Benton and Natalia Banulescu-Bogdan, "Foreign fighters: will revoking citizenship mitigate the threat?" *Migration Information Source* (April 2019).

need to better understand the root causes and motivational factors behind their decisions to engage in armed conflict abroad.

63. In this context, it is ever more critical to strengthen the Government's work and collaboration with multisectoral actors such as those involved in the National Network for Prevention and Countering Violent Extremism and De-radicalisation to ensure, *inter alia*, that punitive measures are applied in cases where they are deemed appropriate. Furthermore, rehabilitation measures should be tailored to individuals who could benefit from such programmes. Such an approach can take into account the various situations of children, women and men with diverse and unique profiles. Those include situations where children are born to these individuals and are innocent victims of the foreign fighter phenomenon.

64. Rehabilitation and reintegration programmes have attracted considerable interest for their community-driven, holistic approaches, which draw on mental health support, education and employment counselling and even religious theorizing. A number of good practices are present in Europe, including the Aarhus model, whereby Danish authorities have provided around 330 returning fighters with psychological counselling and job support. Another innovative approach is the Belgian Vilvoorde method, which was launched in 2014 and focuses on whole families. While these approaches have had some success, most counter-terrorism experts agree that prevention is the best approach. In many cases, radicalization is a symptom of social isolation and marginalization, and many of the same tools that are used to support individuals' reintegration into society could help to prevent them from disengaging in the first place.<sup>16</sup>

65. Several interlocutors noted, however, that the State appears to be more interested in attacking the manifestations of radical Islam than in the causes of the alienation that has led people to radicalization and violent extremism. It was also noted that there has been excessive interest in criminalizing adherence to certain religious beliefs, rather than in addressing the causes of extremism. The Working Group reiterated that efforts to tackle violent extremism must be devoted both to assessing its root causes and to taking security measures, and that Austria had the expertise and dedicated resources available to prevent violent extremism through measures that were aligned with human rights principles and standards.

66. In its dialogue with authorities regarding the measures taken to address the phenomenon of foreign fighters, the Working Group emphasized that human rights and human security are mutually reinforcing. Without rights, there is no security. Without security, there are no rights. Human rights are centred on the notion of human dignity. Discrimination, such as that reflected in laws and policies that distinguish and prejudice a single religion or ethnic group, can result in increasing insecurity, rather than in its elimination.

### III. Private security companies

67. The Working Group notes that there is no specific and comprehensive legislative or other regulation of private security companies in Austria. While acknowledging that Austria does not currently have significant problems with this industry, the Working Group highlights the need to establish clear regulations to offset any potential problems, including human rights abuses at the hands of these companies. There are currently around 700 private security companies in the country, many of which are small-scale operations that provide guarding and detective services.

68. The licensing and registration of private security companies in Austria comes under the competence of the Ministry for Digital and Economic Affairs, although the Ministry of the Interior oversees certain aspects, including the vetting of company personnel. With the piloting of the use of the multinational private security company G4S in Vordernberg, the Working Group notes that there is even more of reason to draw up national regulations to effectively address the transborder activities of such companies, and in particular to clearly

<sup>16</sup> Ibid.

define their permitted and prohibited activities, including the use of force. This would also help in setting out a list of arms and the conditions in which they can be used. Furthermore, there is a need to strengthen oversight over such companies by regularizing inspections of company activities. Importantly, there is a need to strengthen accountability and the frameworks for remedies in cases where private security company personnel commit criminal offences and human rights abuses. Private security companies are growing in size and power in the international arena, and they have been known to commit human rights abuses around the world. Strong and centralized regulation is therefore essential.

## 1. Vordernberg

69. The Vordernberg immigration detention centre, which is located in the remote village of that name in Styria (approximately 70 km north-west of Graz), was opened on 1 March 2014. The centre is jointly operated by the Ministry of the Interior, the municipality of Vordernberg, the private security company G4S and a company called Humanocare. The centre is an impressive modern facility and accommodates undocumented foreign nationals who have been apprehended from various parts of Austria. The detention centre has an official capacity of 193 detainees in pre-removal detention under an “open doors” regime that runs from 7 a.m. to 9.30 p.m.

70. The Vordernberg immigration facility is the only one of its kind in Austria, and G4S was contracted to provide specific services to the detainees there. At the time of the Working Group’s visit, the centre’s staff included 60 individuals from the Ministry of the Interior, 55 from G4S and 15 from Humanocare.

71. The Working Group notes that there are positive aspects of the arrangement between the Government and G4S. Primary among these – and of particular importance to the Working Group – is the fact that G4S is involved solely in administrative matters and services to the detainees. The G4S staff do not have the same powers as the police officers who guard the premises. Their tasks specifically involve providing the detainees with food, monitoring the open-door regime, organizing cultural and sports activities, providing technical support to the centre and arranging for interpreters. The company was not permitted to use force when intervening with detainees, it was not involved in interviews, and it did not impose any security measures.

72. Many of the detainees who were interviewed indicated that they had good relationships with G4S staff compared with police staff. The delegation witnessed this first hand, and concluded that this can largely be linked to the specific functions required of G4S, which do not involve making decisions with a significant negative impact on the detainees.

73. The delegation noted some concerns raised by detainees. One of their prominent complaints was that they were being billed a fee of €70 per day. The delegation learned that articles 19 and 113 of the Aliens Police Act 2005 impose fees on detainees at all detention centres, not just Vordernberg. Some of the bills that the delegation observed being paid by detainees were in excess of €2,000. This system of charging detainees for their involuntary detention is not only unusual but disregards the indigent state and already vulnerable and difficult situation of detainees. The Working Group was informed that these charges would be waived if the detainee could not pay them. If a detainee had sufficient funds on arrival, however, the fees would be taken directly from his or her account. The delegation was further informed that, if a detainee was deported and sought to re-enter Austria at a later date, then the fee owing would have to be paid before re-entry could be granted.

74. Detainees complained that the money they arrived with was taken from them, and that they were not given a receipt or any information on whether they would eventually get the money back. The authorities at the detention centre informed the delegation that these funds were provided to detainees at the rate of €50 to €60 per week through a pre-paid card that they could use at a kiosk at the centre.

75. The delegation observed that, in general, detainees at the Vordernberg centre were not aware of or were confused about how to direct their complaints to the authorities or to G4S. Several of them said that their complaints were often dismissed and their concerns were not taken seriously. Some said that they were threatened with reprisal if they persisted in their complaints. They were not fully informed of their legal status and were anxious

about the indefinite duration of their stay in the facility. Some had been in the centre for a few days, some for several weeks and others for months. Some of the detainees were clearly in need of psychosocial care and, although the centre had been heralded as a good model of an open regime, with better conditions and treatment than other centres of the same kind, the use of sanctions against detainees, the lack of contact with family and lawyers and the possible use of solitary confinement were concerning. The Working Group understood that a non-governmental organization was providing legal advice to the detainees, but noted that some of them had complained that the legal support was inadequate. Many detainees stated that Austria was not their destination, but merely a place of transit in which they had been arrested and detained and were awaiting deportation, with their ultimate destinations of choice being elsewhere in the region. Their main concern – and source of anxiety – was to be freed from what they referred to as “prison” and to be reunited with family members.

76. The Working Group was concerned about the apparent age of some of the detainees, as one particular individual appeared to be less than 18 years old. The delegation was informed that the Federal Office for Immigration and Asylum was the responsible agency that held information about the detainee, so it was difficult to confirm his age at the time of the visit. Some of the detainees were young and were clearly seeking better opportunities to make a living or were trying to get to relatives residing in other parts of Europe. Their impending return to their country of origin or departure was causing some of them significant distress, as they had escaped from severely impoverished situations and countries that were destabilized by armed conflict. Some of the detainees who notified the delegation of their countries of origin had come from the Gambia, Morocco, Nigeria and Pakistan.

77. While no significant complaints were expressed against G4S in Vordernberg, the Working Group cautions against the expanded outsourcing of government functions to private security companies and recommends that careful consideration be given to the human rights implications of such practices.

## **2. European Union regulations**

78. The European Union has played a critical role in promoting national and regional controls over the provision and export of various military and security services. The application of such controls to private military and security companies remains limited, however. So far, there are no common regulations on private security or military companies that are registered in the European Union or on the export of their services. At best, current controls within the European Union can serve to illustrate the various mechanisms that could be used to improve the regulation of the private security industry.

79. The regulation of private security companies and the export of military and security services remains very much a matter for individual European Union member States. So far, no member State has passed specific laws controlling the provision of security services abroad. Most member States have extensive regulations for the provision of private security services within their borders. The prime mechanisms in this regard are the national registration and licensing of private security companies and their personnel. The conditions for obtaining licences – which, on average, need to be renewed every five years – vary among member States. However, all member States require private security company management and personnel to have a clear criminal record. Additional conditions include the holding of sufficient liability insurance, the use of identification cards with the staff member’s name and photograph and the wearing of approved uniforms that are not easily confused with those of the police or armed forces. About 60 per cent of European Union member States provide for the specific training of private security personnel and require them to pass an examination.

### 3. Montreux Document

80. Austria is a signatory to the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict.<sup>17</sup> The Montreux Document clarified the status of private security companies and the responsibility of the Governments that hire them under international law. This non-legally binding document includes two parts that cover the obligations of States and private security companies under international law, and outlines a wide range of good practices for contracting States regarding the hire, use and oversight of such companies. The second part proposes a voluntary code of conduct for private security companies.

### 4. International Code of Conduct for Private Security Service Providers

81. The International Code of Conduct for Private Security Providers' Association is a multi-stakeholder initiative established as a Swiss non-profit association. All of its members – States, private security companies and civil society organizations, referred to as the three pillars – form part of the general assembly.

82. The Association is guided by the principles of the International Code of Conduct. These include a commitment to good governance, respect for human rights and international humanitarian law and a high standard of professional conduct. The Association strives to ensure protection and to provide remedies to victims of abuse by private security providers. It endeavours to prevent the excessive use of force, to prevent torture and other degrading treatment or punishment, to prevent sexual exploitation and abuse and gender-based violence, to prevent human trafficking, slavery and forced labour, to protect the rights of children and to prevent discrimination.

83. Austria does not currently participate in the Association, and no private security companies based in Austria are members. During discussions with the Working Group, the Austrian authorities noted that they felt that it was not necessary to be members of the Association as they did not engage private military or security companies. Furthermore, the requirement for membership could result in differential treatment of private security companies, some of which may be able to fulfil the criteria for membership and could therefore have an advantage in securing contracts over companies that cannot afford to be members. In this sense, the authorities did not feel that Austria needed to become a member of the Association, stating that the current regulations were sufficient to cover the private security industry.

84. However, the Working Group reiterated the usefulness of Association membership, which requires companies to meet certain standards in order to be certified as being in good standing. This means that the company has been vetted and inspected and found to be compliant with the relevant human rights standards. Further, as a result of membership, these companies are required to provide a grievance mechanism to address situations where human rights abuses or offences have been committed – a positive practice that helps ensure accountability.

## IV. Conclusions and recommendations

85. **Austria is at a crossroads in dealing with the phenomenon of foreign fighters. In all its initiatives, one of the important priorities for the Government is to effectively address the root causes of violent extremism and radicalization in order to prevent its nationals and residents from travelling abroad to fight in conflict zones such as those in Iraq and the Syrian Arab Republic. Government efforts to strengthen national security and to enhance the ability of law enforcement agencies to intercept individuals attempting to join and fight with groups that are properly designated as terrorist groups are understandable and necessary. However, if these efforts are**

<sup>17</sup> See European Parliament, Directorate-General for External Policies, Policy Department, “The role of private security companies (PSCs) in CSDP missions and operations” (Brussels, 2011).

excessively focused on punishment, they can have the effect of increasing radicalization and extremism. Addressing the root causes of radicalization and violent extremism, which include a myriad of social and economic factors, can lead to more effective long-term solutions.

86. With regard to private security companies, the Working Group commends the Government of Austria for its track record in avoiding the outsourcing of government functions to private military and security companies.

87. In light of the findings relating to the foreign fighter phenomenon and the private security company industry in Austria, the Working Group recommends that the Government of Austria:

(a) Ensure that the laws and policies addressing the foreign fighter phenomenon align with international human rights standards;

(b) Ensure that its integration policy aligns with international human rights standards so as to ensure social cohesion rather than marginalization;

(c) Adopt and finalize the national strategy on deradicalization and prevention of violent extremism, ensuring the inclusion of valuable contributions from the community and civil society organizations working on and specializing in those issues;

(d) Ensure that the national strategy on deradicalization and prevention of violent extremism and the accompanying measures are not focused excessively on law enforcement, but also address the social needs that are currently being met by child services, social care and health-care services, prison and probation services, schools and other providers.

88. Good practice models, including the multi-agency approach to deradicalization, should be supported, including through funding, in order to ensure sustainability. It is critical to increase funding and to fully integrate these practices through the broadest possible participation, and to ensure that they are informed by multidisciplinary in-depth research and analysis.

89. The Working Group observes that, given the myriad of actors and initiatives on foreign fighters, it is critical to ensure effective collaboration between the various entities involved in order to address the root causes that prompt individuals to travel abroad and engage as foreign fighters. Additional and ongoing research into motivational factors is critical to formulating responses that are effective in addressing the causes of the phenomenon.

90. The Government of Austria should ensure that any plan or policy on deradicalization and prevention of violent extremism should encompass a clear understanding and evaluation of the respective expertise and roles of multisectoral actors working in this domain. It should also attract the necessary resources for full implementation – not just immediately but in the medium and long term – with a budget that is based on consultation and that strikes more of a balance between expenditure on preventive measures and expenditure on social measures. It must adopt a human rights-based approach at all stages of implementation, and particular attention should be paid to the inclusion of communities that are especially affected. Clear indicators should be provided, and related programmes should be monitored and evaluated.

91. Government efforts aimed at combating the foreign fighter phenomenon should place strong emphasis on the social dimension, including integration, equality and non-discrimination, in keeping with international human rights standards and the obligations of Austria as a State party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and all the other core human rights instruments.



92. Special consideration should be given to addressing factors that may lead to Islamophobia and anti-immigrant sentiment in the country, with recognition given in schools of the history and contributions of migrants to Austrian society.
93. Similar initiatives are encouraged from civil society organizations and grass-roots projects, particularly those emanating from the Muslim community. Parents and families may also need to acquire the awareness and skills required to address the needs of children with diverse heritage.
94. Youth programmes and incentives, including those involving sports, arts, education and cultural activity, can be used as vehicles to promote social inclusion and a sense of community among young people, particularly those who may be vulnerable to radicalization.
95. The Government of Austria should encourage interfaith dialogue and strengthen existing platforms where community and faith-based leaders can work together to address and curb radicalization and violent extremism and to enhance integration.
96. Deradicalization should continue to be prioritized and implemented effectively in prisons, within the framework of respect for human rights.
97. The Working Group stresses that greater social cohesion will mitigate long-term security risks, and that providing strong support to communities and families can lay the groundwork for the optimization of measures. In this respect, intercultural institutions, policy and dialogue could be instrumental in building community ties, and the Working Group recommends building on the foundations being developed in this regard.
98. Similarly, education has been consistently raised as a crucial vehicle for awareness-raising and dialogue. The Working Group supports the raising of awareness in schools and the use of related platforms where student dialogue can take place, particularly in primary education. The inclusive education of citizens and the development of positive counter-narratives against violent extremist propaganda can be promoted through education and awareness-raising programmes.
99. Coordination was a recurrent theme among the Working Group's interlocutors. Local authority staff and others noted that institutional coordination was crucial for the effectiveness of programmes, as was a clear understanding of one's level and role in the wider federal system. Such coordination could prove critical, for example in centralizing information from different agencies with a view to identifying the best entry points for action and standardization, and in sharing methods and expertise.
100. With regard to action at the European and international levels, the Working Group recommends improved coordination with the European Union and, crucially, between the countries of origin of foreign fighters and the countries through which they transit. It also strongly recommends effective cooperation in information-sharing and evidence gathering in order to support legal proceedings.
101. The Working Group emphasizes that State responses to foreign fighters must balance punitive measures with preventive ones and should provide rehabilitative opportunities for returning fighters. It recommends prioritizing the deradicalization and rehabilitation of returnees, with an emphasis on the use of the human rights-based approach.
102. The Working Group encourages further research and the compilation of good practices with regard to the rehabilitation and reintegration of returnees, which could further inform law and policies relating to those persons.
103. The Working Group encourages the implementation of recommendations made by the United Nations human rights mechanisms for Austria, including by the Working Group on the Universal Periodic Review, which, inter alia, raised concerns relating to discrimination, racism and xenophobia.

104. With regard to private military and security companies, the Working Group recommends that the Government of Austria:

(a) Consider introducing legislation dedicated specifically to the regulation of private military and security companies, including a requirement that any private military or security company that is registered to do business in Austria or that seeks to contract for services in the country, including with the Government of Austria, must be a member in good standing with the International Code of Conduct for Private Security Providers' Association;

(b) Ensure that any deprivation of liberty of irregular or undocumented migrants, including in the Vordernberg facility, is imposed for the shortest duration possible;

(c) Ensure that any detention of migrants on the ground of their irregular status is not punitive in nature;

(d) Consider the indigent and impoverished situation that is often faced by undocumented migrants and ensure that they are not charged or required to pay for their detention;

(e) Ensure that children are not detained in the Vordernberg facility and similar facilities, by verifying and cross-checking the age of detainees with the Federal Office for Immigration and Asylum;

(f) Ensure that psychosocial support, appropriate medical assistance and legal support are provided for detainees in Vordernberg and that follow-up procedures are regularly carried out for those in need of care;

(g) Ensure that the contracting of private security companies to run detention facilities is the exception and not the norm, and ensure that their functions do not involve those reserved for State institutions vis-à-vis persons deprived of their liberty;

(h) Consider providing support for the negotiation of a binding international regulation on private military and security companies.

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