



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-seventh session
18–29 January 2021

Summary of Stakeholders' submissions on Austria*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 18 stakeholders' submissions¹ to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies²

2. Amnesty International (AI) recommended that Austria ratify the Convention on the Protection of the Rights of all Migrant Workers and members of their Families and endorse the United Nations Compact for Safe, Orderly and Regular Migration.³

3. Three submissions recommended that Austria ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.⁴ Two of them also recommended that Austria ratify the Optional Protocol to the Convention on the Rights of the Child on the communications procedure.⁵

4. Joint Submission 3 (JS3) noted that Austria had not ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.⁶ Two submissions recommended that Austria ratify the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Additional Protocol on Xenophobia and Racism to the Convention on Cybercrime.⁷

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



B. National human rights framework⁸

5. JS3 stated that a comprehensive catalogue of fundamental rights was still missing in the Austrian Constitution.⁹ Regarding the relevant recommendations from the second cycle of the universal periodic review¹⁰, two submissions regretted the lack of progresses in the development of a national human rights action plan since 2017 and welcomed the commitment of the current Government to draft such a plan. They recommended that Austria develop the plan, setting concrete and measurable objectives and indicators and ensuring transparent and meaningful participation of civil society.¹¹

6. AI stated that the Austrian Ombudsman Board did not yet fully comply with the Paris Principles, mainly due to the political appointment process of its three members.¹² Two submissions recommended that Austria establish an independent national human rights institution.¹³

7. In 2016, the Advisory Committee on the Framework Convention for the Protection of National Minorities (CoE-ACFC) stated that the effectiveness of the Ombud for Equal Treatment was limited by the fact that it could only make non-binding recommendations and encouraged Austria to invest it with the power to provide legal aid and address the courts on behalf of the victim.¹⁴ JS3 further noted that, in 2017, the regional offices of the Ombud for Equal Treatment had been made responsible for advising people discriminated on the basis of their religion or belief, sexual orientation, ethnicity, or age, but without a corresponding increase in resources.¹⁵

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

Equality and non-discrimination¹⁶

8. Regarding the relevant recommendations from the second cycle of the universal periodic review¹⁷, four submissions noted that antidiscrimination legislation in Austria was complex and scattered over numerous federal and regional level laws.¹⁸ Two of them also noted that the federal law provided 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 and gender identity. They recommended that Austria harmonize national legislation and ensure protection against discrimination on all prohibited grounds.¹⁹ Alliance for Equal Rights 4 Sex Gender Diversity (TTI) recommended that Austria ensure that all its laws were in accordance with the Yogyakarta Principles.²⁰

9. JS3 noted that a national action plan against racism and discrimination was provided for in the last government programme, but had not yet been implemented. It recommended that Austria ensure that the plan covered the fight against all forms of racism and included realistic and measurable indicators.²¹ TTI recommended that Austria establish a federal LGBTIQ+ action plan.²²

10. CoE-ACFC noted that Austria had made considerable efforts to combat hate crimes, including through a tightening of criminal law provisions.²³ However, three submissions noted a rise in incidents of hate crimes, xenophobia, anti-Gypsyism, Islamophobia, anti-Semitism, and racially motivated violence, often directed against refugees and migrants, including online.²⁴ AI noted that, during the first weeks of the COVID-19 pandemic, hate speech targeting asylum-seekers and refugees saw a significant increase.²⁵

11. AI recommended that Austria promptly investigate, prosecute and sanction all forms of racism and hate crime in accordance with the law, including by ensuring that the prosecution and the police have adequate tools and skills.²⁶ The Organization for Defending Victims of Violence (ODVV) recommended that Austria take the necessary measures to tackle hate speech expressed by politicians.²⁷

12. TTI noted that, since the last UPR, a third gender option was introduced in official documents following a decision by the Constitutional Court, but that a medical assessment

was required even though gender presentation and gender markers were not a medical issue.²⁸ The Austrian Ombudsman Board (AOB) and the Austrian Transgender Association (TransX) expressed similar concerns.²⁹

*Development, the environment, and business and human rights*³⁰

13. Regarding the relevant recommendations³¹, Joint Submission 1 (JS1) reported that the Austrian official development assistance (ODA) as percentage of gross national income (GNI) had declined from 0.30% in 2017 to 0.27% in 2019.³² Two submissions recommended that Austria implement, through a binding roadmap, the 2020–2024 Government programme to increase ODA to 0.7% of GNI.³³ JS1 also recommended that, in the context of combating the Covid-19 pandemic, Austria introduce an emergency aid package and expand its development aid.³⁴

14. JS1 noted that the legal framework of the Austrian Development Assistance (ADC) enshrined the promotion of human rights as one of the main objectives of the latter. Nevertheless, it stated that ADC documents lacked concrete measures and indicators to monitor the effect of development assistance activities on human rights.³⁵ Two submissions recommended that Austria develop a comprehensive strategy for its development assistance that includes all actors and stakeholders and is in line with 2030 Agenda for Sustainable Development.³⁶

15. Regarding the relevant recommendation³⁷, JS3 recommended that Austria impose on all Austrian companies, domestically and abroad, binding and enforceable due diligence obligations to respect human rights and the environment and commit to the creation of a general cross-sectoral regulation at European Union level.³⁸ JS1 recommended that Austria implement a national action plan on business and human rights.³⁹

Human rights and counter-terrorism

16. Epicenter.works – Plattform Grundrechtspolitik (Epicenter.works) reported that the State Protection Act entitled the Federal Office for the Protection of the Constitution and Counterterrorism to undertake investigative measures, such as accessing data from all authorities and all companies, without the requirement of judicial approval, and that the definition of “attacks endangering the Constitution” contained in the Act as requirement for the investigation went beyond acts of terrorism and included around 100 crimes.⁴⁰

2. Civil and political rights

*Right to life, liberty and security of person*⁴¹

17. AI was concerned about the persistent failure to independently and effectively investigate allegations of excessive use of force and ill-treatment by the police. It recommended that Austria ensure that all police officers wore identification badges and all allegations of police abuse were effectively investigated and appropriately prosecuted.⁴² Two submissions recommended that Austria establish an independent and effective investigations and complaints mechanism to address allegations of torture, ill treatment and other forms of abuse by the police.⁴³

18. Two submissions expressed concern at reported cases of ethnic profiling and racial discrimination by police officials.⁴⁴ AI recommended that Austria amend the Security Policy Act to ensure that police officers do not carry out identity checks in a discriminatory manner and provide them with adequate training to prevent ethnic profiling.⁴⁵

19. Two submissions expressed concern about the conditions of detention in the country, including prisons overcrowding, inadequate work opportunities for detainees, shortage of staff and poor conditions of premises. They recommended that Austria take measure to reduce the number of detainees and ensure that prisons were provided with adequate financial resources to fulfil their aim of rehabilitation and social reintegration.⁴⁶ TransX recommended that Austria implement the existing policies to combat discrimination and exclusion against transgender persons in closed institutions.⁴⁷

20. TTI recommended that Austria ensure that all persons in federal, state and local custody receive all the necessary health care including HIV treatment, gender dysphoria and or hormone therapy.⁴⁸ AOB indicated that prison guards were present in the treatment rooms during medical interventions of prisoners, even when there was no safety risk and noted that this practice did not respect privacy and confidentiality.⁴⁹

21. AI was concerned that offenders with mental illness often did not have adequate access to medical treatment when accommodated in special wards in regular prisons and that the system of preventive measures of detention for offenders with mental illness allowed the possibility of ordering such measures for an indefinite period of time and could result in life-long detention.⁵⁰

22. The International Fellowship of Reconciliation (IFOR) highlighted that the length of substitute civilian service was longer than that of military service and with lower remuneration and recommended that Austria eliminate these discriminatory conditions. It also noted that from his seventeenth birthday a citizen could, with parental consent, anticipate the summons to enlist for obligatory military service and recommended that Austria raise the minimum age for military recruitment to eighteen years in all circumstances.⁵¹

Administration of justice, including impunity, and the rule of law

23. JS3 stated that the judicial system suffered from structural problems, due to lack of judges, prosecutors and administrative staff. It also noted that the public prosecutor's office ultimately reported to the Minister of Justice and that the political appointment of presidents at administrative courts did not comply with European standards. It recommended that Austria take measures to strengthen the independence of the judiciary and ensure that it received sufficient funding.⁵²

24. In 2018, the Group of States against Corruption (CoE-GRECO) noted that Austria was elaborating a number of initiatives aimed at strengthening transparency and objectivity in the selection of judges and prosecutors, improving the appraisal system of these officials, and introducing for them a restriction on the simultaneous holding of executive or legislative functions. However, it stated that several of the intended reforms were still at an early stage.⁵³

25. JS3 recommended that Austria provide mandatory training on human rights, including children's right, for judges and prosecutors.⁵⁴ It also noted that the abolition of the once existing organisationally separate juvenile court system had proven to be a lasting mistake and recommended to create organisationally separate juvenile courts and detention facilities.⁵⁵

Fundamental freedoms and the right to participate in public and political life⁵⁶

26. The Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR) concluded in 2019 that there was a high level of confidence in all aspects of the electoral process in Austria. However it encouraged the authorities to consider previous OSCE-ODHIR recommendations such as that of ensuring effective oversight of political finance and campaign expenditures by empowering the Court of Audit to audit the accounts of political parties on the same basis as other institutions receiving public funds. It also recommended that candidates and sitting Members of Parliament could be restricted from serving on election boards in order to safeguard the impartiality of the election administration.⁵⁷

27. JS3 was concerned by the shortening of review periods in the legislative process and added that, in recent year, many attempts had been made to hinder or exclude parliamentary discussion by introducing extensive legislative proposals without adequate assessment procedure.⁵⁸ CoE-GRECO noted some new initiatives introduced by Austria in favour of increased transparency, such as the new policy of extended consultation procedures, but considered these measures insufficient.⁵⁹

28. AI noted that the Anti-Face-Veiling Act, which banned full-face coverings in public, and an amendment to the School Education Law, which prohibited children under 10 years

of age from wearing religiously or ideologically influenced clothing that fully covered their head in schools, violated the rights to freedom of expression and to freedom of religion or belief of Muslim women and girls, and the principle of non-discrimination. It recommended that Austria repeal the Federal Law on the Prohibition of Face Covering in Public and consider repealing Section 43a of the School Education Act.⁶⁰

*Prohibition of all forms of slavery*⁶¹

29. In 2020, the Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA) noted that the fifth National Action Plan on Combating Human Trafficking (2018–2020) reflected a comprehensive approach to combating human trafficking.⁶² It welcomed the steps taken to include more civil society representatives in the work of the Task Force on Combating Human Trafficking and invited Austria to continue building strategic partnerships with civil society and ensuring coordination between the federal government and the Länder by appointing regional coordinators in all Länder.⁶³

30. Joint Submission 5 (JS5) recommended that Austria increase support to and collaboration with civil society organisations in order to identify victims of trafficking and provide them with adequate protection.⁶⁴ CoE-GRETA urged Austria to set up a formalised National Referral Mechanism involving a range of frontline actors, define the procedures and the respective roles, and follow a multi-disciplinary approach.⁶⁵

31. CoE-GRETA noted that the number of convictions for human trafficking remained low. It recommended that Austria take further steps to investigate all possible human trafficking offences, regardless of whether a complaint had been submitted or not; encourage the specialisation of prosecutors and judges to deal with human trafficking cases; and expand the mandate of labour inspectors to enable them to play a frontline role in the prevention of human trafficking.⁶⁶

32. JS5 recommended that access to victim's rights, including residence permit, should be offered to victims of trafficking irrespective of their willingness to make a statement with the police.⁶⁷

33. CoE-GRETA noted that the Task Force on Combating Human Trafficking was in the process of developing a concept for a country-wide child protection strategy.⁶⁸ JS3 recommended that Austria create a nationwide protection concept and ensure specialised care facilities with appropriate safety standards for minors affected by human trafficking.⁶⁹

*Right to privacy*⁷⁰

34. AI stated that the plans to introduce backdoor access to encrypted communications for law enforcement and to roll out a pilot phase for the use of facial recognition technology by the end of 2020 could have a chilling effect on the rights to privacy, freedom of expression and peaceful assembly, and that uncertainties remained regarding adequate safeguards for individuals.⁷¹ Epicenter.works and ODVV expressed similar concerns.⁷²

3. Economic, social and cultural rights

*Right to work and to just and favourable conditions of work*⁷³

35. JS3 noted that women often worked in low-paid or part-time jobs and recommended that Austria implement further measures to reduce the gender pay gap. It also recommended that Austria provide sufficient high quality childcare places at the national level to improve the compatibility of family and career lives and implement campaigns and measures for equal distribution of unpaid reproductive work (domestic work, childcare and care for the elderly) between men and women.⁷⁴

36. AOB noted that the Austrian Public Employment Service used a software to evaluate the chances of unemployed people on the labour market. It stated that, while the algorithm was mathematically sound, it incorporated value judgements whereas personal characteristics or special skills were ignored and reflected the existing discrimination of women and older people.⁷⁵

37. CoE-ACFC called on Austria to continue efforts to improve access to the labour market for persons belonging to national minorities, also by including relevant vocational training for the Roma throughout Austria.⁷⁶ The European Union Agency for Fundamental Rights (EU-FRA) reported that in 2019 the Ministry of Labour, Social Affairs, Health and Consumer Protection supported media workshops as part of the *Romblog Digital Evolution* project, providing media literacy and skills for Roma youth to improve their chances in the labour market.⁷⁷

38. AOB noted that the employment rate of people with disabilities was very low and many people were generally excluded from the labour market or from unemployment benefits and depended on social welfare.⁷⁸ JS3 recommended to focus political strategies on the participation of all people with disabilities in an inclusive labour market and make sure that people with disabilities were not classified as “unable to work”.⁷⁹

Right to an adequate standard of living

39. AI expressed concern that the Fundamental Law on Social Assistance foresaw caps on social aid benefits for adults based on the equalisation supplement, instead of guaranteeing a minimum level of cash and in-kind benefits to ensure a life with dignity.⁸⁰ JS3 recommended that Austria re-establish a uniform needs-based minimum income scheme throughout the country to cover the full basic needs.⁸¹

40. JS3 recommended to establish a right to housing in the Constitution; guarantee an effective regulation of rent levels to create affordable housing for all; and promote anti-discriminatory access to non-profit housing.⁸²

Right to health

41. JS3 noted that in Austria paediatricians were increasingly moving to the elective doctor sector, which must be privately pre-financed, causing a shortage in affordable therapy places for children, and recommended that Austria ensure the existence of a sufficient number of paediatric practices and other therapy places for children and adolescents with a direct contract with statutory health insurances. It also recommended to raise the awareness of medical staff on children’s rights and include this topic in the training curricula of medical professions.⁸³ Joint Submission 2 (JS2) called on Austria to implement a child-based approach to food and to urgently issue a binding law to regulate the advertisement of food with high salt, saturated fat and sugar content.⁸⁴

42. AI was concerned about remaining barriers in accessing affordable and safe abortion medical services for pregnant persons throughout the country and recommended that Austria ensure full and non-discriminatory access to them.⁸⁵

43. AOB noted that Austrian medicine was currently following the principle of removing “disturbing” sexual characteristics and that the recommendations on intersex persons drafted by a working group led by the Federal Ministry of Social Affairs and Health were not known by a large number of doctors and parents of intersex persons.⁸⁶ TTI recommended that Austria supports the depathologization of sex and gender diversity, no longer using the term “Disorders of Sex Development”, and ban all advertisement and provision of “conversion therapies” as well as non-consensual sex reassignment surgeries for infants and minors.⁸⁷

44. JS3 recommended that Austria ensure comprehensive accessibility of hospitals and other health facilities and raise awareness of medical staff on the respectful treatment of people with disabilities.⁸⁸

*Right to education*⁸⁹

45. JS3 reported that the combination of migration background, poverty and language differences continued to lead to serious disadvantages and exclusions and recommended that Austria establish additional school support systems for pupils with (sometime multiple) problems.⁹⁰ CoE-ACFC called on Austria to increase efforts to promote equal opportunities in access to education for Roma children at all levels.⁹¹

46. CoE-ACFC noted that an advanced system for teaching and learning of minority languages was in place in Carinthia and in Burgenland, including bilingual teaching, but that no comprehensive solution had been found for the specific educational needs of many persons belonging to national minorities who lived in other regions and in Vienna.⁹² JS3 recommended that Austria enhance bilingual education in German and the recognised minority languages in secondary education and increase the staff with language skills in the recognized minority languages.⁹³

47. In 2018, the Committee of Experts on the European Charter for Regional or Minority Languages (CoE-ECRML) noted that the history and the culture reflected by the minority languages were not present in the general curriculum.⁹⁴

48. JS3 stated that school curricula did not sufficiently cover the topics of sexuality, self-determination and consent issues in the relationship context and recommended that Austria extend the education curricula to these subjects and implement a nationwide violence prevention programme.⁹⁵

49. JS3 also noted that the inclusion of children with disabilities in the regular system was insufficient and there was a trend towards segregated schools. It recommended that Austria allocate financial resources to adapt education premises to children with disabilities and include inclusive education in school laws.⁹⁶

50. AI recommended that Austria make human rights education compulsory in primary and secondary education and provide adequate training courses on human rights education for teacher.⁹⁷

4. Rights of specific persons or groups

*Women*⁹⁸

51. JS3 recommended that Austria introduce quota regulations in politics, business and management to increase the presence of women in decision-making positions.⁹⁹

52. In 2017, the Group of Experts on Action against Violence against Women and Domestic Violence (CoE-GREVIO) highlighted a number of positive legal and policy measures in place in Austria in the area of violence against women. However it noted a strong focus on domestic violence, with less policy attention, funding and political support directed towards other forms of violence against women.¹⁰⁰ CoE-GREVIO strongly encouraged Austria to ensure that a set of comprehensive policies in the fields of prevention, protection and prosecution exists in relation to all forms of violence against women.¹⁰¹ JS3 recommended that Austria create a national action plan on violence against women that also considered women with disabilities, with precarious residence permits, asylum seekers and women with mental illnesses.¹⁰²

53. CoE-GREVIO strongly encouraged that Austria expand significantly the budget allocated to the Federal Ministry of Health and Women's Affairs for its work in the area of preventing and combating violence against women.¹⁰³

54. Two submissions expressed concern about the high numbers of femicides and cases of domestic violence that remained unresolved.¹⁰⁴ JS3 recommended that Austria offer compulsory additional training for judges and public prosecutors in the field of gender and domestic violence.¹⁰⁵ Three submissions called for an increase in preventive measures and financial support to women's support services, including existing women's shelters.¹⁰⁶

*Children*¹⁰⁷

55. JS3 stated that 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, jeopardised uniform, and non-discriminatory quality standards. It recommended that Austria create binding nationwide quality standards for child and youth welfare services, including care by foster families.¹⁰⁸

56. The Council of Europe (CoE) urged Austria to set up or designate mechanisms for data collection regarding the phenomenon of sexual exploitation and sexual abuse of

children.¹⁰⁹ JS3 recommended that Austria develop a comprehensive strategy and an implementation plan to protect children from violence.¹¹⁰

57. JS3 recommended that Austria present children with disabilities as equal citizens in particular in the media.¹¹¹

*Persons with disabilities*¹¹²

58. AOB indicated that the Austrian law did not provide a uniform definition of the term “disability”.¹¹³

59. JS3 stated that the National Action Plan on Disability 2012–2020 remained largely unfulfilled. It recommended that Austria improve the plan in consultation with persons with disabilities and organisations representing them, by taking into account the recommendations of the Committee on the Rights of Persons with Disabilities, including measurable target indicators, and providing adequate financial resources.¹¹⁴

60. While acknowledging improvements in the past years, AOB indicated that many persons with disabilities were still living in institutions with little exchange with the outside world.¹¹⁵ JS1 recommended that Austria prioritise the inclusion of persons with disabilities as a cross-cutting issue in the implementation of its National Action Plan on Disability beyond 2020, paying particular attention to women and children with disabilities.¹¹⁶

61. AOB stated that public areas were not always accessible to persons with disabilities and that, although providers of public services such as shops and restaurants were obliged to provide barrier-free access, there was no right to the removal of barriers.¹¹⁷ JS3 recommended that public authorities provide information in accessible formats and establish the “two-senses principle” in public institutions, transport, and communication and information systems.¹¹⁸

62. JS3 indicated that children from parents with disabilities were often taken away instead of enabling an assisted parenthood and recommended that Austria introduce assisted parenthood for parent with disabilities.¹¹⁹

*Minorities*¹²⁰

63. The Austrian Center for Ethnic Groups (ACEG) stated that for decades national minorities in Austria had been deprived of basic minority rights guaranteed under international law (Treaties of Saint Germain of 1920 and Vienna of 1955) and that decisions of the Austrian Constitutional Court on these issues had consistently not been implemented.¹²¹

64. CoE-ACFC noted that persons belonging to the six recognised national minorities (Burgenland-Croat, Slovene, Hungarian, Czech, Slovak, and Roma) benefitted from special provisions intended to increase their access to rights, but that such access was made dependent upon strict territorial limitations that resulted in unequal levels of enjoyment in the various regions.¹²² ACEG noted that some national minorities, among them the Polish and Jenish, were not acknowledged as minorities yet.¹²³

65. CoE-ACFC was deeply concerned by the fact that the amendment of the National Minorities Act in 2011 in effect resulted in a further deterioration of the situation of persons belonging to national minorities as their access to individual rights had been limited to certain localities, without a possibility to challenge this decision through an effective legal remedy.¹²⁴ ACEG added that such amendment was passed against the explicit will of national minorities.¹²⁵ CoE-ACFC reiterated its urgent call on Austria to engage in a comprehensive and genuine effort to review the legislative framework for the protection of national minorities.¹²⁶

66. ACEG noted that the National Minority Advisory Councils were not legitimized by direct democracy.¹²⁷ CoE-ACFC further noted that these Councils had very limited competences, only concerning the distribution of cultural funds and recommended that Austria prioritise their reform to ensure that they constitute a functional mechanism through which national minorities can participate effectively in all relevant decision making process, beyond the allocation of cultural support.¹²⁸

67. CoE-ACFC noted that the system for the allocation of cultural support for the associations of national minorities had not changed significantly since 1995 and reiterated its urgent call on Austria to increase significantly the funds made available to national minority associations in order to enable them to preserve and develop their distinct identities.¹²⁹ It also called on Austria to increase the availability of minority language programmes on public television and radio and develop quality programmes that appealed to all segments of society, including youth.¹³⁰

68. ACEG recommended that Austria fully implement the decisions of the Constitutional Court including regarding greater facilitation of the use of minority languages as official languages.¹³¹

*Migrants, refugees and asylum seekers*¹³²

69. CoE-ACFC welcomed the immense efforts made by governmental and non-governmental actors alike in coping with the sudden arrival of unprecedented numbers of refugees and migrants in 2015. However, it noted that the arrival and presence of refugees has resulted in societal tension and that part of the political spectrum, aided by some media, appeared to be instrumentalising latent fears amongst the population for their political gain.¹³³

70. AI expressed concern regarding the government's proposal to develop a legal basis for the administrative detention of asylum-seekers, i.e. detention for the preventive protection of public security and stressed that this would likely undermine the rights to liberty and to a fair trial, the presumption of innocence and the principle of legality.¹³⁴

71. AI also expressed concern regarding the quality of asylum procedures, in particular as a high number of cases were overturned by the federal administrative courts on appeal. It noted that the Federal Agency for the Provision of Care and Support, which will provide legal counselling and representation in asylum proceedings as of January 2021, will be embedded in the organizational structure of the Ministry of Interior and replace the independent counselling provided by civil society organizations, with the result that the authority deciding on asylum claims in first instance and the agency providing legal counselling and representation will both be embedded in the Ministry of Interior.¹³⁵ Two submissions recommended that Austria ensure adequate and independent legal assistance to asylum seekers.¹³⁶

72. Joint Submission 6 (JS6) and ADF International (ADF) reported that, since 2015, a significant number of asylum applications in Austria were submitted on the grounds of religious persecution and/or religious conversion and expressed concerns about the standards and procedures of the Federal Office for Immigration and Asylum (BFA) for assessing such applications, which in many cases amounted to arbitrary "religious tests". They recommended that Austria ensure that the assessment criteria for asylum-seeking applications were objective, impartial and consistent, with hearings carried out in a transparent manner, and that asylum decisions were made on an informed and unprejudiced basis.¹³⁷

73. JS3 recommended that Austria establish a mechanism to identify vulnerable persons during the asylum and return evaluation processes and train officials and judges involved in asylum procedures on the identification of such vulnerable persons in cooperation with specialized civil society organizations.¹³⁸ TTI recommended that Austria provide material support and asylum to persecuted LGBTIQ+ people from countries that have anti-LGBTIQ+ laws or persecution campaigns.¹³⁹

74. AI indicated that the government was implementing a policy to accelerate returns of rejected asylum seekers, including by extending the list of safe countries of origin and recommended that Austria refrain from forcibly returning anyone to countries where they would be at risk of torture or other ill-treatment.¹⁴⁰ It added that rejected asylum seekers who could not be returned to their countries of origin were accommodated in return centres, whose remote locations and poor housing conditions had prompted an inquiry by the Ministry of Interior in cooperation with the United Nations High Commissioner for Refugees (UNHCR) whose recommendations were still in its majority awaiting implementation.¹⁴¹

75. Three submissions referred to the adoption by Austria of more restrictive policies regarding persons entitled to subsidiary protection status.¹⁴² AI highlighted that Austria had increased the waiting period for family reunification of persons with subsidiary protection, including unaccompanied minors, from one to three years and that persons entitled to subsidiary protection status were only eligible for core elements of social aid benefits that did not exceed the level of social assistance granted to asylum-seekers.¹⁴³

76. AI regretted that Austria's humanitarian admission programme, accepting 1,900 Syrian refugees, had ended in 2017 without any further political commitment. It was also disappointed that in spring 2020, during the COVID-19 pandemic, Austria refused to relocate asylum-seekers from the Greek Islands and reportedly impeded the submission of asylum claims at the Austrian border. It recommended that Austria reinstate humanitarian admission programmes in cooperation with UNHCR.¹⁴⁴

Stateless persons

77. Joint Submission 4 (JS4) stated that there were several gaps in Austrian law and practice regarding the prevention and reduction of statelessness and recommended that Austria establish a legal basis for the automatic acquisition of Austrian nationality at birth by children born on Austrian territory who would otherwise be stateless; introduce a legal definition of a stateless person into Austrian legislation in accordance with article 1 of the 1954 Convention Relating to the Status of Stateless Persons; and establish a fair and accessible statelessness determination procedure.¹⁴⁵

78. JS4 also recommended that Austria ensure that the right to nationality and other rights of stateless people were not undermined as a result of disruptions during COVID-19 pandemic or for any other reason and that stateless people had adequate access to information.¹⁴⁶

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status).

Civil society

Individual submissions:

ACEG	Austrian Center for Ethnic Groups (Austria);
ADF	ADF International (Switzerland);
AI	Amnesty International (United Kingdom of Great Britain and Northern Ireland);
Epicentre.works	Epicenter.works – Plattform Grundrechtspolitik (Austria);
IFOR	International Fellowship of Reconciliation (Netherlands);
ODVV	Organization for Defending Victims of Violence (Iran);
TransX	Austrian Transgender Association (Austria);
TTI	Alliance for Equal Rights 4 Sex Gender Diversity (United States of America).

Joint submissions:

JS1	Joint submission 1 submitted by: Global Responsibility – Austrian Platform for Development and Humanitarian Aid (Austria); Dreikönigsation – Hilfswerk der Katholischen Jungschar - DKA (Austria); Light for the World International (Austria); Network Social Responsibility – NeSoVe (Austria); and FIAN Österreich (Austria);
JS2	Joint submission 2 submitted by: Dreikönigsation – Hilfswerk der Katholischen Jungschar - DKA (Austria); and FIAN Österreich (Austria);
JS3	Joint submission 3 submitted by: Austrian League for Human Rights / Österreichische Liga für Menschenrechte – JS-LIGA (Austria) (Integrated by: Global Responsibility – Austrian Platform for Development and Humanitarian Aid (Austria); Asylkoordination Österreich (Austria); BAWO

- Wohnen Für alle (Austria); Bundesarbeitskammer (Austria); Dreikönigsaktion – Hilfswerk der Katholischen Jungschar - DKA (Austria); ECPAT Österreich – Arbeitsgemeinschaft zum Schutz der Rechte der Kinder vor sexueller Ausbeutung (Austria); EDUCULT – Denken und Handeln in Kultur und Bildung (Austria); Integration Tirol (Austria); International Centre for the Promotion of Human Rights at the Local and Regional Levels and UNESCO Chair in Human Rights and Human Security, Universität Graz (Austria); Klagsverband zur Durchsetzung der Rechte von Diskriminierung (Austria); LICHT für die Welt (Austria); Lobby4kids – Kinderlobby (Austria); Ludwig Boltzmann Institut für Menschenrechte – BIM (Austria); Netzwerk Kinderrechte (Austria); Österreichischer Behindertenrat (Austria); Österreichischer Gehörlosenbund – OGLB (Austria); Österreichischer Liga für Menschenrechte (Austria); SOS Menschenrechte Österreich (Austria); Zivilcourage und Anti-Rassismus-Arbeit – ZARA (Austria); Zusammenschluss österreichischer Frauenhäuser – ZÖF (Austria);
- JS4 **Joint submission 4 submitted by:** Asylkoordination Österreich (Austria); Diakonie Flüchtlingsdienst (Austria); The European Network on Statelessness (United Kingdom); The Institute on Statelessness and Inclusion (The Netherlands);
- JS5 **Joint submission 5 submitted by:** Austrian Evangelical Alliance – ÖEA (Austria); European Evangelical Alliance – EEA (Switzerland); Herzwert – Initiative for People in Prostitution (Austria); World Evangelical Alliance – WEA (United States of America);
- JS6 **Joint submission 6 submitted by:** European Baptist Federation – EBF (The Netherlands); Baptist World Alliance – BWA (United States of America).

National human rights institution:

AOB

Austrian Ombudsman Board (Austria).

Regional intergovernmental organization(s):

CoE

The Council of Europe, Strasbourg (France);

Attachments:

(CoE-ECRI) European Commission against Racism and Intolerance, Conclusions on the Implementation of the Recommendations in Respect of Austria Subject to Interim Follow-Up, adopted on 21 March 2018, CRI(2018)21;

(CoE-ACFC) – Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Austria, adopted on 14 October 2016, Strasbourg, ACFC/OP/IV(2016)007;

(CoE-CMFC) – Committee of Ministers under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities, Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Austria, CM/ResCMN(2017)6;

(CoE-ECRML) – Committee of Experts on the European Charter for Regional or Minority Languages, Fourth report in respect of Austria, CM(2018)38;

(CoE-CM-ECRML) – Committee of Ministers of the Council of Europe on the Application of the European Charter for Regional or Minority Languages, Recommendation on the application of the Application of the Charter by Austria, adopted 4 April 2018, CM/RecChL(2018)2;

(CoE-GRETA) – Group of Experts on Action against Trafficking in Human Beings, Third round of evaluation concerning the implementation of the Council of Europe

Convention on Action against Trafficking in Human Beings by Austria, GRETA(2020)05;
 (CoE-CP- CATHB) – Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, Recommendation on the implementation of the Council of Europe Convention on Action against Trafficking in Human beings by Austria, adopted on 12 June 2020, CP(2020)03;
 (CoE-GREVI0) – Group of Experts on Action against Violence against Women and Domestic Violence, Baseline Evaluation Report of Austria, GREVIO/Inf(2017)4;
 (CoE-CP-CPCVWDV) – Committee of the Parties to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, IC-CP/Inf(2018)1;
 (CoE-GRECO) – Group of States against Corruption, Fourth Evaluation Round, Compliance Report Austria, adopted on 7 December 2018, GrecoRC4(2018)15;
 European Union Agency for Fundamental Rights, Vienna (Austria);
 Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe, Warsaw, (Poland).

EU-FRA

OSCE-ODIHR

- ² For the relevant recommendations, see A/HRC/31/12, paras. 139.1, 139.23, 140.1–140.14, 141.1–141.17.
- ³ AI, p. 4. See also JS3, p. 2.
- ⁴ JS1, p. 6; AI, pp. 2 and 4; and AOB, p. 3. See also JS3, p. 2.
- ⁵ JS1, p. 7; and AI, p. 4. See also JS3, p. 2.
- ⁶ JS3, p. 2.
- ⁷ JS3, p. 2; and AI, p. 4. See also CoE-ECRI, p. 5.
- ⁸ For the relevant recommendations, see A/HRC/31/12, paras. 139.2, 139.7–140.18, 141.26, 141.27.
- ⁹ JS3, p. 2.
- ¹⁰ See A/HRC/31/12, para. 139.12 (Timor Leste); 139.13 (Georgia); 139.14 (Sudan); 139.15 (Democratic Republic of Congo); 139.16 (India); and 139.17 (Republic of Moldova).
- ¹¹ AI pp. 1 and 4; and JS3, p. 3.
- ¹² AI, p. 1. See also AOB, p. 2.
- ¹³ AI, p. 4; and TTI, p. 3.
- ¹⁴ CoE-ACFC, pp. 5, 8 and 10. See also CoE-CMFC, Resolution on the implementation of the Framework Convention for the Protection of National minorities by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168075f884.
- ¹⁵ JS3, p. 3. See also CoE-ECRI, p. 5.
- ¹⁶ For the relevant recommendations, see A/HRC/31/12, paras. 139.40–139.58, 139.60, 139.62, 139.64–139.80, 139.82, 139.83, 139.102, 139.112, 139.119, 141.18–141.24, 141.30, 141.32–141.36, 141.38–141.47.
- ¹⁷ See A/HRC/31/12, para. 141.18 (Belgium); 141.19 (Uruguay); 141.20 (Czech Republic); 141.21 (Namibia); 141.22 (Ecuador); 141.23 (Finland); 141.24 (India); 141.32 (Bulgaria); 141.33 (Rwanda); 141.34 (Canada); 141.35 (Trinidad and Tobago); 141.36 (Germany); and 141.45 (Bahrain).
- ¹⁸ JS3, p. 4; AI, p. 1; CoE-ECRI, p. 5; and CoE-ACFC, pp. 4-5, and 8.
- ¹⁹ AI, p. 5; and JS3, p. 4. See also TTI, p. 3; and EU-FRA, p. 5.
- ²⁰ TTI, p. 3.
- ²¹ JS3, p. 3.
- ²² TTI, p. 3.
- ²³ CoE-ACFC, pp. 4 and 16.
- ²⁴ CoE-ACFC, p. 16. EU-FRA, p. 4 and 6; and AI p. 2.
- ²⁵ AI p. 2.
- ²⁶ AI, p. 5. See also JS3, p. 6; CoE-ACFC, p. 17; and TTI, p. 3.
- ²⁷ ODVV p. 4. See also CoE-ACFC, p. 17; and CoE-CMFC, Resolution on the implementation of the Framework Convention for the Protection of National minorities by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168075f884.
- ²⁸ TTI, p. 4.
- ²⁹ AOB, p. 3; and TransX, p. 1. See also AI, p. 1; and EU-FRA, p. 6.
- ³⁰ For the relevant recommendations, see A/HRC/31/12, paras. 139.18, 139.130–139.135, and 141.70.

- ³¹ See A/HRC/31/12, para 139.130 (Uganda); 139.131 (Bangladesh); 139.132 (Senegal); and 139.133 (China).
- ³² JS1, p. 2.
- ³³ JS1, p. 3; and JS3, pp. 12 - 13.
- ³⁴ JS1, p. 3.
- ³⁵ JS1, pp. 1 and 7.
- ³⁶ JS1 p. 3; and JS3, p. 13. See also TTI, p. 2.
- ³⁷ See A/HRC/31/12, para. 141.70 (State of Palestine).
- ³⁸ JS3, p. 2. See also JS1, pp. 4 and 6.
- ³⁹ JS1, p. 7.
- ⁴⁰ Epicenter.works, p. 2.
- ⁴¹ For relevant recommendations see A/HRC/31/12, paras. 139.22, 139.84, 139.100, 139.101, 139.103–139.108, 141.48–141.50, and 141.71.
- ⁴² AI pp. 3 and 6.
- ⁴³ JS3, p. 5; and AI p. 6.
- ⁴⁴ JS3, p. 5; and AI, p. 3. See also EU-FRA, p. 6.
- ⁴⁵ AI, pp. 3 and 6. See also JS3, p. 5.
- ⁴⁶ JS3, pp. 6 - 7; and AI, pp. 3 and 5. See also AOB, pp- 4-5.
- ⁴⁷ TransX, p.1. See also TTI, p. 5.
- ⁴⁸ TTI, p. 5. See also AOB, p. 4.
- ⁴⁹ AOB p. 4.
- ⁵⁰ AI, p. 3.
- ⁵¹ IFOR, pp. 1-5.
- ⁵² JS3, pp. 5-6. See also CoE-GRECO, pp. 6-8.
- ⁵³ CoE-GRECO, pp. 9-12 and 15.
- ⁵⁴ JS3, p. 6.
- ⁵⁵ JS3, p. 6.
- ⁵⁶ For relevant recommendations see A/HRC/31/12, paras. 139.3, 139.59, 139.61, 139.63, 139.109, 141.58, and 141.64.
- ⁵⁷ OSCE-ODIHR, pp. 2-3.
- ⁵⁸ JS3, p. 8.
- ⁵⁹ CoE-GRECO, pp. 2-4 and 15.
- ⁶⁰ AI, pp. 4 and 6. See also JS3, p. 7.
- ⁶¹ For relevant recommendations see A/HRC/31/12, paras. 139.92–139.99.
- ⁶² CoE-GRETA, pp. 5 and 11. See also CoE-CP- CATHB, p. 1.
- ⁶³ CoE-GRETA, pp. 10-11. See also CoE-CP- CATHB, pp. 1 and 2.
- ⁶⁴ JS5, p. 3.
- ⁶⁵ CoE-GRETA, pp. 6 - 60. See also CoE-CP- CATHB, p. 3.
- ⁶⁶ CoE-GRETA, pp. 6, 33 and 60. See also JS5, p. 3.
- ⁶⁷ JS5, p. 3.
- ⁶⁸ CoE-GRETA, p. 52.
- ⁶⁹ JS3, p. 5. See also CoE-GRETA, pp. 53 and 61.
- ⁷⁰ For relevant recommendations see A/HRC/31/12, paras. 141.51–141.57.
- ⁷¹ AI p. 2.
- ⁷² Epicenter.works, p. 3; and ODVV, p. 3.
- ⁷³ For relevant recommendations see A/HRC/31/12, paras. 139.24–139.37, 139.111, 139.116, 141.37.
- ⁷⁴ JS3, pp. 4 and 8.
- ⁷⁵ AOB, p. 3. See also Epicenter.works, p. 3.
- ⁷⁶ CoE-ACFC, p. 31.
- ⁷⁷ EU-FRA, p. 5.
- ⁷⁸ AOB, p. 2.
- ⁷⁹ JS3, pp. 10-11.
- ⁸⁰ AI p. 2.
- ⁸¹ JS3, p. 8.
- ⁸² JS3, p. 8.
- ⁸³ JS3, p. 9.
- ⁸⁴ JS2 p.2. See also JS3, p. 9.
- ⁸⁵ AI pp. 4 and 6.
- ⁸⁶ AOB, p. 3.
- ⁸⁷ TTI, p. 5.
- ⁸⁸ JS3, p. 9.
- ⁸⁹ For relevant recommendations see A/HRC/31/12, paras. 139.113, 139.116, 139.121, 141.28, 141.29,

- 141.63, and 141.65.
- ⁹⁰ JS3, pp. 9 and 10.
- ⁹¹ CoE-ACFC, p. 24.
- ⁹² CoE-ACFC, pp. 1 and 5. See also JS3, p. 11; ACEG, pp. 4 and 5; and CoE-ECRML, Fourth report in respect of Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168078bb08.
- ⁹³ JS3, p. 11.
- ⁹⁴ CoE-ECRML, Fourth report in respect of Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168078bb08. See also CoE-CM-ECRML, Recommendation on the application of the Application of the Charter by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016807b4267.
- ⁹⁵ JS3, p. 10.
- ⁹⁶ JS3 p. 10.
- ⁹⁷ AI p. 4. See also JS3, p. 10.
- ⁹⁸ For relevant recommendations see A/HRC/31/12, paras. 139.19, 139.31, 139.32, 139.38, 139.39, 139.85–139.93, and 141.25.
- ⁹⁹ JS3, p. 4.
- ¹⁰⁰ CoE-GREVIO, pp. 6, and 11–12.
- ¹⁰¹ CoE-GREVIO, pp. 13 and 54. See also CoE-CP-CPCVWDV, p. 3.
- ¹⁰² JS3, p. 4. See also CoE-GREVIO, pp. 15 and 54.
- ¹⁰³ CoE-GREVIO, pp. 7, 16 and 54. See also CoE-CP-CPCVWDV, p. 3.
- ¹⁰⁴ JS3, p. 4; and AI, p. 4.
- ¹⁰⁵ JS3, p. 6.
- ¹⁰⁶ JS3, pp. 4 and 8; AI pp. 4 and 6; and AOB, p. 3. See also EU-FRA, p. 7.
- ¹⁰⁷ For relevant recommendations see A/HRC/31/12, paras. 139.4–139.6, 139.88, and 140.15.
- ¹⁰⁸ JS3, pp. 5 and 7.
- ¹⁰⁹ CoE, p. 6.
- ¹¹⁰ JS3, p. 5.
- ¹¹¹ JS3 p. 4.
- ¹¹² For relevant recommendations see A/HRC/31/12, paras. 139.114–139.117, and 141.59–141.61.
- ¹¹³ AOB, p. 2.
- ¹¹⁴ JS3, pp. 3 and 10.
- ¹¹⁵ AOB, p. 2.
- ¹¹⁶ JS1, p. 9.
- ¹¹⁷ AOB, p. 2.
- ¹¹⁸ JS3, p. 11.
- ¹¹⁹ JS3 p. 7.
- ¹²⁰ For relevant recommendations see A/HRC/31/12, paras. 139.21, 139.118, 140.19, 140.16, 141.62–141.65.
- ¹²¹ ACEG, p. 4.
- ¹²² CoE-ACFC, pp. 6 and 10. See also ACEG, p. 2.
- ¹²³ ACEG, p. 2. See also CoE-ACFC, p. 8.
- ¹²⁴ CoE-ACFC, p. 10. See also ACEG p. 2.
- ¹²⁵ ACEG p. 2.
- ¹²⁶ CoE-ACFC, p. 7. See also CoE-CMFC, Resolution on the implementation of the Framework Convention for the Protection of National minorities by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168075f884.
- ¹²⁷ ACEG pp. 2 and 4.
- ¹²⁸ CoE-ACFC, pp. 1, 2, 4, and 29–31. See also ACEG, p. 4; and CoE-CMFC, Resolution on the implementation of the Framework Convention for the Protection of National minorities by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168075f884.
- ¹²⁹ CoE-ACFC, p. 13. See also ACEG, p. 5.
- ¹³⁰ CoE-ACFC, p. 19. See also CoE-CMFC, Resolution on the implementation of the Framework Convention for the Protection of National minorities by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168075f884; CoE-ECRML, Fourth report in respect of Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168078bb08; and CoE-CM-ECRML, Recommendation on the application of the Application of the Charter by Austria. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016807b4267.
- ¹³¹ ACEG, p. 4.
- ¹³² For relevant recommendations see A/HRC/31/12, paras. 139.20, 139.81, 139.120–139.129, 140.22, 141.28, 140.17, 140.20, 140.21, 140.23, and 141.66–141.69.

- ¹³³ CoE-ACFC, p. 14. See also EU-FRA, p. 4.
¹³⁴ AI, p. 2. See also TTI, p. 5.
¹³⁵ AI p. 2. See also JS3, p. 12.
¹³⁶ JS3, p. 12; and AI p. 5. See also JS4, p. 9.
¹³⁷ JS6, pp. 2 - 3; and ADF pp. 2 and 4 - 5. See also JS3, p.12.
¹³⁸ JS3 p. 12. See also OVDD, p. 3.
¹³⁹ TTI, p. 2.
¹⁴⁰ AI, pp. 3 and 5. See also ADF p. 5; and JS3, p.12.
¹⁴¹ AI, p. 3.
¹⁴² JS3, pp. 11 and 12; AOB, p. 3; and EU-FRA, p. 7.
¹⁴³ AI p. 2. See also EU-FRA, pp. 14-17.
¹⁴⁴ AI pp. 4-5.
¹⁴⁵ JS4, pp. 4, 5 and 10.
¹⁴⁶ JS4, p. 10.
-