



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the 2077th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 17 April 2024, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Seventh periodic report of Austria (continued) (CAT/C/AUT/7; CAT/C/AUT/QPR/7)

1. *At the invitation of the Chair, the delegation of Austria joined the meeting.*
2. **A representative of Austria**, replying to questions raised the previous day (see CAT/C/SR.2074), said that, once they entered into force for Austria, international treaties were directly applicable and must be applied by the national courts. However, where a treaty was insufficiently detailed, Parliament authorized its ratification under reservation, meaning that the treaty was not directly applicable but was implemented through national legislation. The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), as well as certain provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child, had constitutional status and therefore must be applied by all Austrian courts and authorities. Moreover, the rights enshrined in the United Nations human rights treaties, including the Convention against Torture, were largely covered in the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union and as such were constitutionally guaranteed and could be asserted in legal proceedings.
3. Under the Treaty on the Functioning of the European Union, all courts of last instance were required to request a preliminary ruling from the Court of Justice of the European Union if they found a provision of European Union law to be ambiguous or unclear. There was no concomitant requirement with regard to international law. It was for that reason that Austria did not submit to any international authority, for preliminary rulings, matters concerning the compatibility of its national law with international treaties.
4. Where a human rights treaty body found a violation in an individual communication concerning Austria, the Ministry of Foreign Affairs and the Federal Chancellery, together with the relevant federal ministries, *Länder* and municipal authorities, considered in good faith what remedial measures should be taken. While treaty body recommendations were not legally binding, they were taken seriously and thoroughly examined by the Austrian authorities and served as benchmarks for the interpretation of national law in conformity with international law. Where necessary, the Austrian Ombudsman Board and its seven regional commissions mediated between the complainants and the State bodies concerned. Austria regularly provided information to the relevant treaty body on its implementation of the body's recommendations in individual communications, most recently in two cases before the Committee on the Rights of Persons with Disabilities.
5. The Austrian Ombudsman Board had been designated as the country's national mechanism for the prevention of torture. Authorities concerned by its recommendations, which were published in the Board's annual reports, were required to implement them or to provide a written explanation for their failure to comply. The Board could, in specific cases, request the courts to set a deadline for implementation and suggest measures of supervisory control. Strong emphasis was placed on the provision of the organizational, human and financial resources, among other conditions, required for the implementation of the Board's recommendations. The duty to cooperate with the Board was enshrined in the Constitution. In 2022, a budget of €1.6 million had been allocated to the national preventive mechanism, whose advisory council was composed of representatives of civil society, federal ministries and the *Länder*.
6. Most of the visits undertaken by the mechanism were unannounced. The mechanism enjoyed unrestricted access to all institutions and received all the information and documentation it required. Furthermore, in 2022, the mechanism had observed 21 police operations, mainly during demonstrations and football matches, and had found that, on the whole, the operations had been carried out professionally and in accordance with the law.
7. **A representative of Austria** said that all recommendations made by the national preventive mechanism, whose inspections were typically seen as a form of external quality control, were reviewed by the competent departments of the Ministry of the Interior and the

Ministry of Justice with a view to their implementation. However, recommendations to improve accommodation standards in places of detention often entailed capital works, which took time, planning and coordination, and could therefore not be implemented across prisons and police cells all at once.

8. The national preventive mechanism had not reported any obstacles in gaining access to facilities it wished to inspect. As soon as the police or other authority was informed of a large gathering, the information was transmitted to the mechanism so that it could send staff to observe the associated police operation. If the mechanism chose to send observers, a technical briefing, as well as police protection where necessary, was provided to them.

9. All persons who were arrested, regardless of the legal basis for the arrest, had the right to notify a trusted person, a freely chosen defender and, in the case of non-nationals who so wished, a consular representative. If a medical examination was required, they could also call upon a doctor of their choosing, in addition to the police doctor who determined their fitness for detention within 24 hours of arrest. Legal information was provided verbally and in a leaflet, which was available in a variety of languages. The act of providing that information must be recorded. Persons arrested on suspicion of a criminal offence must be referred to the courts or released within 48 hours. They had the right to receive assistance from an interpreter and to contact the free on-call lawyer service run by the Bar Association.

10. **A representative of Austria** said that the first call with an on-call lawyer, during which the scope and cost of legal services were explained, was free of charge. If that initial call was insufficient, any additional services, for instance the presence of counsel during police questioning, were charged to the person at an hourly rate of approximately €180 that had been contractually agreed between the Federal Ministry of Justice and the Bar Association. Intervention by an on-call lawyer was free of charge when a person was to be remanded in custody or placed in detention pending extradition, when the suspect was in a vulnerable situation and required special protection and when the suspect was a minor. As a rule, the courts were required to appoint a legal aid lawyer when accused persons were unable to meet the full cost of a defence without impairing their ability to satisfy their own and their dependent family members' basic needs. The cost-bearing arrangements were in line with the requirements of Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016, and no amendments to existing law in that domain were envisaged. The Ministry of Justice allocated over €4 million a year to the on-call lawyer service.

11. **A representative of Austria** said that suspects should be provided with the number for the on-call lawyer service and that, if they wished to avail themselves of the service, any questioning must be postponed until they had been able to do so. Regulations governing interrogation and investigation methods were reviewed by the Ministry of the Interior and were subject to annual quality controls.

12. Since 2014, there had been 11 deaths in police custody, comprising 5 suicides and 6 health-related sudden deaths; further details on those cases would be submitted in writing. In all the cases, a medical examination had been carried out and a report submitted to the public prosecutor. Since there had been no signs of third-party involvement in any of the deaths, the public prosecutor had not initiated any investigations.

13. **A representative of Austria** said that any death in custody must be brought to the immediate attention of the public prosecutor, who then ordered an autopsy to verify the exact cause and circumstances of the death. Depending on the results, the public prosecutor decided whether further investigation was warranted. There had been 12 suicides in prisons in 2023, all of them men ranging in age from 23 to 73. Of those individuals, five had been in pretrial detention, five had been serving sentences and two had been mentally ill inmates in preventive detention, one of whom had committed suicide during a stay at a residential home outside the prison.

14. A cell allocation programme developed for the specific purpose of suicide prevention had become an internationally recognized screening tool for initial assessment of suicide risk among newly admitted inmates. The Director General of the Prison Service had set up a specialist suicide prevention group composed of internal and external experts including psychologists, psychiatrists, social workers and youth welfare professionals, who met

regularly to analyse suicide-related incidents and make recommendations. Suicide awareness among prison personnel was kept up to date through regular in-service training.

15. **A representative of Austria** said that a person's fitness for detention, including prior to deportation, was assessed by a police doctor within 24 hours of admission to the relevant facility. Any injuries observed or alleged indicating ill-treatment must be documented and reported to the competent law enforcement authority. Medical care for arrested persons and pre-deportation detainees was available at all times from a police doctor and paramedics during the day and an on-call medical service at night. In the event of a medical emergency, the person concerned was immediately transported to hospital. Medical data were recorded confidentially on a dedicated digital application accessible by medical personnel only. It was untrue that medical treatment was provided by law enforcement officers with only basic first aid training. Some law enforcement officers had additional, months-long paramedic training, and only members of the medical staff were authorized to treat arrested persons and detainees.

16. **A representative of Austria**, drawing the Committee's attention to paragraphs 171–176 of the State party report (CAT/C/AUT/7) concerning solitary confinement and special security measures, said that incommunicado detention was not practised in Austria. House arrest could be imposed on minors for a maximum of one week; however, the executive was working on a bill to ban its use for minors. There were guidelines and training for prison staff regarding special security measures, which were subject to continuous oversight by the Director General of the Prison Service. Their imposition was subject to the principles of proportionality and necessity and should be reviewed as soon as the danger justifying their application no longer existed. The mental and physical health of the person subjected to the measures must always be taken into account, and if suicide risk was the reason for the measures or arose after their imposition, the head of the institution must order any deviations from standard practice deemed necessary, such as allowing visits or telephone calls. All special security measures must be justified in detail and documented.

17. Regarding compliance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), it should be noted that the Penitentiary Code provided that prisoners should be treated calmly, seriously, fairly and with respect for human dignity. They should be addressed by their title and surname, using the German courtesy plural pronoun. The United Nations Office on Drugs and Crime had recognized the standards of medical care in the Austrian prison system, especially for women, as a best practice. For example, women prisoners underwent a mandatory gynaecological examination upon admission, which could be repeated as necessary, and older women prisoners also had access to mammography.

18. **A representative of Austria** said that the Director General of the Prison Service was responsible for ensuring that prisons were adequately staffed and funded and afforded appropriate conditions, including with regard to occupancy. Preventive detention facilities currently had sufficient capacity as new forensic-therapeutic centres had been built and other centres had been repurposed.

19. **A representative of Austria** said that asylum-seekers were covered by health insurance and were eligible for the same benefits as Austrian citizens. Access to emergency health care was thus guaranteed for asylum-seekers at all stages of asylum proceedings. During the initial reception phase, asylum-seekers underwent a standardized admission procedure that included the administration of a checklist to identify vulnerabilities and a confidential medical examination conducted by health-care staff without the presence of police officers. All women asylum seekers were examined by female staff. At the federal level, three facilities were equipped to receive asylum-seekers with disabilities. Efforts were always made to ensure that members of the same family were accommodated together.

20. The authorities responsible for asylum-seekers cooperated closely with external health services, to which they could turn for additional assistance if necessary. Before an asylum-seeker was transferred from a federal reception facility to a facility in one of the *Länder*, the latter was informed of any special needs that the asylum-seeker had so that the appropriate accommodations could be made. The Minister of the Interior, the Federal Agency

for Supervision and Support Services and all nine reception authorities in the *Länder* held regular meetings via videoconference to discuss the accommodation of asylum-seekers, including individual cases and any special needs that they might have. At the federal level, a total of 57 persons were currently receiving special care because they had a disability; the delegation did not have data in that regard for the *Länder*.

21. Under the law, the best interests of unaccompanied asylum-seeking minors, as well as asylum-seekers with disabilities, were safeguarded. Unaccompanied minors were supported by legal advisers, who were required to attend every hearing involving the minors in their charge. At the federal level, five facilities were specially equipped to accommodate unaccompanied minors, who were always kept separate from adult asylum-seekers. Child protection standards had been developed by the Federal Agency for Supervision and Support Services in partnership with the United Nations Children's Fund (UNICEF), non-governmental organizations and the Child and Youth Welfare Service. The standards were implemented at every site by specially trained officers. The federal reception facilities cooperated closely with local welfare services and schools. Asylum-seeking minors had the opportunity to attend language courses and participate in sports. The Government had increased the funding allocated to authorities in the *Länder* in order to improve the level of support provided to asylum-seeking minors and more closely align provision for such children with that for Austrian children.

22. Facilities for asylum-seekers received unannounced visits from representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Austrian Ombudsman Board, who could submit suggestions for improvements to the Federal Agency for Supervision and Support Services and the Ministry of the Interior. Currently, private lockers were being installed in facilities accommodating minors so that they could secure their private belongings. Federal facilities employed multilingual staff with a range of professional backgrounds, including psychologists, doctors, nurses, educators and social workers. Staff were trained in the standards and guidelines issued by the European Union Agency for Asylum.

23. Assumption of custody of unaccompanied minors was not necessary for the purpose of basic reception procedures or for the provision of legal representation in asylum proceedings. In all cases, the authorities first made efforts to locate the parents or relatives of the minors concerned. Only when no parent or relative could be found was custody transferred to the Child and Youth Welfare Service by a guardianship court. The Child and Youth Welfare Service was responsible for the education of the children in its charge, the management of their assets and all matters that went beyond the scope of asylum proceedings.

24. **A representative of Austria** said that, if an unaccompanied minor faced an imminent risk to his or her well-being, the Child and Youth Welfare Service could assume provisional custody of that minor prior to a ruling by the guardianship court. Plans were in place to amend the law to ensure that unaccompanied minors were under guardianship from their first day in Austria.

25. **A representative of Austria** said that the Federal Office for Immigration and Asylum ran a specialized department that gathered information on the situation in asylum-seekers' countries of origin. That information was continuously updated and was used to determine whether asylum-seekers would face any risk of being tortured or ill-treated if they were returned to their countries.

26. When the higher courts considered appeals against decisions on asylum applications, they always took into account the situation in the applicant's country of origin. Appeals against asylum decisions had a suspensive effect, except in cases where the asylum-seeker had arrived in Austria from a safe country, posed a danger to public safety or had used a false identity, among other circumstances. According to a report issued by the Federal Administrative Court, around 20,500 decisions on asylum applications had been issued between February 2022 and the end of January 2023. However, the data in the report did not make it possible to compare the outcomes of applications submitted by asylum-seekers of different nationalities. The principle of non-refoulement was taken into account at every stage of asylum proceedings, including in cases where applicants faced deportation to a State that might deport them to an unsafe third State.

27. The Government always encouraged voluntary returns. As a last resort, the Federal Office for Immigration and Asylum might issue a pre-deportation detention order against a person whose asylum application had been rejected. In such cases, a number of legal conditions must be fulfilled and the duration of the detention must be as short as possible. Preferential consideration was always given to alternative measures to detention, such as the issuance of orders requiring persons facing deportation to live at a specific address and report regularly to a police station. No one was placed in detention unless found medically fit, and any person whose health deteriorated in detention could be considered for release. In 2023, around 3,767 applicants for asylum had been placed in detention and around 360 persons had benefited from alternative measures. Only six minors had been placed in detention, for an average of 10 days. Around 12,900 foreign nationals had been removed from Austria. Of those persons, around 54 per cent had been removed on a voluntary basis.

28. At all stages of asylum proceedings, asylum-seekers were entitled to receive free legal and procedural information in a language they understood. In first-instance proceedings, however, the authorities were generally not required by law to provide free legal assistance to asylum-seekers. The Federal Agency for Supervision and Support Services had provided legal advice to over 33,000 persons since 2021. Between 2018 and 2023, under a number of funded projects, free legal advice on asylum applications had been provided in almost 25,000 cases. In its December 2023 judgment, the Constitutional Court had held not that the legal assistance provided by the Agency was not independent in practice, but rather that the independence of such assistance might not be sufficiently guaranteed by the special contract between the Agency and the Ministry of the Interior. New regulations in that regard were being prepared.

29. Under chapter V of the Asylum Act, the Government was empowered to establish special offices at the border for the purpose of processing asylum applications in situations of national emergency. The legal provision in question could be invoked only in emergencies and was not intended to prevent applications for asylum from being submitted. In any case, appeals against negative decisions could still be filed and the Government would still be required to comply with its obligations under international and European Union law.

30. **A representative of Austria**, responding to the question about the extradition of two individuals on the basis of diplomatic assurances, said that, in one case, the Embassy of Austria in the country concerned had been able to verify compliance with the diplomatic assurances up to the summer of 2023. Embassy officials had conducted two visits to the place of detention of the extradited person and had attended the person's trial as observers. In the second case, the Embassy had maintained regular contact with the individual's lawyer and had visited the prison where he was detained in 2019 and 2021. The relevant regional court had made several inquiries about the status of the proceedings brought against the individual, the level of compliance with the procedural guarantees set out in the European Convention on Human Rights and his state of health. Currently, however, it was not possible to monitor compliance with the diplomatic assurances in either case owing to the withdrawal of cooperation by the receiving States. Austrian law provided for the possibility of reopening extradition proceedings if diplomatic assurances were not fulfilled or if evidence came to light that shed serious doubt on the decisions taken by a court in a receiving State. In the case of the first individual, the extradition proceedings had been reopened in 2023 and the extradition request filed in 2018 had been rejected. Efforts to transfer the individual back to Austria had so far been unsuccessful. All requests for extradition to the State concerned were now rejected by the Austrian courts.

31. **A representative of Austria** said that training on the prevention of torture was continually assessed by the relevant authorities. Training courses on human rights placed considerable emphasis on the protection of human dignity and the prohibition of all forms of torture. The purpose of such training courses was not only to transmit knowledge of human rights but also to guide the work of the participants. Law enforcement officers provided feedback on training that was analysed and used to adapt training courses. The basic training provided to prison guards included mandatory courses on professional ethics, intercultural competence, diversity and gender mainstreaming, and the Nelson Mandela Rules.

32. The decree issued by the Ministry of Justice on the handling of allegations of ill-treatment of prisoners had been redrafted to establish that all such allegations must be

reported to the competent senior public prosecutor's office, as well as to the disciplinary authorities. Complaints of ill-treatment by police officers must be reported to the competent public prosecutor's office. Any contact between the public prosecutor's office and the police, and any oral instructions issued by the public prosecutor's office, must be recorded in an official note to ensure the transparency of the investigations. All unnatural deaths of persons in custody, including suicides, must be reported to the senior public prosecutor's office and to the Ministry of Justice.

33. The delegation had no further information on the case involving the neglect of a 74-year old inmate in Stein Prison. As the Committee had noted, investigations into the conduct of four employees had been discontinued because the employees in question had been found not to have grossly violated their duty towards the prisoner. With regard to the meaning of the term "grossly", government officials were considered to have grossly violated their duty towards a prisoner if their conduct showed a significant lack of willingness to fulfil their duties. Such situations arose when there was a striking discrepancy between an official's conduct and the degree of care generally expected of a public official in the circumstances. The term was not used to refer to minor breaches of duty.

34. **A representative of Austria** said that rubber and foam bullets were not used by law enforcement officers in Austria. Tasers could be used only in accordance with strict proportionality requirements, by officers who had undergone appropriate training. Civil society representatives had been involved in the development of the regulations on Tasers, which prohibited the targeting of the head, neck and genitals and provided that the pulse cycle must be shut off after contact. Except in self-defence, Tasers must not be used against persons who appeared or were known to be pregnant or minors or who showed signs of heart damage. It was prohibited to use multiple Tasers simultaneously and to use Tasers against persons in handcuffs or who had been exposed to flammable liquid. Persons subjected to Taser use must receive a prompt medical examination, focused on injuries caused by falls, cardiovascular functioning and the need for follow-up care. Taser use was automatically recorded by the device and must be reported to the public prosecutor's office.

35. In addition to their use by special police units, Tasers were employed only in prisons and, in certain cases, police detention facilities. They had been used in prisons 39 times in the previous 20 years and in police detention facilities 8 times since 2012. Outside such settings, they were used approximately 30 times per year. A comparison of that figure with the 80,000 arrests that took place annually showed that Tasers were used appropriately, proportionately and as a last resort. Taser use to date had not resulted in any prosecutions of officials or in any known health consequences for the targets. However, each incident was reviewed, with the findings taken into account for operational and tactical training.

36. **A representative of Austria** said that a custodial sentence had been imposed on a police officer found guilty of the bodily harm of a climate demonstrator but had been reduced to a fine on appeal. The court of appeal had based its decision on a review of video evidence showing provocation and had not shared the lower court's view that, owing to the perpetrator's status as a police officer, a custodial sentence should be imposed as a deterrent. In a further six cases of alleged ill-treatment, assault or injury of demonstrators and false statements or falsification of records, the public prosecutor's office had decided either not to initiate an investigation or to discontinue proceedings. The decisions had been reviewed by the relevant senior public prosecutor's office under the supervision of the Ministry of Justice and approved after consultation with the Ministry's independent advisory council.

37. **A representative of Austria** said that a national network for extremism prevention and deradicalization, which included representatives of all levels of government, academia and civil society had been established in 2017. In 2018, the network had developed a national strategy on extremism prevention and deradicalization, based on a macrosocial approach. The strategy provided for long-term threat analysis, preventive measures, resocialization and action to raise democratic awareness and took account of education, labour market access, health care, social media and gender issues, among other factors. Measures to prevent the spread of terrorist ideas and to improve deradicalization in the penal system had been introduced pursuant to the new Counter-Terrorism Act adopted in 2021.

38. Initially, ratification by Austria of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism had been delayed owing to a lack of clarity regarding European Union competences. Subsequently, the Protocol's content had been included in European Union Directive 2017/541 on combating terrorism, which had been incorporated into national law through the Penal Legislation Amending Act of 2018. The Government had therefore considered that ratification of the Additional Protocol was not urgent. However, following the dialogue with the Committee, it would take steps to that end.

39. **A representative of Austria** said that Austria had concluded a treaty with Liechtenstein, which had one small detention centre mainly used for pretrial and administrative detention, under which Liechtenstein could request that a sentence imposed in its courts should be enforced in Austria, subject to approval by the Austrian Ministry of Justice. Inmates from Liechtenstein had the same access to complaints mechanisms and the Austrian Ombudsman Board as those detained under the Austrian judicial system. Article 3 of the treaty stipulated that such legal assistance would not be provided to Liechtenstein in the event of a conflict with other international law obligations of Austria, where a request related to acts of a political nature or if the sentence imposed by the Liechtenstein court exceeded the maximum permitted under Austrian law. During the serving of the sentence, judicial decisions on its enforcement were taken by the competent Austrian court under Austrian law with some exceptions: decisions on the contribution of convicted persons to the costs of sentence enforcement, the forfeiture of money and property, the postponement of sentence execution and conditional release, for example, were the responsibility of the Liechtenstein authorities. The two States informed each other of circumstances relevant to such judicial decisions and provided the necessary documentation.

40. **Mr. Liu** (Country Rapporteur) said that it would be useful to receive statistics and examples relating to the practical application of laws concerning asylum-seekers, including unaccompanied children. In particular, he would appreciate statistics on the early identification of victims of trafficking in persons, torture and ill-treatment. While the increase in the recruitment of psychiatric medical personnel in prisons was impressive, he wished to know whether the staffing levels were adequate in practice. Statistical data on the impact of measures to attract such personnel to work in medical or penal units for persons with mental illness would also be welcome.

41. He would like to know whether the State party's legislation contained clear provisions to state the absolute and non-derogable nature of the prohibition on torture and prevent orders from superior officers or authorities from being invoked as justification for torture. He wondered whether attempts to commit torture and complicity or participation in torture were specific offences in the Criminal Code and whether the offence of torture was subject to a statute of limitations. He would be interested to hear about national law concerning the principle of universal jurisdiction for torture.

42. He would appreciate a response to the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that police officers with basic first aid training had been assigned to perform confidential medical examinations for asylum-seekers, which should be carried out by nurses. He would like to know whether representatives of non-governmental organizations could participate in visits to places of deprivation of liberty conducted by the Austrian Ombudsman Board, whether private individuals could contribute to the Board's monitoring work by submitting videos of police operations and whether it was legal to record such operations. Lastly, he would appreciate more information on the quality control of the legal assistance provided to persons deprived of their liberty and asylum-seekers, including unaccompanied minors.

43. **Mr. Iscan** (Country Rapporteur) said that he would like to know whether the State party had taken any steps, in response to the recommendations of the Committee on the Rights of Persons with Disabilities, to address the legal permissibility and continued use of seclusion and physical and chemical restraints in psychiatric settings. While welcoming the detailed information provided in the State party's report on legal provisions requiring consent for medical treatment, he would appreciate a response to allegations by civil society organizations that more than 1,000 surgical operations per year carried out on intersex persons breached the State party's international law obligations in that regard. He would appreciate information on the action taken in response to the recommendations regarding

gender-based violence made by the Committee on the Elimination of Discrimination against Women and the Group of Experts on Action against Violence against Women and Domestic Violence of the Council of Europe. He would like to hear about any cases of disagreement between the *Länder* on the implementation of international treaties – particularly the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its provisions regarding visits by the Subcommittee on Prevention of Torture – and to know how such disagreements were resolved. Lastly, he wished to know whether the State party would consider changing its position on ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.

44. **Mr. Vedel Kessing** said that he would be interested to learn whether the use of firearms or other means of force had been reduced since the introduction of Tasers.

The meeting was suspended at 5 p.m. and resumed at 5.15 p.m.

45. **A representative of Austria** said that, with regard to psychiatric institutions, the Involuntary Placement Act set out strict regulations governing restrictions of, inter alia, the right to liberty during involuntary placements. Such restrictions, including the use of chemical restraints, must be necessary and proportionate and were permitted only in the event of a serious risk to the life or health of the patient or another person. They must be documented and were subject to judicial oversight pursuant to sections 33 and 34 (a) of the Act. Since 2005, the Austrian National Public Health Institute had been collecting data on the implementation of the Act and regularly published qualitative findings.

46. The shortage of specialist staff in psychiatric institutions was being addressed through an agreement reached between the Government and the *Länder* on the organization and funding of the health-care system, whereby more resources would be provided to outpatient services with the aim of relieving the pressure on inpatient services.

47. The authorities estimated that between 180 and 200 surgical interventions were performed on intersex children each year. While no specific regulations were in place concerning gender reassignment procedures, those procedures were subject to the general provisions of criminal and civil law. The political discussion on that topic remained ongoing.

48. The steps taken in 2022 and 2023 to make the nursing profession more attractive had already begun to produce results, including an increase of 4 per cent in the number of nurses in 2022. While responsibility for the administration of nursing homes lay with the *Länder*, the Government had committed to providing the long-term care sector with an additional €2 billion per year until 2028. Simultaneously, large-scale reforms were under way.

49. **A representative of Austria** said that section 312a of the Criminal Code contained a definition of the offence of torture that was in line with the Convention and set out a penalty of 1 to 10 years' imprisonment for that offence, rising to 5 to 15 years if grievous bodily harm was inflicted and to between 10 years and life imprisonment if the victim died as a result. The Code of Criminal Procedure prohibited the use of evidence obtained through torture.

50. Pursuant to section 64 of the Criminal Code, the courts had jurisdiction over certain offences, such as trafficking in persons, organized crime, terrorist acts, rape and torture, committed outside Austria, including in cases where the alleged perpetrator was present in Austrian territory and could not be extradited or where Austria had an international obligation to prosecute the relevant offence. The courts also had jurisdiction over international crimes set out in the Rome Statute of the International Criminal Court in all cases where the alleged perpetrator or victim was an Austrian citizen, other Austrian national interests were infringed or the alleged perpetrator could not be extradited from Austria. In 2022, the Eisenstadt regional court had imposed a sentence of 2 years' imprisonment on a Syrian national who was habitually resident in Austria and who had committed terrorist acts in Syria. In another case, owing to insufficient evidence, the Wels regional court had acquitted two Syrian nationals who were habitually resident in Austria and who had been accused of committing terrorist acts in Syria and Turkey.

51. **A representative of Austria** said that the findings and recommendations of CPT had concerned police detention facilities. Police officers called on to provide medical attention in such facilities had completed several months of specialized paramedic training. At the Vienna

Police Detention Centre, which had space for 200 detainees, there were 26 such police officers.

52. **A representative of Austria** said that the Human Rights Advisory Council of the Austrian Ombudsman Board was tasked with monitoring priorities and making recommendations. Seven non-governmental organizations, including Amnesty International and Caritas, were represented in the Advisory Council. Since 2016, the police had operated federal and regional mechanisms for dialogue with 31 non-governmental organizations. Meetings were held three times a year, and the organizations could make recommendations. Members of the public were permitted to film police activity provided that they did not disrupt public order. Police officers had the power to prevent filming if an emergency arose. If recordings were released online and the officers concerned deemed that they had been slandered or that their personal rights had been infringed, they could initiate private or criminal proceedings, as appropriate. In certain cases, recordings could be deleted pursuant to the Act on Combating Online Hate Speech or the European Union Digital Services Act.

53. **A representative of Austria** said that staff of the Federal Agency for Supervision and Support Services were required to attend in-service training. The training provided was evaluated on a regular basis.

54. **A representative of Austria** said that the authorities at all levels had a constitutional obligation to provide support to the Austrian Ombudsman Board, allow the Board to inspect records and furnish information on request. While discrepancies between the perceptions of authorities at different levels sometimes occurred, she was not aware of any instances in which *Länder* had explicitly breached those obligations.

55. International instruments to which Austria was a party were incorporated into the federal, regional and municipal legislation systems. If a *Land* did not take action in a timely manner to fulfil its obligations with respect to the implementation of an international treaty, responsibility for the relevant matter was transferred to the federal Government. While the Government did not have the right to intervene in the affairs of the *Länder*, regular meetings took place between them with the aim of creating awareness within *Länder* administrations regarding the measures that needed to be taken.

56. The Austrian authorities had no plans to sign the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

57. **A representative of Austria** said that Tasers had been provided to prison guards since 2004 and had been phased in for police officers between 2006 and 2012. Tasers caused less severe injuries than the batons they had replaced. While no official figures were available on the reduction in the use of firearms since the introduction of Tasers, recourse to firearms by officials had resulted in the death of a suspect on only four occasions in the previous five years.

58. **A representative of Austria** said that the Government placed great importance on the periodic review process and would carefully consider the Committee's concluding observations with a view to improving protection against torture in Austria.

The meeting rose at 6 p.m.