

CAT-Berichtsprüfung Österreich  
am 5. und 6. Mai 2010 in Genf

**Opening Statement**  
**for the consideration of Austria's Fifth periodic report under**  
**Article 19 of the Convention against Torture**

by Ambassador Helmut Tichy, Head of Austrian Delegation

Mr. Chairman,  
Members of the Committee,  
Ladies and Gentlemen,

It is an honour and privilege for me to present to the distinguished members of the Committee against Torture the latest developments regarding Austria's measures against torture.

At the outset, I would like to stress that we welcome this opportunity to conduct a dialogue with your Committee on Austria's last State report and benefit from your global experience. We look forward to discuss Austria's response to the list of issues, taking also into consideration the conclusions and recommendations which your Committee adopted on Austria after our last dialogue, in 2005.

Before going more into substance, let me introduce the members of the Austrian delegation:

- Ambassador Christian Strohal, Permanent Representative of Austria to the United Nations at Geneva,
- Mr. Wolfgang Bogensberger, Director-General for Penal Legislation, Federal Ministry of Justice,
- Mrs. Anna Sporrer, Deputy Director-General of the Constitutional Law Service in the Federal Chancellery, legal expert in human rights affairs,

- Mr. Walter Ruscher, Human Rights Coordinator of the Federal Ministry of the Interior,
- Mr. Christian Schmalzl, Head of Department for Immigration Police and Border Control of the Federal Ministry of the Interior,
- Mrs. Irene Köck, Deputy Head of the Central Prison Administration in the Federal Ministry of Justice,
- Mr. Albert Grasel, Deputy Human Rights Coordinator of the Federal Ministry of the Interior, member of that ministry's Department for Organization and Service Affairs, where he is responsible for detention centres,
- Mrs. Gerlinde Paschinger, Deputy Head of the Human Rights Department at the Federal Ministry for European and International Affairs,
- Mr. Peter Guschelbauer, First Secretary at the Permanent Mission of Austria here in Geneva,
- and myself, Helmut Tichy, the Legal Adviser of the Federal Ministry for European and International Affairs.

### **Austria's commitment to combat torture and other forms of ill-treatment**

Let me start by underlining once again that Austria is fully dedicated to the protection and promotion of human rights and the rule of law, which constitute priorities of our domestic policy and of our foreign policy. The Austrian government attaches great importance to the full compliance with Austria's international human rights obligations, especially with the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

This policy is based on a comprehensive legal framework: Legal provisions on the prohibition of all forms of torture and ill-treatment are part of Austria's constitutional, criminal and administrative law. We have comprehensive mechanisms and procedures to monitor the compliance with our human rights obligations and international human rights standards.

Most recently, on 23 February 2010, the Austrian government has adopted its "Pledges and Commitments" relating to Austria's candidature for membership in the Human Rights Council for the period 2011 to 2014. They include among others the

commitment to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006 as well as the inclusion of a specific penal provision on torture into the Austrian Criminal Code.

The principle of absolute prohibition of torture is also reflected in our approach to the combating of terrorism. While we recognize that terrorism is a global threat and that it requires specific measures to fight it, we remain convinced that efforts to combat terrorism must be carried out in full compliance with international human rights standards and the rule of law.

Austria has always strongly supported international initiatives to combat torture, and in particular the mandate of the UN Special Rapporteur on Torture. We have issued a standing invitation for all Special Procedures of the Human Rights Council and we support, domestically and internationally, policies aimed at preventing and eradicating torture and ill-treatment.

Austria fully cooperates with international and regional monitoring mechanisms, in particular with the UN human rights treaty bodies and the mechanisms of the Council of Europe, in particular the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the European Commission against Racism and Intolerance (ECRI). Last year, CPT and ECRI undertook their fifth and fourth visits respectively to Austria. An intensive dialogue between the Committees and Austria took place before, during and after these visits. The reports of both committees were published in March 2010. Austria studied the recommendations contained in these reports very carefully and provided comprehensive responses.

At the national level, the preparation of reports to UN human rights treaty bodies and the follow-up to their conclusions and recommendations is carried out in particular by the board of human rights coordinators of the federal ministries and the federal provinces. A systematic follow-up to the recommendations of all treaty bodies is undertaken by the coordinators. In this context we have to acknowledge one

particular challenge, namely to meet all requests for detailed statistical data and information. In some areas, the structure of our statistics does not allow us to give a comprehensive reply to all requests for information; we are aware of that and continue to work to improve the situation.

Austria attaches great importance to the role of the civil society in promoting human rights. A constructive dialogue between government officials and the civil society has been developed over the years, which influences our decision making process in a positive way.

### **New developments with regard to the List of Issues of the Committee against Torture**

Let me now outline some new developments following up on Austria's response to the List of Issues:

#### **Legal provisions**

The current work programme of the Austrian government explicitly refers to recommendations of your Committee and envisages a number of legal amendments relevant in the context of the Convention against Torture. They concern in particular the inclusion of a specific penal provision on torture into the Austrian Criminal Code and the creation of specific penal provisions implementing the penal provisions of the Rome Statute of the International Criminal Court concerning crimes against humanity and war crimes. The drafting of these new provisions is well under way; the drafts will be considered by various experts in the course of the next months.

Additionally, a national preventive mechanism, as the main prerequisite for the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment will be established. Building upon the large experience of the Human Rights Advisory Board established at the Federal Ministry of the Interior, the respective legislative drafting will be concluded in the second half of 2010. It is envisaged to mandate the Austrian Ombudsman Board with

the monitoring task and to incorporate the existing Human Rights Advisory Board and its commissions into the new structure.

### **New quality of detention centres: concept of “open stations”**

Concerning pre-deportation detention in Austria I can inform you that substantial structural improvement is being undertaken with the aim of a strict separation of persons pending deportation from persons detained on the basis of a criminal sentence. As a first step the construction of a modern pre-deportation detention centre for up to 220 persons is planned at Vordernberg in Styria. The start of the construction work is being envisaged for spring 2011.

The “open concept” will be realized according to international standards, based on the respect for human dignity, attention for the needs of persons pending deportation and guaranteeing them free disposition over their daily schedule. Special services will be made available to facilitate the return of these persons to their home countries.

### **Improved mechanisms of independent investigation of allegations of ill-treatment by law enforcement officials**

Concerning the issue of allegations of ill-treatment against law enforcement officials I would like to reiterate that there has always been a clear “zero tolerance” policy regarding any form of torture and other cruel, inhuman or degrading treatment. Notwithstanding all our efforts, unfortunately there are still some individual cases of ill-treatment. All allegations against members of the security authorities have to be investigated promptly, effectively and impartially. The procedures for the investigation of allegations of ill-treatment are governed by the relevant criminal legislation and by internal orders of the Federal Ministries of the Interior and of Justice.

The amendment of the Code of Criminal Procedure which entered into force on 1 January 2008 led to a significant improvement concerning the transparency and independence of investigations. Implementing these new rules, the Federal Minister of Justice, on 6 November 2009, issued a decree concerning the responsibilities and procedures for cases of allegations of ill-treatment. The aim of the new laws and

regulations is to exclude any appearance of bias during the investigations and to clarify suspicions of ill-treatment against members of the security authorities and security services and officers of the penitentiary system. A similar decree has been issued by the Minister of the Interior within her sphere of competence.

Following recommendations of the Austrian Human Rights Advisory Board as well as the European Committee for the Prevention of Torture (CPT), a new authority was created by the Federal Law on the Establishment and the Organization of the Federal Bureau of Anti-Corruption, which entered into force on 1 January 2010. This independent authority was established outside the traditional law enforcement structures and conducts its investigations in close cooperation with the public prosecutors.

### **Human rights training**

Austrian authorities put great emphasis on awareness-raising and training programmes for law enforcement officials, judges and public prosecutors in order to maintain the high human rights standards in Austria throughout their practical implementation:

Austria's law enforcement officials are specially trained with regard to the prevention of torture. Awareness-raising on this subject is a mandatory component of both, basic trainings and advanced courses for police staff and judges and public prosecutors alike. These training programmes have been existing for many years and have been constantly improved based on recommendations from your Committee, from CPT and from ECRI as well as from the Human Rights Advisory Board. Additionally, there are many voluntary courses and seminars on human rights and non-discrimination.

Among the human rights training courses for the police I would like to highlight one project which aims to highlight the role of the police as a human rights protection organisation". This modern understanding has influenced the self-perception of the police services, the management of human resources, the organizational structures and the operational procedures. On the basis of this new approach, the Federal Ministry of the Interior has established a new training course under the title of

"POLICE.(EM)POWERS.HUMAN.RIGHTS" with the aim to conveying these principles to the police in a systematic approach.

Mr. Chairman, distinguished members of the Committee,

Human rights standards in Austria are well developed, we are fully aware, however, that there is always room for improvement. Austria remains actively engaged in promoting a policy that aims at further strengthening human rights in Austria and worldwide.

The Austrian delegation therefore looks forward the open and constructive dialogue with your Committee. Thank you for your attention.