

Committee against Torture

REFERENCE: Follow-up/CAT – Austria

1 September 2025

Excellency,

In my capacity as Rapporteur for Follow-up to Concluding Observations of the Committee against Torture, I have the honour to refer to the follow-up to the examination of the seventh periodic report of Austria, in accordance with the Guidelines for follow-up to concluding observations (CAT/C/55/3).

At the end of its 79th session held from 15 April to 10 May 2024, the Committee transmitted its concluding observations to your Permanent Mission. The Committee's concluding observations (CAT/C/AUT/CO/7, para. 50) requested the State Party to provide within one year further information on the specific areas of concern identified in paragraphs 19, 25 (a) and 39 of the concluding observations.

On behalf of the Committee, allow me to express appreciation for your letter of 15 May 2025 providing your Government's response to the above-mentioned paragraphs (CAT/C/AUT/FCO/7) and to make the following comments:

Monitoring of detention facilities (para. 19 of the Committee's concluding observations)

The Committee notes that article 148c of the Austrian Federal Constitutional Law establishes a “comply or explain” system, which requires that the recommendations made by the Austrian Ombudsman Board in areas falling under the federal administration be either implemented within a period of time to be determined by federal law, or a written justification for non-implementation be provided. The Committee also notes that, at the regional level, article 148i of the Austrian Federal Constitutional Law obliges the *Länder* to either assign tasks relating to the prevention of torture to the Austrian Ombudsman Board, or to create their own institutions with powers similar to those of the Austrian Ombudsman Board, specifically the authority to issue recommendations that require a mandatory response from the regional authorities. The Committee notes that all *Länder* have entrusted the Austrian Ombudsman Board with the task of carrying out torture prevention activities under the Optional Protocol to the Convention. It further takes note of the information provided by the State Party that, in practice, the federal ministries and parliamentary bodies

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thoroughly address questions, concerns and recommendations from the Austrian Ombudsman Board and its independent expert commissions through well-established processes and regular working meetings. However, the Committee notes with concern the State Party's acknowledgment that full and prompt implementation of the recommendations made by the Austrian Ombudsman Board may be hindered by funding and staffing limitations. In this respect, reports before the Committee indicate that the implementation of the Austrian Ombudsman Board's recommendation to improve detainees' access to mental health care remains limited, owing to persistent shortages of specialized medical staff. Moreover, it regrets that the State Party did not provide information on any measures taken since the consideration of its seventh periodic report to ensure effective follow-up to and implementation of the recommendations made by the Austrian Ombudsman Board as part of its monitoring activities. Additionally, the Committee notes that an annual meeting is convened, bringing together all human rights coordinators from federal ministries and regional governments, as well as representatives of the Austrian Ombudsman Board and civil society, with the purpose of promoting regular, structured dialogue and strengthening cooperation among these stakeholders. Additionally, it notes the information provided by the State Party that the Human Rights Advisory Council, which was established within the Austrian Ombudsman Board and includes representatives of civil society, federal ministries and regional governments, facilitates a constructive dialogue and collaborative advisory processes. Nevertheless, the Committee regrets that the State Party did not provide information on the specific measures taken since the consideration of its seventh periodic report to enhance cooperation between the national preventive mechanism and civil society organizations (3/C).

Conditions of detention (para. 25 (a) of the Committee's concluding observations)

The Committee takes note of the State Party's assertion that the Directorate General for the Execution of Sentences and Measures involving Deprivation of Liberty continues to prioritize maintaining a favorable institutional and organizational framework to ensure that detention conditions comply with international standards. It also notes the information provided by the State Party that, although the occupancy rate has increased since the end of the coronavirus disease (COVID-19) pandemic, it is effectively monitored and managed through a prisoner classification and placement system, which takes into account the duration of the sentence, the nature of the offence, personal circumstances, and the character of the convicted person, and is designed to ensure an even distribution of inmates across the country and to prevent overcrowding in certain correctional facilities. In this regard, the Committee notes the establishment in 2024 of the Task Force *Belagsmanagement*, which aims to ensure a regionally coordinated response to developments in the occupancy rates of detention centres, optimize the use of available capacity, and prevent overcrowding in individual correctional institutions. It further notes the ongoing discussions on expanding electronically monitored house arrest as an alternative to detention, as well as the promotion of transferring prisoners who have not established residence in Austria to their home countries to serve their sentences, as additional measures to reduce the Austrian prison population. Moreover, it takes note of the information provided by the State Party regarding the measures adopted to increase the capacity of certain detention centres in order to address prison overcrowding. However, the Committee regrets that

the State Party did not provide sufficient information on the steps taken to further improve conditions in all places of deprivation of liberty. It also notes with concern the State Party's acknowledgement that, in exceptional cases, compliance with legal requirements concerning the separation of detainees may not have been possible due to overcrowding. Additionally, the Committee is concerned about the increase in the overall occupancy rate of penitentiary institutions since it considered the State Party's seventh periodic report, suggesting that the measures taken by the State Party may not have been sufficient to effectively address prison overcrowding. In this regard, the Committee reiterates its recommendation that the State Party intensifies its efforts in this area, including by applying non-custodial measures more broadly. (2/B2).

Treaty of 1982 between Austria and Liechtenstein (para. 39 of the Committee's concluding observations)

The Committee takes note of the information provided by the State Party that, according to the 1982 agreement between Austria and Liechtenstein on the placement of convicts, Austrian law applies to nationals of Liechtenstein detained in Austria, who enjoy the same rights and legal protections as all other prisoners in the country. It further notes that, on 12 March 2025, Austria and Liechtenstein jointly issued an interpretative declaration reaffirming this provision. Nevertheless, the Committee regrets the lack of information on the steps taken by the State Party to review the arrangements under this bilateral treaty to ensure the inclusion of express safeguards for the prevention of torture and other forms of ill-treatment, as well as the establishment of effective procedures and mechanisms to guarantee that the rights of nationals of Liechtenstein detained in Austria under the Convention are duly upheld. Additionally, the Committee regrets the lack of information on the specific measures adopted by the State Party to ensure that such detainees are able to lodge complaints to an independent body regarding acts of torture and ill-treatment by prison officers, that these complaints are promptly, impartially and thoroughly investigated, and that adequate redress is provided where such claims are well founded (1/D).

Implementation plans (para. 55 of the Committee's concluding observations)

Lastly, the Committee appreciates the additional information provided by the State Party on the implementation of the recommendations contained in paragraphs 9, 11, 13, 15, 17, 21 (a)-(c) and (e)-(j), 23, 25 (b), (c), (e) and (f), 27, 29, 31 (a) and (c), 33, 35 (a)-(c) and (e), 37, 41, 43, 45, 47 (a)-(b), and 49 (a) (A).

The Government of Austria is encouraged to provide additional information, if there is any, which would further contribute to the Committee's analysis of the progress made regarding the specific issues of concern cited above. This additional information may be provided in any subsequent report by the State Party pursuant to the Committee's request in its concluding observations on the seventh periodic report of Austria or other future periodic reports.

The Committee looks forward to a continued constructive dialogue with the authorities of Austria on the implementation of the Convention.

Accept, Excellency, the assurances of my highest consideration.



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