

## **Annex I to State Party report on Follow-up to Concluding Observations (CAT/C/AUT/CO/7)**

### **Fundamental legal safeguards (para. 14, 15)**

#### ***Training areas:***

In the subjects of human rights and security police behaviour, students acquire the legal, tactical and behavioural skills required to ensure that those arrested and detained are treated in accordance with human rights standards. Central to this are the principles of the Security Police Act and the Code of Criminal Procedure (in particular the rights of detainees), the provisions of the detention order and the necessary use of coercive force in accordance with the law on the use of weapons. In the subject "Modular skills training", the principles previously covered in theory are practised several times in the context of scenarios (e.g. arrest). These more technical subjects are supplemented by learning de-escalating communication models that are intended to prevent or minimise conflict situations in the course of arrests or detention. Dealing with people who have been deprived of their liberty is typical of the entire police profession. The suggested training and further training content, which deals with conflict situations and de-escalating behaviour, is therefore not only relevant for those officers who work in the police detention centres. Following the involvement of the responsible security academy (SIAK), the following information on the training and further training of law enforcement officers is provided.

Based on the general tasks and areas of activity of law enforcement officers, the topic of "de-escalation" is dealt with as a cross-sectional issue both in basic police training and in further training in a wide range of different teaching areas and training programmes.

As part of the basic police training programme (PGA), 204 teaching units are devoted to social and communication skills. In particular, de-escalating communication measures are dealt with in the "Communication and conflict management" training module.

In addition, prospective law enforcement officers learn how to communicate in an appreciative and de-escalating manner in the "Modular skills training" module. Realistic official actions are trained and analysed. Following the training, students are instructed in group and self-reflection units to assess their actions for human rights compliance and to document these in a finalised form. It should also be noted that the "Modular Competence Training", with a particular focus on holistic human rights-compliant training, was honoured with the Austrian Administration Award and also received a Best Practice Award at European level.

As part of the annual SIAK seminar programme, the seminars "Conflict management skills" and "Reflecting on and optimising communication" have been offered for years, in which the topics of conflict, dealing with conflict and conflict management (in the sense of "active dialogue") are dealt with in detail. The target group for these seminars are employees of all job groups and branches who are frequently confronted with conflict situations in their immediate area of work or who want to reflect on and optimise their communication. The content of the "Conflict management skills" seminar includes recognising areas of conflict, avoiding conflict situations and appropriate problem-solving strategies. The content of the "Reflecting on and optimising communication" seminar includes conducting conversations and communicating under stressful conditions with a focus on dealing with conflicts. Participation is on a voluntary basis and there is great interest in these seminars every year.

In addition, the subject matter and importance of respectful and de-escalating communication can also be found in human rights education measures and in a range of other basic and advanced training programmes, including operational training.

In addition, the voluntary e-learning course "Communication and Conflict Management" is freely and unrestrictedly available to all employees of the MoI via the e-Campus (MoI learning platform). In addition to relevant communication models and dialogue techniques, a separate part of the course also deals with de-escalation/conflict management. The aspects of de-escalation, communication and conflict management are extensively and also focussed on in the basic and further training of Austrian

law enforcement officers. The Commission's suggestion to develop and establish an additional special training or further training measure to train de-escalating behaviour specifically for law enforcement officers working in police detention centres is therefore already fulfilled.

### **Monitoring of detention facilities (para 18, 19)**

#### ***Measures regarding the recommendations issued by the AOB (shadow report):***

##### Police detention centres (p.3 et seqq)

The AOB recommends that the MoI takes measures to adjust the living conditions in police detention centres to meet the recommendations made in the working group "*Anhaltung in PAZen und AHZ*".

As part of a multi-year joint working group with representatives of the AOB's Office, standards for modern detention enforcement were developed. Some of these standards also require structural measures in the police detention centres (PAZ). However, the implementation of these measures cannot take place in all police detention centres at the same time, both for budgetary reasons and for reasons of nationwide detention logistics. This requires several years of planning and nationwide coordination.

In addition to regular renovation measures in all PAZs (including most recently in the PAZ Wien Hernalser Gürtel with new sanitary installations and a satellite system for receiving foreign language TV programmes), the following measures have been taken in recent years:

- Most recently, the Linz police detention centre was completely renovated.
- The new Innsbruck police detention centre is currently under construction as part of the new construction of the Tyrol Security Centre. Completion is expected in mid to late 2025.
- The general renovation of the police detention centres in Graz, Klagenfurt and Salzburg is already in the immediate construction phase.
- As a next step, the Eisenstadt police detention centre and the C-C-Eisenstadt will be tackled as a project

All other PAZs will also be renovated or rebuilt within the next years.

In all police detention centres, there shall be a sufficient number of cells suitable for the enforcement of single detention pursuant to § 5 and 5b (2)(4) Detention Regulation ([Anhalteordnung – AnhO](#)).

There is no right to be kept in a single cell. Inmates are generally held in community custody (§ 4 (3) AnhO). Accommodation in a single cell can be carried out upon request if a corresponding cell is available (§ 5 (3) (1) AnhO). The number of single cells in a police detention centre is based on the total detention capacity. As a minimum standard, it was agreed with the AOB that every police detention centre should have at least one cell of each category (1-3) for "security measures" (§ 5b AnhO).

All single cells must have an alarm button that is clearly marked.

All single and multi-person cells must be equipped with a clearly marked call button for contacting security personnel. If the marking wears off, is removed or fades due to regular cleaning of the cell, it must be replaced.

The technical surveillance of all cells used for security purposes should be carried out using video surveillance that is independent of any light source and in full respect of the personal space of the detainees.

These and other standards for modern detention enforcement were developed as part of the already mentioned multi-year joint working group with representatives of the AOB (see Issue 18). However, the implementation of the necessary structural measures cannot be carried out in all 14 police detention centres at the same time, both for budgetary reasons and for reasons of nationwide detention logistics. This requires several years of planning and nationwide coordination.

Door peephole cameras with infrared function or a residual light amplifier should be used when needed in order to avoid having to turn on the cell lighting and thus disturb the detainees' sleep during cell patrols because the spyholes are too small.

Due to data protection regulations, standard cells cannot be equipped with digital spy cameras as suggested by the Ombudsman. The Ombudsman has already been informed of this and has since acknowledged the Mol's data protection concerns as understandable.

#### Resources of the Federal Office for Migration and Asylum (p.6)

The AOB calls on the Federal Office for Migration and Asylum (BFA) to increase its personnel resources in order to reduce the backlog of asylum applications.

A flexible allocation of staff between the areas of asylum and immigration law allows for a needs-based prioritisation. For example, case officers from the area of immigration law can be deployed more frequently to process asylum procedures if required.

At the beginning of 2022, measures were taken to increase the number of staff at the Federal Office for Immigration and Asylum and as a result, at the end of February 2022, 47 permanent positions were approved for the Federal Office at the level of the processing officers and the addition of 15 administrative interns as support staff. Personnel measures have also been put in place for the year 2023 to cope with the enormous workload. Measures have been implemented to increase staff by a further 39 employees by the middle of 2023. The BFA's entire staffing plan is currently being utilised within the scope of its available positions and financial resources. As of 1.3.2025, the BFA has 1,066 employees.

#### Federal support centres for asylum seekers (p.6 et seq.)

- Asylum seekers should be admitted to the asylum procedure to the basic social welfare system in due time. (Asylum seekers should be admitted to the asylum procedure to the basic social welfare system in due time.)
- The material conditions in federal childcare centres must be improved.

The shortcomings in the administration with regard to accommodation in halls and care in waiting areas mentioned in the chapter, which were recorded by the AOB, have all been remedied in the meantime. The migration situation in 2022 was characterised by a record number of asylum applications (112,272 applications) as well as the outbreak of war in Ukraine and the associated influx of displaced persons to Austria. This had an enormous impact on the basic care system. In view of the tense migration situation and the high utilisation of all federal care facilities, it was essential to use all available capacities in order to fulfil the legal mandate to ensure the necessary care for foreigners in need of assistance and protection and to prevent homelessness. This also included the halls criticised by the AOB, which have now all been shut down and are no longer used as active federal care facilities. In addition, so-called waiting zones were set up at peak times with the aim of providing short-term care for people before they were transferred to the federal basic care programme. Aspects of this care were also partially criticised by the AOB and the last waiting zones were already closed in March 2023. The number of asylum applications has fallen sharply since then and the care of foreigners in need of assistance and protection in federal basic welfare support has been ensured from the outset.

#### Unaccompanied refugee minors (p.7 et seqq)

- The child and youth welfare centres should take action immediately after arrival for all UMF within the framework of provisional custody and at the same time immediately apply for the transfer of custody rights. A legal adjustment of the custody provision (ex lege assignment of custodians) would be desirable.
- A short clearing phase as part of the initial placement should enable individualised help planning and support in the search for a suitable follow-up facility. For minors who have reached the age of 14, this initial placement should also take place in child-appropriate facilities and not in mass accommodation centres. Accordingly, UMF should not be accommodated in large federal care centres during the admission procedure (high risk potential due to accommodation with other adults, lack of child-appropriate care, risk of child/human trafficking and structural violence in various forms).
- Regular access to socio-educational, socio-therapeutic, socio-psychiatric facilities or crisis centres should be possible for UMRs on an individual basis.

See para. 20, 21.

In the interests of the child's welfare and the prohibition of discrimination, it is crucial that all responsibilities, including custody, the authorisation of facilities, the drafting of contracts with facility providers, professional supervision, assistance planning, etc. are bundled with the child and youth welfare provider.

See para. 20, 21.

In order to implement the above recommendations, child and youth welfare services should develop and implement culturally sensitive best practice models or innovative pedagogical models for UMF-specific forms of care (e.g. host parents, self-catering shared flats, shared flats with a special focus).

See para. 20, 21.

#### ***Basic additional comments:***

It should also be noted that points of the criticism cited date back to 2016 (source lists AOB reports from 2016-2019 and 2022) and that the federal basic supply has changed fundamentally since then.

In December 2020, the BBU GmbH took over the operational implementation of federal basic care and internal processes, structures and guidelines were revised. In 2022, the maximum cost rates for organised accommodation for individuals were raised to EUR 25 per day. The maximum cost rates for meals and rent for individual accommodation were also increased. In addition, the maximum cost rates for UMF were increased and a new cost category for UMF in facilities on behalf of the KJHT was implemented, which will be applied retroactively from January 2024.

In addition to the outdated sources, the citation of a study by the British Department for Education and Home Office should also be mentioned. This study from 2017 deals with the accommodation of minors in the UK and does not draw any conclusions about basic care in Austria - the citation of an almost identical sentence from this study in a report on Austria is therefore incomprehensible.

#### **Pain Management in retirement and nursing homes (p. 10 et seqq)**

*Vorarlberg:* An implementation process is already planned to improve pain treatment in care homes for cognitive and/or verbal impairments and in palliative care situations. Additionally starting in 2025, it will be mandatory for care homes to send a suitable person to regularly held quality circles, which will be led by a care expert from the federal region and as part of which uniform quality standards for care homes in Vorarlberg will be developed. Among other things, a quality standard will be developed for the admission assessment, which will include the assessment of pain. This will also refer to the use of suitable screening instruments and assessment scales for cognitive and/or verbal impairments (e.g. BESD, BISAD, ECPA, ZOPA). If the admission assessment reveals the presence of pain or indications of pain, a corresponding nursing diagnosis (e.g. acute pain, chronic pain, chronic pain syndrome) and corresponding nursing measures (including assessment and recording of the pain situation at specified intervals) must be included in the nursing care plan. As part of the care process, the pain situation should be evaluated and, if necessary, the measures taken should be adapted. Pain assessments should also be carried out in the event of a change in the care situation following special events (e.g. falls), existing wounds or changes in behaviour. Regular training of nursing staff should contribute to successful implementation.

#### **Misplacement of Young Persons with psychological disabilities (p. 11 et seqq)**

*Vorarlberg:* It should be noted in advance that although Vorarlberg generally supports people in need of care with accommodation in a nursing home within the framework of social assistance, the federal region does not allocate people in need of care to specific care facilities. Persons in need of care generally decide for themselves whether they wish to live in an appropriate inpatient facility that offers care and nursing or with which facility they wish to conclude a contract. However, Vorarlberg attaches great importance to ensuring individualised and appropriate care for people with different disabilities. As a rule, the needs of the person concerned are determined individually as part of case management and suitable services are offered. In doing so, those affected are not reduced to their need for care

alone; rather, the diagnoses and the person's actual need for assistance play a role. However, a social centre or care home can be chosen as a suitable place for a variety of reasons, regardless of age, and age is always a factor in the decision for optimal care. For example, staff in care homes for the disabled can only provide intensive care to a certain extent. The care homes also receive intensive support from specialised services. In addition, day-structuring measures can be utilised. Finally, Vorarlberg has initiated two processes in order to gear social centres and care homes even better than before to the needs of younger mentally ill residents: Firstly, a concept is currently being developed to specialise care homes specifically to the needs of the target groups. Secondly, the topic was addressed as part of a strategy development process that started in autumn 2024. The results of this comprehensive strategy development process will lead to the 2025 to 2035 state psychiatry concept, in which the best possible care for younger people with psychiatric problems and care needs will be analysed and evidence-based solutions developed.

*Tyrol:* The responsible departments of the federal regions are in close dialogue and have agreed on a joint approach in order to avoid such abuses in the future as far as possible: As a first step, an overview of all people under the age of 60 who are already in retirement and nursing homes has been compiled and is currently being analysed. A clearing procedure is now being carried out for new admissions in order to find the right facility for the people concerned in future and to sharpen up the counselling services: All applications for new admissions to a nursing home for people under the age of 60 are reviewed and scrutinised. This is done with the support of official medical and social work experts from the district administrative authorities, who assess the local situation and advise on alternative options in the region if necessary.

#### Lack of Augmentive and Alternative Communication in Institutions for Persons with Disabilities (from p. 12)

*Vorarlberg:* In the facilities for people with disabilities, "Augmentative and Alternative Communication" (AAC) is already being used on an individualised basis and adapted to the needs of the affected person with disabilities. The AAC network regularly exchanges experiences across organisational boundaries. The aim of the network is to define a "standardised language" to improve the communicative situation of people with disabilities so that they can be understood and communicate in all facilities in Vorarlberg and find standardised orientation support. To this end, the network partners - various institutions for people with disabilities as well as schools and kindergartens in the federal region - coordinate their activities several times a year in their meetings and guarantee uniform standards in the area of AAC within Vorarlberg. In addition, technical communication aids are subsidised by the Rehabilitation Committee of Vorarlberg.

*Tyrol:* In principle, it should be noted that the Tyrolean Participation Act ([\*Tiroler Teilhabegesetz – TTHG\*](#)) standardises a catalogue of services in which, among other things, communication and orientation services are defined. The services listed here include AAC. As part of this service, individualised, assistive methods and technologies are offered to people with disabilities due to limitations in their ability to communicate.

The service includes the following core activities:

- AAC counselling for people with disabilities and their relatives and supporters
- Development and use of an individualised multimodal form of communication:
  - o Physical forms of communication (e.g. facial expressions, eye contact)
  - o Use of gestures
  - o Non-electronic communication aids (e.g. picture or word cards)
  - o Electronic communication aids (e.g. speech computers)
- Interdisciplinary coordination
- Aids counselling
- Implementation of the individual form of communication in the living environment

The aim of this service is the social participation of people with disabilities, the development of communication options and communication strategies and the creation of the most comprehensive multimodal communication system possible.

It should be noted in this context that if the person with disabilities fulfils the eligibility requirements under the TTHG, they have a legal entitlement to the benefit in question - taking into account their individual needs (see § 2 (3) TTHG).

If the person with disabilities is supported in an outpatient or inpatient facility (e.g. as part of the "day structure" or "living excl. day structure" services), the existing and legally binding service descriptions and quality standards for the services in question mean that the service providers (natural or legal persons who provide services in accordance with the TTHG) are obliged to communicate with the person with disabilities in a needs-based manner - and therefore also with the use of AAC. In order to ensure this, employees must also be trained and educated accordingly.

#### Detention of Mentally Ill Persons (p. 18 et seqq)

- The AOB welcomes reviews that prepare for the conditional release. However, such reviews should not only start from the tenth year of detention, but much earlier.
- The release of persons in preventive detention who were still juveniles at the time of the offence and those who were adults must be treated equally

The unconditional release of juveniles, who were already in preventive detention for 15 years or because of a less serious crime, caused massive criticism in the legislative process.

Specifically, in the transitional period for the implementation of the Act amending the existing regulations on the criminal detention in a forensic therapeutic centre (*Maßnahmenvollzugsanpassungsgesetz - MVAG 2022*) numerous preparations were made for release management - such as social training, probation assistance, family involvement, exchange with stakeholders (aftercare facilities, federal regions). In the course of these preparations, it became apparent that some of the conditions outside the prison system were not met to the extent hoped for, in particular regarding psychiatric care in the federal regions, which is still under sustained pressure due to the effects of the COVID-19 pandemic. With the corresponding adjustments made, we addressed these concerns expressed by the federal regions and healthcare facilities in particular, giving them more time to prepare and ensuring the necessary conditions to arrive at the best possible decision depending on the needs of the individual case. Possible constitutional concerns due to the distinction between those already in detention and the "new" persons affected was of course discussed during the drafting of the law. The MoJ was of the opinion that the different treatment was permissible.

The criticism pointed in particular to the dangerous nature of many people who have already been detained in a forensic therapeutic center for a juvenile offense and who could no longer be detained under the new legal situation because they were not involved in an offense that would justify this detention due to its severity. It was therefore decided not to release these people unconditionally, giving the federal regions and health care facilities more time to prepare and guaranteeing the necessary conditions to arrive at the most adequate decision based on the needs of the individual case.

In these cases, however, a case conference must be convened immediately or - if the conditional release has not already taken place - by 31.12.2023. These conferences include all groups of people involved in the care of the offender in prison and affected by a possible release, such as treating psychiatrists and psychologists, representatives of the probation service and the aftercare and healthcare facilities of the federal regions concerned, as well as, at the request of the person in custody and, if possible, their relatives (§ 17c JGG). Together, they can create the necessary conditions for release to prevent relapses in the best way possible, in particular by preparing the psychosocial reception room and planning further care and therapy in the accommodation. A further positive aspect of conditional release is that instructions can be issued (and financed), for example to continue therapy.



Since the entry into force of the MVAG 2022, § 25 CC (duration of preventive measures associated with deprivation of liberty) now expressly stipulates that a decision on the necessity of further detention must actually be made at least once a year (previously: [start of] review within this period). If detention is no longer necessary, release from a forensic therapeutic centre is always conditional (§ 47 (1) CC).

### **Background Information:**

#### *Criticism by the AOB:*

The AOB states, in para 60 of its Shadow Report to the CAT, with regard to the MVAG 2022: *The amended act does not address all criticisms but the AOB welcomed the higher threshold for the admission of juveniles to preventive detention. Under the new law, juveniles should only be sent to preventive detention for the most serious offenses comprising prison sentences with a maximum of at least ten years or life imprisonment. Anyone who was already in detention for a less serious offense is to be "released immediately without a probationary period" on the occasion of their next review, which must take place at least once a year. Additionally, preventive detention cannot last longer than 15 years. Anyone whose detention lasted already longer than 15 years should have been released immediately with the next annual review.* It continues in para 61: *However, a sudden change in legislation reversed the provision for immediate release of juveniles who are already in preventive detention for 15 years or who are in preventive detention because of a less serious crime. Instead of unconditional release, detainees may be offered the prospect of conditional release, which is conditioned to review. The AOB has constitutional concerns about the annulment of the relevant provisions as they result in unequal treatment. While preventive detention may no longer be ordered for less serious offenses, release for persons who are already in preventive detention for the same less serious offense can only be considered but is not guaranteed. Offenders who are already in prison, are in a worse position than those who are still awaiting criminal proceedings. Yet, both suffer from the same serious and lasting mental disorder under which influence they committed the offense. There is no objective justification for this. Furthermore, there is unequal treatment between those who committed the offense while they were juveniles or adults. Persons who were of age during the offense, and who were in preventive detention for longer than 15 years were released immediately after 1.9.2023.*

#### *Background information on the last two points of criticism by the AOB:*

The last criticized passage („Persons who were of age during the offense, and who were in preventive detention for longer than 15 years were released immediately after 1.9.2023“) is incorrect insofar as there were no automatic releases as of 1.9.2023, and there was never a 15-year time limit for adults. „Furthermore, there is unequal treatment between those who committed the offense while they were juveniles or adults.“: In the opinion of the MoJ, the distinction between juvenile and adult offenders with regard to the transitional provision is also incorrect. Those detained for a juvenile offense would also have to be released (already since 1.3.2023) in accordance with the new general provisions of § 21 CC if they no longer meet the requirements.

Mentally ill persons should always be cared for in specialized facilities under the supervision of recognized health professionals. They should not be detained in normal prisons, as these are not designed to meet their needs.

In addition to the two forensic-therapeutic centres in Vienna-Mittersteig and Garsten, mentally ill offenders who are of sound mind are also housed in special wards in the general prisons (§ 158 (5) StVG, departments for the criminal detention in a forensic therapeutic centre) in Stein and Graz-Karlau.

Around half of those accommodated in accordance with § 21 (2) CC have already served their prison sentence. Taking into account the statutory treatment requirements, it must be kept in mind that it is not possible to divide the inmates schematically: many inmates must be accommodated in a separate facility in connection with treatment planning before serving their prison sentence so that the course of treatment is not interrupted merely by reaching the calculated end of the sentence. The consequences of this are that not just half, but more than ¾ of those in custody require the aforementioned separate accommodation.

The forensic-therapeutic centres provide around 380 places (for male inmates pursuant to § 21 (2) CC). This means that there is a need for (currently) 200 inmates in separate facilities if all inmates are to be accommodated in forensic-therapeutic centres from the start of their prison sentence in accordance with a strictly interpreted distance requirement.

The Garsten prison was recently reorganised into a forensic-therapeutic centre in order to create additional places in a specially qualified environment in accordance with § 21 (2) CC.

Prisoners who cannot receive adequate psychiatric care in prison should be transferred.

The aforementioned required transfer is regulated by § 71 (1) and (2) StVG:

If a sick or injured prisoner cannot be properly treated in the prison or if he poses an otherwise unavoidable risk to the health of others, he shall be transferred to the nearest prison with facilities to ensure the necessary treatment or segregation (§ 71 (1)). If the prisoner cannot be properly treated in another institution or if his life would be endangered by transfer to another institution, he shall be transferred to a suitable public hospital (§ 71 (2)).

In this context, it should be noted that due to the notoriously tense situation in extramural psychiatry with regard to inpatient treatment places, the accommodation of inmates with acute psychiatric illnesses is only possible to a very limited extent, despite the efforts of the prison administration. The Chief Medical Service has developed a sustainable procedure for dealing with such situations. If the medical setting in the prison is not sufficient, attempts are first made to transfer the person to another prison where they can receive adequate care. In this context, the expansion of psychiatric intramural care in Stein prison is planned.

Long-term detention of a mentally ill prisoner without adequate psychiatric treatment violates the duty of care and care responsibilities.

Every imprisonment (here meaning the execution of measures involving deprivation of liberty) requires appropriate treatment in accordance with the principles and recognised methods of psychiatry, psychology and education. It should be pointed out that this does not only require "psychiatric" treatment, but also the other disciplines involved in treatment. In this respect, this requirement is to be regarded as fulfilled. In order to further expand treatment services in this area, work is underway to set up a timely medical programme using telemedicine.

#### Overcrowding (p. 19 et seq.)

The AOB recommends legislative change for the increase of electronically monitored house arrest.

A draft federal law amending the Prison Act and the Probationary Services Act (166/ME XXVI. GP), which also included amendments to promote electronically monitored home detention („elektronisch überwachter Hausarrest – eÜH“), was still under review in the 26th legislative period in 2019. Following the change of government, a "Prison Package - NEW / Safe Ways out of Crime" working group was set up in spring 2020 and presented its final report in February 2021. The draft report from 2019 was revised by Department IV 1 in close cooperation with the Directorate General for the Execution of Sentences and Measures involving Deprivation of Liberty in light of the results of the review process, the requirements of the government programme for the 27th legislative period and the final report of the working group. A draft bill prepared by the MoJ on this basis, which provides for the extension of the scope of application of the eÜH, has not yet been submitted for parliamentary consideration due to a lack of political agreement.

The minimum standards for living space per prisoner specified of the CPT must be adhered to.

Please refer to pages 2 to 4 of the attached policy decree regarding the minimum room sizes for detention rooms with 1 - 4 inmates and the internal guidelines for determining the capacity of the prisons (see Annex IV). The requirements for prisons contained therein also correspond to the [CPT minimum standards for personal living space in prisons](#).

Short and long-term measures must be taken to combat overcrowding in prisons.

See para. 24, 25



#### Lack of staff (p. 21 et seq.)

Inmates should be able to spend an appropriate part of the day (at least 8 hours) outside their cells and engage in various meaningful activities.

The prison administration endeavours to keep lock-up times for inmates as short as possible and to offer meaningful employment, training and leisure opportunities as part of a daily structure. However, in addition to personnel resources, a number of parameters must be taken into account that influence the duration of lock-up times. These include the maintenance of order and security in prisons and forensic therapeutic centres, as well as the personality structures of the inmates concerned or the need for separation of accomplices in the pre-trial detention area.

Inmates should have effective access to sports facilities.

The prisons and forensic therapeutic centres are required to draw up annual resource target and performance plan agreements in the area of leisure activities, whereby sporting activities must also be taken into account. These key figures are subject to appropriate monitoring.

Workshops and businesses should not remain closed due to a lack of staff.

Based on Art. 51 (8) B-VG and Sections 2, 3, 41 and 45 of the Federal Organic Budget Act 2013 ([\*Bundeshaushaltsgesetz 2013 – BHG 2013\*](#)), impact objective no. 4 was developed and formulated for the execution of sentences and measures in the strategic report on the Federal Financial Framework Act and in the respective valid federal budget, which promotes a modern, effective, humane and secure execution of sentences and measures with a special focus on (re)integration and recidivism prevention.

The actual implementation of reintegrative measures that serve to prevent recidivism takes place - in addition to adequate and target group-oriented care - primarily through the intensive involvement of inmates in employment processes in order to avoid follow-up costs of imprisonment and to be able to offer a direct connection to the labour market as part of adequate discharge management.

The current resources in the area of employment must be further increased in order to implement the measures required at the legal and strategic level.

In order to increase the employment rate and the duration of employment in prisons, more personnel resources are required, particularly in the A4/GL categories, in order to at least maintain the current standard and ideally increase it in the long term. The additional personnel resources would be used to keep the facilities open, even in the event of increased executive demand, but also to create new and modern operational structures.

In order to relieve the workload of the prison officers, improve their planning security and ultimately increase the length of inmates' employment, an additional 60 A4/GL positions for skilled workers were requested during the last budget negotiations. This would also enable companies and workshops to plan orders better and complete them on time.

Human resources shall be aligned with the real needs of modern everyday prison life. Sufficient personnel is necessary to guarantee appropriate living conditions.

See para. 24, 25

#### Solitary Confinement (p. 22)

Specially secured cells are inadequate environments for treating mentally ill persons.

The specially secured cells are adapted depending on the state of construction, with the AOB also being involved in the design. Security standards are not only there for the safety of the prison guards, but also for the inmates own safety and are also intended to protect them from auto-aggressive activities.

#### Psychiatric, Psychological, and Medical Care (p. 23 et seq.)

- Mentally ill persons should always be cared for in specialised facilities under the supervision of recognised health professionals. They should not be detained in normal prisons, as these are not designed to meet their needs. (Repetition)
- Prisoners who cannot receive adequate psychiatric care in prison should be transferred to a psychiatric hospital as soon as possible. (Repetition)
- Long-term detention of a mentally ill prisoner without adequate psychiatric treatment violates the duty of care and care responsibilities. (Repetition)

See Detention of Mentally Ill Persons

The Ministry of Justice must develop a long-term strategy to attract more doctors to work in correctional facilities.

See para. 24, 25

Particularly, in a facility for mentally ill offenders the presence of specialists in psychiatry is also required at night and on weekends.

The therapeutic approaches are regularly maintained and supplemented with regard to innovations and changes.

The medical examinations upon admission should be carried out within 24 hours of the detainee's arrival at the correctional institution.

Work is underway to set up a timely medical programme using telemedicine.

An appropriate and individual therapy programme for inmates must be guaranteed.

The Chief Medical Officer in the General Directorate always endeavours to provide sufficient staff who work together in an interdisciplinary team in accordance with the requirements of medical science. „Case managers“ are entrusted with individual cases. This represents the most individualised form of care, which can be extended to include regular case discussions if required.

Detainees have a right to adequate psychiatric care. The vacant psychiatric consultant position shall be filled as soon as possible.

As a result of ongoing marketing measures, a team of medical specialists was recruited for Stein Prison, comprising one full-time employee and two part-time or contract doctors. In addition, the intensification of nursing expertise is being initiated. Night and weekend shifts are currently only possible for psychiatric nurses. In the two forensic-therapeutic centres in Vienna (Favoriten and Mittersteig), cooperation with the Medical University of Vienna has been established, the expansion and continuation of which is the aim of the Chief Medical Officer.

The timely support of the recruiting team by a civilian employee will accelerate the recruitment of new employees in this area. In addition, with effect from 1.1.2025, a separate guideline for doctors in accordance with § 36 (2) VBG for the conclusion of special contracts for the medical service in the prison system came into force.

For the sake of completeness, reference can also be made to the Service Law Amendment 2024<sup>1</sup> which created a new remuneration scheme for contract staff in the healthcare and nursing service. This is modelled on the salary system of Vienna, which operates Austria's largest healthcare provider, the Vienna Healthcare Association. The new attractive system is intended to counteract the recruitment problems resulting from demographic change in the areas of the health and nursing service. Qualified staff are to be recruited for the stressful areas of nursing care, especially in prisons/forensic-therapeutic centres (in particular for the execution of measures).

Suicides in Detention (p. 25 et seq.)

The AOB urges rapid implementation of the working group's (a multidisciplinary working group on suicide prevention was set up by the MoJ, in which the AOB also participated) recommendations.

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<sup>1</sup> Federal Law Gazette I No. 143/2024.

The Directorate General for the Execution of Sentences and Measures involving Deprivation of Liberty is working intensively on implementing the recommendations of the working group on "Security and care settings in crisis situations", with the involvement of the AOB and external experts. A further meeting of the working group chaired by the Director General of the Prison Service took place on 14.1.2025.

As part of the working group, many recommendations were actively supported by the Chief Medical Officer and communicated in all facets to the staff of the hospital department. The topic was dealt with in the respective training and further education programmes and also taken into account in the course of the new CIRS (critical incident reporting systems) project.

With the expansion of the psychiatric expertise of medical and non-medical staff in the hospital department, a further focus was started with regard to the inclusion of psychotherapists in training/supervision. This step resulted from the reorganisation of this training, whereby graduates must independently care for patients under the guidance of a supervisor and gain clinical experience. The authorisation to train young assistant doctors in psychiatry and psychotherapeutic medicine, module forensic medicine, addiction and rehabilitation, is being accelerated; however, implementation still requires approval from the **respective state medical authorities**.

The intensification and expansion of care by an institute for psychiatry and psychotherapeutic medicine was achieved. In the area of qualified nursing staff, a cooperation with a training institute for internships has been established. Interested parties can be recruited or trained here. Overall, there is a general constant endeavour to make the prison system an attractive place to work, the Chief Medical Officer especially is endeavouring to introduce younger staff in all professional groups to the prison system in order to secure the necessary junior staff.

As a result, these measures and objectives contribute to a more attractive work environment in the penal system, which can ensure sufficiently motivated staff, which in turn provides the basis for an efficient and professional prison system, including targeted suicide prevention.

These recommendations were discussed with the working group in the implementation status on 14.1.2025.

#### Intersex Children (p. 27 et seq.)

The AOB advocates for legislation banning imposed sex reassignment surgeries that are not medically necessary.

See para. 42, 43.

### **Conditions of detention (para. 24, 25)**

#### **a) *Justiz Atlehta*:**

The aim of the MoJ, the Directorate General for the Execution of Sentences and Measures involving Deprivation of Liberty is to establish top-class sport in the execution of sentences and measures, following the example of other ministries (MoF, MoD, MoI). The first step is to provide for the possibility of top-class sport in the prison service.

The promotion of elite sport is to be organised as a dual promotion system, with the Prison Academy serving as the central educational institution. However, in order to harmonise the concept of elite sport with service in the penal system, a number of important parameters need to be taken into account.

Due to professionalisation, the promotion of top-class sport in the prison system, especially in the prison guard system, requires full professional training on the one hand and the creation of the opportunity to practice sport professionally on the other. This means that top athletes must be offered solid professional training and, in this context, create a social network alongside their sporting career.

In return, the athletes represent the Judicial Police and receive training opportunities and the necessary time to take part in competitions. This is intended to convey the image of a powerful, potent

and efficient judicial police force to the general public. With regard to training, its duration and the examinations to be taken, top athletes in the field of justice guards must be given a time window of at least 2.5 to 3 years for basic training.

As part of the call for applications, 97 applications from 22 different sports were received, of which 30 top athletes were selected by the Elite Sports Commission (16 female, 14 male). 29 of them have started or will start their training this year. The first course with 20 top athletes started on 7.4.2025, with the other 9 starting on 1.9.2025. On 14.4.2025, the ceremonial presentation and swearing-in of the top athletes by the Federal Minister of Justice took place in the large ballroom of the MoJ, with the State Secretary for Sport also in attendance

**e) Resource, target and performance plan 2023-2026 (prisons):**

Goals	Contribution to the goal(s)
Expansion of employment opportunities in the penal system with an external focus on possible additional service recipients and the realities of the labour market, as well as an internal focus that meets the educational needs and performance potential of inmates.	<p>Expansion of the labour system in the penal and correctional system through increased orientation of work services to the needs of potential service recipients</p> <p>Expansion of the range of services and products and improved presentation of services and products by creating the necessary platforms and resources</p> <p>Development and establishment of staff pools in prisons to ensure that employment opportunities for inmates can be kept open and offered at all times</p> <p>Adaptation of company structures to the realities of the labour market</p> <p>Promotion of employment models that combine work and education (intensive training for skilled workers)</p> <p>Promotion of low-threshold employment models for inmates with short detention periods and/or with employment and educational deficits</p> <p>Increase in the employment rate</p> <p>Increase in the duration of employment</p>
Improved qualification of inmates during imprisonment in the area of certified basic education measures and advanced vocational training (computer courses/ECDL, teaching, language courses including German as a foreign language, first aid, etc., industry-specific courses such as welding courses, forklift drivers)	<p>Increase the number of educational measures of all kinds tailored to the educational and performance potential of the respective inmates</p> <p>Intensification of school-leaving measures, especially for adolescents and young adults</p>

**Deaths in custody (para. 26, 27)**

The following prisons and forensic-therapeutic centres were awarded the "Good Practice Seal", which is valid for the years 2024/2025.

- Klagensfurt prison
- Innsbruck prison
- Korneuburg prison
- Krems prison

- Graz-Jakomini prison
- Graz-Karlau prison
- Ried im Innkreis prison
- Vienna-Simmering Prison
- Wiener Neustadt prison
- Forensic-therapeutic centre Asten
- Garsten Forensic Therapeutic Centre
- Forensic-therapeutic centre Vienna-Favoriten
- Forensic-therapeutic centre Vienna-Mittersteig

### **Forensic psychiatric facilities (para. 32, 33)**

The explanatory remarks to the government bill of the UbG-IPRG amendment 2022<sup>2</sup> state:

*"The UN High Commissioner for Human Rights and other organs of the United Nations are calling for an absolute ban on coercive measures and compulsory treatment in psychiatry on the basis of the UN Convention on the Rights of Persons with Disabilities (see for example [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/32](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/32)). However, since the scope of protection of Articles 12 and 14 of the UN Convention on the Rights of Persons with Disabilities cannot be considered separately from the human rights to life and physical integrity of the person in Articles 10 and 17, which are also guaranteed in the Convention, the state is obliged to protect against violations of life or physical integrity (Glaab, Vereinbarkeit von freiheitsentziehenden Maßnahmen in der stationären Altenpflege mit der UN-Behindertenrechtskonvention?, BtPrax 2020, 86 (89)). According to the advocates of psychiatry without coercion, it should focus exclusively on its supportive function, and the police and criminal justice system alone should be called upon to avert danger to self or others (see, for example, Zinkler/von Peter, Ohne Zwang - ein Konzept für eine ausschließlich unterstützende Psychiatrie, R & P (2019) 37: 203-209).*

*Firstly, it seems questionable whether the situation of people with disabilities will actually be improved by completely separating the support systems from the authorities exercising coercion. The idea of placing patients in acute mental health crises who refuse help for whatever reason in police custody or prison is difficult to bear. Rather, Marschner (R & P (2019) 37: 202) argues that such people have a right to an appropriate low-stress and calming accommodation situation with therapeutic services, regardless of the name of the place where the accommodation takes place.*

*If the state has to use coercion in order to minimise threats to life or physical integrity, it seems more compatible with human dignity to limit this to an absolute minimum, which generally requires that treatment of the person in crisis can begin and that they are not simply placed in "preventive detention" until they realise that treatment is necessary. Detention currently only takes place once in 76.8% of adults and 73.1% of children and adolescents (Gesundheit Österreich GmbH, Monitoring der Unterbringungen nach UbG in Österreich, Berichtsjahr 2018), so it should often contribute to the positive health development of those affected.*

*In line with the case law of the German Federal Constitutional Court (2 BvR 882/09) and based on discussions in the working group, including with people with experience of psychiatry, the draft therefore fundamentally retains the concept of coercion in psychiatry. However, it contains numerous new elements that are intended to ensure that both the police and doctors seek dialogue with the person concerned at every stage of detention, practically from the very first second of detention, and that their decision-making is supported and taken seriously.*

*The first step is to find alternatives to involuntary placement, if possible in consultation with the patient. If this is not possible, the aim is to ensure that coercion is reduced to absolutely necessary crisis intervention measures that are as short-term as possible. The patient's support options during involuntary placement have also been expanded with the aim of strengthening their decision-making*

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<sup>2</sup>Explanatory remarks to the government bill: EBRV 1527 der BlgNR 27. GP, pages 9 et seq.

*and ensuring that their preferences are taken into account. Medical treatment has been re-regulated on the basis of the assisted decision-making model. This means that coercion should be followed as quickly as possible by the treatment or alternative therapeutic response desired by the patient concerned. The fact that a discussion must also be held in the event of non-admission and cancellation of the placement is intended to ensure that the patient can explain and reflect on their experiences and ultimately influence how they are treated outside of psychiatric care. This should enable the patient to cope better with everyday life. If they wish to do so, there is the option of drawing up a treatment plan that incorporates the experiences of the involuntary placement. In this way, a future involuntary placement, if it is necessary, should be organised according to the patient's wishes as far as possible."*

#### **Electrical discharge weapons (para. 40, 41)**

***Decree "Introduction of the Taser X2 as a service weapon in regular operation" with reference number: BMVRDJ-GD50202/0046-II 2/2018, relevant passages:***

"[...] The use of the Taser X2 is reserved for specially trained law enforcement officers (see point 8.). [...]"

"[...] The Taser X2 is a service weapon pursuant to § 105 (2) StVG. As there is typically no danger to life when used in accordance with the instructions, it is not considered a service weapon pursuant to § 104 (1) no. 1 to 4 StVG and according to the circumstances pursuant to § 105 (4) and (5) StVG. With the exception of the cases specified in § 105 (6) StVG (§ 182 (3a) CCP applies to prisoners on remand), the use of such devices against recognisably or previously known pregnant women or persons with indications of heart damage is not permitted. [...]"

"[...] If an operational situation threatens to escalate, an appropriate physical distance must be established where possible for reasons of personal safety and basic tactical formations must be adopted when intervening as a team. As long as the operational situation permits, harmless and less dangerous measures should be used. [...]"

"[...] In this context, too, it is expressly pointed out that, if possible, every use of the Taser X2 must be threatened and announced immediately before use of the weapon with the loud and clearly articulated words "TASER, TASER!". [...]"

"[...] Immediate medical clarification must be arranged, in particular to examine possible fall injuries, the cardiovascular situation and the question of the need for follow-up care. Any injuries must be documented and, if necessary, photographed. [...]"

"[...] The specially trained law enforcement officers of the task forces, the Taser instructors, the armourers and the members of the international rendition unit are authorised to use them. [...]"

"[...] The head of the institution or his deputy/inspection service must report any use of weapons to the Single Point of Contact (SPOC) set up in the Directorate General for the Execution of Prisons and Measures involving Deprivation of Liberty and then promptly submit a full file (including the attached documentation sheet and all deployment reports) to the Directorate General for the Execution of Prisons and Measures involving Deprivation of Liberty, detailing the legal requirements for the use of weapons. [...]"

This obligation to report does not release the enforcement authorities of the first instance from the statutory reporting obligations. instance from statutory notification obligations - see in particular § 45 (3) BDG and § 53 BDG.

#### **Counter-terrorism measures (para. 44, 45)**

***Criminal offence of "religiously motivated extremist association" (§ 247b CC)***

Criminal law is a necessary component of modern societies. Nevertheless, punishment is particularly intrusive to the rights of individuals, which is why states should only use it as a last resort ("ultima ratio"). This also applies to the criminal offence "religiously motivated extremist association" (§ 247b



CC), which was introduced with the TeBG. The offence has a variety of elements, which provides for certain thresholds so that criminal liability only applies in the most serious cases. The explanatory remarks of the TeBG provide a comprehensive and clear overview of how the elements of the criminal offence of § 247b CC are to be understood as follows<sup>3</sup>:

According to § 247b (3) CC, a religiously motivated extremist association is one that continually attempts to replace, in an unlawful manner, the essential elements of the democratic constitutional order of the Republic with a social and state order based exclusively on religion, by preventing the enforcement of laws, ordinances or other state decisions or by arrogating to itself sovereign rights based on religion or attempting to enforce such rights.

Continually means that such acts are to be repeated. In an unlawful manner means all procedures that violate criminal law, e.g. the use of violence and threats of violence. This term primarily refers to a violation of criminal law, but also to violations of administrative regulations or regulations concerning courts' rules of procedure (e.g. disrupting the proceedings by signs of applause or disapproval). The enforcement of laws, ordinances or other state decisions is usually prevented by de facto acts like for example disruptions during court hearings or resistance to acts of execution. Alternatively, the association has to aim at arrogating to itself sovereign rights based on religion or attempting to enforce such rights. Such "claimed" sovereign rights of religious origin must be close in character to real sovereign rights.

The term "association" means a larger number of people (approx. 10 persons). However, this number is rather a guideline, depending on the degree of organisation and danger of the association. Thus, the number of its members has to be weighed against these other prerequisites. If the number of members is too small, the founder of a religiously motivated extremist association could be punishable for attempting the offence. It is important for an association that everyone subordinates himself or herself to an overall will and thus supports it. In addition, the association must be of a certain duration, which will be the case if there is a certain degree of organisation in the association. The association does not have to be secret.

The purpose of the association must be aimed at replacing essential elements of the democratic constitutional order of the Republic, while it is not necessary that it exclusively focuses on this purpose. The offence is intended to be directed against those religiously motivated extreme forces that threaten the essential basic principles of a constitutional democracy in a targeted and unlawful manner.

The essential elements of the democratic constitutional order are, in particular, those that are also laid down in the basic principles of constitutional law. These include the Democratic Principle and the Principle of the Rule of Law. Human rights as state-limiting fundamental rights also fall under the Principle of the Rule of Law (Liberal Principle). In Austria, the ECHR has the rank of constitutional law and its fundamental rights provisions are directly applicable.

The foundation or the activity in a leading position in a religiously motivated extremist association is punishable under § 247b CC, if the perpetrator or another participant has carried out or contributed to a serious unlawful act, in which the religiously motivated extremist orientation is clearly manifested. An act is to be taken seriously if it is meant seriously; if it is a threat or an announcement, it is also to be taken seriously if it appears to be realisable. The religiously motivated extremist orientation must also manifest itself clearly. This will be the case if the assignment to the religiously motivated extremist association is disclosed in these acts. The existence of an unlawful act is not sufficient, because not every unlawful act is based on a religiously motivated extremist orientation. Therefore, it is necessary that the religiously motivated extremist background clearly emerges when the perpetrator e.g. verbally indicates that he considers himself to be part of a religiously motivated extremist association.

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<sup>3</sup> Explanatory remarks to the government bill: [EBRV 849 BlgNR 27. GP, pages 3 et seq. and pages 12 et seq.](#)

The participation in a religiously motivated extremist association with the intent to promote, finance or otherwise support in a substantial manner the commission of religiously motivated extremist acts, is also punishable under § 247b (2) CC.

Participating means joining such an association in a way that is recognisable to the outside world, for example by using fake identification papers. The term presupposes that the perpetrator is part of the association, "moves" with it and regards its goals as his or her own. This is the case if he declares himself or herself to be part of it or if his or her behaviour otherwise indicates that he or she belongs to this group. Mere interest in such an association is not sufficient for participation.

Substantial funds must make up a significant part of the financial resources of the association; at least EUR 10,000 can be taken as a guideline. However, the relevant sum needs to be compared to the total budget of the association. In comparison to this, the relevant sum must not be completely insignificant.

Other substantial support means all other substantial acts of support that do not consist in the donation of substantial funds, for example arranging contacts to important persons (especially financiers), the long-term provision of rooms or facilities, the (substantial) advertising of the association or the removal of substantial obstacles to the association's activities, if this is likely to further support the aims of the association.

Furthermore, the perpetrator of § 247b CC when participating in a religiously motivated extremist association has to act with the intent to promote the commission of religiously motivated extremist acts. If someone only takes part in a demonstration of the association, he or she does not do anything that could promote the commission of religiously motivated extremist acts.

It should also be noted that the criminal offence "religiously motivated extremist association" (§ 247b CC), which was introduced with the TeBG, is based on the prohibition of abuse of rights (Art. 17 ECHR), which ensures that nothing in the ECHR may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention<sup>4</sup>. The close connection between the values codified in the ECHR and democracy has been emphasised by the European Court of Human Rights in its established jurisprudence: no one can be allowed to assert rights under the ECHR in order to destroy or weaken the ideals and values of a democratic society.

Therefore, the provision of § 247b CC is intended to be directed against those religiously motivated extreme forces that violate the fundamental principles of a constitutional democracy in an unlawful manner.

***Judicial supervision of terrorist offenders with case conference and electronic monitoring including the possibility of extended, also repeated, extension of the probationary period (§ 52b CC)***

If a lawbreaker who has been sentenced to a custodial sentence for - inter alia - a terrorist offence or against whom a preventive measure involving deprivation of liberty has been ordered for such an act is conditionally released, the court shall order judicial supervision for the duration of the probationary period insofar as the supervision of the lawbreaker's conduct, in particular with regard to compliance with a directive pursuant to § 51 (2) first sentence or (3) CC or an instruction not to engage in certain activities, is necessary or expedient to prevent him or her from further such acts punishable by law (§ 52b (1) CC).

To monitor the conduct of the lawbreaker more intensively during the probationary period, the court may, depending on the nature of the directive, entrust the security authorities as well as other appropriate bodies with monitoring compliance with the measures ordered within the framework of judicial supervision (§ 52b (2) CC).

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<sup>4</sup> Explanatory remarks to the government bill: [EBRV 849 BlgNR 27. GP, pages 3 et seq. and pages 12 et seq.](#)

Before the end of the first half of judicial supervision, a case conference shall be convened to assess the behaviour of the lawbreaker during judicial supervision and to determine measures to ensure compliance with directives and to deter the convicted person from committing criminal offences (§ 52b (3) CC).

The convening and organisation of this case conference shall be the responsibility of the court that has ordered judicial supervision and would also have to order any changes in directives. The following institutions are to be involved in the case conference:

- the competent organisational units of the police state protection service,
- the Coordination Unit for the Prevention of Extremism and Deradicalisation in the Penal and Correctional System,
- the probation service and
- if applicable, other institutions that have been involved in judicial supervision.

Such a case conference may also be ordered at an earlier time or repeatedly ex officio or at the suggestion of the institutions entitled to participate and shall in any case be held three months before the expiry of the judicial supervision.

Prior to any decision on the conditional release of a person convicted of a terrorist offence, the court also has to convene such a case conference. The competent organisational units of the police state protection service and the Coordination Unit for the Prevention of Extremism and Deradicalisation in the Penal and Correctional System have to take part in this case conference (§ 152 (2a) StVG).

It is also possible for the court to electronically monitor compliance with directives (§ 52b (4) CC). However, as this type of monitoring is a massive encroachment on privacy and the fundamental right to data protection of the lawbreaker it is subject to very strict conditions: It is to be issued in the form of a directive and is only permissible following the principles of necessity and proportionality

- if the lawbreaker has been sentenced to at least eighteen months' imprisonment,
- insofar as the electronic surveillance is absolutely necessary (i.e. indispensable) for monitoring compliance with directives containing commands or prohibitions to avoid certain places and
- provided that the lawbreaker has given his or her consent.

In accordance with the principle of proportionality, electronic surveillance should not be permitted in the core area of private life, one's own home. The person concerned is required to carry the devices for the electronic surveillance on his or her body.

The electronic surveillance can be ordered for the duration of the probationary period, i.e. as a rule for one to three years, under certain conditions also longer (§ 48 CC ).

When examining for the first time whether electronic surveillance is necessary, the court shall in particular take into account the circumstances of the offence, the social environment of the lawbreaker, the deradicalisation measures already taken as well as the behaviour of the lawbreaker during the detention or measure (§ 52b (5) CC). Furthermore, the court shall review the absolute necessity of electronic surveillance at least annually, whereby the court shall take into account the information obtained pursuant to § 52b (2) CC in conjunction with § 52a (2) CC. If the offender has been instructed to take deradicalisation measures, the person or body in charge of such measures shall also be involved in the review proceedings. If the absolute necessity ceases to exist, the electronic surveillance shall be terminated immediately.

The data obtained and stored by electronic surveillance on the whereabouts of the lawbreaker may only be used to ensure conduct in accordance with directives (§ 52b (6) CC).

The processing of data of the electronic surveillance shall be automated and the data shall be specially secured against unauthorised access. These data shall be deleted no later than two weeks after they have been collected, unless they are used for the purposes mentioned in § 52b (6) no. 1 and 2 CC. For

each retrieval of data, at least the time, the retrieved data and the processor shall be recorded. The monitored person shall be informed of any access to his or her data. The log data may only be used to check the permissibility of the retrievals and must be deleted after twelve months (§ 52b (7) CC).

The costs of the electronic surveillance shall be borne by the Federal Republic of Austria (§ 52b (8) CC). The Federal Minister of Justice is empowered to issue directives by ordinance on the type and the implementation of electronic surveillance (§ 52b (9) CC).

The directive ordering electronic surveillance may be maintained for a maximum of ten years (§ 53 (5) CC).

### **Gender-based violence (para. 46, 47)**

#### ***Implementation steps for 2025 (Vienna):***

Continuous networking of all relevant actors in the protection against violence is a central element of victim protection in Vienna:

- Regular "Violence Protection Jour Fixe" at the invitation of the city (the women's city councillor) in which experts from NGOs / violence protection organisations, the police and relevant agencies in the city exchange ideas with each other.
- Regular working groups on specific topics: e.g. working group against violence against older women in the social neighbourhood (coordinated by the 24-hour women's helpline); networking of Vienna's victim protection groups (coordinated by the 24-hour helpline and the Office for Women's Health and Health Goals). In addition, staff from the 24-hour women's helpline take part in numerous other networks (forced marriage, victim protection exchange, etc.).

In March 2024, following an extraordinary "Violence Protection Jour Fixe", the safety network for women in Vienna was strengthened by an additional 3-point package on violence protection in Vienna:

- Research: Study on femicides and attempted murders of women in Vienna

For a sustainable strategy, a study is currently being carried out (2024-2025) on behalf of the Vienna Women's Service, in which both completed and attempted femicides in Vienna are being investigated. This should make it possible to find out even better whether later victims have experienced a longer history of violence and what options they have taken to protect themselves and which services they have found helpful. Existing studies have so far investigated femicides, but not attempted murders. Important information is therefore missing, for example on seeking help, which surviving victims are asked about in criminal proceedings against the perpetrators, among other things.

Implementation steps for 2025: The information from the study is a prerequisite for sharpening prevention and support measures in the future and thus protecting victims of violence more effectively.

- Double the budget for prevention and offender work

Prevention and perpetrator work is an important cornerstone of effective protection against violence. In the spirit of victim protection, the aim of men's and boys' counselling is to prevent violence from occurring in the first place or, if possible, to reduce or end it. The work of the Vienna Men's Counselling Service to this end includes anti-violence training and therapy, violence prevention in youth work and therapy for offenders.

Anti-violence training programmes at the men's counselling service start with young people. In addition to individual counselling, there are also specific group offers for adolescents and young adults. There are also individual and group programmes for adult men, but a distinction is made here as to the context in which the violence took place.

The primary aim of the training programmes is to put an immediate and long-term end to all forms of physical and psychological violence. In the best-case scenario, violence against women can be prevented in the long term.

Preventing violence in youth work is just as much a part of men's and boys' work as a training programme to end violence in public spaces and in couple relationships.

The funds for perpetrator work and prevention work with boys and men at the Vienna Men's Counselling Service will be doubled in future (300,000 euros instead of the previous 150,000 euros per year).

- Prevention: Violence prevention in schools

Violence prevention must start as early as possible. Sexist ideas of masculinity and femininity often lead to discriminatory behaviour and, in the worst cases, to violence against girls and women.

Equality and equal rights are the best means of combating violence. It is therefore important to start at kindergarten and school. Girls need to be empowered, boys need options for action away from traditional ideas of masculinity.

The successful "Respect: Stronger Together" programme does just that. It offers customised programmes for pupils, teachers and parents in the areas of physical and mental health and resilience and prevents violence and extremism, among other things. 20 Viennese schools are currently part of the "Respect: Stronger Together" programme.