

International Convention on the Elimination of All Forms of Racial Discrimination

Examination of the eighteenth to twentieth periodic report of the Republic of Austria (CERD/C/AUT/18-20)

Addendum to the information submitted by the Austrian Ombudsman Board (AOB)

In its statement regarding the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in Austria, the Austrian Ombudsman Board (AOB) reported on its criticism of the inefficient implementation of the prohibition of discrimination based on ethnic origin with regard to access to public places and public services under administrative penal law.

As previously reported, AOB members jointly determined in collegial decisions taken in 2007 and 2011 that there was maladministration on the part of the public authorities insofar as the inconsistent and inefficient application of the prohibition of discrimination based on art III para 1 clause 3 of the Introductory Act to the Administrative Procedure Acts 1991 [EGVG] leads to the fact that Austria does not fulfil its international, Community law and national obligations regarding the combatting of discrimination. For example, cases of Turkish men being denied access to clubs or advertisements that offer jobs or housing for Austrians only were not adequately pursued and punished although this is prohibited by law. This is also a reason why persons who are affected seldom make complaints to the authorities despite high number of cases of discrimination and why the few proceedings are often dismissed without any penalties. Therefore, the AOB has already twice directed a recommendation to the competent Federal Government to ensure that the prohibition of discrimination based on ethnic origin should be enforced effectively and in a uniform way throughout Austria.

Following-up on the original AOB statement from July 2012, the AOB would like to note that an amendment to the law will become effective as of 1 September 2012. Referring to the AOB's recommendations, art III para 1 clause 3 of the Introductory Act to the Administrative Procedure Acts 1991 (*Federal Law Gazette* [BGBl] I 50/2012) has now been revised in a way that prosecution and punishment of discriminating practices should become more efficient in the future. In the future, proof does not need to be provided that someone was discriminated "solely due to" his or her ethnic origin. In the past, this sort of evidence could often not be provided and led to discrimination not being prosecuted.

The AOB hopes that this change of law – in addition to other necessary measures such as trainings of government agency employees and awareness campaigns – will contribute to a significant improvement of protection against discrimination with regard to access to public goods and public services.