

# AUSTRIA

## BRIEFING TO THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

81<sup>th</sup> session August 2012

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## 1. EXECUTIVE SUMMARY

Amnesty International submits the following information to the Committee on the Elimination of Racial Discrimination (the Committee) in advance of its consideration of Austria's 18<sup>th</sup> and 20<sup>th</sup> periodic reports, submitted under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention).

Amnesty International is concerned that Austria is failing to fully meet its obligations under the Convention, including under articles 2 and 5 of the Convention. In particular, Amnesty International draws the attention of the Committee to the refusal of Austria to develop a National Action Plan against Racism; the failure to establish a National Human Rights Institution with A status; the lack of an adequate mechanism to ensure a systematic follow-up and implementation of treaty body recommendations, including with an adequate involvement of civil society; and concerns regarding persisting institutional racism within the criminal justice system.

Amnesty International wishes to highlight in particular that, while the current government programme seeks to make protection from racism and xenophobia under criminal law more effective, Austria still does not collect and publish sufficient, comprehensive and coherent statistics on racist incidents and racist misconduct by law enforcement officials. Such failure inherently undermines any action planned or taken as such action cannot be based on adequate and updated information on the problem it is trying to address.

## 2. NATIONAL ACTION PLAN (NAP) AGAINST RACISM (ARTICLE 2(E))

Amnesty International is concerned that, to date, Austria has not developed a National Action Plan against Racism, as called for in the Durban Declaration and Programme of Action notwithstanding having indicated the intention to do so in the context of the Durban process and notwithstanding the Committee's recommendations regarding such plan.<sup>1</sup>

Amnesty International is particularly concerned at the Austrian government's recent stance at the Universal Periodic Review of Austria that it does not intend to establish a National Action Plan against Racism, *inter alia*, because it has already adopted "concrete measures [...] provided for in the National Action Plan on Integration."<sup>2</sup> The National Action Plan (NAP) on Integration has an overwhelming

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<sup>1</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/AUT/CO/17, 22 September 2008, paragraph 28.

<sup>2</sup> "A national action plan against racism is not envisaged since Austria is already taking a number of concrete measures in this area which are *inter alia* provided for in the National Action Plan on Integration." Human Rights Council: Report of the Working Group on the Universal Periodic Review, Austria, Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/17/8/Add.1, 1 June 2011, Recommendation 93.20.

focus on “performance” by migrants, being based on the principle supported by the Austrian Secretary of State for Integration that integration will happen through the actions of individuals at work, at school or in associations.<sup>3</sup> However, Amnesty International considers that the NAP on Integration contains too few and weak measures to ensure protection from discrimination on grounds of racial and ethnic origin and religious affiliation.<sup>4</sup> For instance, there are no concrete measures to address most of the shortcomings identified by Amnesty International in its April 2009 report, including institutional racism in the Austrian criminal justice system.<sup>5</sup> Because of the weakness of these measures against racism, Amnesty International considers that the NAP on Integration cannot replace a NAP against Racism as required by the Durban process.

The Austrian government stated in its report to this Committee that the establishment of a National Human Rights Institution (NHRI) represents a significant measure in the fight against racism.<sup>6</sup> Amnesty International agrees that a fully independent NHRI would contribute to fighting racism, in addition to contributing to the advancement of human rights in general. However, the organization is concerned that the NHRI which Austria has established has failed to achieve an A status in accordance with the Principles relating to the Status of National Institutions (The Paris Principles, adopted by UN General Assembly resolution 48/134 of 20 December 1993).<sup>7</sup> The Austrian Ombudsman Board (AOB) – the mechanism which according to the Austrian government is assuming

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<sup>3</sup> “*It should not be the origin of people that counts, but their performance. Ultimately, integration is taking place through performance – whether on the job, in an association or in school*” “Es soll nicht die Herkunft eines Menschen zählen, sondern die Leistung, die jemand erbringt. Integration geschieht letztendlich durch Leistung – egal ob im Beruf, im Verein oder in der Schule.“  
[http://www.integration.at/wir\\_ueber\\_uns/leitbild/](http://www.integration.at/wir_ueber_uns/leitbild/)

<sup>4</sup> Most of the measures in the NAP on Integration that should guarantee “equal opportunity” and prevent racial discrimination consist in training and improved institutional cooperation, e.g. a training workshop for civil servants entitled “A World of Difference”, or the call for regular contacts between the Regional Offices for the Protection of the Constitution and Counter-Terrorism and the Municipal and Regional Boards of Education, to support efforts against the propagation of racist, xenophobic and anti-semitic messages in schools.

<sup>5</sup> *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009.

<sup>6</sup> Under Chapter C. *Information on whether a national human rights institution, created in accordance with the Paris principles (General Assembly resolution 48/134 of 20 December 1993), or other appropriate bodies, have been mandated with combating racial discrimination*, Item 24 Austria states that “Besides the courts, which have primary responsibility for the protection of human rights, the Ombudsman Board, whose independence is guaranteed by constitutional law (Art. 148a Para. 5 of the Federal Constitutional Law), contributes considerably to the implementation and safeguarding of human rights. In the course of the implementation of the OPCAT, the Ombudsman Board’s scope of responsibilities is being expanded to include the general investigation of alleged human rights violations.”

<sup>7</sup> The establishment of a NHRI had been recommended already in 2006 by the Committee on Economic, Social and Cultural Rights. Committee on Economic, Social and Cultural Rights: Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant. Concluding observations of the Committee on Economic, Social and Cultural Rights, Austria, E/C.12/AUT/CO/3, 25 January 2006, paragraph 19.

responsibilities as the NHRI<sup>8</sup> - was reaccredited with B status in May 2011. The members of the AOB are selected upon recommendation of the three major political parties and no human rights knowledge or experience is required. All current members are former elected representatives.<sup>9</sup>

### 3. IMPLEMENTATION OF THE COMMITTEE'S RECOMMENDATIONS (ARTICLE 2(E))

Amnesty International notes that there is no adequate mechanism or process in place in Austria to ensure and facilitate systematic follow-up to and implementation of treaty body recommendations, including the Committee's concluding observations concerning Austria. In particular, the government does not engage in a regular substantive dialogue with civil society on the Committee's recommendations. Furthermore, although the Committee's concluding observations on Austria are available in German, Austria has to date failed to make its state report to the Committee publicly available in German, undermining the ability of civil society to engage with the process.

### 4. IDENTIFICATION OF AND RESPONSE TO RACIST MISCONDUCT BY LAW ENFORCEMENT OFFICIALS (ARTICLES 2(A) AND 5(B); GENERAL RECOMMENDATION 31)

Amnesty International's research has shown that foreign nationals and members of ethnic minorities are more at risk than Austrian citizens of being suspected of having committed crimes and of being ill-treated by police.<sup>10</sup> Research suggests that complaints of police ill-treatment from members of ethnic minorities are often followed by an inadequate response by both the police and others within the criminal justice system.<sup>11</sup> Such complaints tend not to be properly investigated, police officers are seldom prosecuted and even if they are, including in cases of serious racially motivated ill-treatment, the courts do not always impose penalties commensurate with the gravity of the offence, including its racist motivation. Amnesty International has concluded that the failure of the police and judicial organs to extend the same quality of service to foreign nationals and members of ethnic minorities is the result of institutional racism.<sup>12</sup>

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<sup>8</sup> Committee on the Elimination of Racial Discrimination: Reports submitted by States parties under article 9 of the Convention. Eighteenth to twentieth periodic reports of States parties due in 2011, Austria, CERD/C/AUT/18-20, 22 December 2011, Item 24.

<sup>9</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights: Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), Geneva, 23 – 27 May 2011.

<sup>10</sup> *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009, p20 and p37.

<sup>11</sup> *Ibid.* p24 to 37.

<sup>12</sup> *Ibid.* chapter 5, from p. 20.

There are repeated failures of the Austrian law enforcement system to respond appropriately to instances of racist behaviour on the part of officials, even when members of ethnic minorities are the victims of serious offences, including torture (as in the case of Bakary J, below), committed by them. Amnesty International's research indicates that offending officials routinely avoid commensurate censure; even in serious, high profile cases, they typically receive minimal sentences and lenient disciplinary sanctions and, often, continue to enjoy the public support of their administrative and political superiors.<sup>13</sup>

Amnesty International's research suggests that police investigators, prosecutors and judges are often quicker to credit the version of events put forward by police officers than the testimony of members of ethnic minorities.<sup>14</sup> The former are, as a result, far less likely to be indicted and convicted for ill-treatment or abuse of authority than the latter are for resisting lawful authority. As related to Amnesty International by both lawyers and ethnic community leaders, the fear of incurring counter-charges of resisting lawful authority and for calumny under Section 297 of the Criminal Code is a highly dissuasive factor for members of ethnic minorities contemplating complaining about police ill-treatment.<sup>15</sup> A further significant problem which Amnesty International has highlighted as contributing to racist police misconduct<sup>16</sup> is the very low number of police officers coming from ethnic minority communities. The serious under-representation of ethnic minorities in the police force has been acknowledged by the Austrian authorities, which began a recruitment drive in 2007 to encourage applications from naturalized and second-generation immigrants for the Vienna police. However, Amnesty International is concerned that efforts have not been sufficient and the number of officers from ethnic minority communities remains very small.<sup>17</sup>

Under the Convention, Austria is obliged not only to ensure that all allegations of racial discrimination are effectively investigated, but also that proven instances are adequately punished. Amnesty International is concerned that the Austrian criminal justice system fails to satisfy this requirement consistently. Even in cases of serious racially motivated ill-treatment, courts do not always impose penalties which reflect

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<sup>13</sup> *Ibid.* See in particular the cases of Cheibani Wague, Bakary J (p. 25 to 27) and of Indian citizen P (p. 29 to 30).

<sup>14</sup> *Ibid.* See in particular p.33 and 34.

<sup>15</sup> *Ibid.* p. 34 and 35.

<sup>16</sup> *Ibid.* See p. 50.

<sup>17</sup> As of 1 June 2012 slightly more than 2 per cent of the Viennese police officers in service and 49 out of 769 police officers in basic vocational training in Vienna (6.4 per cent) have an ethnic minority background. From November 2007 to April 2009, 19 per cent (415) of the applicants for the Austrian police had an ethnic minority background. In 2011 7.3 per cent of the police officers in basic vocational training in Austria were members of ethnic minorities. See also Leitner, Katharina, *ÖIF-Dossier N° 21: Personen mit Migrationshintergrund in der Polizei: Ländervergleich Deutschland, Großbritannien, Niederlande, Österreich und Schweden*, December 2011.



the gravity of the offence, including its racist motivation.<sup>18</sup>

Amnesty International has reviewed information provided by various sources including victims, lawyers and non-governmental organizations involved in cases where disciplinary proceedings against police officers were opened. A number of problems regarding disciplinary proceedings were reported. The outcome of disciplinary proceedings against police officers is not made public, and not even complainants are informed as to what kind of disciplinary proceedings have been initiated. This practice makes it extremely difficult to carry out a detailed review of disciplinary measures taken in response to proven incidents of police misconduct. Furthermore, Amnesty International is concerned that disciplinary proceedings are sometimes not initiated at all, despite strong evidence pointing to serious misconduct. Even when disciplinary proceedings are initiated against police officers, the penalty may not reflect the seriousness of the misconduct.<sup>19</sup>

#### **CASE STUDY: BAKARY J.**

The Gambian citizen Bakary J., who was tortured and allegedly racially abused by four police officers in 2006 following an unsuccessful deportation, has to date not received full reparation. His complaint before the European Court of Human Rights is pending.

On 7 April 2006, Bakary J, a Gambian citizen who had been convicted of the possession of drugs and had served his sentence, was taken from a pre-deportation detention centre and placed on a plane to Gambia. Once on board he was able to inform the flight staff that he was being transported against his will and that he had not been given the opportunity to tell his Austrian wife and their two children of his expulsion. Following the airlines' protocol, the pilot insisted on his removal from the plane. Instead of returning him to the pre-deportation detention centre, however, the three accompanying officers drove to an empty warehouse in Vienna used by the unit for training exercises, telling Bakary J that they had received instructions to kill him. On their arrival, they were let into the warehouse by a fourth police officer who they had phoned in advance, and who joined them as they drove inside. Before getting out of the car, Bakary J alleges that one of the officers asked him if he knew who Hitler was and said that he hated blacks and Jews and killed six million of them; he [Bakary J] was going to be number six million and one. They took Bakary J out of the car and the three original officers began to punch and kick him on the floor. Then they stopped. One of the three officers got back in the car and reversed into Bakary J as he was lying on the floor, hitting him in the back and the neck. Given the seriousness of the injuries to his head, both hips, left shoulder and spine, the police officers decided to take him to hospital, where his injuries were treated. On the evidence of the three officers, the doctor recorded that the injuries were sustained whilst attempting to escape.

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<sup>18</sup> *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009, p38 to 47.

<sup>19</sup> The only guidance set out in the relevant disciplinary law relates to the penalties imposable by Disciplinary Commissions in the event of a prior criminal sentence. In such cases, the relevant Disciplinary Commission may only impose a disciplinary penalty "in so far as this is additionally required to prevent the civil servant from further violating professional duties." Beamten Dienstrechtsgesetz 1979, Section 95(1).

Amnesty International was informed in April 2012 that three of the policemen involved in his torture were finally discharged from the police. A fourth policeman had accepted a fine and is still in service. The trial of all four police officers started on 30 August 2006.<sup>20</sup> Three police officers received suspended sentences of eight months; the fourth officer received a suspended sentence of six months.<sup>21</sup> All four police officers had been suspended pending the outcome of the trial. The three police officers were fined five months' wages, the fourth one month's. Barely seven months after the torture of Bakary J, they were back in active service, albeit not in posts entailing dealings with the public. On 11 September 2007 the Disciplinary Appeals Commission (Disziplinar Oberkommission) upheld the appeals of the three police officers and reduced their fines. The Ministry of Interior appealed against this decision to the Administrative Court (Verwaltungsgerichtshof) which ruled on 18 October 2008 that the Disciplinary Appeals Commission has to review its decision on the grounds that it had under-estimated the gravity of the breach of the officer's professional obligations.

Amnesty International welcomes that on 23 May 2012 representatives from the Ministry of Interior visited Bakary J to express their regret at what happened to him, and later took steps to pave the way for a solution to his residence status.<sup>22</sup> However, this can be seen only as a first step towards remedying the violation he suffered. To date Bakary J has not received full compensation.

Amnesty International believes that specialized independent police complaints mechanisms provide the most effective system of investigating and responding to discrimination on the part of the police, as well as other misconduct such as ill-treatment. Amnesty International accordingly recommends that the Austrian authorities give serious consideration to the establishment of such a body and notes that in 2008 the Committee recommended to Austria the establishment of a fully independent monitoring body with powers to investigate complaints about police misconduct.<sup>23</sup>

## 5. ETHNIC PROFILING (ARTICLES 2(A) AND 5(A))

Amnesty International has reviewed considerable evidence suggesting that the Austrian police have engaged in widespread discriminatory ethnic profiling, particularly in its efforts to counter drug-related crime.<sup>24</sup> The most common form of ethnic profiling reported in Austria consists of random identity checks and searches

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<sup>20</sup> They were sentenced on 31 August. The prosecutor did not make use of three reflection days allowed to consider whether or not to appeal against the sentence, declaring immediately after the sentence was handed down that there would be no appeal.

<sup>21</sup> All four officers received less than the one year sentences that would have resulted in their mandatory dismissal.

<sup>22</sup> "We expressed our regret. What the police officers did to Bakary J, torture and mock execution, is unjustifiable and not excusable." said Karl-Heinz Grundböck, Ministry of Interior, to the media (ORF, Zeit im Bild, 23 May 2012).

<sup>23</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, Austria, 2008, UN document no. CERD/C/AUT/CO/17, paragraph 19.

<sup>24</sup> For more information, see *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009, p. 37.

of foreign-looking individuals, especially young black men. Amnesty International is concerned that, in everyday practice, skin colour and ethnic origin too often appear to constitute a determining ground for police interventions in Austria. For example, Amnesty International was concerned about reports that in mid-2009 police in Vienna engaged in ethnic profiling of persons of Georgian and Moldovan origin. Police entered Georgian and Moldovan households in Vienna and interviewed the residents, with the unstated aim of finding out whether they possessed stolen goods or burglary tools. The persons interviewed were selected solely on the basis of their ethnic origin, without any existing evidence to substantiate suspicion.<sup>25</sup> Amnesty International is further concerned that insufficient action has been taken by Austria to address ethnic profiling in police practice notwithstanding the Committee's 2008 recommendation that steps be taken to counter it.<sup>26</sup>

## 6. RESPONSE TO CRIMES REPORTED BY FOREIGN NATIONALS AND MEMBERS OF ETHNIC MINORITIES (ARTICLES 2(A) AND 5(A))

Amnesty International is concerned about the failure of law enforcement agencies, which very often fail to extend the same level of protection to members of ethnic minorities when they are victims of crime, including, in particular racially motivated offences. Discrimination in the response to crime manifests itself in a number of ways, including the failure to protect victims of crime from further offences, the failure to give serious consideration to complaints from members of ethnic minorities, the failure to investigate offences effectively and impartially and, consequently, the failure to prosecute perpetrators of offences against members of ethnic minorities.<sup>27</sup>

In Austria, police and prosecutors are responsible for identifying, investigating and following up on the potential racist motive to a crime - an aggravating factor according to section 33(5) of the Criminal Code<sup>28</sup> which may result in an increase of up to 50 per cent on the standard penalty - with the ultimate consideration of its presence being a matter for the courts. In practice, however, it is often up to the victim to show that racist motivation was present. Police officers themselves are not

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<sup>25</sup> See Austria entry in Amnesty International annual report 2010.

<sup>26</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, Austria, UN document no. CERD/C/AUT/CO/17, paragraph 18.

<sup>27</sup> For more information, see *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009, from p. 38.

<sup>28</sup> "Sec.33 (5) of the Criminal Code lists, inter alia, racist and xenophobic motives as special aggravating circumstances when it comes to determining the degree of punishment. That means that in the case of generally punishable offences, a racist, xenophobic and/or anti-Semitic motivation may constitute an aggravating circumstance pursuant to Sec. 33 (5) of the Criminal Code. The aggravating circumstances considered when determining the degree of punishment are not entered in the electronic procedural register of the judiciary and can only be identified from the reasoning given in the individual judgments." Committee on the Elimination of Racial Discrimination: Reports submitted by States parties under article 9 of the Convention. Eighteenth to twentieth periodic reports of States parties due in 2011, Austria, CERD/C/AUT/18-20, 22 December 2011, Item 43.

always sensitive to racially motivated crime and there is not an effective system in place to ensure that police investigators record possible racist motivations when drafting crime reports. Prosecutors and judges in turn often fail respectively to present and consider possible racist motivations in court, particularly in relation to sentencing.<sup>29</sup>

Amnesty International welcomes the recent introduction by the Ministry of Justice of a policy which requires public prosecutors to report to the Ministry of Justice all cases in which an aggravating circumstance, such as racism, pursuant to section 33(5) of the Criminal Code is present.<sup>30</sup> However, the systemic failure of the police to take the racist motivation of a crime into consideration makes it impossible to monitor the processing of potentially racially motivated offences at all stages of the Austrian criminal justice system, and in turn for public prosecutors to report relevant cases. Unfortunately no data or figures on the use of section 33(5) of the Criminal Code have been included in Austria's latest report to the Committee.

As public authorities, law enforcement agencies have an obligation under Article 2(1) of the Convention to eliminate all forms of discrimination. This requires first and foremost a robust system for identifying its occurrence and the different ways in which it manifests itself. This also requires the collection of statistical data and the regular reviewing of recorded complaints.

In this respect Amnesty International regrets that Austria, despite recommendations made to it under the Human Rights Council's Universal Periodic Review, does not intend to prepare a study on the scale of direct and indirect racial discrimination in the criminal justice system, especially as far as preliminary detention and imprisonment are concerned.<sup>31</sup> Nor does it intend to collect and publish adequate comprehensive and coherent statistical data on racist incidents. In successive reports the Council of Europe's European Committee on Racism and Intolerance has recommended that the Austrian authorities "introduce a comprehensive and coherent data collection system that would make it possible to assess the situation with regard to the different minority groups in Austria and to discrimination".<sup>32</sup> In

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<sup>29</sup> For more information, see *Austria: Victim or suspect - A question of colour: Racial discrimination in the Austrian justice system*, AI Index: EUR 13/002/2009, 9 April 2009. p43.

<sup>30</sup> Committee on the Elimination of Racial Discrimination: Reports submitted by States parties under article 9 of the Convention. Eighteenth to twentieth periodic reports of States parties due in 2011, Austria, CERD/C/AUT/18-20, 22 December 2011, Item 43.

<sup>31</sup> "93.45 Austria does not accept the recommendation. Detention practices are continuously being evaluated, with data being collected and disaggregated inter alia on the origin of defendants. In addition, appropriate training arrangements for judges and prosecutors as well as in the area of prison administration are provided to prevent direct or indirect discrimination. Therefore a study concerning this matter would not bring any additional value." Human Rights Council: Report of the Working Group on the Universal Periodic Review, Austria, Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/17/8/Add.1, 1 June 2011, Recommendation 93.45.

<sup>32</sup> European Committee on Racism and Intolerance, Report on Austria, fourth monitoring cycle, adopted 15 Dec 2009, published 2 March 2010, p. 10, available at

2008 the Committee recommended that Austria conduct a census and collect relevant data, with full respect of privacy and anonymity, to obtain accurate information on all ethnic groups living in Austria.<sup>33</sup>

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<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-IV-2010-002-ENG.pdf>

<sup>33</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, Austria, UN document no. CERD/C/AUT/CO/17, paragraph 9.

## 7. AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO AUSTRIA

Amnesty International recommends that the Austrian Government should:

### *National Action Plan*

- Develop a National Action Plan on Racism and Xenophobia, in close consultation with civil society.

### *National Human Rights Institution*

- Establish a National Human Rights Institution with A status in accordance with the Paris Principles.

### *Implementation of the Committee's recommendations*

- Establish, in consultation with civil society, an adequate mechanism or process to ensure and facilitate systematic follow-up to, and implementation of, treaty body recommendations, including the Committee, by making all views and concluding observations concerning Austria as well as Austria's state reports publicly available in German within a reasonable time period, and by engaging in a regular substantive dialogue with civil society on these recommendations.

### *Identification and response to racist misconduct by law enforcement officials*

- Establish a fully resourced independent mechanism to investigate allegations of serious human rights abuses by law enforcement officials, including criminal racist misconduct, with the power to order disciplinary proceedings against the perpetrators and to refer cases directly to the judicial authorities where appropriate;
- Immediately initiate criminal proceedings against any police officer who is reasonably suspected of having committed criminal racist misconduct, even in the absence of an express complaint, and ensure that police investigations are conducted in a prompt, thorough, independent and impartial manner;
- Immediately initiate disciplinary proceedings against any law enforcement official who is reasonably suspected of racist misconduct, even in the absence of an express complaint, and alert the judicial and prosecuting authorities to any possible criminal acts;
- Establish clear standards on the professional conduct expected of law enforcement officials and the applicable sanctions in the event of their breach. Disciplinary sanctions available for racist misconduct should reflect the seriousness of the offence and include provision for dismissal without the possibility of reinstatement;
- Reform the disciplinary law for law-enforcement officials to ensure that the expected standards of police behaviour are rigorously enforced in disciplinary proceedings;

- Ensure that victims of police misconduct, including racially motivated misconduct, are informed of the results of related disciplinary proceedings;
- Establish a robust system for recording and reviewing incidents of racist misconduct by law enforcement agencies, including the retention of statistical data, in order to ensure an appropriate institutional response;
- Ensure that sentences for ill-treatment reflect the grave nature of the offence;
- Ensure the fair, prompt and full investigation of complaints of race-hate crimes made by all persons, including against law enforcement officials, such as the police;
- Take steps to ensure that the membership of police authorities reflects so far as possible the cultural and ethnic mix of the local population;
- Introduce targets for the recruitment, progression and retention of ethnic minority staff and continue and extend recruitment drives amongst ethnic minority communities.

#### *Ethnic profiling*

- Ensure that police investigations are carried out in an impartial and non-discriminatory manner and are not based on ethnic profiling.

#### *Response to crimes reported by foreign nationals and members of ethnic minorities*

- Ensure that all allegations of offences targeting foreign nationals and members of ethnic minorities are promptly, thoroughly and impartially investigated, including by strengthening and increasing the awareness of relevant guidelines for police officers and prosecutors;
- Introduce a comprehensive and coherent data collection system for recording and monitoring racist crime in Austria;
- Prepare a study on the scale of direct and indirect racial discrimination in the criminal justice system, especially as far as preliminary detention and imprisonment are concerned;
- Ensure that possible racist motives are raised in judicial proceedings and appropriately reflected in sentences in accordance with Section 33(5) Criminal Code;
- Ensure that racist motives are always highlighted in police reports and that all racist incidents are recorded for the purposes of public statistics;
- Develop guidelines and train the police and the judiciary in how to address complaints of racially motivated crimes and increase awareness of support programmes available to victims of racist crimes.

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