



United Nations
Human Rights Committee
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10
Switzerland

**Consideration of the report submitted by Austria under Article 40 of the
International Covenant on civil and political rights (CCPR/C/AUT/4)**

**Shadow Report submitted by the
Litigation Association of NGOs against Discrimination**

15 March 2007

The Litigation Association of NGOs against Discrimination is an umbrella organization of Austrian NGOs combatting discrimination. Discrimination on the ground of sexual orientation, disability, ethnic origin, religion, gender and age are the key focus of our work.

We would like to draw the attention of the Committee on the following deficiencies of the Austrian legislation on equal treatment and antidiscrimination:

Article 26 of the Covenant reads as follows: „All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination...“

We would like to point out that especially the legal provisions that are meant to provide equal opportunities to combat discrimination are discriminatory themselves¹.

Federal Law

The „Equal Treatment Act“ and the „Disabled Persons Employment Act“, that are applicable to private contracts and to the conduct of the federal authorities, provide protection against discrimination on the grounds of ethnic origin, religion, sexual orientation, gender, disability and age at work.

Still, in other areas such as access to and supply with goods and services the protected discrimination grounds are limited to ethnic origin and disability.

There is no reason for this kind of hierarchisation of discrimination grounds.

1 Please find the applicable law under: <http://www.klagsverband.at/recht.php>



Moreover, the procedures are different under the „Equal Treatment Act“ (covering age, ethnic origin, gender, religion and sexual orientation) and the „Disabled Persons Employment Act “ and the „Act on Equal Opportunities for Disabled Persons“. In cases under the „Equal Treatment Act“, victims of discrimination have the right to seek legal protection at the courts and/or the Equal Treatment Commission (a governmental institution releasing non-binding legal decision stating whether a discrimination has occurred).

In cases covered by the acts concerning disabled persons, victims of discrimination must seek an out of court settlement before the „Federal Social Offices“. Only if such a settlement cannot be reached within 3 months an action at a civil or labour court can be filed.

Moreover, there are specific regulations for the ground of gender, too.

Therefore there is a hierarchy of equality standards:

- Ethnic origin
- Disability
- Gender
- Age, sexual orientation and religion

The standards of legal protection of these grounds differ with regard to material rights and procedures.

Provincial Law

Austria consists of 9 federal provinces. According to the federal structure of the Republic of Austria, the provinces have – inter alia – the competence to legislate employment issues of public servants of provincial institutions and access to and supply with goods and services .

Similarly to the federal state, all provinces offer protection from discrimination within their public services.

Still, the access to and the supply with goods and services is regulated differently in the provinces.

In four provinces (Carinthia, Salzburg, Styria and Tyrol) discrimination is prohibited on all the grounds mentioned above.

In two provinces (Burgenland and Upper Austria), discrimination is prohibited on all the grounds except gender, in Vienna on all grounds except disability.

In two provinces (Lower Austria and Vorarlberg) discrimination is prohibited only on the ground of ethnic origin.

Summary

Equal protection of the law – as claimed by the Covenant – requires equal rights as well as equal remedies. None of these two claims is met at the moment in Austria.

From a legal point of view, it would be easy to provide equal rights!

We kindly ask the Human Rights Committee to take these points into consideration!