

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN
37th SESSION (NEW YORK, 15 JANUARY TO 2 FEBRUARY 2007)**

AUSTRIA (6TH PERIODIC REPORT)

Information Submitted to the Committee

On 23 January 2007, Austria submitted its 6th periodic report,¹ including an Annex,² under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses,³ including an Annex,⁴ to the list of issues and questions raised by the Committee on the Elimination of Discrimination against Women (the Committee). During the session, the delegation also submitted a document containing information on the poverty rate.

The first section of Austria's report provides an overview of the implementation of the Committee's previous recommendations. The second and longer part of the report addresses Austria's efforts to implement the Convention article by article. While the report details specific actions by provinces for areas like gender mainstreaming, this level of detail is lacking in other areas where it would be useful, such as with regard to emergency shelters for victims of violence. Similarly, statistics, such as the number of registered female prostitutes, is at times presented for Vienna, but not for other cities or provinces. Throughout the report, the State party describes the status of relevant European Union (EU) directives and projects. The final portion of the implementation section gives substantial descriptions of educational initiatives and efforts to increase female political and labour market participation. Overall, the report contains interesting and focused information. However, it would have benefited from additional data to allow national and regional comparisons, especially since this would likely better highlight Austrian successes.

The Committee's list of issues and questions looked at general issues like the preparation of the report and plans to remove Austria's reservation to Article 11.⁵ The Committee also focused on violence against women, trafficking, prostitution, education, stereotypes and employment conditions. In some instances, the Committee inquired about the steps taken to address concerns expressed by other UN treaty monitoring bodies. It notably referred to the Committee against Torture's charge that data on sexual violence against women is inadequate and the Committee on Economic, Social and Cultural Rights' concerns with the gender pay gap, poverty rates, job availability and under-representation of women in decision-making positions. Austria's responses provide useful comments, at times, on the concepts underlying EU legislation and how these are translated into Austrian legislation. An example of this is the EU's and Austria's 'uniform implementation concept', which seeks to deal with discrimination comprehensively instead of through a series of individual initiatives. Austria does not share the fears of non-governmental organisations (NGOs) that doing so could lead to a dilution of the protection of women's rights. Instead it argues that this concept simplifies access to justice for victims by allowing all victims to utilise the same body for complaint. Austria's responses also provide detailed information on efforts to combat trafficking and domestic violence, notably with regard to emergency shelters for victims.

1 <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/AUT/6&Lang=E>.

2 http://www.un.org/womenwatch/daw/cedaw/cedaw37/responses_annexes/austria%20report%20annex.pdf.

3 <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/AUT/Q/6/Add.1&Lang=E>.

4 http://www.un.org/womenwatch/daw/cedaw/cedaw37/responses_annexes/austria.pdf.

5 Austria's reservation states that in regard to night work of women and special protection of working women, the State reserves the right to apply the provisions of Article 11 on equality in employment within the limits of its national legislation. See <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>.

On the other hand, answers regarding the place of migrant women in the labour market and the situation of women with disabilities are brief.

The Women's NGO Platform submitted a shadow report⁶ commenting on all the articles of the Convention and making recommendations on Austria's report. The report concentrates on stereotyping, with subsections focusing on violence against women, exploitation of women through trafficking and prostitution and lack of services in all areas for victims. For example, the NGOs claim that domestic violence cases are often not a priority for prosecutors and maximum sentences are not applied frequently. Regarding stereotyping, the shadow report indicates that the Government's choice of terminology may unintentionally reinforce stereotypes, as 'Frauenförderplan...evokes the assumption that women must be helped to overcome their deficits'. The NGOs therefore call for a focus on equality and the structural impediments, such as insufficient childcare facilities, that prevent such equality.

Themes and Issues

Reservation

The Committee asked about Austria's plans to withdraw its reservation to Article 11, both in the list of issues and questions and during the session. In response, the delegation indicated that Austria still has prohibitions against women undertaking certain jobs, such as work in underground mines or in environments with high lead exposure, and therefore cannot withdraw its reservation until these prohibitions are removed.

Stereotyping

The Committee expressed concern over stereotyping in Austria in its Concluding Comments in 2000. This was also acknowledged in the NGO shadow report, which suggests that the Government should fight stereotyping with additional training of teachers and through curriculum changes. Addressing these concerns, the delegation spoke about new initiatives to encourage schoolgirls to consider employment options that are not typically identified with women and a new awareness-raising brochure of the Ministry of Health and Women entitled 'Women have rights'. The periodic report also describes efforts to deal with stereotypes through education, notably by updating education materials. Finally, the delegation indicated that the Austrian Federal Ministry for Women's Affairs will now be associated with the Prime Minister's Office, thereby demonstrating the priority given to women's rights by the new Government.

Data Collection

The Committee asked repeatedly for data on a variety of topics, particularly violence against women, but the delegation was unable to provide it because such data is not presently collected. The NGO shadow report also notes the lack of data on violence against women, stressing the need for a central Government official to oversee and plan data collection. The Committee therefore urged Austria to collect more statistics on law enforcement, particularly data disaggregated by gender. The delegation however explained that the Ministry of Justice prefers to conduct studies instead of collecting statistics. It argued that an increase in caseload is not self-explanatory, as it can be the result both of an increase in violence and better prosecution. Committee member Shelton seemed displeased at the delegation's responses, emphasising that the need for and importance of statistics.

⁶ <http://www.iwraw-ap.org/resources/pdf/Austria%20Shadow%20Report.pdf>.

Migrant Women

The Committee addressed issues mentioned in the NGO shadow report relating to the ability of migrant women to understand and utilise the complex immigration laws in Austria. Committee members asked whether it is possible for migrant women to gain residency under the *Aliens' Act* if they have not resided in Austria for five years as usually required, especially in cases of domestic violence. The delegation indicated that there are provisions allowing a spouse to dissolve a marriage and remain in Austria that can be used by migrant women in such cases. The delegation also clarified that asylum-seeking women are not typically taken into administrative detention, but are usually placed in a house with their children until the completion of their asylum application process. Committee members were concerned that migrants would not know of the services and provisions available to them due to cultural and language differences. The delegation recognised that migrants are very underprivileged and explained that the Government planned as a priority to draft an action plan to advance the rights of female migrants.

Prostitution

The Committee asked about what, if any, protections are provided to prostitutes, including women of foreign origin. The delegation refuted claims by NGOs that prostitutes are only given health screenings for sexually transmitted diseases, stressing that the Government provides full physical and mental health exams, without regard to residency status.

Domestic Violence

During its introductory statement, the delegation highlighted major changes that took place in this policy area in 2006. On 1 January 2006, victims of sex assault, domestic violence and other dangerous threats became entitled to psychological and legal assistance in penal proceedings against the perpetrators. Committee members however noticed that these protections require participation in the penal process by the victim and questioned this requirement. The delegation also announced that it was no longer necessary for a prosecutor to have the victim's consent in order to prosecute a case and that in July 2006 a law on stalking had come into force. Furthermore, given the information contained in the NGO report, the Committee worried that the availability and quality shelters for victims of violence varies greatly depending on their location.

Committee Member Tavares da Silva asked for clarification about the NGO shadow report's claim that migrant women are at a higher risk of becoming victims of domestic violence since they are often more isolated and dependent on their partner's family for economic support. The delegation responded that there are options available for migrant women to seek assistance, particularly in situations involving domestic assault. It also once again pointed to the envisaged action plan to address problems faced by migrant women.

Trafficking

In 2004, the *Penal Code* was amended to include a prohibition on trafficking in persons for the purpose of sexual exploitation, removal of organs and labour exploitation. The delegation explained that the inclusion of trafficking for organs and labour was another example of Austria's uniform implementation concept. Also in 2004, a Taskforce on Human Trafficking was set up; it drafted a National Action Plan against Human Trafficking, which is expected to be adopted in the near future. The NGO shadow report found that there is a shortage of emergency housing for victims of trafficking and that victims are too often prosecuted for offences like prostitution and deported as a result.

Conclusion and Next Steps

The Austrian delegation was very relaxed and confident in its answers and presentations. When the delegation did not have an immediate answer or data in response to a Committee question, it offered to provide the information to the Committee at a later date. If the delegation could not answer a question, it admitted this and did not attempt to provide lengthy irrelevant answers to compensate. The delegation also often asked Committee members whether their responses adequately addressed the Committee's concerns.

Austria's recent advances in women's rights include amendments to the *Equal Treatment Act* in 2004, which prohibits discrimination on the basis of gender amongst others; a penal code provision prohibiting stalking; and the establishment of an Equal Treatment Commission and an inter-ministerial workgroup for gender mainstreaming. Austria also promoted women's rights during its presidency of the EU in 2006, for instance by organising a conference in 2006 on the gender pay gap.

The Committee's Concluding Comments⁷ urged Austria to move towards complete withdrawal of the remaining reservation to Article 11 and be sure that the Government's focus is not solely on the situation of women in the labour but includes all spheres of life. The Committee particularly recommended taking additional steps to combat stereotyping as they 'undermine women's social status'. In an effort to deal with frequent governmental changes and resulting priority shifts, the Committee suggested that Austria develop a National Action Plan on gender equality in cooperation with all interested ministries and NGOs. The Committee reiterated that Austria needs to do more detailed data collection, specifically with regard to violence against women and disaggregated by type of violence and the relationship of the perpetrator to the victim. Finally, the Committee urged Austria to become a state party to the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* to further strengthen the rights available to migrant women in Austria. Other treaty monitoring bodies that recently reviewed Austria shared similar concerns to the Committee. For example, in 2005 the Committee on the Rights of the Child worried about female genital mutilation, the effectiveness of legislation on sex tourism, and efforts to combat trafficking and domestic violence.

⁷ <http://www.un.org/womenwatch/daw/cedaw/cedaw37/concludingcommentsAU/Austria.pdf>.