

Franet National contribution to the Fundamental Rights Report 2020

Austria

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Franet country study: policy and legal highlights 2019

Issues in the fundamental rights institutional landscape	No important development in 2019.
EU Charter of Fundamental Rights	Court decision referring to Article 47 of the EU Charter of Fundamental Rights: In June 2019, the Austrian Constitutional Court ruled that Article 47 (2) of the EU Charter has been infringed in a case concerning the non-recognition of subsidiary protection status, the granting of a temporary entry ban and a return decision concerning a mentally ill Afghan national. The facts were not sufficiently clarified because it remained unclear what conclusions are to be drawn from the medical expert's opinion. An oral hearing (in particular a hearing of a medical expert) would have been necessary to determine whether or not a return to Afghanistan would deteriorate the health status of the applicant.
Equality and non-discrimination	Discrimination survey: In March 2019, the Institute for Social Research and Consulting issued a representative survey , which it conducted for the Vienna Chamber of Labour. The survey shows that 43% of the Austrian population feel that they have been treated worse or discriminated against at least once between 2016 and 2018 in the areas of work, housing, health and education. The power gap is relevant for discrimination across all areas.
Racism, xenophobia & Roma integration	New ESF projects: New ESF Roma Empowerment projects have been presented on 17 September 2019 at the 23rd Roma Dialogue Platform of the National Roma Contact Point at the Federal Chancellery.
Asylum & migration	No important development in 2019.
Data protection and digital society	Competence for GDPR cases clarified: On 23 May 2019, the Austrian Supreme Court rejected Facebook's view that only the Irish Data Protection Commissioner was competent for cases concerning the GDPR. The Austrian Supreme Court made it clear now that everyone has a right to file a lawsuit in Austria based on GDPR.
Rights of the child	New legislation on the way: A draft law amending the Criminal Procedure Code and the Youth Criminal Act 2019 is currently in Parliament. The purpose of this draft is to fully implement the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings (EU) 2016/800 and to fully implement the Legal Aid Directive (EU) 2016/1919.
Access to justice, including victims of crime	New Protection from Violence Act adopted: The Protection from Violence Act 2019 (<i>Gewaltschutzgesetz 2019</i>) was adopted by Parliament in September 2019. It introduces amendments to manifold Austrian laws related to victim protection and violence against women. Victim support organisations welcome some aspects of the new law, but also voice concerns.
Convention on the Rights of Persons with Disability	Law transposing the Web Accessibility Directive: In July 2019, the Austrian Parliament adopted a law transposing the Web Accessibility Directive (EU) 2016/2102. This federal law sets accessibility requirements for federal websites and mobile applications to make them more accessible to users, especially to those with disabilities.

Chapter 1. Equality and non-discrimination

1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

Austria introduced the new § 17 (1a) in International Private Law Act in order to allow all same-sex couples from all over the world to marry in Austria, and not just those whose country of origin allows same-sex marriages.¹ This amendment entered into force on 1 August 2019.

Following a landmark ruling by the Constitutional Court in 2018, Austria now issued the first documents displaying a third gender. The successful plaintiff received a passport with the gender marker "X" and a birth certificate stating "divers" (this translates to "various"). The Austrian LGBTI-rights organisation "*Rechtskomitee LAMBDA*" expresses delight over the historic moment, but identifies persistent challenges due to a decree (BMI-VA1300/0528-III/4/b/2018, 20.12.2018) issued by the former Minister of Interior Herbert Kickl, which is still in force. *Rechtskomitee LAMBDA* criticises that because of this decree, registry offices are only allowed to register the term "divers", and the gender of new-borns may only be registered as "male" (*männlich*), "female" (*weiblich*), or "open" (*offen*). Moreover, *Rechtskomitee LAMBDA* criticises that the third gender option may only be granted after a positive assessment of a biological intersexuality by so-called "Variety-of-Gender-Development-Boards", which have not even been established yet. According to *Rechtskomitee LAMBDA*, the decree violates the Constitutional Court's judgment.² The critique was repeated in December 2019.³

After the ECJ ruled that the Austrian regulation concerning Good Friday (public holiday only for members of certain religious communities) constitutes an unjustified discrimination based on religion (ECJ 22. 1. 2019, C-193/17, Cresco Investigation, ARD 6634/7/2019, see Annex 2 of this report), amendments have been made to the Austrian Act on Rest Periods and further related Acts.⁴ § 7 (3) of the Austrian Act on Rest Periods (*Arbeitsruhegesetz*) has been repealed. The newly introduced §7a of the Austrian Act on Rest Periods (*Arbeitsruhegesetz*) now stipulates that that each employee may unilaterally declare in writing that one day of his existing vacation entitlement is a "personal holiday". This has to be done three months in advance at the latest.

The provinces of Vorarlberg⁵ and Carinthia⁶ introduced amendments to their provincial anti-discrimination acts requiring websites and mobile applications of the province and related bodies to be made accessible to persons with disabilities in a barrier-free manner. Austria adopted a law transposing the Web Accessibility Directive (EU) 2016/2102. More information on these amendments is provided in Chapter 8.

¹ Austria, International Private Law Act ([Bundesgesetz vom 15. Juni 1978 über das internationale Privatrecht, IPR-Gesetz](#)).

² Rechtskomitee LAMBDA, '[Austria Issued First Third Gender Documents](#)', 15 January 2019.

³ Ius Amandi, '[Drittes Geschlecht: Innenministerium probt den Aufstand gegen die Justiz](#)', Zeitschrift für gleichgeschlechtliche Liebe und Recht, Issue 4/2019.

⁴ Austria, Amendments to the Austrian Act on Rest Periods and further Acts ([Änderung des Arbeitsruhegesetzes, des Bäckerarbeiter/innengesetzes 1996, des Feiertagsruhegesetzes 1957, des Landarbeitsgesetzes 1984 und des Land- und Forstarbeiter-Dienstrechtsgesetzes](#)), 21 March 2019.

⁵ Austria, Amendment to the Anti-discrimination Act Vorarlberg ([Gesetz über eine Änderung des Antidiskriminierungsgesetzes](#)), 14 January 2019.

⁶ Austria, Amendment to the Anti-discrimination Act Carinthia ([Gesetz vom 28. März 2019, mit dem das Kärntner Antidiskriminierungsgesetz geändert wird](#)), 15 April 2019.

Concerning access to education, a very controversially discussed amendment to the School-Education-Act (*Schulunterrichtsgesetz*) was decided by the Parliament in May 2019.⁷ The amendment prohibits the wearing of religious symbols covering the head for pupils under the age of ten years in class. The political parties in government at the time underlined that this will be an important symbol against political Islam, and promotes the equality between men and women. The opposition parties marked it as an ineffective and symbolic policy only directed to the majority population.

2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

The Institute for Social Research and Consulting “SORA” conducted a representative telephone survey for the Vienna Chamber of Labour regarding the experience of discrimination and unequal treatment in Austria in the areas of work, housing, health, and education.⁸ 2,317 people between the ages of 14 and 65 were interviewed (random sampling) between February and July 2018. They were asked about their discrimination experiences in terms of gender, marital status, age, ethnic origin, religion, sexual orientation, impairment, and social status. Almost half of all respondents (43%) stated that they felt that they had been treated worse than others or discriminated against at least once in one of the four surveyed areas of life between 2016 and 2018. Extrapolated, this means that more than 2.5 million people in Austria made such experiences between 2016 and 2018. The study found that individual characteristics have a large impact on who experiences discrimination in which area and how often. Persons with an immigrant background or a Muslim religious affiliation experience twice as many (62% and 78%, respectively) discriminations as persons without a migration background (37%) or with a Christian religious affiliation (39%). Gay, lesbian, or bisexual respondents are more than three times more likely to experience discrimination than heterosexual respondents. People who regard themselves to be more at the bottom of society are twice as likely to be discriminated against because of their social situation as people who regard themselves as middle class. The study found that the power gap is relevant for discrimination across all areas. For example, supervisors in companies, landlords and property managers, medical doctors and nursing staff, and teaching staff are more likely to discriminate than work colleagues, classmates, or neighbors.⁹ Mostly, instances of discrimination are ignored. Almost half of those affected go on the offensive and fight against discrimination. 39% do not know what to do.¹⁰

The Initiative for a Discrimination-free Education System presented its third annual report covering 2018.¹¹ A total of 260 cases of discrimination in education were documented in 2018, which is 87 more than in 2017 and represents an increase of 50.28%. The most common reasons for discrimination were religion and beliefs (48%), followed closely by ethnicity / skin color (45%). In addition, there were 12 disability discrimination cases (5%). Four cases were due to sexism (2%).

⁷ Austria, Amendment to the School-Education-Act ([*Bundesgesetz, mit dem das Schulunterrichtsgesetz geändert wird*](#)), 25 June 2019.

⁸ Schönherr, D., Leibetseder, B., Moser, W. and Hofinger, Ch. (2019), [*Diskriminierungserfahrungen in Österreich: Erleben von Ungleichbehandlung, Benachteiligung und Herabwürdigung in den Bereichen Arbeit, Wohnen, medizinische Dienstleistungen und Ausbildung*](#), Vienna, Institute for Social Research and Consulting.

⁹ Schönherr, D., Leibetseder, B., Moser, W. and Hofinger, Ch. (2019), [*Diskriminierungserfahrungen in Österreich: Erleben von Ungleichbehandlung, Benachteiligung und Herabwürdigung in den Bereichen Arbeit, Wohnen, medizinische Dienstleistungen und Ausbildung*](#), Vienna, Institute for Social Research and Consulting.

¹⁰ Schönherr, D., Leibetseder, B., Moser, W. and Hofinger, Ch. (2019), [*Diskriminierungserfahrungen in Österreich: Erleben von Ungleichbehandlung, Benachteiligung und Herabwürdigung in den Bereichen Arbeit, Wohnen, medizinische Dienstleistungen und Ausbildung*](#), Vienna, Institute for Social Research and Consulting.

¹¹ *Initiative für ein diskriminierungsfreies Bildungssystem, Diskriminierung im österreichischen Bildungswesen - Bericht 2018*, 2019.

In July 2019, the Committee on the Elimination of Discrimination against Women published its Concluding Observations on the Ninth Periodic Report of Austria.¹² With respect to women with disabilities, the report outlines four major findings: that inclusive education needs to be developed at all levels to give girls and women with disabilities equal opportunities on the labour market; counseling services and victim protection services for women who have experienced violence must be made accessible in Austria; women with disabilities are often overlooked and must be included in all disability policy programs as well as in women's policies; Austria must develop and implement measures to eliminate intersectional discrimination that women and girls face due to their gender and disabilities.¹³

¹² Committee on the Elimination of Discrimination against Women (2019), [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 22 July 2019.

¹³ Committee on the Elimination of Discrimination against Women (2019), [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 22 July 2019.

Chapter 2. Racism, xenophobia and related intolerance

1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

No relevant legal amendments since 2017.

Social protection has been restricted for foreigners by the amendment of the Social-Support-Act (*Sozialhilfegesetz*). The Basic Act on Social Support (*Sozialhilfe-Grundsatzgesetz*)¹⁴ will come into force on 1 January 2020. The right to access to social support for EU citizens requires a minimum legal residence of five years as an employee. Refugees have access to social protection as soon they are granted asylum protection status. Subsidiary protection status holders are only entitled to so-called “core services”, which are limited to the services in basic care. However, even before the Basic Act on Social Support entered into force, the Constitutional Court ruled some provisions of the Basic Act on Social Support as unconstitutional on 12 December 2019.¹⁵ In particular, the Basic Act on Social Support stipulates that the maximum rate of social assistance for the first child is 25%, 15% for the second child, and 5% for the third and each additional child. The Constitutional Court found that these different maximum rates for children are objectively unjustified and are therefore unconstitutional. According to the Constitutional Court, this regulation can lead to situations in which the necessary livelihood in multi-child families is no longer guaranteed. Moreover, the Court ruled unconstitutional a provision in the law, according to which a share of at least 35% of social assistance is dependent on the ability of the beneficiary to be placed on the Austrian labor market. According to the law, this ability was given if at least language level B1 (German) or C1 (English) could be proven by the beneficiary. If this requirement was not met, social assistance benefits had to be reduced accordingly and benefits in kind (language courses) were to be granted instead. This regulation was also found to be unconstitutional by the Constitutional Court on 12 December 2019.¹⁶

2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

No relevant legal amendments since 2015. The action plan on the prevention of extremism, initiated by the Federal Office for the Protection of the Constitution and Combating Terrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung* (BVT)), is partly relevant. In 2017, the network for the prevention of extremism and de-radicalisation (*Bundesweite Netzwerk Extremismusprävention und Deradikalisierung* (BNED)) was set up, which strategically deals with the topic taking a holistic approach towards all forms of extremism, including right-wing extremism. Its tasks are knowledge transfer and the bundling of preventive measures. The BNED elaborated the strategy on the prevention of extremism.¹⁷

The BVT observes a slight increase of right-wing extremist activities with a strong impact on the public climate towards vulnerable groups: “Possible targets of right-wing extremist agitation are, among other things, Jews and Muslims and their institutions, migrants and asylum seekers as well as individuals who are stereotypically perceived as ‘foreign’. In addition to this, the climate of opinion,

¹⁴ Austria, Basic Act on Social Support ([Bundesgesetz betreffend Grundsätze für die Sozialhilfe \(Sozialhilfe-Grundsatzgesetz\)](#), BGBl. I Nr. 41/2019).

¹⁵ Austria, Constitutional Court, [G 164/2019-25, G 171/2019-24](#), 12 December 2019.

¹⁶ Austria, Constitutional Court, [Press information G 164, 171/2019](#), 17 December 2019.

¹⁷ Austria Federal Ministry for the Interior, Federal Office for the Protection of the Constitution and Combating Terrorism (2019), Report on the Protection of the Constitution 2018 ([Verfassungsschutzbericht 2018](#)), p. 56.

which is influenced by xenophobia and hostility towards asylum seekers, as well as right-wing extremist activities, pose a threat to democracy.”

Furthermore, the BVT states: “In 2018, the Austrian security authorities registered a total of 1,075 right-wing extremist, xenophobic/racist, Islamophobic, anti-Semitic, and unspecified or other criminal acts, in the course of which relevant offences were reported to the authorities. One criminal act may comprise several offences separately reported to the authorities. Compared to 2017 (1,063 offences), the number increased by 1.1 percent. 677 criminal acts, that is 63 percent, were successfully solved. In 2017, the rate of successfully solved cases amounted to 58.1 percent. In connection with the criminal offences mentioned, 1,622 offences were reported in Austria in 2018, which is 2.9 percent more than in 2017 (1,576 offences).”¹⁸

The BVT further reasons – with relevance to the Framework Decision: “Right-wing extremists define ‘racial homogeneity’ as the highest value which excludes all individuals who are perceived as ‘foreign’ (we and the others). An essential feature of secondary anti-Semitism is the ‘reversal of perpetrator and victim’. Parts of the right-wing extremist spectrum have a revisionist view of history regarding the genocide of European Jews during the Second World War.”¹⁹

There are no specific data available on hate crime and hate speech against youth, as statistics disaggregate by crime and perpetrator, but not by victims. However, the Federal Criminal Office (*Bundeskriminalamt*) states figures on crime on the internet in its Police Crime Report 2018 (*Polizeiliche Kriminalstatistik 2018*).²⁰ “Crime moves to the internet”, the relevant section is titled. Reported cases of internet crimes increased by 16.8% to 19,627 cases in total from 2017 to 2018. 7,980 suspects were reported. 70.1 % were male. 3,547 suspects were between 25 and 39 years old and 1,896 over 40. Reported cases of child pornography increased to about 58.4% totalling 1,160 cases.²¹

The project “Expanded, systematic hate crime data collection and reporting of the Austrian Police” was started at the Ministry of the Interior (Department III/10 – Fundamental and Human Rights and Department II/1 - Organisation, service affairs, analysis) in July 2019 and will run for 24 months. The project (EU Grant Agreement Nr. 847659 HC-POL-DATA) aims to improve the recording of discriminatory motives in criminal charges on a scientific basis. In Austria, hate crime is currently recorded exclusively within the framework of politically motivated crime - especially with regard to right-wing extremism. Against this background, the project is intended to support the organs of the public security service in better implementing the international obligations. This is to be achieved by technical solutions for data recording, by training police members, and by fostering dialogue with civil society institutions. The Institute for the Sociology of Law and Criminology (IRKS) at the University of Vienna accompanies this process as a scientific partner, among other things through international comparative studies on data collection, systematic observations of the implementation process, and a comparison of the collected figures to other data sources (also on the dark figure).²²

¹⁸ Austria Federal Ministry for the Interior, Federal Office for the Protection of the Constitution and Combating Terrorism (2019), Report on the Protection of the Constitution 2018 ([Verfassungsschutzbericht 2018](#)), p. 79.

¹⁹ Austria Federal Ministry for the Interior, Federal Office for the Protection of the Constitution and Combating Terrorism (2019), Report on the Protection of the Constitution 2018 ([Verfassungsschutzbericht 2018](#)), p. 80.

²⁰ Austria, Federal Criminal Office (2019), Police Crime Report 2018 ([Polizeiliche Kriminalstatistik 2018 – Österreich ist so sicher wie noch nie](#)).

²¹ Austria, Federal Criminal Office (2019), Police Crime Report 2018 ([Polizeiliche Kriminalstatistik 2018 – Österreich ist so sicher wie noch nie](#)).

²² Austria, Federal Ministry for the Interior, ‘[Expanded, systematic hate crime data collection and reporting of the Austrian Police](#)’.

Chapter 3. Roma integration

1. Measures and developments addressing Roma/Travellers segregation

There are no measures or developments addressing Roma/Travellers segregation in 2019 to be reported.

2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

New ESF Roma Empowerment projects co-funded by the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection were presented at the 23rd Roma Dialogue Platform of the National Roma Contact Point in the Federal Chancellery:²³

- TRAJO - Training, Education, Job and Orientation (Caritas Vienna): TRAJO consists of educational and career counselling, and counseling on social issues; German courses with focus on work; job coaching; anti-discrimination and empowerment; and the establishment of contacts with companies.
- romblog.at - ROMBLOG DIGITAL EVOLUTION: "Romblog.at" is an internet platform founded in May 2017. Since May 2019, this platform has been part of the project "Romblog Digital Evolution", which aims to improve the chances of young people from the Roma and Sinti community in the labour market through media workshops conducted in cooperation with the public broadcasting agency (*ORF*). The participants of the project complete workshops in order to take first steps in the media landscape. The project is financially supported by the European Social Fund and the Federal Ministry of Labor, Social Affairs, Health and Consumer Protection.²⁴
- ROMA ABC (Itworks)²⁵ runs from 1 May 2019 to 31 October 2022 and aims to achieve inclusion by promoting equal opportunities in the labour market for 300 Roma and Sinti aged 15-65. The project provides short counselling, empowerment, case management, digital basic education offers, career orientation, active placement support, preparation for the apprenticeship, support in case of social problems, application support, follow-up support in the apprenticeship relationship, job forums, and training advice. The project cooperates with the Cultural Association of Austrian Roma and uses the existing networks of Itworks.
- DROM - Empowerment for Roma (Viennese adult education centres): DROM is concerned with orientation advice; educational and vocational guidance; perspective planning; accompaniment and assistance with social problems; support for labour market obstacles; creating application documents on the computer; strengthening existing skills and knowledge; and organising information and awareness events.

²³ Austria, Federal Chancellery, [23. Dialogplattform](#), 17 September 2019.

²⁴ Romblog.at, [romblog.at](#), September 2019.

²⁵ itworks Personalservice und Beratung gGmbH, [Roma Ausbildungs- & Berufsberatungs-Centrum](#), Presentation at the 23rd Roma Dialogue Platform of the National Roma Contact Point in the Federal Chancellery, 17 September 2019.

- AMARI BUKI (Volkshilfe Upper Austria) started in May 2019 and will run for 3.5 years. The project is concerned with individual counsellings, public events, skills training, and has a particular focus on youth and women.
- THARA ROMANO SVATO (Volkshilfe Austria), has the following objectives: Increase job opportunities and integration into the labour market; activation and stabilisation through social counselling and intensive care; poverty reduction through advice and information; empowering the target group to act independently in the medium and long term; increase awareness of the majority society for discrimination against Roma and Romnja. The means to achieve these objectives are the provision of counselling, qualification, and information.
- KAMBUKE – WORKS (CARITAS Diocese of Seckau), runs from 1 May 2019 to 31 October 2022 and consists of the following measures:
 1. Qualification and employment: Sustainable integration of the target group into the job market through work and educational counselling, job application training, qualification measures;
 2. Empowerment: Encouraging and accompanying a self-empowerment process in both personal individual and ethnic / collective terms; Support of the self-empowerment or institutionalisation process with the help of specially created teaching materials;
 3. Network and public relations: Provision of basic information (socioeconomic and sociocultural situation, basic information on history, especially contemporary history), reduction of prejudices and stereotypes towards the target group; building a broad network of supporters; creation of a sustainable dimension by creating a booklet on “Roma in Graz”.
- COMPETENCE / RETAIL SECTOR (BFI vocational training institute Vienna) runs from 2019-2022 and has the following objectives: empowerment through personal care and role models; expansion of expertise in the retail sector up to the extraordinary apprenticeship exam; increase employability and reduce obstacles to integration.

The 24th Roma Dialogue Platform of the National Roma Contact Point in the Federal Chancellery was held on 19 November 2019. On the occasion of the 30th anniversary of the UN Convention on the Rights of the Child, the dialogue platform was dedicated to the topic of empowering Roma children and adolescents. Projects concerning Roma school mediation were discussed from different perspectives.²⁶

There were no further specific measures addressing Roma inclusion in 2019. According to the Ethnic Groups Act (*Volksgruppengesetz*), the federal government has to promote measures and projects aimed at preserving and safeguarding the existence of ethnic groups, their people, and their characteristics and rights, as well as promote intercultural projects that serve the coexistence of ethnic groups. This financial support is usually spent on structural support and project support. The report on how the amount was spent in 2019 is not available yet. In 2018, a total of 385,934.00€ was provided to Roma organisations.²⁷ No funding cuts were foreseen for the year 2019.²⁸ Here is an exemplarily list of measures implemented in 2019:

²⁶ Austria, Federal Chancellery, [24. Dialogplattform](#), 19 November 2019.

²⁷ Austria, Federal Chancellery (2019), Reply to an parliamentary inquiry ([BKA-353.120/0029-IV/10/2019](#)), 26 April 2019.

²⁸ Austria, Federal Chancellery (2019), Reply to an parliamentary inquiry ([BKA-353.120/0029-IV/10/2019](#)), 26 April 2019.

Romano Centro, which was founded in 1991 as one of the first Roma associations in Austria, works to improve the living conditions of Roma and to fight their discrimination. The focus of activity is education and culture. ROMANO ZURALIPE is the program run by Romano Centro to empower Roma and Romnja in the labour market. The programme comprises the following measures:²⁹

- Vocational and educational counselling, and counselling on the removal of labor market obstacles. Provision of individual and holistic advice to poor persons or persons at risk of poverty (including the Working Poor) for (better) integration into the labour market and to remove obstacles in the access to the labour market.
- Vocational orientation and measures to increase the chances on the job market for disadvantaged young people by Roma school mediators involving their families.
- Empowerment for young people: Training Roma youths or adults to become youth leaders (multipliers) with additional practical guidance (developing and implementing a project with Roma adolescents).
- Train-the-trainer activities: Training of young Roma in the field of training (antiziganism, history, and culture) and as multipliers in the dissemination of information on different topics.

Since 1995, Romano Centro also offers learning aid for Roma schoolchildren in Vienna. The primary target group of the learning aid is Roma pupils who attend compulsory education. The learning aid takes place individually in the homes of the children, so that their learning needs can be dealt with precisely.

Since September 2013, Romano Centro also offers women's counselling for Romnja and Sintize. The topics of counselling range from family, partnership and sexuality, mental and physical health, social and economic crises, to violence prevention.

Romano Centro also runs Roma school mediators at Viennese schools:³⁰ The Roma school mediators mediate between teachers, pupils, and parents. They motivate and accompany the children in the classroom, help the teachers with difficulties in understanding, and try facilitate the access of the parents to school. Due to their native-language knowledge, the school mediators promote the identification of the children and are available to the parents as persons they trust and with an understanding of the cultural and traditional background. Tasks of the Roma school mediators:

- Provide support for the relationship between school and home, as well as communication between teachers and Roma parents;
- Information, advice, and support for parents in school and educational matters;
- Contact person (in several languages) for Roma pupils and parents, and for teachers in case of problems of Roma pupils;
- Supervision of teacher training courses to ensure the participation of Roma students;
- Support of Roma students in class and during class, especially through communication in their mother tongue;
- Provision of additional learning opportunities or funding opportunities for Roma children;
- Providing knowledge about Roma culture and history for pupils and teachers.

The Association KARIKA - for Roma and Sinti (*Verein KARIKA – für Roma und Sinti*)³¹ implemented the project "Butschakero Them - Arbeitswelt" for unemployed Roma and Sinti from February 2017 to January 2019. The project aimed to provide assistance and support for the job search, contacts with public authorities, and aimed to provide support to migrants of the Roma minority.

²⁹ Romano Centro, [ROMANO ZURALIPE](#), September 2019.

³⁰ Romano Centro, [Roma-SchulmediatorInnen an Wiener Schulen](#), September 2019.

³¹ Karika, [Butschakero Them- Arbeitswelt](#), September 2019.

Chapter 4. Asylum, visas, migration, borders and integration

Unaccompanied children reaching the age of majority

Area of support	Description
<p>Residence permit <i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>In Austria, unaccompanied children (non-asylum seekers and asylum seekers) do not get temporary residence permits. They may get a residence permit due to their asylum status (§ 3 Asylum Act 2005, <i>Asylgesetz 2005, AsylG 2005</i>)³², their subsidiary protection status (§ 8 AsylG 2005), a humanitarian residence permit for reasons of Article 8 ECHR (§ 55 (1) AsylG 2005), a residence permit for extenuating circumstances (§ 56 AsylG 2005), a residence permit special protection (§ 57 AsylG 2005), or a "Red-White-Red- Card plus" (Rot-Weiß-Rot – Karte plus“) according to § 41a (10) Residence and Settlement Act (<i>Niederlassungs- und Aufenthaltsgesetz, NAG</i>)³³. These residence permits are generally not tied to the person's age. So, if an unaccompanied child turns 18, this has no effect on the residence title. However, a certain exception to this rule is the residence permit "Red-White-Red-Card plus" according to § 41a (10) NAG. This residence permit is generally granted for one year and its renewal cannot be applied for after the child has turned 18. So, if the child wants to continue to stay in Austria, he/she has to apply for another residence permit (e.g., residence permit for students according to the NAG).</p>
<p>Guardianship <i>(representative)</i></p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand</i></p>

³² Austria, Asylum Act 2005 ([Bundesgesetz über die Gewährung von Asyl, Asylgesetz 2005 - AsylG 2005](#)), BGBl. I Nr. 100/2005.

³³ Austria, Residence and Settlement Act ([Bundesgesetz über die Niederlassung und den Aufenthalt in Österreich, Niederlassungs- und Aufenthaltsgesetz – NAG](#)), BGBl. I Nr. 100/2005.

<p>under Reception Conditions Directive Article 24.1)</p>	<p><i>the guardian's support, for example transforming the guardian into a 'mentor' supporting the child until a certain age.</i></p> <p>According to §158 Civil Code (ABGB)³⁴ the guardianship ends automatically as the child turns 18. The young person then has full legal capacity (<i>geschäftsfähig</i>) and is responsible for his/her own education, welfare, education, and legal representation (§§ 160 et seqq., §§ 164 et seqq. as well as §§ 167 et seqq. Civil Code). In case of a mental impairment, the young person may still be represented by an adult after the age of 18 (§ 268 (1) Civil Code). However, guardians may prepare unaccompanied children for independent life during the guardianship: The Basic Care Agreement between the Federal State and the Provinces (<i>Grundversorgungsvereinbarung - Art. 15a B-VG</i>)³⁵ enumerates the care activities to be provided for unaccompanied children in Art. 7 (3). This list includes activities that can be interpreted as preparation activities for the time after the guardianship ends.</p>
<p>Accommodation Reception Conditions Directive Article 24.2</p>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>Unaccompanied children in basic care, who turn 18, are no longer qualified for the special reception conditions provided for under Article 7 of the Basic Care Agreement between the Federal State and the Provinces (<i>Grundversorgungsvereinbarung - Art. 15a B-VG</i>).³⁶ This implies that they have to move to a care facility for adults or their own home.³⁷ There are no nationwide after-care arrangements in place.</p> <p>Unaccompanied children with asylum status, who receive support from the child and youth welfare service, may continue to receive support in the context of child and youth welfare until the age of 21 at the latest. This support for</p>

³⁴ Austria, Civil Code ([*Allgemeines bürgerliches Gesetzbuch für die gesamten deutschen Erbländer der Oesterreichischen Monarchie*](#)), JGS Nr. 946/1811.

³⁵ Austria, Basic Care Agreement between the Federal State and the Provinces ([*Vereinbarung zwischen dem Bund und den Ländern gemäß Art. 15a B-VG über gemeinsame Maßnahmen zur vorübergehenden Grundversorgung für hilfs- und schutzbedürftige Fremde \(Asylwerber, Asylberechtigte, Vertriebene und andere aus rechtlichen oder faktischen Gründen nicht abschiebbare Menschen\) in Österreich \(Grundversorgungsvereinbarung - Art. 15a B-VG\)*](#)), BGBl. I Nr. 80/2004.

³⁶ Austria, Basic Care Agreement between the Federal State and the Provinces ([*Vereinbarung zwischen dem Bund und den Ländern gemäß Art. 15a B-VG über gemeinsame Maßnahmen zur vorübergehenden Grundversorgung für hilfs- und schutzbedürftige Fremde \(Asylwerber, Asylberechtigte, Vertriebene und andere aus rechtlichen oder faktischen Gründen nicht abschiebbare Menschen\) in Österreich \(Grundversorgungsvereinbarung - Art. 15a B-VG\)*](#)), BGBl. I Nr. 80/2004.

³⁷ Bassermann, M., Spiegelfeld A., [*Unbegleitete Minderjährige nach Feststellung des Aufenthaltsstatus in Österreich*](#), Nationaler Kontaktpunkt Österreich im Europäischen Migrationsnetzwerk, Vienna 2018, p. 36.

	<p>young adults may be granted in hard cases according to § 29 Federal Child and Youth Welfare Act 2013 (<i>Bundes-Kinder- und Jugendhilfegesetz 2013</i>).³⁸ The ‘hard cases’ are not explicitly enumerated in the law and are rather evaluated on an individual basis. The explanatory remarks³⁹ to this paragraph explain that the late adolescence and early adulthood are characterised by an increasing independence of the young people from their parents. Educational tasks of parents are becoming increasingly obsolete then, while adolescents and young adults are increasingly assuming more responsibility for their own lives and ultimately leaving their parents' household and even paying for their own maintenance. However, the explanatory remarks further explain that this process can be delayed by “<u>different crises and traumas in childhood and adolescence</u>”, which is why a follow-up beyond the age of 18 years is necessary in order to safeguard the successes achieved until then. In order to expand child and youth welfare until the age of 21, educational assistance must have been provided at the time when the young person turns 18, and there must also be an urgent necessity to reach the goals defined in the aid plan. There is no legal entitlement to young adults until 21. The goal of helping young adults is first and foremost to support the process of self-employment, which includes the completion of vocational training. Primarily, the duration of these aids is geared to the individual needs of young people, but it is limited to the end of the 21st year.⁴⁰</p>
<p>Return <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>The best interest of the child has to be a primary consideration for the return decision concerning unaccompanied children (§1 Federal Constitutional Law on the Rights of Children).⁴¹ The authority must ensure that the child concerned can be handed over to a member of the family, an official guardian, or a suitable host institution in the country of destination (§ 46 (3) Alien Police Act 2005 - <i>Fremdenpolizeigesetz 2005</i>, FPG).⁴² If the asylum seeker is</p>

³⁸ Austria, Federal Child and Youth Welfare Act 2013 ([Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche \(Bundes-Kinder- und Jugendhilfegesetz 2013 – B-KJHG 2013\)](#)), BGBl. I Nr. 69/2013.

³⁹ Austria, Explanatory Remarks to the Federal Child and Youth Welfare Act 2013 ([Erläuterungen zum Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche \(Bundes-Kinder- und Jugendhilfegesetz 2013 – B-KJHG 2013\)](#)), 2013.

⁴⁰ Austria, Explanatory Remarks to the Federal Child and Youth Welfare Act 2013 ([Erläuterungen zum Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche \(Bundes-Kinder- und Jugendhilfegesetz 2013 – B-KJHG 2013\)](#)), 2013.

⁴¹ Austria, Federal Constitutional Law on the Rights of Children ([Bundesverfassungsgesetz über die Rechte von Kindern](#)), BGBl. I Nr. 4/2011

⁴² Austria, Alien Police Act 2005 ([Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteil. Fremdenpolizeigesetz 2005 – FPG](#)), BGBl. I Nr. 100/2005.

	<p>an unaccompanied child above the age of 14, the authorities must carry out a search for family members in the country of origin, in a third country or in a Member State. If the asylum seeker is an unaccompanied child below the age of 14, the authority has to assist him/her in the search for relatives upon request (§ 18 (2) Asylum Act 2005 (<i>Asylgesetz 2005, AsylG 2005</i>)).⁴³</p> <p>Unaccompanied children may receive support for a voluntary return according to § 52a Federal Act on the General Rules for Procedures at the Federal Office for Immigration and Asylum (<i>BFA-Verfahrensgesetz, BFA-VG</i>).⁴⁴ Return counselling is offered by Caritas and the association "Verein Menschenrechte Österreich" on behalf of the Federal Ministry of the Interior.⁴⁵ The costs for the voluntary return are covered by the return support in any case (§52a BFA-VG). Moreover, return support may also comprise the organisation of travel documents or medical support during the return.⁴⁶</p> <p>Unaccompanied children turning 18, who have been issued a final negative decision, must fulfill their return obligation. The favourable provisions on detention pending removal concerning lenient measures (§§ 77 (1) FPG), the modalities of detention (§79 (3) and (5) FPG), as well as duration of detention (§ 80 (2) 1 FPG) then do not apply anymore. Theoretically, also a forced return of unaccompanied children is possible under the conditions laid down in § 46 (3) Alien Police Act 2005 (<i>Fremdenpolizeigesetz 2005, FPG</i>).⁴⁷</p>
Other	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>None.</p>

⁴³ Austria, Asylum Act 2005 ([Bundesgesetz über die Gewährung von Asyl, Asylgesetz 2005 - AsylG 2005](#)), BGBl. I Nr. 100/2005.

⁴⁴ Austria, Federal Act on the General Rules for Procedures at the Federal Office for Immigration and Asylum ([Bundesgesetz, mit dem die allgemeinen Bestimmungen über das Verfahren vor dem Bundesamt für Fremdenwesen und Asyl zur Gewährung von internationalem Schutz, Erteilung von Aufenthaltstiteln aus berücksichtigungswürdigen Gründen, Abschiebung, Duldung und zur Erlassung von aufenthaltsbeendenden Maßnahmen sowie zur Ausstellung von österreichischen Dokumenten für Fremde geregelt werden, BFA-Verfahrensgesetz – BFA-VG](#)), BGBl. I Nr. 87/2012.

⁴⁵ Austria, Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl, BFA*), [Freiwillige Ausreise und Rückkehrhilfe](#), without date.

⁴⁶ Austria, Federal Act on the General Rules for Procedures at the Federal Office for Immigration and Asylum ([Bundesgesetz, mit dem die allgemeinen Bestimmungen über das Verfahren vor dem Bundesamt für Fremdenwesen und Asyl zur Gewährung von internationalem Schutz, Erteilung von Aufenthaltstiteln aus berücksichtigungswürdigen Gründen, Abschiebung, Duldung und zur Erlassung von aufenthaltsbeendenden Maßnahmen sowie zur Ausstellung von österreichischen Dokumenten für Fremde geregelt werden, BFA-Verfahrensgesetz – BFA-VG](#)), BGBl. I Nr. 87/2012.

⁴⁷ Austria, Alien Police Act 2005 ([Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteil, Fremdenpolizeigesetz 2005 – FPG](#)), BGBl. I Nr. 100/2005.

Chapter 5. Information society, data protection

1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

The Austrian Data Protection Authority implemented and enforced the GDPR by way of 19 final decisions in 2019 (as of 12 September 2019). Apart from that, the DPA published relevant information on the GDPR on its website.⁴⁸ In addition, the DPA publishes a newsletter four times a year and staff members of the DPA regularly give lectures during events on the GDPR.⁴⁹ Already in 2018, the number of procedures rose significantly. This trend continued in 2019 according to the DPA.⁵⁰ An evaluation carried out in July 2019 showed that on average, each civil servant deals with 115 pending cases. Although the number of procedures increases, only a moderate increase in the DPA workforce is to be reported for 2019 (four additional legal staff). In addition, four administrative interns currently work for the DPA.⁵¹

The supervision over data processing in the judicial area in the sense of the GDPR is exercised by the competent courts according to § 85 et seq. Court Organisation Act (*Gerichtsorganisationsgesetz, GOG*).⁵² The Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice reported that it did not regard any further legal steps necessary to implement and enforce the GDPR.⁵³

⁴⁸ Austria, Data Protection Authority (2019), Data Protection in Austria ([*Datenschutzrecht in Österreich: Die DSGVO, das DSG, der LEITFADEN und weitere wichtige Gesetze zum in Österreich geltenden Datenschutzrecht*](#)), 2019.

⁴⁹ Information provided by the Data Protection Authority by email on 12 September 2019.

⁵⁰ Information provided by the Data Protection Authority by email on 12 September 2019.

⁵¹ Information provided by the Data Protection Authority by email on 12 September 2019.

⁵² Austria, Court Organisation Act ([*Gesetz vom 27. November 1896, womit Vorschriften über die Besetzung, innere Einrichtung und Geschäftsordnung der Gerichte erlassen werden, Gerichtsorganisationsgesetz – GOG*](#)), RGBI. Nr. 217/1896.

⁵³ Information provided by the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice by email on 20 September 2019.

2. Artificial intelligence and big data

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
AT	Other: consultant	Report/study	<p>This study by Accenture - commissioned by the Federal Ministry Digital and Economic Affairs sheds light on future fields of AI from a practical, societal, and economic perspective: What vision should Austrian society pursue? What progress has Austria already made? What action is needed to keep Austria competitive in the age of AI?</p> <p>The aim of the study is to provide the working groups tasked with developing the Austrian AI strategy with a forum for discussion and with specific policy recommendations.</p>	Yes	No (only one minor reference)	Austria, Accenture (commissioned by the Federal Ministry Digital and Economic Affairs), Mission with vision (MISSION MIT VISION Wie Österreich seine Zukunft mit künstlicher Intelligenz gestaltet), 2019.
AT	Government / Parliament	Other: motion for a resolution	The authors of this motion for resolution call upon the Federal Government, in particular the Federal Minister for Transport, Innovation and Technology, to focus	No	No	Austria, Motion for a resolution (Entschließungsantrag der Abgeordneten Stephanie Cox, Kolleginnen und Kollegen betreffend Fit 4 AI - Aufklärungsfokus bei der Entwicklung und Umsetzung der österreichischen

	ry		on public awareness work in the context of work on the Austrian AI strategy "AIM AT 2030". Moreover, the motion demands to publicly document and communicate the (intermediate) results and findings in the context of the implementation of the AIM AT 2030 strategy in the form of a "KI Monitor Austria" in such a way that every Austrian citizen has the opportunity to be informed about current developments.			Strategie für Künstliche Intelligenz „AIM AT 2030“), 825/A(E) XXVI. GP, 16 May 2019.
AT	Government / Parliamentary	Report/study	The Austrian Research and Technology Report 2019 presents federally funded research, technology, and innovation in Austria. Three cornerstones are considered relevant for an Austrian robotics and AI strategy: in the report: 1. Smart Governance: A broad involvement of all stakeholders, and especially of citizens in the strategy process, is considered necessary to increase the acceptance of new technologies. 2. Smart Innovation: It requires a sound research, development, and investment policy to exploit the potential of robotics and AI technologies in all their applications, opening up new markets and applications. 3. Smart Regulation:	yes	yes	Austria, Austrian Research and Technology Report 2019 (Österreichischer Forschungs- und Technologiebericht 2019) , 2019.

			Stable and secure framework conditions are the prerequisite for the trust of economic actors and the positive development of markets. The use of robotics and AI must therefore ensure the safety of people and must comply with ethical standards, fundamental rights, and the European set of values.			
AT	Government / Parliamentary	Report/study	The Traffic Telematics Report 2019 focuses on future developments in the field of intelligent transport systems under the motto "digital: networked: mobile". According to the report, research and development activities funded focus on the establishment of an optimised overall system for nationwide and reliable recording of traffic and the use of artificial intelligence to support the automated assessment of tolls set.	No.	Yes, data protection.	Austria, Ministry for Transport, Innovation and Technology, Traffic Telematics Report 2019 (Verkehrstelematikbericht 2019).

*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts
- Business
- Independent State Institution

- Other

** for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

3. Data retention

We already reported in the previous fundamental rights report that Austria adopted an amendment to the Criminal Procedure Code (*Strafprozessrechtsänderungsgesetz 2018*) in 2018.⁵⁴ These amendments, among others, introduced the possibility for a “Quick Freeze” in §135 (2b) Criminal Procedure Code. According to this provision, data retention warranted by specific occasions (*Anlassdatenspeicherung*) is permissible under certain conditions, if the prosecution deems this to be necessary on the basis of an initial suspicion. This amendment has been criticised as being a revised version of data retention.⁵⁵

⁵⁴ Austria, Amendment to the Criminal Procedure Code 2018 ([Strafprozessrechtsänderungsgesetz 2018](#)).

⁵⁵ See, for instance, epicenter.works, Opinion on the amendment to the Criminal Procedure Code ([Stellungnahme zum Ministerialentwurf betreffend eines Bundesgesetzes, mit dem die Strafprozessordnung 1975, das Staatsanwaltschaftsgesetz und das Telekommunikationsgesetz 2003 geändert werden, Strafprozessrechtsänderungsgesetz 2018 – 17 d.B. XXVI. GP](#)), 21 March 2018.

Chapter 6. Rights of the child

1. Procedural safeguards for children who are suspects in criminal proceedings

Legislative changes	<p>No legislative changes entered into force.</p> <p>A draft law amending the Criminal Procedure Code and the Youth Criminal Act 2019 is currently in Parliament.⁵⁶ The purpose of this draft is to fully implement the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings (EU) 2016/800 (improvement for juvenile court assistance, amendments to provisions on necessary defence) and to fully implement the Legal Aid Directive (EU) 2016/1919 (providing free access to a defense counsel even before the possibility of obtaining legal aid). It also aims to introduce a coherent terminology of civil law and related criminal law.</p> <p>With respect to children, the purpose of the present draft is to implement those provisions of the Directive 2016/800, which are not yet (sufficiently) implemented by the existing legal provisions of the Juvenile Court Act 1988 (<i>Jugendgerichtsgesetz 1988</i>)⁵⁷.</p> <p>Main amendments to the Juvenile Court Act 1988 (proposed):</p> <ul style="list-style-type: none">- §1 (2) JGG introduces amendments concerning definitions: Where it is uncertain whether a person has reached the age of 18, that person shall be presumed to be a child (Art 3 of the Directive)- §§ 30, 54 and 63 (2) JGG introduce amendments concerning the training of staff of law enforcement authorities and of detention facilities (Art 20 of the Directive)- § 31a JGG introduces amendments concerning the timely treatment of cases (Art 13 (1) of the Directive)- § 32 JGG introduces amendments concerning the timely assistance by a lawyer (Art 6 of the Directive)- § 32a JGG introduces amendments to ensure that the right to information is fully guaranteed (Art 4 of the Directive)
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⁵⁶ Austria, Draft law amending the Criminal Procedure Code and the Youth Criminal Act 2019 ([Strafprozess- und Jugendstrafrechtsänderungsgesetz 2019](#)).

⁵⁷ Austria, Juvenile Court Act 1988 ([Bundesgesetz vom 20. Oktober 1988 über die Rechtspflege bei Straftaten Jugendlicher und junger Erwachsener, Jugendgerichtsgesetz 1988 – JGG](#)), BGBl. Nr. 599/1988.

- §36a JGG introduces amendments concerning the provision of information in simple and accessible language (Art 4 (2) of the Directive)
- §§ 36a, 37 (1) JGG introduce amendments concerning the audio-visual questioning of children by police or other law enforcement authorities during the criminal proceedings (Art 9 of the Directive)
- §37a JGG introduces amendments concerning the right to a medical examination (Art 8 of the Directive)
- § 38 JGG introduces amendments on the right to receive information for children and holders of parental responsibility in accordance with Article 4 (Article 5 of the Directive)
- § 39 and § 5 Z 12 JGG introduce amendments concerning the necessary defence (Article 6 of the Directive)

In addition, the draft also proposes changes in the Federal Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union (*Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union, EU-JZG*)⁵⁸ and the Extradition and Legal Assistance Act (*Bundesgesetz vom 4. Dezember 1979 über die Auslieferung und die Rechtshilfe in Strafsachen, Auslieferungs- und Rechtshilfegesetz - ARHG*).⁵⁹

Main amendments to the Federal Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union (EU-JZG) and the Extradition and Legal Assistance Act (ARHG) (proposed):

- § 16a (2) and (3) EU-JZG introduce amendments concerning the right to information with respect to children under the European arrest warrant proceedings (Articles 4 and 17 of the Directive)
- § 29 (1) and (4) ARHG introduce amendments concerning detention and the necessary defence of children under the

⁵⁸ Austria, Federal Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union ([*Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union, EU-JZG*](#)), BGBl. I Nr. 36/2004.

⁵⁹ Austria, Extradition and Legal Assistance Act ([*Bundesgesetz vom 4. Dezember 1979 über die Auslieferung und die Rechtshilfe in Strafsachen, Auslieferungs- und Rechtshilfegesetz - ARHG*](#)), BGBl. Nr. 529/1979.

	<p>European arrest warrant proceedings (Article 17 of the Directive)</p> <p>A draft law amending the Administrative Penal Act 1991 and the Administrative Procedure Act is currently in Parliament.⁶⁰ The purpose of this draft is to transpose Directive 2016/800/EU on procedural safeguards in criminal proceedings against children who are suspects or accused persons in criminal proceedings, and Directive 2016/1919/EU on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings. The draft law covers issues such as the right of arrested or detained youth to undergo medical examination by a medical doctor, provisions concerning the necessary defense, and regulations concerning contact with a lawyer for young persons deprived of their liberty.</p>
Policy developments	<p><i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i></p> <p>Nothing to report.</p>
Other measures or initiatives	<p><i>E.g. relevant activities to promote alternatives to detention; community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i></p> <p>Nothing to report.</p>

2. Legal and policy measures or initiatives developed about child internet safety

No legislative measures (including in relation to the relevant Articles of the Audiovisual media service Directive) to be reported.

The initiative "Saferinternet.at", also co-funded by the Austrian Federal Ministry of Education, Science and Research and the Austrian Federal Chancellery, continued to provide support (information) to children, adolescents, parents and teachers in the safe, competent and responsible use of digital media.⁶¹ Topics covered include cyber mobbing, social networks, data protection, online fraud, self-portrayal, etc.

⁶⁰ Austria, Draft Law amending the Administrative Penal Act 1991 and the Administrative Procedure Act ([Ministerialentwurf betreffend Bundesgesetz, mit dem das Verwaltungsstrafgesetz 1991 und das Verwaltungsgerichtsverfahrensgesetz geändert werden](#)).

⁶¹ Austria, Website of the initiative [Saferinternet.at](#), 2019.

Chapter 7. Access to justice including crime victims

1. Victims' Rights Directive

The Protection from Violence Act 2019 (*Gewaltschutzgesetz 2019*)⁶² was adopted by Parliament in September 2019. It introduces amendments to 25 Austrian laws. Please see below on the legislative amendments reported for "2. Violence against women" for more details. The amendments introduced by the Protection from Violence Act 2019 also seeks to improve victims' rights, in particular with the amendments to the Criminal Procedures Code 1975 (*Strafprozeßordnung 1975, StPO*).⁶³ These amendments mainly aim to present victims rights more comprehensibly (with respect to the right to receive a confirmation of the report to the police and the right to receive the interrogation protocol free of charge; the right of victims and witnesses to apply for a gentle interrogation in the sense of § 165 (3) StPO; and the right to information under § 70 StPO). Moreover, the rights of particularly vulnerable victims (§ 66a StPO) were improved with respect to the right to interpreting services by persons of the same gender during interrogations and in the main proceedings. Amendments have also been made to §38a Security Police Act (*Sicherheitspolizeigesetz, SPG*),⁶⁴ which regulates the prohibition order and restraining order for the protection from violence.

2. Violence against women

In 2018, the "Task Force Criminal Law" was set up to develop proposals and recommendations for the implementation of the government project "Tougher punishments for sexual and violent criminals", including measures for victim protection and active perpetrator work.⁶⁵ Two expert commissions set up in the framework of the "Task Force Criminal Law" presented their reports in January and February 2019, respectively.⁶⁶ The final proposals by the Task Force Criminal Law for measures to tighten criminal law, for low-threshold access to victim protection, and for better networking of the authorities were presented to the Council of Ministers on 13 February 2019.⁶⁷ The Council of Ministers decided to implement some of the proposals, but also decided to develop further measures. The results agreed upon by the

⁶² Austria, Protection from Violence Act 2019 ([Bundesgesetz, mit dem das Sicherheitspolizeigesetz, das Namensänderungsgesetz, das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung, das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, das Ärztegesetz 1998, das Gesundheits- und Krankenpflegegesetz, das Hebammengesetz, das Kardiotechnikergesetz, das MTD-Gesetz, das Medizinische Assistenzberufe-Gesetz, das Medizinischer Masseur- und Heilmasseurgesetz, das Sanitätsgesetz, das Zahnärztegesetz, das Musiktherapiegesetz, das Psychologengesetz 2013, das Psychotherapiegesetz, das Allgemeine Sozialversicherungsgesetz, das Verbrechenopfergesetz und das Bundesgesetz mit dem das Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche geändert werden, Gewaltschutzgesetz 2019](#)), BGBl. I Nr. 105/2019.

⁶³ Austria, Criminal Procedures Code 1975 (*Strafprozeßordnung 1975, StPO*), BGBl. Nr. 631/1975.

⁶⁴ Austria, Security Police Act ([Bundesgesetz über die Organisation der Sicherheitsverwaltung und die Ausübung der Sicherheitspolizei, Sicherheitspolizeigesetz – SPG](#)), BGBl. Nr. 566/1991.

⁶⁵ Austria, Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, [Veröffentlichung des Endberichts der vom BMVRDJ geleiteten Kommission Strafrecht](#), 2019.

⁶⁶ Austria, Task Force Criminal Law, [Bericht der Kommission Strafrecht](#), 15 January 2019, Austria, Task Force Criminal Law, [Bericht der Kommission Opferschutz & Täterarbeit](#), 11 February 2019.

⁶⁷ Austria, Task Force Criminal Law, [Ministerratsvortrag](#) and [Beilage](#), 13 February 2019.

Council of Ministers were published in compiled form.⁶⁸ The decision by the Council of Ministers informed a draft for the "Third Protection From Violence Act", which was brought to Parliament on 15 May 2019.⁶⁹

The main proposals of the draft in the area of substantive criminal law are related to: an extension of the aggravating circumstances (§ 33 (1) and (2) Criminal Code); an increase of maximum penalties for repeat offenders (§ 39 Criminal Code); a modification of penalties for certain violent acts (§ 39a Criminal Code); an exclusion of conditional punishment for rape (§ 43 (3) Criminal Code); the establishment of genital mutilation as a case of serious and consequential bodily harm (§ 85 (1) 2a Criminal Code); a widening of the offense of stalking (§ 107a Criminal Code); a tightening of the penalty of continued violence against immature and defenseless persons (§ 107b Criminal Code); an extension of the minimum penalty for rape (§ 201 Criminal Code), and the extension of a lifelong prohibition to work for violent and sexual offenses to the detriment of minors or defenseless persons (§ 220b Criminal Code). The main proposals of the draft in respect to civil law are related to improvements for victim protection in the area of civil liability for damages, and amendments to the injunctions for the protection from violence and violations of privacy.⁷⁰

The draft for the "Third Protection From Violence Act" also proposes amendments to the regulations on prohibition orders in §38a Security Police Act (*Sicherheitspolizeigesetz, SPG*).⁷¹ Moreover, the draft proposes the establishment of nationwide centres for offender work in so called "Violence Prevention Centres": According to §25 (4) SPG, the Federal Minister of the Interior is authorised to contract suitable institutions to advise perpetrators on how not to resort to violence. The draft for the "Third Protection From Violence Act" also proposes security case conferences for high-risk victims according to the new §22 (2) SPG. An amendment to the Law on amending the name (*Namensänderungsgesetz*)⁷² now foresees the possibility to change the name free of charge for victims of psychological or physical violence.

⁶⁸ Austria, Task Force Criminal Law, [Ergebnisse des Ministerratsbeschlusses zur Task Force Strafrecht](#), 13 February 2019.

⁶⁹ Austria, Draft of the Third Protection From Violence Act, [Ministerialentwurf betreffend Bundesgesetz, mit dem das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung und das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, geändert werden \(Drittes Gewaltschutzgesetz – 3. GeSchG\)](#).

⁷⁰ Austria, Draft of the Third Protection From Violence Act, [Ministerialentwurf betreffend Bundesgesetz, mit dem das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung und das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, geändert werden \(Drittes Gewaltschutzgesetz – 3. GeSchG\)](#).

⁷¹ Austria, Security Police Act ([Bundesgesetz über die Organisation der Sicherheitsverwaltung und die Ausübung der Sicherheitspolizei, Sicherheitspolizeigesetz – SPG](#)), BGBl. Nr. 566/1991.

⁷² Austria, Law on amending the name, ([Bundesgesetz vom 22. März 1988 über die Änderung von Familiennamen und Vornamen, Namensänderungsgesetz – NÄG](#)), BGBl. Nr. 195/1988.

The draft for the “Third Protection From Violence Act” has been adopted by the Parliament as “Protection from Violence Act 2019”⁷³ in September 2019. The provisions will mainly enter into force on 1 January 2020.

Overall, the Austrian Centres for the Protection from Violence and the Intervention Centre for Trafficked Women welcomed the proposals concerning the Law on Amending the Name (*Namensänderungsgesetz*)⁷⁴, but voiced concerns with respect to the Amendment of the Security Police Act (SPG).⁷⁵ The main critique concerns case conventions for high-risk cases: §22 (2) SPG now stipulates that the security authorities may initiate case conferences with the competent Centres for the Protection against Violence in high-risk cases. Such case conferences may be convened by the police if it can be assumed (e.g. due to a previous dangerous attack) that a certain person will commit an act that is threatened with considerable punishment against the life, health, freedom, or morality of a person. Case conferences aim to bring together all responsible organisations (in particular the police and the Centres for the Protection against Violence) to discuss and evaluate the individual case and develop and coordinate appropriate measures. The current amendment aims to establish a uniform regulation of such case conferences on the initiative and under the direction of the police. The amendment also introduces the legal basis for an information exchange for the participants of these case conferences and for the further use of the information obtained. The Austrian Centres for the Protection Against Violence and the Intervention Centre for Trafficked Women raise concerns that only the authorities may initiate such a case conference, but not victim protection organisations. They also criticise the definition of “high-risk case”, which should be broader according to them. Moreover, they claim that the law should provide for the legal authorisation to lift the confidentiality obligations of participants of the case conferences.

The Austrian Centres for the Protection from Violence were involved in the work of the Task Force Criminal Law, but according to their opinion on the draft law, their concerns have not been heard sufficiently. Overall, the Austrian Centres for the Protection from Violence and the and the Intervention Centre for Trafficked Women welcome some aspects of the draft, but also voiced concerns (e.g., with respect to the necessity for an extension of the minimum penalty

⁷³ Austria, Protection from Violence Act 2019 ([Bundesgesetz, mit dem das Sicherheitspolizeigesetz, das Namensänderungsgesetz, das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung, das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, das Ärztegesetz 1998, das Gesundheits- und Krankenpflegegesetz, das Hebammengesetz, das Kardiotechnikergesetz, das MTD-Gesetz, das Medizinische Assistenzberufe-Gesetz, das Medizinischer Masseur- und Heilmasseurgesetz, das Sanitätergesetz, das Zahnärztegesetz, das Musiktherapiegesetz, das Psychologengesetz 2013, das Psychotherapiegesetz, das Allgemeine Sozialversicherungsgesetz, das Verbrechenopfergesetz und das Bundesgesetz mit dem das Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche geändert werden, Gewaltschutzgesetz 2019](#)), BGBl. I Nr. 105/2019.

⁷⁴ Austria, Law on Amending the Name ([Bundesgesetz vom 22. März 1988 über die Änderung von Familiennamen und Vornamen, Namensänderungsgesetz – NÄG](#)), BGBl. Nr. 195/1988.

⁷⁵ Austria, Austrian Centres for the Protection Against Violence and the Intervention Centre for Trafficked Women, Opinion on the Draft Law on the Amendment of the Security Police Act and the Law on Amending the Name ([Stellungnahme der Gewaltschutzzentren Österreichs und der Interventionsstelle für Betroffene des Frauenhandels zum Bundesgesetz, mit dem das Sicherheitspolizeigesetz und das Namensänderungsgesetz geändert werden](#)), June 2019.

for rape).⁷⁶ The umbrella organisation for women NGOs in Austria (*Frauenring*) also voiced criticism.⁷⁷ According to *Frauenring*, some paragraphs are still problematic and not sophisticated from a victim's perspective. Above all, the proposed legal obligation for doctors to report rape is rejected by *Frauenring* because it is to be feared that those affected will no longer have the necessary medical examinations performed after a sexual assault. According to *Frauenring*, the hospital or medical doctor's office provides a protected space, which often allows victims to seek help and voice their experiences. The proposed legal obligation for physicians to report rape not only violates the trust between physicians and patients, but the affected person is also deprived of the possibility to deal with the mental and material costs of a criminal procedure after the medical examination (both of which play a certain role given the low conviction rate in Austria). From the point of view of the *Frauenring*, the legal obligation to report rape would not prevent a single rape case or protect any victim. On the contrary, it is even to be feared that fewer victims will seek medical help, especially since most of the rapes occur in the close social environment of those affected.⁷⁸ However, this critique was partially taken up in the final draft of the proposed law. The respective paragraph (§54 (5) Law on Doctors)⁷⁹ now stipulates that medical doctors are not obliged to report if this is against the will of the person concerned.

Moreover, according to *Frauenring*, merely increasing the punishment for violent offenses is not a means of preventing perpetrators from committing violent offenses.⁸⁰

Im March 2019, an international symposium titled "The Right to a Life Free of Violence - Strengthening, Supporting and Protecting Women and Their Children Affected with Violence in Austria and Europe" was held in the Austrian Parliament. Political decision-makers and an interested professional audience were invited to a two-day conference in order to draw

⁷⁶ Austria, Austrian Centres for the Protection Against Violence and the Intervention Centre for Trafficked Women, Opinion on the Draft of the Third Protection Against Violence Act ([Stellungnahme der Gewaltschutzzentren Österreichs und der Interventionsstelle für Betroffene des Frauenhandels zum Bundesgesetz, mit dem das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung und das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, geändert werden \(Drittes Gewaltschutzgesetz – 3. GeSchG\)](#)), June 2019.

⁷⁷ Austria, Frauenring, Draft of the Third Protection From Violence Act can endanger the lives of victims of violence, ([Entwurf zum 3. Gewaltschutzgesetz kann das Leben von Gewaltopfern gefährden](#)), 30 August 2019.

⁷⁸ Austria, Austrian Centres for the Protection Against Violence and the Intervention Centre for Trafficked Women, Opinion on the Draft of the Third Protection Against Violence Act ([Stellungnahme der Gewaltschutzzentren Österreichs und der Interventionsstelle für Betroffene des Frauenhandels zum Bundesgesetz, mit dem das Allgemeine bürgerliche Gesetzbuch, das Strafgesetzbuch, das Jugendgerichtsgesetz 1988, die Strafprozeßordnung 1975, das Strafregistergesetz 1968, das Tilgungsgesetz 1972, die Exekutionsordnung und das Bundesgesetz, mit dem das Sicherheitspolizeigesetz geändert wird und Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden, geändert werden \(Drittes Gewaltschutzgesetz – 3. GeSchG\)](#)), June 2019.

⁷⁹ Austria, Law on Doctors ([Bundesgesetz über die Ausübung des ärztlichen Berufes und die Standesvertretung der Ärzte, Ärztegesetz 1998 – ÄrzteG 1998](#)), BGBl. I Nr. 169/1998.

⁸⁰ Austria, Frauenring, Draft of the Third Protection From Violence Act can endanger the lives of victims of violence, ([Entwurf zum 3. Gewaltschutzgesetz kann das Leben von Gewaltopfern gefährden](#)), 30 August 2019.

attention to the work of the Domestic Abuse Intervention Centre Vienna and to develop new strategies for current fields of action.⁸¹

In July 2019, the Committee on the Elimination of Discrimination against Women published its Concluding Observations on the Ninth Periodic Report of Austria.⁸² The Committee, inter alia, recommended to "(a) Expedite the adoption of comprehensive measures to prevent, combat, and punish all forms of gender-based violence against women, and ensure that adequate human, technical, and financial resources are allocated for their systematic and effective implementation, monitoring, and assessment; (b) Monitor and assess the responsiveness of the police and the judiciary in cases of sexual crimes, and introduce mandatory capacity-building for judges, prosecutors, police officers, and other law enforcement officers on the strict application of criminal law provisions on gender-based violence against women and on gender-sensitive investigation procedures; (c) Strengthen the investigation and prosecute all cases of hate crimes or attacks against refugee and asylum-seeking women and girls; (d) Reinforce the protection and assistance provided to women who are victims of gender-based violence, including by strengthening the capacity of shelters, ensuring that they meet the needs of victims, and cover the entire territory of the State party, and strengthen financial support to and cooperation with non-governmental organisations providing shelter and rehabilitation to victims; (e) Collect statistical data on domestic and sexual violence disaggregated by sex, age, disability, nationality, and relationship between the victim and the perpetrator."⁸³

⁸¹ Austria, Domestic Abuse Intervention Centre Vienna, [20+ Jahre Wiener Interventionsstelle: Internationale Fachkonferenz](#), March 2019.

⁸² Committee on the Elimination of Discrimination against Women, [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 22 July 2019.

⁸³ Committee on the Elimination of Discrimination against Women, [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 22 July 2019, para 23.

Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

1. CRPD policy & legal developments

The Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (*Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMASGK*) published a revised version of the German Easy Language version of the CRPD. The revision builds on a participatory process.⁸⁴ The German Easy Language version of the CRPD is now available online.⁸⁵

Austria adopted a law transposing the Web Accessibility Directive (EU) 2016/2102.⁸⁶ This federal law sets accessibility requirements for federal websites and mobile applications to make them more accessible to users, especially to those with disabilities.

The provinces of Vorarlberg and Carinthia introduced amendments to their provincial anti-discrimination acts. § 10a Anti-discrimination Act Vorarlberg⁸⁷ and §30 Anti-discrimination Act Carinthia⁸⁸ now require websites and mobile applications of the respective provinces, the municipalities, the municipal associations, the self-governing body established by the provincial act, as well as the other legal entities of the public law established by provincial law to be made accessible to persons with disabilities in a barrier-free manner. They have to be perceptible, easy to use, understandable and robust. The content of websites and mobile applications are considered to be barrier-free if they are in compliance with the standards or technical specifications referred to in Article 6 of Directive (EU) 2016/2102 on the accessibility of websites and mobile applications by public authorities.

The evaluation of the National Disability Action Plan 2012-2020 (NAP Disability) is scheduled for 2019 according to a response to a parliamentary inquiry.⁸⁹

On 4 September, the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (*Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMASGK*) presented a draft of the combined second and third state report to the CRPD.⁹⁰

⁸⁴ Austria, Monitoring Committee (2019), [Monitoringausschuss erfreut über Neufassung der UN-BRK in Leichter Sprache](#), 23 May 2019.

⁸⁵ Austria, Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (2019), [UN-Behindertenrechts-konvention Übereinkommen über die Rechte von Menschen mit Behinderungen](#), Easy German Version, Vienna.

⁸⁶ Austria, Web accessibility law ([59. Bundesgesetz, mit dem das Bundesgesetz über den barrierefreien Zugang zu Websites und mobilen Anwendungen des Bundes \(Web-Zugänglichkeits-Gesetz – WZG\) erlassen wird](#)), BGBl. I Nr. 59/2019.

⁸⁷ Austria, Amendment to the Anti-discrimination Act Vorarlberg, [Gesetz über eine Änderung des Antidiskriminierungsgesetzes](#), 14 January 2019.

⁸⁸ Austria, Amendment to the Anti-discrimination Act Carinthia, [Gesetz vom 28. März 2019, mit dem das Kärntner Antidiskriminierungsgesetz geändert wird](#), 15 April 2019.

⁸⁹ Austria, Federal Minister of Labour, Social Affairs, Health and Consumer Protection (2019), Answer to a parliamentary inquiry, [BMASGK-40001/0080-IV/9/2018](#), 18 January 2019.

⁹⁰ Austria, Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (*Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMASGK*), [UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs - Entwurf](#), 4 September 2019.

2. CRPD monitoring at national level

The Monitoring Committee participated in the EU forum on the implementation of the CRPD on 13 May 2019, organised by the European Commission.⁹¹

On the occasion of the International Women's Day, the Monitoring Committee raised awareness of the realities of women and girls with disabilities. According to the Monitoring Committee, they are particularly vulnerable to violence, and more at-risk for poverty and multiple discrimination because of their gender.⁹²

On 24 September 2019, the Monitoring Committee held a public meeting concerning the accessibility of hospitals.⁹³

On 5 February 2019, a member of the Upper Austrian Monitoring Committee left the Committee. In an open letter to the chairman he criticised structural deficiencies, lack of independence, and lack of political will.⁹⁴

On 25 April 2019, the Salzburg Monitoring Committee (one of the 9 sub-focal points designated by the regional authorities) held its first public meeting.⁹⁵ About 70 people with and without disabilities discussed the question "Where, how and when do barriers prevent participation in life?".⁹⁶

In July 2019, the Committee on the Elimination of Discrimination against Women published its Concluding Observations on the Ninth Periodic Report of Austria.⁹⁷

Table: Structures set up for the implementation and monitoring of the CRPD

EUMS	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
AT	Federal Ministry for Labour, Social Affairs and Consumer Protection (<i>Bundesministerium für Arbeit, Soziales und Konsumentenschutz</i>); the 9 regional authorities	Federal Ministry of Labour, Social Affairs and Consumer Protection (<i>Bundesministerium für Arbeit, Soziales und Konsumentenschutz</i>)	CRPD monitoring committee (<i>Monitoringausschuss</i>)

⁹¹ Austria, Monitoring Committee (2019), [Monitoringausschuss folgte Einladung nach Brüssel](#), 18 May 2019.

⁹² Austria, Monitoring Committee (2019), [Frauen mit Behinderungen nicht nur mitdenken](#), 8 March 2019.

⁹³ Austria, Monitoring Committee (2019), [Barrieren in Krankenanstalten abbauen!](#), 27 September 2019.

⁹⁴ Austria, Litigation Association of NGOs Against Discrimination (*Klagsverband*), [UN-BRK: Gunther Trübswasser verlässt den Oö. Monitoringausschuss](#), 7 February 2019.

⁹⁵ Austria, Monitoring Committee (2019), [Salzburger Monitoring-Ausschuss hält erste öffentliche Sitzung ab](#), 9 May 2019.

⁹⁶ Austria, Monitoring Committee (2019), [Salzburger Monitoring-Ausschuss hält erste öffentliche Sitzung ab](#), 9 May 2019.

⁹⁷ Committee on the Elimination of Discrimination against Women (2019), [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 22 July 2019.

	(Länder) designated their own sub-focal points	with the involvement of the Federal Disability Advisory Board (Bundesbehindertenbeirat)	
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Annex 1 – Promising Practices

	EQUALITY AND NON-DISCRIMINATION
Thematic area	Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.
	No promising practice has been identified for this thematic area.

	RACISM, XENOPHOBIA AND RELATED INTOLERANCE
Thematic area	Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Zehn-Punkte-Aktionsplan der Stadt Graz gegen Rassismus
Title (EN)	Ten-Point-Plan of Action against Racism of the City of Graz
Organisation (original language)	Stadt Graz
Organisation (EN)	City of Graz
Government / Civil society	Government
Funding body	
Reference (incl. url, where available)	https://www.graz.at/cms/beitrag/10284065/7771447/Geschichte_der_Menschenrechtsstadt_Graz.html
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2006, ongoing
Type of initiative	Periodic Action Plans, decided by the Municipal Council
Main target group	All residents in the city, particularly groups facing vulnerable situations concerning racism. However, actions are also addressed at the 'white majority'.
Indicate level of implementation: Local/Regional/National	local
Brief description	The Action Plans are structured along ten commitments: Monitoring, data

(max. 1000 chars)	<p>collection, information, victim support, the city as an employer, service provision, education, housing, culture, and hate. For each of these 10 commitments, the city council decides on specific measures to address how to promote diversity, support victims, set sanctions against misbehavior, promote equal opportunities, guarantee equal treatment, and promote inclusion. The latest plan contains over 50 measures.</p> <p>The plans are elaborated by the Municipal Human Rights Council in cooperation with the administration and the elected Foreigners' Council by applying participatory methods. The proposed actions are discussed in the Municipal Council and then decided. The implementation is monitored and evaluated on a regular basis.</p> <p>Among others, particularly effective achievements were the establishment of a municipal Anti-Discrimination Office with a mandate going beyond the legal implementation of the RED of the national state, as well as the establishment of a regular election campaign monitoring against political hate speech and incitement, staff training on equality and diversity, an anti-discrimination clause for public procurement, and the data collection on experiences of discrimination in the framework of the quality of life indicators.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	The action plan as such is transferrable. The measures are partly transferrable, however, they address specific contexts in the city. Monitoring, neighbourhood policies, information policies and the kind of institutions established through the plan (e.g. an Anti-Discrimination Office) are largely transferrable too.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The Action Plans were initiated in 2006 in the framework of the accession to UNESCO's Coalition of Cities against Racism ECCAR) and were subsequently updated every three years, the current plan for 2019-2022 is to be decided by the Municipal Council in its upcoming sessions this year.
Give reasons why you consider the practice as having concrete measurable impact	All measures have specific measurable goals. Their achievement is regularly evaluated and reported to the Municipal Council.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	See above The methodology is clearly transferrable and is applied in other ECCAR members too.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The Municipal Human Rights Council is tasked with the elaboration of the respective plans. It is in charge of monitoring the implementation of the plan. The elected Foreigners' Council (which applies a participatory public focus group discussion method), as well as the administration are both involved in the elaboration of the respective plans.
Explain, if applicable, how the practice provides	The plans are monitored in their implementation and the achievement of the set goals is evaluated. The evaluation report is made public by the Municipal

for review and assessment.	Council.
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Thematic area	ROMA INTEGRATION Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
	No promising practice has been identified for this thematic area.

Thematic area	Asylum, visas, migration borders and integration Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
	No promising practice has been identified for this thematic area.

Thematic area	INFORMATION SOCIETY, DATA PROTECTION Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	RIGHTS OF THE CHILD Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
	No promising practice has been identified for this thematic area.

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	UN-Behindertenrechtskonvention Übereinkommen über die Rechte von Menschen mit Behinderungen in leichter Sprache
Title (EN)	German Easy Language version of the CRPD
Organisation (original language)	<i>Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMASGK</i>
Organisation (EN)	The Federal Ministry of Labour, Social Affairs, Health and Consumer Protection
Government / Civil society	Government
Funding body	<i>Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMASGK</i>
Reference (incl. url, where available)	Austria, Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (2019), UN-Behindertenrechts-konvention Übereinkommen über die Rechte von Menschen mit Behinderungen , Easy German Version, Vienna.
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2019
Type of initiative	Translation, provision of information
Main target group	Persons with disabilities and people with learning difficulties
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Federal Ministry of Labour, Social Affairs, Health and Consumer Protection published a revision of the German Easy Language version of the CRPD. The German Easy Language version of the CRPD is available online. ⁹⁸ This measure is in line with Article 21 CRPD (freedom of expression, expression and access to information).
Highlight any element of the actions that is transferable (max. 500 chars)	The entire action can be transferred to other member states.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The revised version of the translation of the CRPD is available online.
Give reasons why you consider the practice as having concrete measurable impact	There are no means for measuring impact foreseen. However, the German Easy Language version facilitates the participation as well as social and political participation of many people, in particular people with learning difficulties or people with little knowledge of German.
Give reasons why you consider the practice as	Easy Language versions of the CRPD may very well be developed for any language of any MS.

⁹⁸ Austria, Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (2019), [UN-Behindertenrechts-konvention Übereinkommen über die Rechte von Menschen mit Behinderungen](#), Easy German Version, Vienna.

transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The revision builds on a participatory process in cooperation with self-advocates. ⁹⁹
Explain, if applicable, how the practice provides for review and assessment.	Not available.

⁹⁹ Austria, Monitoring Committee (2019), [Monitoringausschuss erfreut über Neufassung der UN-BRK in Leichter Sprache](#), 23 May 2019.

Annex 2 – Case law

Thematic area	<p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report</p>
Decision date	22 January 2019
Reference details	European Court of Justice, Case C-193/17, Cresco Investigation GmbH vs. A.
Key facts of the case (max. 500 chars)	Under Paragraph 7(3) of the Law on Rest Periods and Public Holidays (Arbeitsruhegesetz, ARG), Good Friday is a paid public holiday, entailing a 24-hour rest period for members of particular churches. If a member of one of those churches does work on that day, he is entitled to additional pay. Mr. A. felt discriminated against because he does not belong to any of the churches mentioned in § 7 (3) ARG and thus had not received payment in addition to his regular salary for work done on a Good Friday. The Austrian Supreme Court requested a preliminary ruling under Article 267 TFEU.
Main reasoning/argumentation (max. 500 chars)	The ECJ argued that this direct discrimination based on religion is a measure to protect the rights and freedoms of others under Article 2 (5) of Directive 2000/78/EC. However, the measures provided for by the ARG cannot be regarded either as measures necessary for the protection of the rights and freedoms of others, within the meaning of Article 2(5) of that directive, or as specific measures intended to compensate for disadvantages linked to religion, within the meaning of Article 7(1) of the directive.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The ECJ ruled that the difference in treatment between workers who belong to the churches mentioned in § 7 (3) ARG and those who are not, is a different treatment based directly on religion. The employees of both groups are in the same situation. For the granting of Good Friday as a holiday, only the formal affiliation to one of the churches mentioned in the ARG is necessary, but there is no obligation to fulfill certain religious duties associated with it.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Until Austria has amended its legislation granting the right to a public holiday on Good Friday only to employees who are members of certain Christian churches, in order to restore equal treatment, a private employer who is subject to such legislation is obliged also to grant his other employees a public holiday on Good Friday, provided that the latter have sought prior permission from that employer to be absent from work on that day, and to recognise that those employees are entitled to a payment in addition to their regular salary for work done on the day for which the employer has refused to approve such a request.
Key quotation in original language and translated into English with reference details (max. 500 chars)	Articles 1 and 2(2) of Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation, must be interpreted as meaning that national legislation under which, first, Good Friday is a public holiday only for employees who are members of certain Christian churches and, second, only those employees are entitled, if required to work on that public holiday, to a payment in addition to their regular salary for work done on that day, constitutes direct discrimination on grounds of

	religion.
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Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE. Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
	No case law has been identified for this thematic area.

Thematic area	ROMA INTEGRATION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.
	No case law has been identified for this thematic area.

Thematic area	INFORMATION SOCIETY, DATA PROTECTION Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
Decision date	23 May 2019
Reference details	Austrian Supreme Court, 6 Ob 91/19d, S. vs. Facebook Ireland Limited.
Key facts of the case (max. 500 chars)	Facebook challenged the view that it is possible to bring GDPR rights before the Austrian courts. The company argued that only the Irish Data Protection Commissioner has jurisdiction in this case due to § 29 Data Protection Act. ¹⁰⁰ The Vienna Regional Court had previously joined Facebook's view and declared that it did not have jurisdiction. The Appellate Court argued that everyone has a right to file a lawsuit in Austria based on the GDPR. Facebook challenged this view before the Supreme Court.
Main reasoning/argumentation (max. 500 chars)	The Austrian Supreme Court considered that (141) GDPR stipulates that "[...] every data subject should have the right to lodge a complaint with a single supervisory authority, in particular in the Member State of his or her habitual residence, and the right to an effective judicial remedy in accordance with Article 47 of the Charter [...]". The Court interpreted the relevant Austrian provisions and legal literature on how to deal with these two possibilities for legal protection.
Key issues (concepts, interpretations) clarified by	The Austrian Supreme Court rejected Facebook's view that only the Irish Data Protection Commissioner was competent for cases

¹⁰⁰ Austria, [Data Protection Act](#), BGBl. I Nr. 165/1999.

the case (max. 500 chars)	concerning the GDPR. The Austrian Supreme Court made it clear now that everyone has a right to file a lawsuit in Austria based on GDPR. The Austrian Supreme Court has thus rejected the attempts by Facebook to block a model lawsuit on fundamental privacy issues in Vienna.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	S. may now file the lawsuit in which Facebook is accused of using invalid privacy policies, the lack of consent or the unlawful processing and disclosure of data. The lawsuit is intended to call Facebook's overall compliance with the the GDPR into question.
Key quotation in original language and translated into English with reference details (max. 500 chars)	Austrian Supreme Court, 6 Ob 91/19d, S. vs. Facebook Ireland Limited. 5.5. Eine systematische Interpretation spricht daher für eine Eigenzuständigkeit des Landesgerichts für Zivilrechtssachen Wien. 5.5. A systematic interpretation therefore speaks in favor of an independent jurisdiction of the regional court for civil cases Vienna.

Thematic area	RIGHTS OF THE CHILD Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
	No case law has been identified for this thematic area.

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter.
	No case law has been identified for this thematic area.

Thematic area	Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
	No case law has been identified for this thematic area.