



european network against racism

# ENAR Shadow Report 2011-2012

## ENAR SHADOW REPORT

### **Racism and related discriminatory practices in Austria**

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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## 1. Executive summary

The Shadow Report 2010/2012 covers racism and related discriminatory practices in the legal, political and social spheres in Austria for the period March 2011 through March 2012. Some important developments before and after this period are also included.

### Key findings:

The establishment of the State Secretary for Integration in 2011 might suggest an increased awareness regarding migration and integration issues in the **political sphere**. However, a security- and economic- based approach predominates over social concerns. In addition, the State Secretary does not deal with the issues of racism, discrimination and xenophobia in an adequate way. Measures currently in place to address and fight racism are inadequate.

New **legal developments** have worsened the situation faced by the majority of migrants and asylum seekers. The new Alien and Asylum Act introduces knowledge of the German language as a condition for immigration. The Act also includes some regulations which are highly questionable from a human rights perspective, including an obligation for asylum-seekers to cooperate (*'Mitwirkungspflicht'*), which makes immigration and naturalisation even more difficult.

The amendment of the Penal Code provisions against incitement and sedition include some positive but also negative measures regarding the situation of victims of racist discrimination and hate speech.

While the employment market is now open to the nationals of the 'new' EU member countries, mechanisms still exist that systematically exclude persons from non-EU countries.

Discrimination on the grounds of religion and **Islamophobia** is evident in all areas of society, especially for Muslim women. Politicians from right-wing parties frequently make Islamophobic statements.

- Politicians and the media should explicitly address the prevalence of Islamophobia in Austria and take measures to raise awareness among the general public
- All regional offices of the Ombudsman for Equal Treatment should be empowered to give advice in cases of discrimination on grounds of ethnic origin and religion. (At present, only the Vienna OET supports victims of ethnic or religious discrimination on a regular basis.)

In **employment** many migrants work as manual labourers. On average they earn less than Austrian nationals and are often over-qualified for the work they do. In

March 2012 a new law was introduced to enable the recognition of academic degrees acquired in foreign countries.

- Austria should prohibit discriminatory legal regulations for non-EU nationals and asylum seekers and foster equal access to the labour market.
- Austria should harmonise the Equal Treatment Act at federal and provincial levels (Levelling Up).

Segregation in **education** is a concern. Many children with migrant backgrounds attend so-called special needs schools. Little has been done to address equality, diversity, multiple language needs and anti-discrimination in education.

- Teachers and students should be trained in diversity and anti-discrimination issues; linguistic and cultural diversity should be promoted.
- The Austrian authorities should deploy school assistants/mediators and mentors from various migrant groups throughout the education system.

Migrants live in smaller **houses**, spend a higher amount of their income on rent and are discriminated against in job postings (even though a new regulation forbids this) and when viewing flats etc.

- Austria should foster the collection of socio-demographic data and research regarding the challenges and problems in the housing market in order to implement effective measures.

Migrants and vulnerable groups face some difficulties in accessing healthcare. Few positive measures have been taken to promote access for these groups. There is little information available.

- Austria should introduce diversity instruments within the healthcare system.
- Austria should foster awareness-raising and information dissemination both for medical staff and migrants throughout Austria.

Discriminatory and racist attitudes are evident in **access to goods and services**. In particular, people of African descent are often refused entry to clubs or bars.

- Austria should enable unrestricted opportunities and the same rights for all regarding public goods and services.

In the area of **political participation**, immigrants face a number of difficulties. Naturalisation is a long process; voting rights for non-Austrian citizens from EU-member countries only exist at the municipal level; and immigrants are underrepresented at every level of politics.

- Non-Austrian citizens who intend to stay should have the right to vote.
- Austria should take measures that enable representatives of migrant and minority groups to participate at all political levels.

The **media** sometimes create and reproduce stereotypes and prejudices, especially when reporting about negative issues, e.g. crime involving people of minority, ethnic or religious origins.

- The Austrian authorities should implement ethical codes for the media in the area of racism and discrimination.

Migrants and Muslims are often victims of discrimination, racist violence and hate speech. The police and the **criminal justice** system sometimes fail in their duty to protect citizens and deliver justice for victims.

- The Austrian authorities should eliminate structural racism and discriminatory practices in the area of criminal justice, e.g. police and administration.
- Austria should revise the laws under the Austrian Penal Code. The existing laws should be better implemented (e.g. §33 '*aggravating factors*')

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### 3. Introduction

This report provides a civil society perspective on racism and related discrimination in Austria from March 2011 through March 2012. Discriminatory and racist practices regarding access to and participation in all collective areas of society and in the legal and political discourse will be examined.

Many of the issues observed in last year's report concerning migrants, asylum seekers and other minority ethnic or religious communities continue to pose serious problems. People of African descent and Muslims are particularly vulnerable to racism and discrimination and are often perceived in negative manner by the public.

Certain developments in 2011 drew attention to the issues of migration and integration. These include:

- the establishment of the State Secretariat for Integration (*Staatssekretariat für Integration*) in April 2011.<sup>1</sup>
- The entry into force of a new package of the Alien and Asylum Law (*Fremdenrecht*) in July 2011.<sup>2</sup> Important new resolutions included
  - the 'Red-White-Red Card' (*Rot-Weiß-Rot Karte*);
  - knowledge of German language as a requirement before immigrating to Austria;
  - an obligation for asylum-seekers to cooperate (*Mitwirkungspflicht*);
  - free legal advice and custody for children and youths pending deportation (*Schubhaft*).
  - the employment market 'was opened' for the 'new' EU- member countries (since 2004).
- Austria amended the paragraph of the Austrian Penal Code prohibiting incitement to hatred (including provisions against sedition) (*Verhetzungsparagraph § 238 Strafgesetzbuch StGB*), which came into effect on the 1st of January 2012.<sup>3</sup>
- In March 2012 Austria also introduced a new law for the certification of degrees and diplomas obtained in foreign countries<sup>4</sup> and agreed some

<sup>1</sup> Re Staatssekretariat für Integration, <http://www.integration.at/>, accessed on 19.05.2012.

<sup>2</sup> Re Bundeskanzleramt Österreich, *Bundesgesetzblatt für die Republik Österreich. Fremdenrechtsänderungsgesetz 2011*, [http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2011\\_I\\_38/BGBLA\\_2011\\_I\\_38.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2011_I_38/BGBLA_2011_I_38.pdf), accessed on 27.04.2012.

<sup>3</sup> Bundeskanzleramt Österreich, *Gesamte Rechtsvorschrift für Strafgesetzbuch*, <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002296>, accessed on 15.08.2012.

<sup>4</sup> Re Staatssekretariat für Integration, *BM Töchterle und StS Kurz: 5-Punkte-Programm zur verbesserten Berufsanerkennung von Akademikern aus Drittstaaten*,

new regulations within the Equal Treatment Act ETA (*Gleichbehandlungsgesetz*).<sup>5</sup>

The special focus of this report is on the situation of Muslim communities and Islamophobia. The public discourse on Muslim communities is often shaped by stereotypes and prejudice. Politicians and the mainstream media regularly misinform the public about the Muslim community.

The report is organised as follows: Chapter 4 outlines significant developments in Austria during the period in review. Chapter 5 describes the special focus on Muslims and their situation. Chapter 6 examines the fields of employment, education, housing, health, access to goods and services, political participation, media and criminal justice and possible positive measures to combat racism and discrimination. Chapter 7 provides a critical assessment of the current situation from the viewpoint of civil society organisations and NGOs. Chapter 8 presents examples of good practice in the areas covered by the report. In chapter 9, recommendations for improving the situation in the various described areas are proposed. Chapter 10 provides concluding remarks.

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[http://www.integration.at/news/bm\\_toechterle\\_und\\_sts\\_kurz\\_5\\_punkte\\_programm\\_zur\\_verbesserten\\_berufsanerkennung\\_von\\_akademikern\\_aus\\_drittstaaten/](http://www.integration.at/news/bm_toechterle_und_sts_kurz_5_punkte_programm_zur_verbesserten_berufsanerkennung_von_akademikern_aus_drittstaaten/), accessed on 11.06.2012; Re Nostrifizierung, <http://www.nostrifizierung.at/>, accessed on 03.10.2012.

<sup>5</sup> Re BKA, *Gleichbehandlungsgesetz*, <http://www.frauen.bka.gv.at/site/5572/default.aspx>, accessed on 27.04.2012.

## 4. Significant developments in the country during the period under review

1.1 The groups who are most vulnerable to racism and discrimination in Austria are Black people (people of African descent) and Muslims. Muslim women are especially vulnerable to discrimination and negative stereotyping, particularly in employment.<sup>6</sup> Recent years have seen a general increase in xenophobia. This trend has persisted in the period covered by the report. Asylum seekers and immigrants are not treated equally to Austrian citizens either in the legal system or in society at large.<sup>7</sup> Minority groups, such as the Roma, Kurds, and Jews also encounter discrimination.

1.2 In March 2011 some new regulations under the Equal Treatment Act ETA (*Gleichbehandlungsgesetz*) came into force which forbid discrimination in housing advertisements and ensure protection against discrimination. NGOs still press for a standardisation and harmonisation of all seven grounds (gender, age, disability, ideology, religion, ethnic origin and sexual orientation) for discrimination (Only in the employment area is discrimination on all grounds prohibited, in other areas discrimination is punishable on the grounds of ethnic origin or gender only).<sup>8</sup>

The section of the Austrian Penal Code (*Verhetzungsparagraph § 238 Strafgesetzbuch StGB*) which prohibits incitement was amended and came into effect in January 2012. More kinds of discrimination are now punishable under this article. However, the reform also made the prosecution of the offenses more difficult as redress is only available if the discrimination, incitement etc addresses a large number of people.<sup>9</sup>

1.3 Sebastian Kurz was appointed as the first Secretary of State for Integration in April 2011. The establishment of the State Secretariat for Integration (*Staatssekretariat für Integration*), increased political awareness of migration and integration issues. The guiding principle of the Secretariat is 'Integration based on Merit'. According to a study from the 'Österreichischer

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<sup>6</sup> Author's Interview with Claudia Schäfer MAS, Chief Executive Officer of ZARA and Mag.<sup>a</sup> Dina Malandi, legal assistance, 20.07.2012.

<sup>7</sup> Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, pp. 8-9, <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012.

<sup>8</sup> Re BKA, *Gleichbehandlungsgesetz*, <http://www.frauen.bka.gv.at/site/5572/default.aspx>, accessed on 27.04.2012; Klagsverband, *Jahresbericht 2011*, [http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht\\_11.pdf](http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht_11.pdf), accessed on 21.07.2012.

<sup>9</sup> Author's Interview with Dina Malandi, ZARA, 20.07.2012.

Integrationsfonds (ÖIF) 66 % of the respondents are positive about the role of the State Secretariat for Integration and 62 % are sceptical about it.<sup>10</sup>

In May 2011 the 'Ostöffnung' – the opening of the employment market to the citizens of the eight member states that acceded into the EU in 2004 – raised difficulties. According to the latest MIPEX report, Germany and Austria were the only two EU-states which still had barriers to entry to the employment market for the 'new' EU- members.<sup>11</sup> Nonetheless, new labour legislation still contains exclusionary mechanisms for persons with Romanian and Bulgarian nationalities and third-country nationals.

The new law for the certification of academic degrees and diplomas obtained in foreign countries includes a five-point-programme that should simplify the certification process. The information centre NARIC acts as a contact point and information office for this process.<sup>12</sup>

An important provision in the new Alien and Asylum Law (*Fremdenrecht*) which entered into force in July 2011 is the 'Red-White-Red-Card' (*Rot-Weiß-Rot-Karte*).<sup>13</sup> Accordingly, immigration and naturalisation from non-EU countries are no longer regulated by a quota-system. Instead, certain criteria need to be fulfilled.<sup>14</sup> Further migrants must have a basic command of the German language before entering Austria.

The so-called 'Mitwirkungspflicht' (obligation for asylum-seekers to cooperate) has increased the difficulties faced by asylum seekers. Under this provision asylum applicants are obliged to stay in one of the reception centres (*Aufnahmestellen*) at the beginning of the application process for 120 hours or five days. While legal advice is provided, advisors are selected by the Ministry of the Interior and the Federal Chancellery. According to the new law it is now possible to impose custody pending deportation (*Schubhaft*) for a maximum of 10 months in one year, whereas hitherto it was two years. Through the omission of

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<sup>10</sup> Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-rueckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-rueckblick/), accessed on 11.06.2012.

<sup>11</sup> MIPEX, *Austria*, <http://www.mipex.eu/austria>, accessed on 28.04.2012.

<sup>12</sup> Re ausländer.at, *Neues Gesetz soll Nostrifizierungen vereinfachen*, 26.03.2012, <http://www.auslaender.at/neues-gesetz-soll-nostrifizierungen-vereinfachen>, accessed on 11.06.2012.

<sup>13</sup> The Red-White-Red-Card includes a restricted settlement permit with limited access to the labour market. Further new residence permits are the 'Red-White-Red-Card plus' (*Rot-Weiß-Rot-Karte plus*) (restricted settlement permit with unlimited access to the labour market) and the 'Blue Card-EU' (*Blaue Karte-EU*) (restricted settlement permit with limited access to the labour market). Re BMI, *Niederlassung und Aufenthalt*, [http://www.bmi.gv.at/cms/BMI\\_Niederlassung/start.aspx#Aufenthaltstitel](http://www.bmi.gv.at/cms/BMI_Niederlassung/start.aspx#Aufenthaltstitel), accessed on 03.10.2012.

<sup>14</sup> Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-rueckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-rueckblick/), accessed on 11.06.2012.

the 'gelindere Mittel', youths at the age of 16 years can now be put in custody rather than at the age of 18 years as was previously the case.<sup>15</sup> The Ministry of the Interior has also announced that from the beginning of 2014 a new Federal Agency for Aliens and Asylum (*Bundesamt für Fremdenwesen und Asyl BFA*) will be introduced. Many experts, NGOs and the UNHCR have already criticised the restrictive nature of this measure.<sup>16</sup>

1.4 An UNHCR study shows that the Austrian population is unfamiliar with the terms 'asylum applicant', 'migrant' etc., and doesn't know about their rights and options. Nearly half of the respondents to a questionnaire believe that asylum-seekers can receive state benefits and 33% believe that asylum applicants have the right to work (this is only possible in exceptional cases). This negative image of Austria was also corroborated by The European Values Study which reports that the antipathy in Austria towards persons with migrant background and minorities has increased. The study ranks Austria in the second place for disapproval of migrants, Jews and Roma.<sup>17</sup>

1.5 The Ministry of the Interior (*BMI*) and the Statistical Institution (*Statistik Austria*) presented their second Integration Report in July 2012. As part of the first Integration Report 2011, an assembly of 15 experts developed a 20-point programme (see last year's Shadow Report) addressing seven different issues, in accordance with the National Action Plan for Integration (NAP).<sup>18</sup> According to State Secretary Sebastian Kurz, ten measures from the 20-point programme

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<sup>15</sup> Re Medien- Servicestelle, *Neues Fremdenrecht ab 1. Juli 2011 in Österreich*, 28.06.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/](http://medienservicestelle.at/migration_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/), accessed on 11.06.2012.

<sup>16</sup> Re UNHCR, *UNHCR-Analyse der geplanten Gesetzesänderungen zur Einrichtung eines Bundesamtes für Fremdenwesen und Asyl*, [http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME\\_00378\\_10/imfname\\_253122.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00378_10/imfname_253122.pdf), accessed on 21.05.2012; Der Standard, *Asylnovelle bringt neues Bleiberecht*, 20.05.2012, <http://derstandard.at/1336697357181/Aufenthaltberechtigung-Asylnovelle-bringt-neues-Bleiberecht>, accessed on 04.06.2012.

<sup>17</sup> Re UNHCR, *UNHCR-Studie*, 14.06.2011, <http://www.unhcr.at/presse/pressemitteilungen/artikel/02e7811650a51697b92efd050fdeea40/unhcr-studie-belegt-wenig-wissen-dafuer-viele-vorurteile-gegen.html?L=>, accessed on 11.06.2012; Der Standard, *Antipathie gegen Migranten nahm in Österreich stark zu*, <http://derstandard.at/1326502987385/Europa-Vergleich-Antipathie-gegen-Migranten-nahm-in-Oesterreich-stark-zu>, accessed on 25.06.2012.

<sup>18</sup> Re Staatssekretariat für Integration, *Integrationsbericht 2012*, [http://www.integration.at/fileadmin/Staatssekretariat/4-Download/Integrationsbericht\\_2012/Integrationsbericht\\_2012\\_Band\\_1\\_ANSICHT.pdf](http://www.integration.at/fileadmin/Staatssekretariat/4-Download/Integrationsbericht_2012/Integrationsbericht_2012_Band_1_ANSICHT.pdf), accessed on 01.08.2012; Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, pp. 16-17,20, <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012; Re Assembly of Experts, *Die 20 Vorschläge des Expertenrats im Staatssekretariat für Integration*, [http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/Vorsch%3%A4ge\\_Zusammenfassung.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/Vorsch%3%A4ge_Zusammenfassung.pdf), accessed on 26.04.2012; Re Staatssekretariat für Integration, *Integration Report 2011*, <http://www.integration.at/fileadmin/Staatssekretariat/4-Download/Integrationreport.pdf>, accessed on 19.05.2012.

have already been implemented, for example the 'Red-White-Red Card'; a home visit- programme for parents with pre-school children; implantation of the 'Forum Islam' or the so-called 'migrant- index' of the Austrian Employment Service (*Arbeitsmarktservice AMS*)<sup>19</sup>. Furthermore, Austria expanded the existing programme 'Mentoring für MigrantInnen' (Role models/mentors helping migrants to enter the employment market.). In addition, two brochures were published which include information about Austria and important organisations, associations and social institutions.<sup>20</sup> In terms of the EU Framework 'National Roma Integration Strategies' Austria has implemented a national contact point in the Constitutional Office within the Federal Chancellery. According to the conclusions of the European Council this office should be responsible for the coordination of the national concepts and measurements and facilitate the exchange of best practices.<sup>21</sup>

1.6 Both figures for emigration (9.2 %) and immigration (14.0 %) rose in comparison to 2010. Asylum applications increased from 11 000 to 14 000. However, naturalisation has been decreasing since 2003.<sup>22</sup> This is a result of increasingly restrictive legal provisions such as a minimum stay of 10 years without interruption.<sup>23</sup> NGOs criticised the amendment of the Alien and Asylum Law months before it became law. 40 NGOs and other civil society organisations formed an alliance and organised a demonstration, which was also attended from members of the Green party, under the motto 'Das ist nicht unser Gesetz' ('This is not our law').<sup>24</sup>

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<sup>19</sup> The AMS is now allowed to document also the migrant background of a person.

<sup>20</sup> Re Integrationsfonds, [http://www.integrationsfonds.at/news/aktuelle\\_news/integrationsbericht\\_2012/](http://www.integrationsfonds.at/news/aktuelle_news/integrationsbericht_2012/), accessed on 21.07.2012.

<sup>21</sup> Re BKA Österreich, *Roma-Strategie*, <http://www.bka.gv.at/site/7656/default.aspx>, accessed on 16.06.2012.

<sup>22</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp.

<sup>23</sup> Re Ibid, pp.

<sup>24</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp. 8-9; Wiener Zeitung, *Allianz gegen Paket geht auf die Straße*, 26.04.2011, [http://www.wienerzeitung.at/nachrichten/politik/oesterreich/23453\\_Allianz-gegen-Paket-geht-auf-die-Strasse.html](http://www.wienerzeitung.at/nachrichten/politik/oesterreich/23453_Allianz-gegen-Paket-geht-auf-die-Strasse.html), accessed on 17.05.2012.

## 5. Special focus: Islamophobia

Austria officially recognised Islam in 1912. The official representation of Muslims is the 'Islamic Religious Community in Austria' (*Islamische Glaubensgemeinschaft in Österreich IGGiÖ*) which was established in the year 1972 as a corporation of public law.<sup>25</sup> Besides representation of the Muslim community, the IGGiÖ provides religious education with more than 400 religion teachers. Within the IGGiÖ there are various associations and Muslim communities. Besides country-based representatives, other Muslim coalitions can also be found, for example the 'Austrian Muslim Initiative' (*Initiative Muslimischer ÖsterreicherInnen*).<sup>26</sup>

Over half a million Muslims live in Austria. The biggest community of Muslims is of Turkish origin, followed by Muslims of Bosnian descent. Other communities come from Arab countries and there are also smaller groups, e.g. from Nigeria. The last census showed that most Muslims live in the provinces of Vienna, Lower Austria, Upper Austria and Tyrol.<sup>27</sup>

Islamophobia is apparent in all areas of life in Austria. The media and politicians perpetuate negative stereotypes about Muslims in public discourse. It should be noted that a number of media outlets give a positive voice to Muslim organisations, particularly the Austrian broadcasting cooperation (*Österreichischer Rundfunk ORF*) and the 'high quality' newspapers ('Der Standard' and 'Die Presse'). Journalists with a Muslim background also work in the migrant media 'M-Media' and 'Biber'.<sup>28</sup>

Racist statements and hate speech are common within the right-wing Freedom Party Austria (*Freiheitliche Partei Österreich FPÖ*) and the Alliance of the Future of Austrians (*Bündnis Zukunft Österreich BZÖ*). For instance, the general secretary of the Freedom Party Austria, Harald Vilimsky, stated during an interview in an Austrian daily newspaper, that migrants who are 'far away from the Austrian culture' like 'black Africans', Arabs and Turks, should not 'swash into the country'. He also said that 'they are anti-cultural in general' and that they should not open restaurants and shops in Austria. This means that migrants who are entrepreneurs are not welcome in Austria but also migrants who are

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<sup>25</sup> Author's Interview with Tarafa Baghajati, chairman of the Austrian Muslim Initiative ('Initiative Muslimischer ÖsterreicherInnen'), 13.08.2012.

<sup>26</sup> Ibid.

<sup>27</sup> Re Medien- Servicestelle Neue Österreicher/innen, *Ramadan in Österreich*, 17.07.2012, [http://medienservicestelle.at/migration\\_bewegt/2012/07/17/ramadan-in-osterreich/](http://medienservicestelle.at/migration_bewegt/2012/07/17/ramadan-in-osterreich/), accessed on 29.07.2012.

<sup>28</sup> Author's Interview with Tarafa Baghajati, chairman of the Austrian Muslim Initiative, 13.08.2012.

unemployed should leave Austria. So, according to this politician, individuals with a migrant (Muslim) background shouldn't be in Austria at all.<sup>29</sup>

The fact that Islamophobic statements and hate speech could attract international attention was demonstrated in the case of the election campaign and questionable election posters in Innsbruck (Tyrol). The slogan of the Freedom Party was 'Love of the homeland instead of thieves from Morocco' (*Heimatliebe statt Marokkaner-Diebe*). This openly Islamophobic act drew criticism from the public at large, the Austrian Muslim community and the Foreign Ministry in Morocco. The latter were 'indignant about this xenophobic act' and the Austrian ambassador in Rabat was obliged to apologise. The Freedom Party in Innsbruck also apologised and removed all of the posters. However, the federal party and their chairman still defend the slogan.<sup>30</sup>

The Austrian Conservative People's Party (*Österreichische Volkspartei ÖVP*) have also been known to make Islamophobic statements. Other parties often ignore the problem of Islamophobia. By avoiding discussion of the issue they themselves help to perpetuate the problem.

According to Mr. Baghajati, chairman of the 'Austrian Muslim Initiative', generalised statements and requests which specifically refer to Islam but not to other religions are problematic and are also a form of indirect discrimination. For instance, there is a requirement that Imams should speak German.

Further, Baghajati stated that Muslims are not only discriminated against through direct and indirect political discourse. Legal provisions in the states of Carinthia and Vorarlberg include a number of restrictions on the height and type of buildings. Therefore it is clear for Baghajati, that these provisions are intended to restrict the building of Mosques. The legislation does not say so explicitly, as to do so would be unconstitutional. Therefore it appears that discrimination against adherents of Islam is institutionalised in Austria.<sup>31</sup>

A positive measure was implemented by the Secretary of State for Integration with the 'Dialogforum Islam' to enhance the socio-political dialogue and make relevant proposals to the Austrian Ministries including proposals regarding the

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<sup>29</sup> Re Clara Akinyosoye, *Harald Vilimskys Furcht vor 'kulturfernen Migranten*, 22.09.2011, <http://www.m-media.or.at/meinung/integration-ist-unerwünscht-vilimskys-furcht-vor-kulturfernen-migranten/2011/09/22/>, accessed on 19.05.2012.

<sup>30</sup> Re Die Presse, *FPOe Innsbruck entschuldigt sich für Plakat*, <http://diepresse.com/home/politik/innenpolitik/745328/FPOe-Innsbruck-entschuldigt-sich-fuer-Plakat>, accessed on 28.05.2012; Wiener Zeitung, *FPOe entschuldigt sich für Marokkaner Plakate*, [http://www.wienerzeitung.at/nachrichten/politik/oesterreich/447543\\_FPOe-entschuldigt-sich-fuer-Marokkaner-Plakate.html](http://www.wienerzeitung.at/nachrichten/politik/oesterreich/447543_FPOe-entschuldigt-sich-fuer-Marokkaner-Plakate.html), accessed on 28.05.2012.

<sup>31</sup> Author's Interview with Tarafa Baghajati, chairman of the Austrian Muslim Initiative, 13.08.2012

training of Imams.<sup>32</sup> This measure was one of the 20-point programme designed by the Assembly of Experts for Integration (*Expertenrat für Integration*).

Muslims face discrimination in the area of **education**. One serious issue is access to schools for girls who wear headscarves. Girls are sometimes turned away without being told explicitly that it is because of their headscarf. This makes it difficult to bring the matter to the Equal Treatment Advocacy (*Gleichbehandlungsanwaltschaft*). The OSCE has produced a booklet which provides 'Guidelines for Educators on Countering Intolerance and Discrimination against Muslims: Addressing Islamophobia through Education'.<sup>33</sup>

Discrimination on the grounds of religion is also encountered in **employment**. According to Mr. Baghajati, chairman of the 'Austrian Muslim Initiative', Muslim women are particularly vulnerable to discrimination in this area. While such discrimination is prohibited under the Equal Treatment Act ETA (*Gleichbehandlungsgesetz*), it is often difficult to ascertain that an individual was in fact discriminated against. Problems and misunderstandings can be resolved through mediation and communication. Mr. Baghajati stated that for Muslim employees it is important to know how to adapt their religious practices and beliefs in the light of their work environment. He also stated that non-Muslim employees and managers should be sensitised about religious diversity. A few small positive examples can be found such as the town hall in Vienna which provides a uniform-matching headscarf for Muslim women.

According to his personal experience as a religious advisor in prisons, the chairman of the 'Austrian Muslim Initiative', Mr. Baghajati, stated the appointment of Muslim religious advisors in **prisons** has increased awareness and sensitivity. Similar measures within the **police** force would also be desirable. The association 'Fair & Sensibel' (see chapter 8 for more details) which aims to improve relations between police officers and people of African descent is one of the few positive examples in this area. Recently, the association has also focused on collaboration with the Turkish community. Mr. Baghajati stated that direct cooperation with Muslim communities should be promoted. For example, police officers should be trained to deal with encounters with the Islamic religion sensitively eg when entering mosques.<sup>34</sup>

There is a lack of awareness about Islamophobia among the **general public**. Islamophobic statements are often seen as trivial offences. Religious

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<sup>32</sup> Re Die Presse, *Dialogforum Islam will Versachlichung der Debatte*, 23.01.2012, <http://diepresse.com/home/panorama/religion/725975/Dialogforum-Islam-will-Versachlichung-der-Debatte>, accessed on 10.06.2012.

<sup>33</sup> Re OSCE, *Pädagogischer Leitfaden zur Bekämpfung von Diskriminierung und Intoleranz gegenüber Muslimen. Mit Bildungsarbeit gegen Islamophobie.*, <http://www.osce.org/de/odihr/91299?download=true>, accessed on 03.08.2012.

<sup>34</sup> Author's Interview with Tarafa Baghajati, chairman of the Austrian Muslim Initiative, 13.08.2012.

discrimination is under-reported; many Muslims in Austria background do not report discriminatory practices against them due to a lack of information about their rights. Mr. Baghajati also referred to some cases where individuals who came from countries run by dictators were afraid to speak publicly of their problems. Generalisation is a common problem in the public discourse. Often religious and/or ethnic backgrounds are explicitly stated in relation to negative events, thereby perpetrating stereotypes.

According to reports and daily experiences of NGOs, recent years have seen an increase in Islamophobia. Muslims are now among the most vulnerable to racism in Austria. The many individuals within the Muslim community are subject to multiple discrimination both because of their religion and because of their skin colour. Discrimination against the Turkish minority is a particularly serious problem, due to a combination of their ethnicity and their religion.<sup>35</sup>

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<sup>35</sup> Ibid.

## 6. Access and full participation in all collective areas of society

The following sections examine discrimination and racism in all areas of society (employment, education, housing, health, access to goods and services, political participation, media and criminal justice) and identify the challenges for vulnerable groups regarding participation and equal access.

### 6.1 Racism and related discrimination in employment

#### 6.1.1 Manifestations of racism and related discrimination in employment

Employment rates among migrants are considerably lower than the rest of the population. A high proportion of non-Austrians are employed in low skill jobs; they often work in jobs for which they are overqualified (especially the first generation) and a large proportion are unskilled labourers.<sup>36</sup>

Immigrants have a lower employment rate (65 %) than Austrian citizens (74 %). According to the Austrian Annual Statistical Yearbook of 2012, this is due to the lower employment rate of women with a migrant background (58%) in comparison to other women (69 %).<sup>37</sup> Many immigrants are employed in manual labour (47 %); particularly those from Turkey (69 %) and former Yugoslavia (63 %). In contrast only 23% of the majority population are manual labourers.<sup>38</sup> Among second generation immigrants employment data is similar to that of rest of the population.<sup>39 40</sup>

The unemployment rate (9.4 %) among migrants is still high relative to the other segments of the population. However, the long term unemployment rate was lower for persons with migration background (1.1 %) in comparison to Austrians (2.2 %).<sup>41</sup> Austria distinguishes between low-skilled and high-skilled immigrants (this issue was also addressed in the previous Austrian Shadow Report 2010/2011<sup>42</sup>). Low- skilled workers, who have been in Austria for a long period,

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<sup>36</sup> Re Medien-Servicestelle, *Dequalifizierung von MigrantInnen am Arbeitsmarkt*, 5.10.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/10/05/dequalifizierung-von-migrantinnen-am-arbeitsmarkt/](http://medienservicestelle.at/migration_bewegt/2011/10/05/dequalifizierung-von-migrantinnen-am-arbeitsmarkt/), accessed on 11.06.2012.

<sup>37</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp. 52-53.

<sup>38</sup> Ibid., p. 54.

<sup>39</sup> More women with migrant background work as employees (50 %) and fewer as manual labourers (38 %).

<sup>40</sup> Ibid., p. 54.

<sup>41</sup> Ibid., pp.60-61.

<sup>42</sup> 'With the former highly in demand in the labour market, the regime is set to exclude the latter although they are needed in many economic sectors as a cheap labour force.' (Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in*

are affected by increasing unemployment. The contrary was true for high-skilled migrants from EU member states who came to Austria only in the last few years.<sup>43</sup> The 'opening' of the employment market to the eight 'new' EU member countries (since 2004) in May 2011 brought 'new employees' to Austria, mostly from Hungary, Poland and Slovakia, many of whom work in the construction and tourism sectors or do temporary work (e.g. domestic work). According to a survey from *Ethnopinion*, the 'opening' was feared more by the Austrian majority population than by persons with a migrant background. However, it is mostly migrants who have suffered due to increased competition in the labour market.<sup>44</sup>

Discriminatory and racist practices regarding the recruitment process are very common in Austria. The NGO ZARA reported many cases of discrimination against women who wear a headscarf. For example, Mrs. M., an Austrian Muslim woman with Persian background, was searching for a job in March 2011, after she lost her job as executive assistant. She stated in her application that for religious reasons she would like to wear her headscarf at work. In rejecting her application, the company informed Mrs. M. that wearing a headscarf was not possible in this job position.<sup>45</sup> While the Austrian Equal Treatment Act ETA (*Gleichbehandlungsgesetz*) prohibits discrimination on religious grounds during recruitment, this is not well known among employers and the general public.<sup>46</sup> Racial discrimination in job advertising is also quite common, even though it is prohibited by the Equal Treatment Act. For instance, a Tyrolean advice centre for migrants reported that an advertisement to fill vacancies in local print and online media specified that Austrian candidates were preferred.<sup>47</sup>

### 6.1.2 Facilitating factors or protective measures to combat employment challenges

Migrants are often overqualified for the jobs they work in. The recognition of educational achievements and degrees is a complicated and expensive process. To deal with these problems, in March 2012 the Austrian government introduced a new five-point-programme to simplify the process of recognising academic degrees and diplomas obtained abroad. The existing information centre NARIC (National Academic Recognition Information Centre) will become a central contact point and information office for the certification of foreign academic degrees. The NARIC provides free application coaching which should halve the

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Austria, p. 11,  
<http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012.

<sup>43</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp 11-12.

<sup>44</sup> Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-rueckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-rueckblick/), accessed on 11.06.2012.

<sup>45</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 34-35.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid., p. 35.

time for processing the applications. The Federal Government is also currently working on laws regarding the recognition of professions and school qualifications obtained outside of Austria.<sup>48</sup> A new provision now allows the Austrian job centre (*Arbeitsmarktservice AMS*) to document the migration background of their clients. This is one of the 20 suggestions from the Assembly of Experts. The aim is to enable the recruitment of immigrants. However, this regulation is controversial as many NGOs consider it 'ethnic profiling'.<sup>49</sup>

The Official Representation of Employees in Vienna (*Arbeiterkammer AK Wien*) commissioned a study of the employment and educational situation of migrants in Vienna. This study provides regional data on 11 different groups of migrants. It assembled specific data on the Roma and Kurds for the first time. The study identifies some challenges which need to be addressed, including: high unemployment or employment in jobs below their levels of qualification, etc.<sup>50</sup>

There have been few positive initiatives from trade unions. Only the Union of Private Sector Employees, Graphical Workers and Journalists have their own platform for migrants (*work@migration*).<sup>51</sup> Many businesses and employers have already implemented positive campaigns to promote diversity and eliminate prejudice. Also the Austrian Integration Fonds (*Österreichischer Intergrationsfonds ÖIF*) and the Industrialist's Association of Lower Austria (*Industriellenvereinigung Niederösterreich*) published an information brochure about the practice of Islam at work. The brochure aims to inform employers about religious beliefs and possibilities to accommodate them within the labour law. Integration is a two-way process and it is important that employers do not construe measures excessively in their favour. It is also important that such information is used sensitively otherwise stereotypes and 'otherness' will be perpetuated and integration will be understood as something that only the 'others' have to do.<sup>52</sup>

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<sup>48</sup> Re *ausländer.at*, *Neues Gesetz soll Nostrifizierungen vereinfachen*, 26.03.2012, <http://www.auslaender.at/neues-gesetz-soll-nostrifizierungen-vereinfachen>, accessed on 11.06.2012.

<sup>49</sup> Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-rueckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-rueckblick/), accessed on 11.06.2012.

<sup>50</sup> Re L&R Sozialforschung, *Beschäftigungssituation von Personen mit Migrationshintergrund in Wien*, July 2011, [http://www.esf.at/esf/wp-content/uploads/Studie\\_MigrantInnen\\_LR\\_2012.pdf](http://www.esf.at/esf/wp-content/uploads/Studie_MigrantInnen_LR_2012.pdf), accessed on 11.06.2012.

<sup>51</sup> Re RED Network, *Austria*, <http://www.red-network.eu/?i=red-network.en.countries&id=1&view=racismAtlas&s=RACISM#stands-nav>, accessed on 30.07.2012.

<sup>52</sup> Re Arbeiterkammer Wien, and Industriellenvereinigung Niederösterreich, *Anregungen für den interkulturellen Dialog im Unternehmen – Der Islam*, [http://religion.orf.at/projekt03/news/1106/ne110616\\_oeif.htm](http://religion.orf.at/projekt03/news/1106/ne110616_oeif.htm), accessed on 11.06.2012.

## 6.2 Racism and related discrimination in education

### 6.2.1 Manifestations of racism and related discrimination in education

The main issues highlighted in last year's report persist. Although there have been some new developments regarding the recognition of educational achievements (see chapter about employment), a number of areas remain problematic.

Second generation migrants generally have similar education levels to the majority population. About a quarter of children in childcare facilities come from non-German speaking families. According to the Annual Statistic Yearbook 58 % of the 4 ½ - 5 ½ aged children with a non-German speaking background in Kindergarten need further language assistance. Students from migrant communities often attend secondary modern schools (*Hauptschulen*), polytechnic institutes (*Polytechnische Schulen*) and so-called new middle schools (*Neue Mittelschulen*)<sup>53</sup> and fewer schools which award a higher school certificate (*Matura*). The number of children with migrant background in so-called special needs schools (*Sonderschulen*) was twice as high as the figure for Austrian citizens.<sup>54</sup> When children have poor German language standards, they are forced to attend these kinds of schools and therefore receive lower quality education from the beginning and cannot benefit from learning through their native language. The fact that a disproportionate number of migrants are in special schools is seen as a human rights abuse by the UN Monitoring Commission.<sup>55</sup> Another problem is the number of early school leavers among ethnic and religious minorities. Some 13 % of students with migrant background leave school after eight years of education. The majority are boys. About 35 % of people from migrant communities have a high school certificate or a university degree, in comparison to 29 % of persons without migration background. The

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<sup>53</sup> The majority children from the working class and migrant communities attend *Hauptschulen* while higher and middle class children often attend so-called gymnasiums (Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, pp. 16-17,

<http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012). The polytechnic institutes provide the obligatory ninth school grade which is primarily for children who want to learn a profession afterwards. The new middle schools (*Neue Mittelschulen*) are nationwide common schools for all 10-14 year olds which should provide 'a performance-orientated learning and teaching culture' and 'equal opportunities and support for all children' (Re BMUKK, *Die neue Mittelschule – ein Meilenstein der Schulreform*, <http://www.bmukk.gv.at/schulen/bw/nms/index.xml>, accessed on 03.10.2012).

<sup>54</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp.10-11, 18, 42-50.

<sup>55</sup> Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, p. 16, <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012.

highest rates are among migrants from the EU/EWR states and Switzerland (25 %), while persons from former Yugoslavia and Turkey have the lowest rate.<sup>56</sup>

Discrimination within educational institutions includes negative statements by teachers about the country of origin or the 'bad' German language skills of the students; as well as racist bullying by other pupils. The following example also shows the often negative attitudes against the Islam faith, which particularly affects Muslim girls: At a sports class the teacher wanted to photograph the students for a school publication and asked Ms. O. to take off her cardigan and headscarf. Ms. O. who is Muslim, refused to remove her headscarf whereupon the teacher dragged Ms. O. roughly by the neck.<sup>57</sup>

### **6.2.2 Facilitating factors or protective measures to combat education challenges**

A study commissioned by the Austrian Ministry of Education (BMUKK) provides information on the disadvantages faced by children from migrant groups in the Austrian school system. The study reveals that the predominantly low-level jobs held by the parents of migrant students often correspond to the school career of their children. Often because of their limited access to 'cultural resources' like text books and children's books these children on average encounter more problems in school. Structural factors in the school system play a major role. Measures must be taken to ensure equality of opportunity. Such measures might include reform of school management, systematic promotion of (multiple) language skills and standardisation of teacher training.<sup>58</sup> More teachers from migrant backgrounds are needed e.g. to help migrant students to overcome (cultural) barriers, enhance use of their native languages and foster intercultural dialogue.

Some suggestions from the Assembly of Experts have already been implemented, including an early linguistic development program in kindergarten; model-regions for a cost-free second kindergarten- year (obligatory for all children who need it) and measures to better enforce school attendance.<sup>59</sup> The State Secretariat for Integration also introduced German language- learning materials and a world map of organisations that offer German language courses. In 2012 the Assembly suggested further measures to address the high school drop-out rate or promotion of awareness-raising about how German language

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<sup>56</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp.10-11, 18, 42-50.

<sup>57</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 32-33.

<sup>58</sup> Re Medien- Servicestelle, *Schulerfolg und Bildungsverhalten von MigrantInnen*, 01.09.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/09/01/schulerfolg-und-bildungsverhalten-von-migrantinnen/](http://medienservicestelle.at/migration_bewegt/2011/09/01/schulerfolg-und-bildungsverhalten-von-migrantinnen/), accessed on 11.06.2012.

<sup>59</sup> Re Assembly of Experts, *Die 20 Vorschläge des Expertenrats im Staatssekretariat für Integration*, [http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/Vorsch%C3%A4ge\\_Zusammenfassung.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/Vorsch%C3%A4ge_Zusammenfassung.pdf), accessed on 26.04.2012.

skills can be achieved.<sup>60</sup> The expert recommendations do not include the need to recognise multiple languages and the benefits of having different language skills. Lessons in mother-tongues are provided in Austria (in 23 languages), but only as an optional subject, mostly in primary schools and are limited by resource constraints.<sup>61</sup>

Some NGOs and organisations, like the Romano Centro offer school-assistants/mediators at various schools in Vienna. Mr. Baghajati from the 'Austrian Muslim Initiative' stated that the Austrian school system lacks empowerment mechanisms for children with migrant or Muslim backgrounds. These are essential as parents with a migrant background often struggle to support their children's education financially.<sup>62</sup>

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<sup>60</sup>Re State Secretary for Integration, *Präsentation Integrationsbericht 2012*, [http://www.integration.at/news/presentation\\_integrationsbericht\\_2012\\_fassmann\\_ein\\_gutes\\_jahr\\_fuer\\_die\\_integrationspolitik/](http://www.integration.at/news/presentation_integrationsbericht_2012_fassmann_ein_gutes_jahr_fuer_die_integrationspolitik/), accessed on 21.07.2012.

<sup>61</sup> Also children from minority groups can attend bilingual lessons (in Slovenian, Hungarian and Croatian). Only a few children attend lessons in Romany. Re RED Network, *Austria*, <http://www.red-network.eu/?i=red-network.en.countries&id=1&view=racismAtlas&s=RACISM#stands-nav>, accessed on 30.07.2012.

<sup>62</sup> Authors' Interview with Tarafa Baghajati, 'Austrian Muslim Initiative', 13.08.2012.

## 6.3 Racism and related discrimination in housing

### 6.3.1 Manifestations of racism and related discrimination in housing

A large proportion of migrant communities face housing difficulties because their average income is lower than that of the rest of the population. The majority of migrants rent low quality flats. They generally do not live in council flats, co-operative flats and or own the property they live in. Only 2 % of the whole population live in category D flats (this means without direct access to water and toilet within the flat), but 6 % of first generation migrants live in this category of flat.<sup>63</sup> On average, migrants have 31m<sup>2</sup> living space per person whereas Austrian nationals have 44m<sup>2</sup>.<sup>64</sup> Migrants spend a large proportion of their income on rent. Many live in flats and houses from the late 19<sup>th</sup> century which are poorly connected to local amenities. Immigrants often form communities which are isolated from society at large. About 80 % of the migrant population live in only 10 % of all municipalities (Vienna is the leading city with 40 %). In addition towns with refugee accommodation facilities have a large number of residents with a migrant background.<sup>65</sup>

Difficulties arise through discrimination in advertisements, through insults from neighbours and when viewing property etc. Organisations which protect migrant interests claim that their clients have to endure discrimination during the search for flats and houses. Discriminatory statements, like this one from an online advert: 'This flat will only be rented to native Austrian citizens' (ZARA 2011, p.39), show the attitudes that migrants must often face at housing organisations or in the private market.<sup>66</sup> Such discriminatory housing advertisements are now forbidden by the Equal Treatment Act ETA. The stated case was subsequently brought to the Equal Treatment Advocacy (*Gleichbehandlungsanwaltschaft*).<sup>67</sup>

Refugees also face prejudice and discrimination. Letting agents regularly refuse to invite refugees to view a flat and generally exclude them from their potential tenants list. Local politicians, professional bodies and work associations (*Berufsvereinigungen*) should raise awareness about this issue.<sup>68</sup> According to the authors of the European Values Study, there are highly negative attitudes towards migrants as neighbours in Austria, particularly towards Muslims. It is

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<sup>63</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp. 13-14, 19, 75-79.

<sup>64</sup> People of the 'old' EU-countries (before 2004) live in flats with 48m<sup>2</sup> living space per person while persons from former Yugoslavia have approximately 28m<sup>2</sup> and from Turkey only 21m<sup>2</sup>.

<sup>65</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp. 13-14, 19, 75-79.

<sup>66</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 11-12, 39.

<sup>67</sup> Re Klagsverband, *Diskriminierung beim Zugang zu Güter und Dienstleistungen*, <http://www.klagsverband.at/info/was-bedeutet-diskriminierung-beim-zugang-zu-guetern-und-dienstleistungen>, accessed on 05.08.2012.

<sup>68</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 36-40.

especially alarming, that in no other country did so many people state that they do not want to have migrants as neighbours.<sup>69</sup>

### **6.3.2 Facilitating factors or protective measures to combat housing challenges**

Migrants attempt to overcome these problems by developing informal networks to share information and provide support for one another.

The housing project 'Equality in Housing' was implemented through the *Volkshilfe*, Litigation Association of NGOs against Discrimination (*Klagsverband*) and the Austrian Platform of Social Services (*Bundesarbeitsgemeinschaft Wohnungslosenhilfe BAWO*) within the context of the EU- initiated PROGRESS-Project. In course of this project the Litigation Association conducted a study about the legal framework in Austria for the allocation of and restrictions to council flats, housing support programs and non-profit buildings in 2011. The study found that:

*'Access for persons from EU/ EWR states and from Switzerland to council flats is substantially the same as for Austrian nationals. But the regulations aren't always clear and the distinction between the groups is sometimes legally incorrect. Persons with a long-term right of residence, third-country nationals and recognised refugees may file an application, with the exception of some municipalities, who refuse it. [...] Further there exist different benefits and regulations in the states of Lower Austria, Upper Austria, Tyrol, Vorarlberg and Vienna.'* (Volker Frey translated by the author, *Klagsverband* 2011, p. 20).

The project also provides workshops for stakeholders, i.e. for local politicians, municipal employees and decision-makers in the area of subsidised housing. The participants work together on non- discriminatory procurement directives regarding the allocation of and access to housing.

The *Volkshilfe* also offers a training course for landlords, particularly for caretakers in private housing organisations. Training includes management of administrative duties as well as communication skills, intercultural awareness, conflict management and practical matters.<sup>70</sup>

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<sup>69</sup> Der Standard, *Antipathie gegen Migranten nahm in Österreich stark zu*, <http://derstandard.at/1326502987385/Europa-Vergleich-Antipathie-gegen-Migranten-nahm-in-Oesterreich-stark-zu>, accessed on 25.06.2012.

<sup>70</sup> Re *Volkshilfe*, <http://www.volkshilfe-wien.at/online/page.php?P=105876>, accessed on 10.08.2012; *Klagsverband*, *Jahresbericht 2011*, [http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht\\_11.pdf](http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht_11.pdf), accessed on 21.07.2012.

## 6.4 Racism and related discrimination in health

### 6.4.1 Manifestations of racism and related discrimination in health

Immigrants avail of healthcare services at higher rates than the majority population. In particular, people from Turkey or former Yugoslavia are more likely to avail of curative medicine than preventative healthcare services. The most common health concerns within the immigrant population include chronic pain in the area of the backbone, migraine, headache and psychological problems like chronic fear and depression. These can probably be attributed to lower living standards, anxiety and socio-economic difficulties in moving to a new country as well as physically demanding working conditions.<sup>71</sup>

According to the Annual Statistical Year Book the income gap between migrants and non-migrants has increased since 2006.<sup>72</sup> As a result a higher number of migrants live in poverty than the rest of the population (25 % in comparison to 11 %). This rises to 40% for Turkish citizens and 47% for persons from other non-EU states.<sup>73</sup>

Asylum seekers face difficulty in accessing health care and frequently encounter discrimination. For example, one underage asylum seeker, accompanied by Mrs. E. from a refugee NGO, went to a hospital because he was suffering kidney pains. After an examination in the emergency department he was directed to an urologist. After Mrs. E. and the young person filled out a patient data form, the hospital employee phoned the police without any reasons and asked for the patients' criminal record. The employee didn't answer Mrs. E. when she asked why he had made the phone call. During the medical examination the urologist also made some discriminatory statements, like 'he hasn't anything, he is only faking' or 'anyway he is older than he says'.<sup>74</sup>

### 6.4.2 Facilitating factors or protective measures to combat health inequalities

As mentioned in the previous Austrian Shadow Report 2010/2011, one problem in the Austrian health system is the low level of diversity measures to overcome language and cultural barriers e.g. very few employees who speak languages

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<sup>71</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp.12-16, 63-70.

<sup>72</sup> For persons from countries which became members of the EU before 2004 the situation is better and nearly the same as for Austrians than for persons from countries which joined the EU after 2004, from former Yugoslavia and from Turkey.

<sup>73</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp.12-16, 63-70.

<sup>74</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), p. 32.

such as Bosnian/Croatian/Serbian or Turkish.<sup>75</sup> The Austrian government acknowledged the problem of language barriers in the Austrian health system and has introduced mother-tongue experts in a number of areas of healthcare. In practice, the measures are too few and therefore a comprehensive strategy is needed.

The Federal Health Agency (*Bundesgesundheitsagentur*) finances a seminar on 'Intercultural competences' in intensive care units. Some training in the health care sector includes religious and cultural awareness. The Austrian government has published some 'healthy lifestyle' brochures in different languages. In Vienna a handbook for non-German speaking persons is available which includes information and contact details about doctors in a number of languages. A pamphlet with information for medical employees on cultural issues when treating Muslims is also available. It also contains information for Muslims, especially for Muslim women, regarding what is acceptable during a medical examination with respect to their religious beliefs.

One positive development is the designation of special space for prayer in two hospitals in Vienna. Headscarves made from special hygienic fabric are also available for Muslim employees in hospitals in Vienna.

In the preventive health sector, a pilot- project in Vienna ('Mammographie-Screening') has been launched which aims to include migrants and other vulnerable women in mammography screenings. (This is only an example of the (small) efforts which the authorities make to empower migrants regarding the usage of preventative health care.)

However, systematic, long-term strategies are still lacking. The Assembly of Experts (*Expertenrat für Integration*) has suggested that more diversity measures need to be introduced. The majority of their suggestions have yet to be acted upon.<sup>76</sup>

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<sup>75</sup> Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, p. 19, <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012.

<sup>76</sup> Re Bundesministerium für Gesundheit, <http://www.bmg.gv.at/>, accessed on 02.08.2012; Bundeskanzleramt Österreich, *Politische und rechtliche Maßnahmen in Österreich – EU-Rahmen für nationale Strategien zur Integration der Roma bis 2020*, <http://www.bka.gv.at/DocView.axd?CobId=47025>, accessed on 16.06.2012; Author's Interview with Tarafa Baghajati, chairman of the the 'Austrian Muslim Initiative', 13.08.2012.

## 6.5 Racism and related discrimination in access to goods and services

### 6.5.1 Manifestations of racism and related discrimination with access to goods and services in the public and private sector

There was little improvement during 2011/2012 in relation to discriminatory practices in access to goods and services noted in previous reports. In fact, the anti-racism NGO ZARA stated that racism and related discrimination in public and private service sectors have increased. Persons with a different skin colour, ethnic origin or those who don't speak German increasingly face racial discrimination and are denied access to clubs or bars; they don't get a seat in restaurants or they are insulted in shops. Discrimination when trying to avail of financial services is common. For example, ZARA reported one incident involving a young black who wished to transfer money at her bank. Because she had forgotten a valid ID, the bank clerk informed her that without it he would not allow her to make the transaction. Another clerk insulted the woman with statements like, 'We are not in Kinshasa!'. After she left, he continued to complain loudly about the woman ('What a cheek!', 'This one surely doesn't know where she is.')

Access to goods and services is primarily a structural problem, which needs to be changed through the political and economic discourse. Restriction and denial of access to the employment markets leads to further consequences, e.g. denial of access to forms of security, like social insurance and the public pension scheme. This discriminatory system affects not only migrants and asylum seekers, but all deprived persons in society. Goods and services should be equally accessible to all and all discriminatory barriers should be removed.

Protection against discrimination in access to goods and services is regulated by the federal law, but only on the grounds of disability, ethnic origin and sex.<sup>78</sup> The Austrian Ombudsman Institution (*Volksanwaltschaft*) has complained about the failure by the administrative penal authorities to prosecute in racial discrimination instances. Indeed, discrimination on grounds of ethnic origin is rarely investigated. The Ombudsman Institution referred to two cases in Graz where two Turkish men, independently of one another, were denied access to a club. They lodged complaints about the violation of the prohibition of discrimination under the Administrative Procedures Act (*Einführungsgesetz zu den Verwaltungsverfahrensgesetzen EGVG*). The municipal administration in

<sup>77</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 41-45.

<sup>78</sup> Re Klagsverband, *Diskriminierung beim Zugang zu Güter und Dienstleistungen*, <http://www.klagsverband.at/info/was-bedeutet-diskriminierung-beim-zugang-zu-guetern-und-dienstleistungen>, accessed on 05.08.2012.

Graz rejected both complaints.<sup>79</sup> The Ombudsman has highlighted maladministration and failure to investigate discriminatory practices. While this case was investigated under the Equal Treatment Act ETA (*Gleichbehandlungsgesetz*) most victims are put off by the costs involved in taking action.<sup>80</sup>

According to the Litigation Association of NGOs against Discrimination (*Klagsverband*) only six lawsuits regarding denied access to club and bars went to court from 2004 to 2011 (in four cases the court has ruled in favour of the complainant, two proceedings are pending).<sup>81</sup>

### **6.5.2 Facilitating factor or protective measures to promote equality in accessing goods and services**

The Ombudsman has called for greater efficiency in enforcing the prohibition of discrimination under the administrative penal law. It has proposed some measures to the Austrian government, in accordance with the European Commission against Racism and Intolerance (ECRI) including awareness-raising and training of the responsible authorities to ensure they handle cases effectively as well as the launch of public awareness campaigns.<sup>82</sup>

ZARA undertook a survey of entry-checks in bars and night clubs in Vienna.<sup>83</sup> The results were disappointing but unsurprising. The prevailing negative picture of the previous years was confirmed, namely that individuals of African descent encounter racism and discrimination when trying to enter clubs and bars. Such behaviour is not only a human rights violation but it is also prohibited under Austrian law. ZARA, the Equal Opportunities Advocacy (*Gleichbehandlungsanwaltschaft*) and the Litigation Association Against Discrimination organised an information- campaign for clubs and bars about racism towards clients, which is called 'Suggestions for non-discriminatory attitudes when providing access to bars' ('Empfehlungen für eine diskriminierungsfreie Eintrittspolitik von Lokalen'). This provides information about intercultural and anti-discriminatory attitudes for employees in bars and clubs.<sup>84</sup>

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<sup>79</sup> Re Der Standard, *Volksanwälte: Kaum Schutz für Diskriminierte*, <http://derstandard.at/1304554463737/Tuerken-Einlass-verweigert-Volksanwaelte-Kaum-Schutz-fuer-Diskriminierte>, accessed on 19.05.2012.

<sup>80</sup> Ibid.

<sup>81</sup> Re Klagsverband, *Jahresbericht 2011*, [http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht\\_11.pdf](http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht_11.pdf), accessed on 21.07.2012.

<sup>82</sup> Ibid.

<sup>83</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), pp. 41-45.

<sup>84</sup> Ibid.

## 6.6 Racism and related discrimination in political participation

### 6.6.1 Manifestations of racism and related discrimination in the realm of political participation

According to the latest MIPEX report: 'Becoming an Austrian is one of the riskiest gambles, because the path to citizenship is long, burdensome, discretionary and expensive.' (MIPEX 2011)<sup>85</sup>

Little changed in 2011/2012. The conditions for **naturalisation** and for family reunion have become more arduous. An amendment of the Aliens Law became effective on 1 July 2011.<sup>86</sup> A number of NGOs criticised the measures and carried out campaigns to raise awareness of the problems with the reform. Notwithstanding their efforts, the National Assembly passed the package at the end of April. German language skills 'on the simplest level' must be achieved (and documented through testimonials from an appropriate organisation) before the first application, this generally means before arriving Austria. Migrants must sign an Integration Agreement (*Integrationsvereinbarung*). This includes a timeframe of two years to achieve a higher level of German language skills (the period was five years previously). There is an exception for highly qualified migrants (holders of the so-called 'Blue Card').<sup>87</sup> A permanent residence permit is only available to those with language skills at B1 level (approximately 600 hours of German courses). This requirement has increased the number of people who regularly need to renew their residence permit. In addition, the needs-based minimum benefit (*bedarfsorientierte Mindestsicherung*) is only available for persons with long-term residence. This has increased the complexity of the entire social system and meant entering the system has become more difficult for migrants, especially asylum seekers. Regarding immigration to the Austrian labour market, the regulation after a quota-system is effected through a points-system. Points can be achieved by fulfilling certain criteria (qualification, work experience, age, language skills, job prospects and a minimum income). A 'Red-White-Red-Card' (*Rot-Weiß-Rot-Karte*) is issued if the applicant reaches a certain number of points.<sup>88</sup>

<sup>85</sup> MIPEX, *Austria*, <http://www.mipex.eu/austria>, accessed on 28.04.2012.

<sup>86</sup> Re Bundeskanzleramt Österreich, *Bundesgesetzblatt für die Republik Österreich. Fremdenrechtsänderungsgesetz 2011*, [http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2011\\_I\\_38/BGBLA\\_2011\\_I\\_38.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2011_I_38/BGBLA_2011_I_38.pdf), accessed on 27.04.2012.

<sup>87</sup> For example: managers and scientists and their family members; and relatives which have a higher educational level which allows to enter university.

<sup>88</sup> Re Medien- Servicestelle, *Neues Fremdenrecht ab 1. Juli 2011 in Österreich*, 28.06.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/](http://medienservicestelle.at/migration_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/), accessed on 11.06.2012.

Permanent residence for ten years is required in order to be entitled to Austrian citizenship. Exceptions are made in certain cases, such as the recognition of special achievements in sports etc. As well as the German language skills, a citizenship- test must be passed. The test itself has been criticised by NGOs and politicians. It contains a number of errors and omissions (regarding Austrian history etc) as well as a number of questionable statements in the learning materials. The procedure is currently being reviewed by the Ministry of the Interior and the Secretary of State for Integration. Their findings should be available by the end of the year. According to Sebastian Kurz, the integration process should begin at an embassy abroad and end with the naturalisation in Austria. Therefore information (*Rot-Weiß-Rot-Fibeln*) should be provided in the various embassies to introduce 'Austrian values' to potential immigrants.<sup>89</sup>

**Voting rights** for non-Austrian citizens are very restricted. EU- citizens have the right to vote at the municipal level and in the state of Vienna only at the district level. Third-country nationals are not allowed to participate at elections. Non-Austrian citizens are also excluded from national referendums and popular petitions.<sup>90</sup>

Youths and migrants are under-represented in politics. Scarcely anyone with an immigrant background can be found in political decision-making positions. None of the ministers in the Austrian government and only one person in the Austrian parliament is from an immigrant background.<sup>91</sup> There are only 17 immigrants at national level (*Bundesrat*), three out of 62) and at the *Landtage* (13 out of 448; mostly in Vienna, followed by Salzburg). At the Austrian National Assembly (*Nationalrat*) there is only one person with an immigration background out of 183 representatives. Regarding political parties, there are eight migrants in the Green Party, seven in the SPÖ, one in the ÖVP and one in the FPÖ. Up to one third of the youth wings of political parties are from an immigrant background. It is difficult to give exact figures at district level and in the youth wings due to insufficient data, so the figures may actually be higher. Maria Vassilakou from the Green

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<sup>89</sup> Re Der Standard, *Innenministerium überarbeitet fehlerhafte Staatsbürgerschaftstests*, 26.04.2012, <http://derstandard.at/1334796262992/Einbuengerung-Innenministerium-ueberarbeitet-fehlerhafte-Staatsbuergerschaftstests>, accessed on 18.06.2012; Der Standard, *Staatsbürgerschaftstest wird überarbeitet*, 06.06.2012, <http://derstandard.at/1338558792815/bis-Jahresende-Staatsbuergerschaftstest-wird-ueberarbeitet>, accessed on 18.06.2012; Da Standard.at, *Ideologisch sehr skurrile Angaben*, 24.03.2012, <http://dastandard.at/1269045770938/Staatsbuergerschaftstest-Ideologisch-sehr-skurrile-Angaben>, accessed on 18.06.2012.

<sup>90</sup> Re Clara Akinyosoye, *Wahlrecht für Nichtstaatsbürger in Planung*, <http://www.media.or.at/politik/wahlrecht-fur-nichtstaatsburger-in-planung/2012/01/10/>, accessed on 07.06.2012; Help.gv.at, *Wahlrecht*, <https://www.help.gv.at/Portal.Node/hlpd/public/content/32/Seite.320210.html>, accessed on 04.08.2012.

<sup>91</sup> Re News, *Zuwanderung in die Politik*, <http://www.news.at/articles/1227/8/333185/migration-zuwanderung-politik>, accessed on 03.08.2012.

Party is vice-mayor and city councillor in the city of Vienna. She is of Greek origin.<sup>92</sup>

According to a study, the general public, particularly in Vienna, want more **police officers** with a migrant background.<sup>93</sup> Secretary of State Sebastian Kurz stated that: 'police officers with migration background are good examples for a successful integration and as role models for other persons with migrant background.' (Kurz, in Der Standard 2012). Since 2007 the police in Vienna started a recruiting initiative 'Vienna needs you!' ('*Wien braucht dich!*'), to foster greater diversity within the institution. According to the police chief of Vienna, there are currently 120 police officers who from a migrant background (2 % of the whole staff). He stated that a reason for this small number is because many immigrants failed the entrance test or couldn't fulfil some criteria, such as Austrian citizenship. As shown above, the Austrian naturalisation procedure is a difficult criterion to meet.<sup>94</sup>

### 6.6.2 Facilitating factor or protective measures to promote equality in political participation

The municipality of Graz renewed an existing resolution, which includes the possible introduction of a municipal **voting right** for non-EU-citizens. The city government of Vienna with the two ruling parties, Social Democrats SPÖ and the Green Party, has planned changes to voting rights which should be introduced by the end of 2012. It is expected that this will expand electoral franchise for individuals from EU-countries.<sup>95</sup> According to the party whip of the Green Party in Vienna, third-country nationals may also have the right to vote at the municipal level. However, participation of third-country nationals is only possible through an amendment of the constitution. In 2002 the city government of Vienna (SPÖ) also enacted a reform which provided for an inclusive right to vote (together with the Green Party). However, it was rejected by the Constitutional Court (*Verfassungsgerichtshof VfGH*). There have been few efforts to expand the vote at national level.<sup>96</sup>

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<sup>92</sup>Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-rueckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-rueckblick/), accessed on 11.06.2012; Medien- Servicestelle, *PolitikerInnen mit Migrationshintergrund*, 30.11.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/11/30/politikerinnen-mit-migrationshintergrund/](http://medienservicestelle.at/migration_bewegt/2011/11/30/politikerinnen-mit-migrationshintergrund/). accessed on 03.08.2012.

<sup>93</sup>Re Der Standard, *Wiener wünschen sich mehr Polizisten mit Migrationshintergrund*, 02.07.2012, <http://derstandard.at/1339639574429/Laut-Studie-Wiener-wuenschen-sich-mehr-Polizisten-mit-Migrationshintergrund>, accessed on 10.08.2012.

<sup>94</sup>Ibid.

<sup>95</sup>Akinyosoye, Clara, *Wahlrecht für Nichtstaatsbürger in Planung*, <http://www.m-media.or.at/politik/wahlrecht-fur-nichtstaatsburger-in-planung/2012/01/10/>, accessed on 07.06.2012.

<sup>96</sup>Ibid.

During a discussion regarding the political career opportunities of young migrants, the Secretary of State for Integration, Sebastian Kurz, has stated that it is important to increase involvement of immigrants in the **political arena**. Therefore it is very important that young migrants show engagement by themselves and the will to really want to achieve political participation.<sup>97</sup> This accords with his slogan 'Integration based on Merit'. Alev Korun of the Green Party highlights the role of structural problems and stated during the same discussion, that engagement alone is not enough. Further, the individuals should matter more important than his/her migrant background. For Simon Inou from the migrant media, M-Media, respect in society, through and within state institutions, is crucial to enable political participation. He further stated that many foreign nationals are politically active, especially through engagement in associations, e.g. registered societies. However, active participation is often hampered due to existing political structures. Contacts and networks are important factors in the political arena.<sup>98</sup>

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<sup>97</sup> Re News, *Zuwanderung in die Politik*, <http://www.news.at/articles/1227/8/333185/migration-zuwanderung-politik>, accessed on 03.08.2012.

<sup>98</sup> Ibid.

## 6.7 Racism and related discrimination in media

### 6.7.1 Manifestations of racism and related discrimination in the media, including the internet

Racist and discriminatory practices can be found in multiple fields within the media. Racist comments are frequently posted on the internet; in columns of online media or via the social platform 'Facebook'. Many negative statements against Muslims are made in online columns and on websites. For instance, a 21-year old man was fined €6000 because he posted anti-Islamic messages on different websites.<sup>99</sup> Politicians also use social media as a platform for racist and discriminatory insults. A former member of the Austrian parliament from the Austrian Freedom Party (*Freiheitliche Partei Österreich FPÖ*) commented via 'Facebook', referring to a newspaper article about Moroccan refugees who can't be deported because Morocco doesn't want to issue the necessary papers: 'I would grab this wog, bring him to the Moroccan embassy in Vienna and clamour that he should be deported within the next 24 hours. You have to deal with this trash like that!!!' (ZARA 2011, p. 30). Chain mail is another issue. One example, which was reported to ZARA, contained false information about a special treatment for migrants in a hospital. The hospital rejected the accusations and in the end it was revealed that the information was false. A major Austrian newspaper reported the content of the chain mail without further investigation and without correction.<sup>100</sup>

The mainstream media play a major role in constructing and perpetuating racist stereotypes. One private television station in Vienna used a racist statement by a candidate from a casting show to attract viewers and increase their numbers.<sup>101</sup> As stated in the previous report 2010/2011, daily newspapers frequently reproduce discriminatory stereotypes, often about Muslims. Migration, asylum and Islam are mostly seen as problems and something that the Austrian people should fear. The 'high quality' newspapers, which generally report in a more objective and positive manner, often comment on Austrian migration and integration policies and about discriminatory practices and cases. There are also some initiatives from the mainstream media, such as specific columns for integration and online features. Each of the three daily newspapers, 'Die Presse', 'Der Standard' and 'Wiener Zeitung', has dedicated special pages to journalists with migration background and for the perspectives of the migrant community.<sup>102</sup>

<sup>99</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), p. 27.

<sup>100</sup> Ibid., pp. 25-28, 30.

<sup>101</sup> Ibid., p. 29-30.

<sup>102</sup> Re Tirhas Teklay Habtu, *ENAR Shadow Report 2010-2011: Racism and Related Discriminatory Practices in Austria*, pp. 30-31, <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/1.%20Austria.pdf>, accessed on 14.04.2012.

Negative reporting in the media is also very common concerning asylum issues. According to the NGO 'Asylum-coordination Austria' (*Asylkoordination Österreich*) the media coverage has deteriorated in recent years. There has been some slight improvement regarding migration debates and issues concerning integration are sometimes couched in positive terms. However, the media often fail to criticise controversial political actions.<sup>103</sup>

In the course of a study concerning migration and challenges for the media ('Zuwanderung – Herausforderung für Österreichs Medien') experts and decision-makers in the Austrian media were interviewed about the impact of public and private print and television mass media (excluding radio broadcasting) on the integration process. Many considered the impact to be primarily negative (46 %). 57 % of those interviewed stated that the media coverage about immigration is predominately negative. 32 % considered that it depends on the kind of media. Almost all agreed that the media construct realities. Responses were mixed regarding reporting on the ethnic origin of a perpetrator. About a half stated that ethnic origin should only be reported when it is important for the background of the story and for the motive. 80 % stated that positive reporting about immigration is very important and is useful to dismantle stereotypes etc. Regarding public and private radio broadcasting, another study came to the conclusion that 63 % of the reporting about migrants is positive but this includes a large number of stories in which migrant were victims (53 %).<sup>104</sup>

According to the media handbook for migration and diversity (*Medienhandbuch Migration und Diversität 2011*) 88 media outlets address the topic of migration and integration on a regular basis. 65 are published by editors who belong to ethnic or religious minority groups and 23 are from overlapping communities. The Turkish community represents a third of all ethno media outlets with 22 Turkish-Austrian contributions.

The public service broadcaster (*Österreichischer Rundfunk ORF*) reported on issues concerning migration/ integration/ migrants and asylum 458 times in their daily news show 'Zeit im Bild'. Although the ORF sees itself as a vehicle for promoting integration, it does not always fulfil this role as it often reproduces stereotypes.<sup>105</sup>

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<sup>103</sup> Re Silvia Herburger, *Anny Knapp: 'Im Asylverfahren herrscht relativ viel Willkür'*, <http://www.m-media.or.at/politik/anny-knapp-im-asylverfahren-herrscht-relativ-viel-willkur/2011/10/24/>, accessed on 25.06.2012.

<sup>104</sup> Re Medien- Servicestelle, *Medien- Chefs: Negative Migrationsberichterstattung*, 12.01.2012, [http://medienservicestelle.at/migration\\_bewegt/2012/01/12/medien-chefs-negative-berichterstattung-uber-migranten/](http://medienservicestelle.at/migration_bewegt/2012/01/12/medien-chefs-negative-berichterstattung-uber-migranten/), accessed on 03.08.2012.

<sup>105</sup> Re Medien- Servicestelle, *Aktuelle Daten zu Migration und Medien*, 28.09.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/09/28/aktuelle-daten-zu-migration-und-medien/](http://medienservicestelle.at/migration_bewegt/2011/09/28/aktuelle-daten-zu-migration-und-medien/), accessed on 11.06.2012.

### 6.7.2. Facilitating factor or protective measures in the media

Media representatives believe that diversity leads to more responsible reporting about immigration. Most of the decision-makers oppose quotas for migrants. A third of those interviewed employ one or more journalists with a migrant background and none have a diversity policy in recruitment. They attribute the small number of migrant journalists to poor knowledge of the German language, a lower educational level and lack of networking opportunities. The last of these reasons is probably correct; due to structural problems and prejudice immigrants face difficulty in accessing informal networks. However, the chapters about education and employment demonstrate that lower educational level is unlikely to be a major reason for the lack of immigrant journalists because many immigrants are overqualified for the jobs they work in.<sup>106</sup>

Some initiatives and partnerships have been introduced in order to leverage more diversity in the media. In Vienna, the Austrian broadcasting cooperation (ORF) and the private broadcaster Okto established a weekly local news program that is aired in both Turkish and German. By the end of the year 2011 the ethno-media company, BUM- Media, established an Austrian Migrant Media Press Agency (*Österreichische Migrantenmedien- Presseagentur ÖMPA*). The first 'Week for Integration' was also organised by BUM- Media in early May. A fair for migration media (*Messe.Migration.Medien*) took place in autumn, for the first time in the context of the 'Austrian Days for Media'. It was the fourth fair for migration media and also the first symposium for intercultural communication to be held in German. The Austrian broadcasting cooperation (ORF) and the association 'Economy for Integration' (*Verein Wirtschaft für Integration VWFI*) were awarded the Austrian prize for Integration (*Österreichischer Integrationspreis*) for the second time. The MiA- Awards took place in March. These are special prizes for women with migration background in Austria. In 2012 the special prize for Journalism went to Clara Akinyosoye from M- Media.

The Assembly of Experts has suggested that young journalists from immigrant communities should be supported. A mentoring- programme for future journalists has already begun.<sup>107</sup>

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<sup>106</sup> Ibid.

<sup>107</sup> Re Medien- Servicestelle, *Migration & Integration 2011 – Rückblick*, 28.12.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/12/28/migration-integration-2011-ruckblick/](http://medienservicestelle.at/migration_bewegt/2011/12/28/migration-integration-2011-ruckblick/), accessed on 11.06.2012.

## 6.8 Racism and related discrimination in criminal justice

### 6.8.1 Policing and ethnic profiling<sup>108</sup>

There was no data available on ethnic profiling. However, NGOs report that the attitudes of the police are not always positive and sometimes it appears that individuals are targeted for investigation because of their ethnicity. The police often claim that it is a legitimate and necessary part of their investigations when to focus on individuals who meet certain criteria.<sup>109</sup>

The police often ignore victims of racist discrimination or deny them necessary support<sup>110</sup> (see case below). According to, lieutenant- colonel Josef Böck, chairman of the association 'Fair & Sensibel'(see examples of good practices), it is a wilful neglect of duty, when police officers ignore human rights violation or decline to investigate further. He states that, while such instances occur, for the most part the police perform their duties correctly. It should be noted that only a small number of cases of ethnic discrimination by the police are reported to Fair & Sensibel.<sup>111</sup>

The Federal Agency for Foreigners and Asylum (BFA), which is expected to begin operations in 2014, will have increased powers to stop and search asylum seekers, e.g. without prior notice. The UNHCR considers this development to be highly questionable in terms of human rights.<sup>112</sup>

A study examined public opinion of the relationship between the police and migrants. Those interviewed considered that police officers have the most positive attitudes towards people from Eastern-Asian countries and from Eastern neighbour- states of Austria, followed by people from former Yugoslavia, from Eastern Europe and from Turkey. The most negative attitudes are shown to persons from the Near- and Middle-East and from African countries. 49 % consider that negative attitudes are expressed towards persons who show their religious belief (other than Christianity) through their clothes.<sup>113</sup>

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<sup>108</sup> The Open Society Institute defines 'ethnic profiling' as the 'use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity'.

<sup>109</sup> Authors' interview with Claudia Schäfer and Dina Maladi, ZARA, 20.07.2012.

<sup>110</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), p. 21.

<sup>111</sup> Author's interview with lieutenant-colonel Josef Böck, chairman of the association 'Fair&Sensibel', 30.07.2012.

<sup>112</sup> Re UNHCR, *UNHCR-Analyse der geplanten Gesetzesänderungen zur Einrichtung eines Bundesamtes für Fremdenwesen und Asyl*, [http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME\\_00378\\_10/imfname\\_253122.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00378_10/imfname_253122.pdf), accessed on 21.05.2012.

<sup>113</sup> Re BMI, *Studie zum Thema „Polizei und Integration/Migration“ präsentiert*, <http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=336A4547794D59496C79493D&page=10&vie>

## 6.8.2 Racist violence and crime

According to the Annual Statistical Yearbook, 25 % of police suspects are foreign citizens and 32 % of all convicts have a non-Austrian background. But it is important to take into account that some kind of crimes, such violation of the Austrian Aliens and Immigration Law were committed by persons from third countries because of their specific residence statuses. The number of foreign nationals arrested in 2011 increased. However, this includes those who were in custody pending deportation. Statistics also show that non-Austrian nationals are disproportionately likely to be victims of crime and xenophobic brutality. 23% of victims were non-Austrian nationals.<sup>114</sup>

There is no legal definition of racist violence and hate crime. Article 33 of the Austrian Penal Code (*Besondere Erschwerungsgründe*) refers to particular 'aggravating circumstances' of a crime including 'racist and xenophobic motives'.<sup>115</sup> This is rarely applied in practice.

A racially motivated hate crime took place in 2011. A man of Romanian extraction was shot in the street and his son and the mother were badly injured. The media, the police and the judiciary did not initially recognise that the act was racially motivated. While the authorities were still attributing the act to a dispute among neighbours, some media outlets were the first to suggest that the shooting was racially motivated. The perpetrator wanted to 'liberate the country from foreign people' and was in contact with a right-wing extremist group.<sup>116</sup>

The police and the criminal justice system often fail to respond to racial discrimination, violence or hate speech. For example: Mr. K, a Tunisian and his friend were insulted in a pub and also physically attacked. Mr. K. phoned the police but they neither recorded the event nor carried out further investigation. Together with ZARA he sent a letter with the facts to the public prosecution (*Staatsanwaltschaft*). As a result, a criminal investigation was commenced to establish whether the offender had inflicted physical injury on the plaintiff. Furthermore, an investigation was launched regarding abuse of police authority.<sup>117</sup>

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[w=1](#), accessed on 10.08.2012; Re Sozialwissenschaftliche Studiengesellschaft, *Polizei & Migration bzw. Integration*, 2011.

<sup>114</sup> Re Statistik Austria, *Migration und Integration. Zahlen. Daten. Indikatoren 2012* (Wien: MDH Media Druck, 2012), pp. 13, 19, 71-73.

<sup>115</sup> Re RED Network, *Austria*, <http://www.red-network.eu/?i=red-network.en.countries&id=1&view=racismAtlas&s=RACISM#stands-nav>, accessed on 30.07.2012; BKA, *Gesamte Rechtsvorschrift für Strafgesetzbuch*, <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002296>, accessed on 15.08.2012.

<sup>116</sup> Re ZARA, *Rassismus Report 2011* (Wien: Manz Crossmedia, 2012), p. 15; SOS Mitmensch, *Österreich hat massives Rechtsextremismusproblem*, <http://www.sosmitmensch.at/stories/5328/>, accessed on 06.08.2012.

<sup>117</sup> *Ibid.*, p. 21.

### 6.8.3 Hate speech

Hate Speech in Austria is punishable by the Austrian Penal Code (§283 StGB *Strafgesetzbuch*) which prohibits incitement and sedition (*Verhetzungsparagraph*). Politicians, particularly those from the right-wing parties are regular perpetrators of hate speech. In 2011 the chairman of the Freedom Party in Styria (*Freiheitliche Partei Steiermark*) was accused of sedition/ hate speech and religious discrimination after the party published on their website a 'game', which intended to 'stop' minarets and mosques by clicking on them. In October 2011 the court acquitted the chairman on the reasoning that because the 'game' was open to a number of interpretations and it was doubtful that he had the intention of which he was accused. This demonstrates the difficulty in successfully prosecuting hate speech in Austria especially when the perpetrator is a public figure.<sup>118</sup>

A new amendment to the prohibition of incitement and sedition came into effect in January 2012. The protection under the paragraph was broadened to include incitement to hatred based on sex, age, disability, ideology and sexual orientation (before it was only ethnic origin and religion). The amendment also states that the provision is only applicable 'when the sedition is apparent for the broader public.' 'Broader public' is not defined. Statements are not punishable unless they explicitly call for violence. Similarly, the crime of offence to human dignity is not committed unless the insults are also 'scornful'.<sup>119</sup> This provision (§283 *Verhetzung StGB Strafgesetzbuch*) as well as the provision regarding the statement of fact of defamation (§115 *Beleidigung StGB Strafgesetzbuch*) can be seen as measures to implement the EU Framework decision on racism and xenophobia. The provision regarding 'aggravating factors' (§33 *Besondere Erschwerungsgründe StGB Strafgesetzbuch*) which includes 'racist and xenophobic motives', is also part of the implementation of the EU Framework decision. Other elements of the framework decision are yet to be implemented, notably the act of condoning crimes of genocide.<sup>120</sup>

### 6.8.4 Counter terrorism

The reforms prohibiting incitement and sedition were decided within the framework of the new anti-terrorism package. Through this inclusion a certain picture is (re)created which negatively impacts Muslims by reproducing negative stereotypes, namely that the terms 'hate speech' and 'hate preachers' refer

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<sup>118</sup> Ibid., p. 30, 70.

<sup>119</sup> Re Claudia Schäfer, and Wolfgang Zimmer, 'Zu früh gefreut', *Augustin/ ZARA- Kolumne: Was geht's mich an*, 21.10.2011.

<sup>120</sup> Email communication with Dr. Monika Mayrhofer, Ludwig Boltzmann Institute of Human Rights, 31.08.2012; Re BKA, *Gesamte Rechtsvorschrift für Strafgesetzbuch*, <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002296>, accessed on 15.08.2012.

primarily to persons with Muslim background and not to hate speech against them. A further new provision concerns 'public provocation to commit a terrorist offence'.

In the coming year, the Austrian government aims to enhance dialogue with the Islamic Religious Community (IGGiÖ) and will provide increased financial resources for technical equipment to combat terrorism in the next years.<sup>121</sup> According to Mrs. Baghajati, women's representative of the Muslim community in Austria (*Islamische Glaubensgemeinschaft in Österreich IGGiÖ*), Islam may not be automatically associated with terrorism, but an overall uncertainty still exists in the Austrian public even though more than ten years have passed since 9/11.<sup>122</sup>

### 6.8.5 Facilitating factor or protective measures in criminal justice

While at first glance the revision of the article prohibiting incitement and sedition appears to be a positive development, upon closer inspection the formulation seems weak and unclear. The Litigation Association of NGOs Against Discrimination stresses that there are many obstacles in the way of a conviction for hate speech, e.g. because of the 'high requirements of the publicness of the statements'.<sup>123</sup> The Litigation Association recommends that discrimination be dealt with under the civil law because the protection and compensation for victims of discrimination and racist practices should be the most important concern and not the punishment of the perpetrator. The Council of Europe have also suggested a move to civil law because it is more flexible than the penal code.<sup>124</sup>

The Litigation Association provides valuable (see good practices, ch8) support for victims of hate crime through advice and in some cases also during proceedings. As noted above, court cases have had little impact due to difficulties in successfully prosecuting hate crime, ethnic profiling etc. Propagators of Islamophobic statements and hate speech against Muslims in political discourse have not been sanctioned at all. Therefore, it appears that existing mechanisms are inadequate and do not fulfil human rights requirements.

There has been no political discussion of the acceptability of ethnic profiling.

Following the recommendations of the Universal Periodical Review UPC through the UN Human Rights Council, the Austrian government transferred the Human

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<sup>121</sup> Re BMI, *Anti-Terror-Paket* 2011: *Vier-Säulen-Modell*, [http://www.bmi.gv.at/cms/BMI\\_Presse/\\_news/BMI.aspx?id=503968624A6561644B72413D&page=5&view=1](http://www.bmi.gv.at/cms/BMI_Presse/_news/BMI.aspx?id=503968624A6561644B72413D&page=5&view=1), accessed on 22.05.2012.

<sup>122</sup> Re Carla Amina Baghajati, *9/11: Misstrauen gegenüber Muslimen in Österreich ist geblieben*, [http://www.islaminitiative.at/index.php?option=com\\_content&task=view&id=467&Itemid=28](http://www.islaminitiative.at/index.php?option=com_content&task=view&id=467&Itemid=28), accessed on 05.08.2012.

<sup>123</sup> Re Klagsverband, *Hate Speech*, <http://www.klagsverband.at/info/hate-speech>, accessed on 05.08.2012.

<sup>124</sup> Ibid.

Rights Council (*Menschenrechtsbeirat*) from the Ministry of the Interior to the National Ombudsman Board (*Volksanwaltschaft*). This is a positive step. NGOs are now also represented in the Human Rights Council.<sup>125</sup>

The police chief of Vienna considers that intercultural competences and cooperation initiatives with NGOs are already sufficient (e.g. through courses and workshops, for example with the Anti-Defamation League (ADL)).<sup>126</sup> According to Josef Böck, chairman of the association 'Fair & Sensibel', a Turkish/Muslim magazine is distributed within the police with information about cultural issues such as Ramadan. There is also a contact person for Muslim organisations in every district. According to the NGO ZARA, there is no independent investigation office regarding complaints about police officers. The office for special investigations (*Büro für besondere Ermittlungen*) is located within the Federal Police Directorate (*Bundespolizeidirektion*) and therefore it is not clear that investigations conducted will be completely neutral.<sup>127</sup>

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<sup>125</sup> Author's Interview with Claudia Schäfer and Dina Maladi, ZARA, 20.07.2012.

<sup>126</sup> Ibid.; Re BMI, *Studie zum Thema „Polizei und Integration/Migration“ präsentiert*, <http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=336A4547794D59496C79493D&page=10&view=1>, accessed on 10.08.2012.

<sup>127</sup> Ibid., Author's interview with lieutenant-colonel Josef Böck, chairman of the association 'Fair&Sensibel', 30.07.2012.

## 7. Civil society assessment and critique in ensuring protection of fundamental rights

Anti-discrimination and anti-racism laws are inadequate in Austria. Civil society actors and NGOs believe that politicians, economists, the media and the whole population must take further steps towards ensuring a racism-free society.

For a long time, NGOs have been critical of the high number of different antidiscrimination laws (30-35). The fact that there are a number of authorities and laws in the provinces and at federal level can make it difficult for victims of discrimination to direct their complaint to the appropriate authority. There are no local departments dealing with discrimination matters, apart from gender issues.

The amendments to the Alien and Asylum Law were met with strong objections by civil society. Representatives from a number of NGOs criticised the reform, e.g. Alexander Pollak (SOS Mitmensch) who stated that 'this is an 'anti-human rights-' and 'anti-integration law''. NGOs, including Caritas, Diakonie, Amnesty and SOS Mitmensch, were particularly concerned about the new regulations on asylum seekers. Michael Genner from 'Asylum in Need' for example criticised the compulsory attendance requirement (for further information see chapter 4, 1.3.). Clara Akinyosoye from the migrant media 'M-Media' stated that 'this is like a seven-days-imprisonment'.<sup>128</sup> For the political theorist Mustafa Akgün the refugees' perspective is neglected while the public perception concentrates only on the issue of abuse of the asylum system. The UNHCR has referred to the law as 'a step backwards', especially regarding the compulsory attendance provision. Further the requirement to learn the German language before migrating to Austria has a negative impact on language acquisition; and the very slow process to the Austrian citizenship should be quickened.<sup>129</sup> The reduced two year time period for achieving a higher level of German can be difficult for families if one or more members cannot accomplish it and are refused a residence permit. The exception for highly qualified people unfairly creates a division into 'good' and 'bad' migrants. It is difficult for people who aren't used to learning languages etc. to achieve a B1 level (approximately 600 hours of German courses). The citizenship test and the learning materials provided have been widely criticised. Alev Korun, member of the Green Party, said that such 'information

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<sup>128</sup> According to an interview with Michael Genner the compulsory attendance wasn't practically applied so far. (Re Elisabeth Doderer/ Radio Afrika TV, 28.05.2012).

<sup>129</sup> Re Wiener Zeitung, *Allianz gegen Paket geht auf die Straße*, 26.04.2011, [http://www.wienerzeitung.at/nachrichten/politik/oesterreich/23453\\_Allianz-gegen-Paket-geht-auf-die-Strasse.html](http://www.wienerzeitung.at/nachrichten/politik/oesterreich/23453_Allianz-gegen-Paket-geht-auf-die-Strasse.html), accessed on 17.05.2012; Medien- Servicestelle, *Neues Fremdenrecht ab 1. Juli 2011 in Österreich*, 28.06.2011, [http://medienservicestelle.at/migration\\_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/](http://medienservicestelle.at/migration_bewegt/2011/06/28/osterreichs-fremdenrecht-seit-20-jahren-immer-scharfer/), accessed on 11.06.2012.

and details were ideologically very absurd and questionable' (see also political participation).<sup>130</sup>

For criticism of the amendment of the paragraph against sedition (*Verhetzungsparagraph*), see the chapter on criminal justice. NGOs have criticised the narrowing of the definitions of these offences as it is expected that this will result in fewer convictions.<sup>131</sup>

There is still no national strategy to counter racism in Austria. Many NGOs and international organisations recommend the adoption of such a plan. The UPC-recommendations include the establishment of a National Action Plan Against Racism. Nonetheless, the Austrian Government has rejected this suggestion. Some points were incorporated into the National Action Plan (NAP) on integration but these were not very concrete. Racism and xenophobia are still not being addressed by the government. Claudia Schäfer (2012) says, 'when racism is taken for granted then certain counter-measures must be put in place'. While state institutions support some small and short-term projects, a long-term strategy is needed to tackle structural discrimination.

The new State Secretariat for Integration does not explicitly address the issue of racism. Kurz does not (want to) speak about racism and discrimination as such.<sup>132</sup> When he speaks about discrimination and the fight against it, it always goes hand in hand with effort and performance. Therefore it can be said that he downplays the underlying significance of the problem and as a result concrete measures against racism are lacking.

Although the creation of the State Secretariat for Integration is a positive step and was welcomed by NGOs, it would probably have been better placed within the Federal Chancellery rather than within the competence of the Ministry of the Interior. The Litigation Association of NGOs Against Discrimination (*Klagsverband*) endorses this view, stating that because the State Secretariat for Integration is within the competence of the Ministry of the Interior the topic of integration is viewed through the lens of internal security.<sup>133</sup> NGOs have criticised the general principle of the State Secretariat for Integration, 'Integration based on Merit'. This means, that immigrants are assessed by their performance,

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<sup>130</sup> Ibid.; Da Standard.at, *Ideologisch sehr skurrile Angaben*, 24.03.2012, <http://dastandard.at/1269045770938/Staatsbuergerschaftstest-Ideologisch-sehr-skurrile-Angaben>, accessed on 18.06.2012.

<sup>131</sup> Re Claudia Schäfer, and Wolfgang Zimmer, 'Zu früh gefreut', *Augustin/ ZARA- Kolumne: Was geht's mich an*, 21.10.2011.

<sup>132</sup> Re Zentrum für Zukunftsstudien der FH Salzburg GmbH, „*Integration durch Leistung* – Zum Integrationsleitbild des Staatssekretariats für Integration, <http://zfzsalzburg.wordpress.com/2012/01/27/%E2%80%9Eintegration-durch-leistung-zum-integrationsleitbild-des-staatsministeriums-fur-integration/>, accessed on 06.05.2012.

<sup>133</sup> Authors' Interview with Claudia Schäfer and Dina Maladi, ZARA, 20.07.2012; Re Klagsverband, *Jahresbericht 2011*, [http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht\\_11.pdf](http://www.klagsverband.at/dev/wp-content/uploads/2012/03/Jahresbericht_11.pdf), accessed on 21.07.2012.

achievements and their efforts at integration. It suggests that social integration is the responsibility of the individual immigrant. State Secretary Sebastian Kurz (2012) stated: 'We want that persons aren't judged because of their skin colour, their religious background or their country of origin. It only counts what they want to achieve in Austria and if they are ready to accomplish a contribution in this country.' NGOs consider that this overlooks that responsibility of society as whole to ensure integration and leaves the social structure and political system unquestioned. It implies that failure to fully integrate is the fault of the individual immigrant, overlooking the difficult socio-economic circumstances faced by many immigrants.<sup>134</sup>

It is clear that efforts by immigrants alone cannot achieve integration without improved political measures and civic education. Integration must be a two-way process. According to Wolfgang Zimmer, head of the ZARA advice centre (2011), 'when persons are discriminated and treated like they are outsiders and not part of the society, then why should they want to be part of it?'<sup>135</sup>

In terms of the National Roma Strategy within the context of the EU Framework, the Austrian government has published measures but has yet to formulate concrete targets. NGOs have stressed that the situation will not improve without increased funding. Assurance of future financial resources and projects has not been forthcoming. The Romano Centro has stated that the government focuses on improving the school assistance/mediators.<sup>136</sup>

Regarding the special focus of this report, Islamophobia has become increasingly socially acceptable. There is a reluctance to explicitly address the existence of this problem. According to Tarafa Baghajati, the usage of the term 'Islamophobia' is often rejected in the public and political discourse. Instead Islamophobia is assimilated into the issues of 'racism' and 'xenophobia' more generally, leaving the specific issues faced by the Muslim community unaddressed. The use of the term 'xenophobia' implies that Muslims are not a part of the Austrian population. He believes that raising awareness among police and prison officers and all civil servants would be a step to fight Islamophobia and general xenophobia. Further

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<sup>134</sup> Re Zentrum für Zukunftsstudien der FH Salzburg GmbH, „*Integration durch Leistung*“ – Zum Integrationsleitbild des Staatssekretariats für Integration, <http://zfzsalzburg.wordpress.com/2012/01/27/%E2%80%99Eintegration-durch-leistung-zum-integrationsleitbild-des-staatsministeriums-fur-integration/>, accessed on 06.05.2012.

<sup>135</sup> Ibid.; Ania Haar and Ana Znidar, *Wer sind die guten und bösen Migranten?*, 19.04.2011, <http://www.m-media.or.at/politik/wer-sind-die-guten-und-bosen-migranten/2011/04/19/>, accessed on 19.05.2012.

<sup>136</sup> Re Bundeskanzleramt Österreich, *Politische und rechtliche Maßnahmen in Österreich – EU-Rahmen für nationale Strategien zur Integration der Roma bis 2020*, <http://www.bka.gv.at/DocView.axd?CobId=47025>, accessed on 16.06.2012; Romano Centro, 'Ein großer Wurf?', *Romano Centro* 73 (May 2012): p. 6.

the implementation of strategic measures is important to foster the participation of migrants, asylum seekers and Muslims in all areas of life.<sup>137</sup>

To fight racism and discrimination it is important to bear in mind, that 'a society without racism can only be established if everybody cooperates in the same direction, is aware of the existing racism and craft counter measures.'(Schäfer 2012).<sup>138</sup>

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<sup>137</sup> Author's Interview with Tarafa Baghajati, chairman of the the 'Austrian Muslim Initiative', 13.08.2012.

<sup>138</sup> Re Claudia Schäfer, *Rassismus Report 2011: ZARA beobachtet Zunahme rassistischer Selektion von KundInnen*, <http://www.zara.or.at/index.php/archiv/6079>, accessed 15 05. 2012.

## 8. Good practices

### Example of NGO Good Practice in Employment

'**Caritas Austria**' is a Roman Catholic aid, social service, relief and development organisation which operates in nine dioceses in various regions. Caritas counsels, accompanies and supports people who are in difficult situations regardless of their ethnic, social, national or religious belonging. In the employment field, Caritas offers job-search assistance to immigrants who want to reside permanently in Austria. <http://www.caritas.at/>; <http://www.caritas.at/hilfe-einrichtungen/migrantinnen/>

### Example of NGO Good Practice in Education

The **Romano Centro** aims to enhance the living conditions of the Roma and combats discrimination against them. The focus lies on educational and cultural issues. For example the Romano Centro has employed Roma school-assistances/mediators at various schools in Vienna since 2000. They foster dialogue between teachers, students and parents; motivate and assist the students during lessons; and help teachers with communication and language problems. <http://www.romano-centro.org/>

In the area of education '**Caritas Austria**' provides support for migrants such as help acquiring a secondary school qualification (*Hauptschulabschluss*). With the project 'Cafés for Learning' ('Lerncafés'), Caritas Austria implemented a cost-free tutoring and afternoon care program for children with and without migrant backgrounds. The project aims to increase the children's self-confidence thereby contributing toward integration. Regular dialogue with parents is also part of their measures. Currently there are 17 'Lerncafés' which are financially supported through e.g. the State Secretariat for Integration. <http://www.caritas.at/>; <http://www.caritas.at/hilfe-einrichtungen/lerncafes/>

### Example of NGO Good Practice in Housing

'**People's Aid Austria**' (*Volkshilfe Österreich*) is a social aid organisation with nine regional associations. **Assisted living** is one of the initiatives of the 'Volkshilfe'. Families who are receiving lodging, boarding and medical insurance under the so-called 'Grundversorgung' live in the refugee houses of the Volkshilfe. The staff help through counselling and assistance in social and legal issues. Within the project 'FLATworks' (<http://www.volkshilfe-wien.at/online/page.php?P=104347>) assisted living is offered for recognised refugees. <http://www.volkshilfe.at/1135,,2.html>

The '**Association Refugee Project Ute Bock**' (*Verein Flüchtlingsprojekt Ute Bock*) helps homeless asylum seekers and refugees through social and legal

counselling, guidance, housing and educational projects. The **housing project** offers free housing possibilities (currently 136 flats and 450 people) and provides money for food for occupants who do not have income. <http://www.fraubock.at/>

#### **Example of NGO Good Practice in Health**

The organisation '**Diakonie – Aid to refugees**' (*Diakonie Flüchtlingshilfe*) of the evangelic network 'Diakonie' operates an advice centre. In the healthcare area they implement the project '**Amber-Med**' together with the Austrian Red Cross. The aim of the project is to offer uninsured and vulnerable persons (asylum seekers, migrants and Austrians) ambulance medical services and social advice free of charge. This also includes short-term psychotherapies, advice in crisis situations, early detection of illnesses and information. The services are offered in a number of languages. <http://amber.diakonie.at/goto/de/startseite>; <http://fluechtlingsdienst.diakonie.at/>; <http://www.rotekreuz.at/>

#### **Example of NGO Good Practice in Access to Goods and Services**

The anti- racism NGO '**ZARA- Civil Courage and Anti-Racism Work**' (*Zivilcourage und Anti-Rassismus-Arbeit*) aims to combat racism and promote civil courage and cultural diversity in the society. They document cases of all kinds of discrimination and offer counselling and information about possible legal and other steps. They also work in the field of political advocacy; they offer awareness-raising training courses; workshops for educational institutions and public authorities; and advise businesses and companies in the fields of anti-racism and anti-discrimination. <http://www.zara.or.at/>

#### **Example of NGO Good Practice in Promoting Political Participation**

'**SOS Mitmensch**' is an organisation which campaigns actively for the implementation of human rights. Their aim is to ensure that all people have equal rights, equal opportunities and access to all areas of collective society. SOS Mitmensch monitors the human rights situation and intervenes when necessary. They develop proposals, provide information and offer assistance in individual cases. <http://www.sosmitmensch.at/>

#### **Example of NGO Good Practice in Media**

The '**Media- Service New Austrians**' (*Medien- Servicestelle Neue Österreicher/innen*) was established in June 2011 and provides reports, data, figures and facts on migration and integration issues. They also offer research opportunities for journalists. It is supported by two Austrian social partners, the Federal Chancellery, the Ministry of Interior, etc. [http://medienservicestelle.at/migration\\_bewegt/](http://medienservicestelle.at/migration_bewegt/)

**M-Media (Diversity Mediawatch Austria)**, which is a self-organised migrants association, aims to build a bridge between the Austrian mainstream media and migrants, migrant communities and migrant media. They want to create their own images in the mainstream media through active participation and representation of migrants in the communications process. M-Media also conducts workshops, lectures and tutorials. <http://www.m-media.or.at/>

### **Example of NGO Good Practice in Criminal Justice**

The **Litigation Association of NGOs Against Discrimination** (*Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern*) is an umbrella organisation which consists of 28 NGOs. It focuses on anti-racism, anti-discrimination, equality and human rights and helps victims in litigation (through advice and in some cases through direct court-support). The Klagsverband documents anti-discrimination legislation and comments on decisions and draft legislation. It also offers training in anti-discrimination law. <http://www.klagsverband.at/>

The association '**Equitable & Sensitive, Police and African people**' (*Fair & Sensibel, Polizei und AfrikanerInnen*) was established in 2000. The membership includes police officers, persons with and without migration background, asylum seekers etc. The association works to eliminate prejudice, promote intercultural dialogue and communication, and mediates between the police, migrants and the public. The association provides information and offers advice to persons who feel discriminated against by the police and promotes multiculturalism in Austria. In particular it aims to foster positive public attitudes to people of African descent. The association also offers training for police and prison officers to raise awareness and promote cultural sensitivity. Further, the association implements cultural projects and sports. It conducts public relations work and networking practices with various NGOs and organisations. Dialogue is fostered with all persons with migrant background (not only people of African descent). Recently the organisation has increased its focus on the Turkish community. <http://www.fairundsensibel.at/>

## 9. National recommendations

### Special Focus: Muslim Communities

- Politicians and the media should explicitly address the prevalence of Islamophobia in Austria and foster awareness-raising.
- The Austrian authorities should empower the regional offices of the Ombudsman for Equal Treatment so that they can counsel appropriately in cases of discrimination on grounds of ethnic origin and religion. (This recommendation should be considered for all sections.)

### Employment

- Austria should reject the discriminatory legal regulations for non-EU nationals and asylum seekers and foster equal access to the labour market.
- Austria should harmonise the Equal Treatment Act at federal and provincial levels (Levelling Up). Measures should be taken to increase awareness about discrimination among specific authorities and administrative employees (This recommendation should be considered for all sections).

### Education

- Austria should combat segregation in the educational system.
- Teachers and students should be trained in diversity and anti-discrimination issues and linguistic and cultural diversity at all school levels should be enhanced.
- More teachers from minority ethnic and religious groups should be employed at all levels of education in order to foster intercultural dialogue and anti-discrimination.
- Austria should encourage the creation and revision of schoolbooks and learning materials to enhance intercultural dialogue and tolerance and counter racist stereotyping.
- The Austrian authorities should deploy school assistants/mediators and mentors from various migrant groups throughout the education system.

### Housing

- Austria should foster the collection of socio-demographic data and research regarding the challenges and problems in the housing market in order to implement effective measures.
- The Austrian authorities should provide equal access to affordable (public) high-quality housing.
- Austria should implement obligatory training regarding anti-discrimination, anti-racism and intercultural competences for landlords, caretakers, realtors and staff of housing organisations.

### Health

- Austria should integrate diversity instruments and measures within the health care system in order to meet the needs of migrants, vulnerable and minority groups and therefore offer them appropriate access to health care.
- Austria should foster awareness-raising and information dissemination both for medical staff and migrants throughout Austria.
- The Austrian government should ensure equal access to the public health care system for all people living in Austria.

#### **Access to goods and services**

- Austria should remove access limitations and should enable unrestricted opportunities, participation and the same rights for all regarding public goods and services.

#### **Political Participation**

- Non-Austrian citizens who have the intention to reside in the country should have the right to vote
- Austria should take measures that enable representatives of migrant and minority groups to participate at all political levels.

#### **Media**

- The Austrian authorities should implement ethical codes in the area of racism and discrimination.
- More participation and representation of migrants within the mainstream media should be encouraged.

#### **Criminal justice**

- Establish an Ombudsman for Integration and Diversity Affairs.
- Austria should improve statistical information through the collection of socio-demographic data and research in the extent and effects of racist discrimination, ethnic profiling etc.
- Public authorities and institutions must adhere to impartiality, fairness and legal certainty. The Austrian authorities should eliminate structural racism and discriminatory practices in the area of criminal justice, e.g. police and administration.
- Austria should revise the laws under the Austrian Penal Code. The existing laws should be better implemented (e.g. §33 '*aggravating factors*').

## 10. Conclusion

At the end of August 2012, the CERD- Committee of the United Nations will monitor to what extent Austria is in compliance with the International Ant-Racism-Convention CERD. A number of NGOs expect the results to show that implementation of the Convention has been weak. Therefore it is very important that the Austrian government fulfils its promise from Durban 2001 to produce and implement a National Action Plan Against Racism in order to meet the challenges regarding discrimination and racism which are prevalent in all areas of society.

The establishment of the State Secretary of Integration was a positive step. It brought some important changes in political discourse. A lot remains to be done. It would be desirable to shift the approach from a focus on economic and security- based concerns to social and human rights.

The entire legal framework concerning anti-discrimination and anti-racism needs to be reviewed in order to protect vulnerable groups and hold perpetrators to account. Therefore it is necessary that the whole political and public discourse becomes more sensitive and less aggressive towards vulnerable groups. Currently the trend is not going in this direction but there are many initiatives and NGOs who press for equality through awareness-raising. It is hoped that this could lead to structural changes in the political and social system.

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## **Interviews**

**Author's Interview** with Claudia Schäfer MAS, Chief Executive Officer and Mag.<sup>a</sup> Dina Malandi, legal assistance, NGO ZARA, 20.07.2012.

**Author's interview** with lieutenant-colonel Josef Böck, chairman, association 'Fair&Sensibel', 30.07.2012

**Author's Interview** with Dipl. Ing. Tarafa Baghajati, chairman, Austrian Muslim Initiative ('Initiative Muslimischer ÖsterreicherInnen'), 13.08.2012.

**Email communication** with Dr. Monika Mayrhofer, Ludwig Boltzmann Institute of Human Rights, 31.08.2012.

**Interview** with Michael Genner, NGO 'Asyl in Not', 28.05.2012 (Elisabeth Doderer, Radio Afrika TV).

## Annex 1: List of abbreviations and terminology

### Abbreviations:

AK	Arbeiterkammer (Official Representation of Employees)
AMS	Arbeitsmarktservice Österreich (Austrian Employment Service)
BKA	Bundeskanzleramt Österreich (Federal Chancellery Austria)
BMI	Bundesministerium für Inneres (Interior Ministry)
BMUKK	Bundesministerium für Unterricht, Kunst und Kultur (Ministry of Education)
BZÖ	Alliance of the Future of Austrians (Bündnis Zukunft Österreich)
ECRI	European Commission Against Racism and Intolerance
ETA	Equal Treatment Act (Gleichbehandlungsgesetz)
FPÖ	Freiheitliche Partei Österreich (Freedom Party Austria)
IGGiÖ	Islamische Glaubensgemeinschaft in Österreich (Islamic Religious Community in Austria)
MIPEX	Migration Integration Policy Index
NAP	National Action Plan for Integration
OET	Ombudsman for Equal Treatment (Gleichbehandlungsanwaltschaft)
ORF	Österreichischer Rundfunk (Austrian broadcasting cooperation)
ÖVP	Austrian Conservative People's Party (Österreichische Volkspartei)
SPÖ	Social Democrats Austria (Sozialdemokratische Partei Österreich)
StGB	Strafgesetzbuch (Austrian Penal Code/Criminal Code)

### Terminology:

**Package of the Alien and Asylum Law (*Fremdenrecht*) – July 2011:** Refers to various laws regarding rights and duties of foreigners (non- Austrians) and asylum seekers. Following laws are included: the Asylum Law (*Asylgesetz*), the Settlement and Residence Act (*Niederlassungs-und Aufenthaltsgesetz*), the Aliens Police Act (*Fremdenpolizeigesetz*), the Citizenship Act (*Staatsbürgerschaftsgesetz*) and the Basic Needs and Care Act (*Grundversorgungsgesetz*).<sup>139</sup>

**Islamophobia:** In this report the term Islamophobia refers not only to fear of Islam/Muslims but is also understood as every discrimination against religion. Therefore it's different from conventional racism. Islamophobia manifests itself in every disadvantage, discrimination, insult and physical violence from people, groups of people, in all areas of society, in the public and political discourse or in institutionally established mechanisms.<sup>140</sup>

<sup>139</sup> Re Bundeskanzleramt, *Fremdenrechtsänderungsgesetz* 2011, [http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2011\\_I\\_38/BGBLA\\_2011\\_I\\_38.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2011_I_38/BGBLA_2011_I_38.pdf), accessed on 04.06.2012.

<sup>140</sup> Re Tarafa Baghajati, 'Austrian Muslim Initiative' (*Initiative Muslimischer ÖsterreicherInnen*)



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