



europen network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

RACISM IN AUSTRIA

Beatrice Achaleke

AFRA Center for Black Women's Perspectives

Simon Inou

M Media/ Afrikanet.info

Assisted by Njideka Stephanie Iroh and Belinda Kazeem

Proofreading by Mag.a Katharina Köhler and Dr. in Marta Hodasz
Ludwig Boltzmann Institut für Menschenrechte - Forschungsverein

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. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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 with 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 the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

The following paper documents racism in Austria in the year 2006 with the aim of making visible mechanisms of oppression, exclusion and discrimination, and to discuss underlying structures.

- **Definition of racism and the interaction with other mechanisms of oppression**

The term 'racism', in the Austrian context and as implied by this report, refers to systematic asymmetries between racially defined groups (the constructed 'Other') and the hegemonic society, which is accepted as the norm. Hegemonic in the Austrian context refers to the white, heterosexual, catholic society. Racism is not the only form of oppression, but it interacts with other mechanism of discrimination such as sex, class, age, sexual orientation and religious belief. These mechanisms and their impacts shall also be discussed from a gender perspective.

- **Case studies**

This report includes documented examples of racist incidents mostly from the Zara Racism Report 2006, as well as selected online platforms and magazines as an attempt to make the incident of racism visible, contrary to how it is been treated in political discourse in Austria.

- **Implementation of laws and resulting criminalisation**

In the context of the implementation of the Aliens Law Package 2005, this report focus mainly on specific forms of institutionalised racism and their impact on the personal lives of immigrants, third country nationals, minorities, asylum seekers and undocumented migrants. The implementation of this law has resulted in further criminalisation of asylum seekers and undocumented migrants. Austria's migration policy is known as one of the strictest in Europe and fits into a Europe-wide movement to diminish and restrict migration. The most important question here is: In the face of institutionalised discrimination and weak anti-racist legislation in Austria, can sufficient light be shed on anti-discriminative actions?

- **Self-organisations, NGOs and anti-racist organisations**

This report includes selected information of self-organisations (mostly of immigrants) fighting against racism in Austria, as an attempt to underline their importance, role and perspectives in the fight against racism in Austria.

- **Recommendations and conclusions**

Austria is no doubt a country of immigration. The importance of a multi-cultural society should not only be accepted but be promoted at all levels. Immigrants and minorities are an important part of Austria's society, culture and economy, and not a threat to the national security as is most often

propagated by many politicians. As such framing migration policies solely in the context of national security, as is presently the case in Austria, will only lead to further exclusion and insecurity for these segments of the population.

Consequently the main recommendation of this report is the abolishment of the Aliens Law Package 2005 with its destructive impact on the wellbeing and lives of immigrants. Secondly, Austria needs an Anti-discrimination Law, which must enable the protection of rights for all. There has to be a political responsibility at a national level and measures to fight against all forms of racism and discrimination that will further extend into political structures and orders.

2. Introduction

In Austria, the year 2006 was characterized by the implementation of the New Aliens Law Package 2005. This contributed significantly to the institutionalisation of racism¹ in Austria. After general elections in 2006, there was a formal change of coalition partners in the Austrian Government. The Social Democrats (SPÖ) replaced the Austrian Freedom Party (FPÖ/BZÖ) which has been in government with the Austrian People's Party (ÖVP) since 2000. As expected by many NGOs and experts in the field of migration, the current Government (SPÖ/ÖVP) has felt to amend the above mentioned laws.

Examples of the destructive impact of this law are illustrated in section IV of this report. Manifestations of racism and religious discrimination in various sectors (employment, housing, education, media, etc.) are experienced not only on an individual level but also on a structural level due to institutionalised mechanisms of oppression. 'Structural' and 'institutionalised' in this case mean relating to the setting of and implementation of laws and governmental orders. The resulting discrimination affects not only the first generation, but also subsequent generations of immigrants. In this context, it is important to focus on the structural level if efforts to fight racism and its effects are to be effective.

In identifying communities vulnerable to racism and discrimination, it is important to mention that it is not possible to generalise, that there is no typical migrant and that it is difficult to talk about communities without being a member of such a community. For these reasons this report contains several perspectives of organisations and activists working in the field, in an attempt to provide a representative discussion about groups which may already be stigmatised by the hegemonic society.

This report is not intended to be a comprehensive presentation and in-depth analysis of all relevant issues, rather a presentation and analysis of the most significant issues and of the general situation of racism and discrimination in Austria from an NGO perspective. The authors' hope the inclusion of key resources and websites will help to provide a basis for further exploration and understanding by the reader.

¹ For further explanation see the annex.

3. Communities vulnerable to racism

This report takes into consideration the importance of gender when examining racism and other forms of discrimination, such as for example discrimination based on age, religion, sexual orientation, or disability. The understanding of interconnections between various mechanisms of oppression is fundamental in analysing discrimination experienced by men and women, who are migrants, and ethnic and/or visible minorities.

Specific stereotypes formed about a group of people may affect men and women of the same group differently. For example, Black men are stereotyped as being sexually aggressive, drug criminals, while black women are considered to be prostitutes and sexually promiscuous. Multiple discrimination can not only intensify a victim's experiences of discrimination but also means that they may face specific forms of discrimination distinctive from the faced by other groups. For example, in the case of migrant women their resident permits are linked to that of their husbands, meaning that they are totally dependent on their husbands and in cases of violence in the family, they are not free to leave their husbands.

In the Austrian context, the following communities are particularly vulnerable to racism:

Roma and Sinti Communities

The number of Roma in Austria can only be estimated and is said to be between 10,000 and 40,000 people. The population census does provide reliable data since Roma ethnicity is recognised only on the basis of language, but not all members of the Roma or Sinti community speak Romani. Furthermore, out of fear of facing discrimination, many Roma prefer not to admit their ethnicity.²

The specific kind of discrimination and stigmatization faced by members of Roma and Sinti communities is evident in their common experiences of social exclusion and poverty; many living in socio-economic conditions well-below that of the majority of Austrian society. The structural discrimination and its effects faced by these communities is evidenced in media representation, as well as in their lack of access to the labour market, adequate housing, education, healthcare, and social services.

Black People/People of African descent

The most recent population census, of 2001, estimates that there are 38.500 individuals of African decent presently living in Austria. However, this number is misrepresentative of the number of Blacks in Austria as it is limited to those who were born in Africa (including North Africa)³. It does not include Black people with

² Härtle 2007, p.6.

³ http://www.statistik.at/web_de/statistiken/bevoelkerung/volkszaehlungen/bevoelkerung_nach_demographischen_merkmaelen/index.html.

Austrian citizenship, Black Europeans from other parts of Europe or Blacks from other regions (North and South America or the Caribbean for example).

The Black population in Austria faces severe and multiple forms discrimination and aggression in everyday life. Direct indicators of this are the hate propaganda and numerous racist slurs visible all over the city of Vienna. They are stereotyped as illegal and/or abusers of Asylum programmes. It is quite often ignored that the history of Black people and discrimination against them is part of a European history, which is strongly connected to European (neo) colonialism and imperialism in the 17th, 18th, 19th and 20th century. Stereotypes and prejudice are also gender specific: while black men are accused of being sexually aggressive, drug criminals, black women are considered to be prostitutes and sexually promiscuous.

The number of Black self-organisations or self-organised initiatives of black people in Austria has increased in the recent years, in attempts to fight against discrimination in all its forms, to press for political will in this area and to move away from victimisation towards active citizenship. The 2nd generation of Black people have started analyzing the structural foundations of discrimination, not only taking into account recent developments, but also historical processes of racial discrimination⁴ In Austria.

Muslims

The 2001 population census estimates that Muslims represent around 4.2 % of the Austrian population⁵ , coming from Turkey as well as countries of the former Federal Republic of Yugoslavia. Unfortunately there are no available statistics disaggregated on gender and religion.

Muslims are specifically confronted with ‘Islamophobic’ forms of discrimination⁶ . While Muslim women are stereotypically seen as victims, Muslim men are considered to be fundamentalists and terrorists. Anti-Islamic stereotyping and discrimination is neither new in the Austrian context, nor did it start with the events of 9/11 and the London and Madrid bombings in the year 2005. These stereotypes are historical and date as far back as the 16th and 17th centuries during the war between the Habsburg and Ottoman empires referred to as ‘Türkenkriege’ (‘Turks wars’).

⁴ For further information see the work of the Research Group of Black Austrian History and Presence, a working group of Pamaja, Movement of the Young African Diaspora in Austria,
<http://remappingmozart.mur.at/joomla/content/view/23/40/lang,en/>.

⁵ Number of Muslims in Austria: 338,988
Muslims with Austrian citizenship: 96,052
Muslims with other citizenships: 242,936
ORF, *Anteil der Muslime seit 1991 verdoppelt*, 2005, see also Statistik Austria, Bevölkerung 2001 nach Religionsbekenntnis und Staatsangehörigkeit,
http://www.statistik.at/web_de/static/bevoelkerung_2001_nach_religionsbekenntnis_und_stataangehoerigkeit_022894.pdf.

⁶ For further explanation see the annex.

Asylum Seekers

In the year 2006, 13,349 individuals applied for asylum in Austria, 8,780 men and 4,569 women. Compared to the number of applicants in the year 2005 (22,461), this demonstrates a decline of 40, 57 %.⁷ The majority of Applicants came from Serbia or the Russian Federation.

The discourse about asylum seekers has been relatively prominent in Austrian media and political debates, especially during the last election campaigns. The Freedom Party Austria (FPÖ) and Bündnis Zukunft Österreich (BZÖ) launched a series of posters with racist and discriminatory content with regards to asylum seekers,⁸ referring to them as criminals who are abusing the national welfare system. These stereotypes completely ignore not only the reasons why people flee from their countries of origin, but also the enormous untapped socio-political and economic potential they represent. Female asylum seekers in particular suffer from specific forms of discrimination related to, for example, the acceptability of reasons for asylum or the question of autonomous right of residency.⁹

Undocumented Foreign Nationals

These refer to those migrants from countries outside the EU who do not have permits or migration documents and therefore are not documented. It is unclear how many undocumented foreign nationals are in Austria. Rough estimates have been calculated at between 100,000 and 300,000 in Vienna and more than 500,000 in the whole of Austria¹⁰.

In Austria every resident is required to register at a local registry (Meldeamt) and foreigners must be living in the country 'legally' in order to benefit from social security, health insurance, and other forms of assistance. The 'Grundversorgung' (basic needs and care) programme is responsible for supporting asylum seekers socially, financially medically and psychologically. Undocumented foreign nationals are 'not officially in the country' and therefore do not 'exist'. They are not entitled to any kind of assistance with the exception of medical support in case of emergency.

Ethnic Minorities

There are six officially recognised ethnic minority groups: in Austria: Roma, Croatian, Slovak, Czech, Hungarian and Slovene. The 'Ethnic Minority Law' (Volksgruppengesetz) was established in 1976 and the Advisory Board for Ethnic Minorities was established in the 1990s. Nonetheless, members of ethnic minorities face discrimination in all sectors. An example in prominent in Austria's politics and media is the problem with bilingual place-name signs. In the federal

⁷ BMI 2007, p.3.

⁸ FPÖ slogan 'Sichere Pensionen statt Asyl-Millionen.' Pensions should be secured instead of millions wasted for asylum. Translated by the authors. For more information see: www.wien-konkret.at/politik/nationalratswahl2006/wahlplakate/.

⁹ Deserteursberatung, 2006.

¹⁰ Chibo Onyeji, ENAR 2005 Shadow Report on Austria.

province of Carinthia, the Governor Mr Jörg Haider, has refused over the years to use bilingual place-name signs despite enormous political pressure not only from the Slovak minorities in Carinthia, but also from other politicians. For details see part V- Educations and part VI-political and legal context.

There are also several other ethnic minorities in Austria that are not officially recognised by law, for example Black people, Turks, Bosnians and Serbs. Their situation has severely worsened due to the new Aliens Law Package.¹¹

Jewish Community

The Jewish Community constitutes 0.1% of major religions in Austria. According to Statistics Austria, there are 8140 Jewish people living in Austria, the number of Jews with non-Austrian citizenship being 2028.¹² There are also a number of people of Jewish origin, but who are not members of the Jewish religious community.

Austria's history cannot be separated from the events of World War II and the physical torture, exploitation in forced labour and systemic annihilation of the Jewish community in detention camps such as Mauthausen, efforts have been made by politicians, governmental and private organisations, self-organisations of Jewish people and others to deal with this past, however anti-Semitism and discrimination against the Jews remain important issues to be addressed in Austria as reported by the newsletter of the 'Forum gegen Antisemitismus'.¹³

The Jewish Community (Israelitische Kultusgemeinde or IKG) is a strong voice against Anti-Semitic developments in Austria, also being a strong partner for Jewish people in the Restitution processes and providing educational programmes, alongside various political and cultural programmes.

¹¹ Chibo Onyeji, ENAR 2005 Shadow Report on Austria, p. 13.

¹² Statistik Austria, *Bevölkerung 2001 nach Religionsbekenntnis und Staatsangehörigkeit*, 2001.

¹³ See Forum against Anti-Semitism (Forum gegen Antisemitismus), <http://www.fga-wien.at/>.

4. Manifestations of racism and religious discrimination

This section focuses on examples of concrete incidents of racism, as reported by several platforms and newspapers or by ZARA (the platform for civil courage and anti-racism work), in its recent report for the year 2006. ZARA documents and publishes annually a report on cases of racism in Austria. According to the ZARA report, 1,504 cases of racism were reported in 2006. However, this is not the ultimate number of cases since not every case is reported, partly because Austria does not have a general Anti-discrimination Law. What does exist in Austria is the 1979 Equal Treatment Act, specifically for the equal treatment of men and women in the labour market. On 1 July 2004, the Equal Treatment Act was amended in line with the European Union's anti-discrimination Directives. In the ZARA Racism Report 2006, references are made to the rights of individuals and which legal steps can be taken by persons affected.

4.1 Employment

The European Commission has stated that 'the labour market is of fundamental importance when it comes to the question of integration' and that 'the effective and responsible integration of immigrants in the national labour markets benefits the realization [sic] of the Lisbon goals and therefore has to be on the national agendas'¹⁴. Nonetheless, access for immigrants to the Austrian Labour market is characterised by numerous barriers and restrictions, and as a result, many people are forced to work 'illegally'. These restrictions have been criticised by the UNHCR which recommends promoting easier access to the Austrian labour market especially for Asylum Seekers and third country nationals.¹⁵

Job descriptions are often developed in such a way that obviously implies that only white Austrians should apply. Asylum Seekers hardly have a chance to work legally in Austria except for in temporary jobs as seasonal workers for a maximum of six months.

Another obstacle faced by migrants with regards to employment is the non-recognition of foreign qualifications, leading to highly qualified individuals being underemployed and forced to accept jobs that are not appropriate to their qualifications. Also, knowledge of the German language is often among the main recruitment criteria.

¹⁴ KOM 2005, p.3.

¹⁵ See article in Standard, *UNHCR will erleichterten Zugang zum Arbeitsmarkt*, 2007. Available online at: <http://derstandard.at/?url=/?id=2910029>, accessed 4 July 2007.

Most Migrant women are forced to accept the worse paid and most labour-intensive jobs. Many work as domestic helpers. Often victims of human trafficking are forced into sex work.¹⁶

The result is a systematic 'de-qualification' of immigrants of even the 2nd and 3rd generation.¹⁷ Moreover, beyond discrimination in the labour market, discriminatory practices in other sectors have been reported by ethnic and/or visible minorities.

An employee of an employment agency reported to ZARA that one of her clients applied for a job at a hairdressing salon. When the young woman phoned the salon, she was asked about her origin and her religious affiliation. She told them that she is from Afghanistan and is Muslim. She was then told that she cannot be employed at the salon because of her religion. The employment agency employee then phoned herself and she was told that only people of Roman-Catholic faith are employed at the salon. ZARA informs her and her client about possible legal steps. However, the young woman does not wish to take action.¹⁸

4.2 Housing

Through the transposition of EU-law in 2006, council flats were opened to third country nationals with long-term residence permits. However, although this legislative decision was made its realisation has not taken place as the number of immigrants in council flats in Vienna has not changed since.

Furthermore, most council flats (Gemeindebau) especially in those houses where many immigrants live are still considered to be slums or dangerous areas for Austrians. This is a good example of the housing policies in Austria with regards to access for immigrants to housing facilities. Vienna's council flats have mostly been built as an initiative of the Social Democrats (SPÖ) for workers and employees. The flats are usually cheaper than private flats making them affordable for immigrants, but many are in poor condition in terms of the general state of the building, the heating systems, etc.

Pre-existing prejudice on the part of landlords that already makes finding flats harder for immigrants, is being reinforced by negative political debates and efforts by politicians to find support for nationalistic claims. These prejudices are evidenced in announcements for vacant flats stating that they are 'only for Austrians', meaning white Austrians with German mother tongue, although this approach is prohibited.¹⁹

¹⁶ In most cases, they are granted a working permit which allows them to work only as 'self-employed' workers. This approach leads to a further segmentation of the labour market. (Arbeitsgruppe Migration und Gender 2007, p. 1. Translated by the authors).

¹⁷ Langthaler 2006, p. 10. Translated by the authors.

¹⁸ Zara Racism Report 2006, p.39.

¹⁹ E.g. www.jobwohnen.at/index.php?id=198&spg=2&objektID=537738, accessed on 10 July 2007.

'I am not a racist', he points out, 'but the flood of foreigners is menacing.' What wasn't achieved by Kara Mustafa, is now happening without any war. 'Almost only Turkish, Croatian and Russian is spoken in this house. 'It's really multi-kulti.' What bothers him concerning that? 'Our mentalities don't fit together', Nyolt says and points to the playground. 'Just look there in ten years we are going to have conditions like in Kosovo.'²⁰ (John 2005)²¹

Ms. D. is Jewish and in April she files a complaint about her neighbour's 16 year-old anti-Semitic son. The young man sings radical right-wing songs from his open window and chants repeatedly with his friends, 'Hail Hitler' or 'Jewish pigs'. Once Ms. D. observes how the young man's mother rushes into his room and shouts at him that he should at least close the window. Ms. D. approaches ZARA to ask for the case to be documented and asks about legal possibilities. ZARA informs her by letter that 'Hail Hitler' constitutes an element of revival of Nazi activity (Wiederbetätigung) and is a criminal offence. The neighbour could be reported to the police. However, ZARA tells Ms. D. that she should consider that in the case charges will be pressed and she will have to be a witness and that the perpetrator is her neighbour. If she decides to take legal steps ZARA will stand by her. At the time of going to print Ms. D. has not replied.²²

4.3 Education

According to the compulsory school law (Schulpflichtgesetz) in Austria, every child must go to school from the age of six to nine years old. The official language of instruction is German. Croatian and Hungarian are taught in Burgenland and Slovene is taught in some bilingual schools in Carinthia. Turkish is only offered rarely as a second language.

Throughout the 2006 year, there have been many debates over the ratio of migrant children in schools, mostly in Vienna, with the highest rate of migrant children. Besides the problem of big class sizes which overstrains pedagogic resources, it has been argued that Austrian children are suffering from poorer education since migrant children don't speak the language well.

Several attempts have been made to solve the problem. In October 2006 Gertrude Brinek (ÖVP) suggested forming special classes, where 'all people, not depending on their nationality or cultural background' could be taught (Standard 2006).²³ This suggestion was passed on by the former Minister for Education,

²⁰ Zara Racism Report 2006, p.44. Translated by the authors.

²¹ Name changed by the redaction board.

²² Zara Racism Report 2006, p.44. Translated by the authors.

²³ Standard, 2006. See more on this statement online at:

www.andard.at/?url=/?id=2510386%26_seite=10%26sap=2, accessed on 10 July 2007.

Elisabeth Gehrer (ÖVP), and reached another level when in February 2007 there was a discussion about 'Foreigner Quotes' in schools.

These debates are confusing the issues and making connections between factors that have nothing to do with each other: being an immigrant does not mean that someone is not able to speak German, and not having German as the first language does not mean that someone is not able to communicate or follow classes. Also immigrants should not be stereotyped as unwilling to learn the German language, as is often the case in the Austrian context

Moreover, rather than being valued, multi-lingual skills are viewed negatively as the focus is always on people speaking one language worse than the other, in this case German. Professor of Linguistics at the University of Vienna Rudolf de Cilia has pointed out that it is instead more important to focus on improving ways of teaching languages to children, especially the ones already having learned a language other than German from their parents.

Despite promises by the Social Democrats during the 2006 election campaigns, to abolish university fees for all, students still have to pay fees. The discriminatory aspect of this system is that third countries nationals are paying more than Austrian Nationals and the present discussion is towards even doubling the fees for them in the future. This would amount to 756 Euro per semester. The regulation for access to the national labour market is restricted by several laws, and it is not easy to find an appropriate job. Discrimination of migrant students, especially third country nationals, prevents many of them from coming to Austria to study and to work, which again is a loss for Austria's education and economic sector.

4.4 Health

Ms. L. was born in Kosovo and lives in Vienna. For some time she has been suffering from circulation problems and fainting spells. For this reason she visits her general practitioner. She tells him about her complaints and mentions that she is unemployed. At first the doctor listens to her but then asks „What do you actually want? Buy yourself a train ticket and go home! Go home and go into the fields and harvest! What do you all want here actually? This is not a welfare state here!“ Ms. L. is speechless, she cannot respond and leaves the doctor's office. ZARA intervenes for Ms. L. at the Wiener Gebietskrankenkasse (Vienna Area Health Fund), the Vienna Medical Association and the Patientenanwaltschaft (Patients' Advocate). She was not only insulted, the doctor also refused to examine her. The client is afraid of the doctor and wishes to remain anonymous and the Patientenanwaltschaft can therefore not take up the case. ZARA receives no reaction from the Medical Association. Only the Gebietskrankenkasse regrets the incident, but cannot help Ms. L. any further because there were no witnesses.²⁴

The above example from the ZARA report illustrates the problems immigrants face in accessing healthcare, but this issue continues not to be addressed in public discourse. Instead, while issues of discrimination against them in the healthcare system are left unaddressed, immigrants are employed in the health sector under the umbrella of intercultural healthcare. These immigrants are expected to take care mostly of European Citizens who are 'legally' in Austria.

The healthcare sector has been discussed extensively in 2006 both on a political and public level. Austria's problems in dealing with the growing number of aging people in need of care, gaps in the healthcare system and the situation of migrant men and women who do not have the right to work in Austria, even brought the topic into the national election campaigns. Following a suggestion by the SPÖ, all Austrian families employing illegally-staying immigrants should report to official institutions to legalise their workers' status, but many have not taken this step yet. This discussion on the whole has been criticised for not taking into consideration the well being of the immigrant workers.

In the healthcare sector it is relatively easy for immigrants to find jobs and in particular, many women from South East Asia and Eastern Europe tend to work in this field. Since the healthcare sector is among the worst paid and most over-worked sectors, it is obvious that especially this sector will continue to depend on migrant workers.

²⁴ Zara Racism Report 2006, p.50.

4.5 Policing and racial profiling

On 7 April 2006 at 05.00 in the morning the asylum seeker Bakary J. from Gambia is to be deported by three WEGA officers²⁵. On the airplane Mr J. informs a flight attendant that he is to be deported against his will and that he has not even been able to inform his wife and two children. The pilot refuses to transport Mr J. on the plane against his will. The WEGA officers leave the plane together with Mr J. and instead of bringing Mr J. back into custody awaiting deportation, they drive with him to a deserted warehouse which is usually used by WEGA for training purposes. There Mr J. is beaten by the three police officers and seriously injured. They threaten to drive over him and subject him to racist abuse. Bakary J. is so seriously injured that he must be taken to the hospital. At 08.57 at Vienna General Hospital he is diagnosed with contusions to the head, the left shoulder and both hips as well as a strain to the cervical spine.²⁶

Mr. S and his friend are Georgian citizens. Both of them live and work in Vienna. They are stopped by two police officers on Kärntner Strasse and asked to show their identification. Without stating a reason the police officers take Mr S. and his friend to the police station. Their particulars are entered into the EKIS (Police Electronic Criminal Information System). There are no entries with indications of a criminal record for either Mr S. or his friend. The police are visibly annoyed that they have found nothing and insult the two men: 'But Georgians are all criminals, arseholes, pigs and idiots.' After that Mr S. is subjected to a body search and a penknife is found. The police officers take this as a reason to make a criminal out of him. A few weeks later during the course of a driving licence appraisal Mr S. must obtain a psychiatric report because the police officers have informed the Traffic Office that Mr S. is aggressive and is present on the drug scene. Furthermore, he is forbidden to own weapons and is given an administrative fine of 70 euros for aggressive behaviour. Mr. S. engages a lawyer who appeals against the fine. As a result proceedings are abandoned. Mr. S. and his wife approach ZARA. They want to report the case. A ZARA staff member informs them of the principle possibility of a complaint to the Independent Administration Council (see Glossary). However, this possibility can no longer be taken up because the legally prescribed time limit has already expired.²⁷

The profiling of immigrants, ethnic and visible minorities on a basis of ethnic their origin is a common approach in Austria that can be seen in the media and especially common in interactions with the police. In 2006 many cases of violence in connection with the handling of immigrants by the Austrian police were reported in the media.

²⁵ WEGA is an Austrian police force unit (Wiener Einsatzgruppe Alarmabteilung).

²⁶ Zara Racism Report 2006, p.25-26.

²⁷ Ibid, p.27.

The deaths of Marcus Omofuma (1 Mai 1999), Richard Ibekwe (4 Mai 2000), Imre Bartos (19 Mai 2000), Binali Ilter (1 August 2002), Cheibane Wague (15 Jul 2003), Edwin Ndupu (19 August 2004) and Yankuba Ceesay (4 October 2005) and many other cases of violence documented (many are still undocumented) do not merely represent single cases, but rather disturbing patterns of structural discrimination, in the judicial and executive systems in Austria.

Racial profiling manifests and exacerbates existing stereotypes, especially when constantly applied to groups of people who are different from the hegemonic society. For example, the stereotype of black men as drug dealers, encouraged by the police and politicians, finds its way into media and is projected into society. This produces a vicious circle of prejudice, allowing people to think that it is acceptable to stereotype. It reaches a point where Black men can be stopped on the streets at anytime by the police and asked for their ID or searched for drugs without any plausible reason.²⁸

In the case of Bakary Jassey this became very obvious, when the former Minister of the Interior Liese Prokop, as the head of police, denied any associations of the act to racism and refused to apologise to Bakary Jassey and his family for the brutal experiences and abuse of his human rights he suffered arguing that he was considered to be a sentenced drug dealer.²⁹ This statement by the former Minister of the Interior met with significant protest since he was wrongly justifying the act of violence against Mr. Bakary by the police.

4.6 Racist violence and crime

As many racist incidents are not officially reported, this report can only present those which received media coverage in 2006.

Muslim graveyard dishonoured by unknown vandals in Vienna, on the 1st of December 2006. Twenty-three crosses were drawn on the surrounding walls. Omar- Al Rawi speaks of a conscious provocation.³⁰

Vandal act against Jewish School in Vienna. Several windows were broken, doors destroyed and violated through the whole house. The delinquent, later apprehended, stated anti-semitic reasons for his actions.³¹

In terms of racist violence and crime, examples of racially motivated direct physical violence, including beatings, were examined in the previous section. In addition to these direct and severe forms, immigrants and minorities suffer on a

²⁸ Zara Report 2007, p.29.

²⁹ Zara Report Racism 2006, p.25-26.

³⁰ ORF 2006. Translated by the authors.

³¹ DÖW 26 Nov 2006. Translated by the authors.

daily basis from the constant lower-level racist violence and crime that often goes unnoticed or is not reported.

While public space may seem to some to be a space that everyone can use without consequence, there are in fact consequences for people that are likely to be affected, for example by racism. A key example of this is the use of public space to display racist sentiment.

The public transport system in particular is a place where many cases of racism take place. Immigrants and minorities have reported several attacks (insults and even physical cases of assault), where no one has reacted, neither other passengers nor the public transport personnel. Civic courage is very much lacking in such situations. For this reason, many victims are afraid to report cases of racism, aggression and or discrimination or even to take legal action. The indifference and lack of civic courage in Austria could explain the presence of several racist slurs on houses and public transport in Vienna.³²

4.7 Access to goods and services in the public and private sector

Public Sector

In terms of access to public goods and services, immigrants are still confronted with different treatment and subtle forms of discrimination, racism and exclusion. The lack of Political will and appropriate initiatives such as public sensitisation campaigns, legislative measures and practical strategies to combat discrimination and to sanction perpetrators of racism and exclusionary practices, coupled with demoralising bureaucratic formalities, go a long way in preventing equitable distribution of and equal access to goods services in Austria. 'Many of the discriminatory structures that produce inequality in society do not originate in local politics, and therefore can not be solved in these contexts. Absence of political participation, lack of access to the labour market, difficulties in obtaining Austrian citizenship, are just a few examples of exclusive structures in Austria'.³³

Legal advice, counselling, psycho-social and medical support are services that are still most provided by Austrians and quite often information materials are not available in the languages spoken and understood by immigrants. As such language barriers and stereotypes constitute some of the main causes of social

³² SOS Mitmensch, an organisation based in Austria, started a project called 'Strike Racism' (Rassismus Streichen) on 23 April 2006. Their aim is to document racist slurs mostly against Africans on the street so that the Government has to react. See more under: SOS Mitmensch, Strike Racism, <http://www.rassismusstreichen.at/stories/2445290>, accessed 26 June 2007. Baumeister Baumann a Viennese master builder even took further steps and opened an ambulance for racist slurs, <http://www.der-bau-mann.com/index.php?id=70>, accessed on 26 June 2007.

³³ Annette Sprung (University of Graz/Austria; Dep. of Education/ Continuing Education Centre). For more information see: www.inst.at/trans/15Nr/08_1/sprung15.htm.

exclusion both in the public and private sectors. Furthermore public services often lack a customer-friendly and oriented approach and this in most cases discourages many people from accessing such services. Consequently many ethnic minorities and other discriminated groups who have had bad experiences shy away from using these services. There is a general need for intercultural opening and sensitisation not only in administrative institutions but also in the area of public education, medical services and social welfare.

In the field of employment, equitable access for immigrants, ethnic minorities and other discriminated groups to vacancies in administration and the public sector is still very far from being a reality in Austria. Additionally, the following constitute factors preventing many immigrants and discriminated groups from having access to public services in all fields (housing, education, employment, social and health services, etc.): restrictive laws regulating access to the labour market for immigrants; lack of appropriate communication strategies; lack of knowledge of existing structures; the reluctance of employers to recruit immigrants; poorly paid jobs irrespective of qualifications; and the fear of consequences with regards to residence permits.

Private sector

Although the refusal of service in e.g. restaurants, bars, clubs, discos, shops, coffee houses etc. is prohibited, it remains a common experience among some groups of people more often than others. Also not many of these cases are, reported either to ZARA or to the police. The police argue that they are not responsible for the personal will of shop owners. These owners often justify their exclusionary policies with excuses and statements such as 'we do not want drug dealers here!', 'the allowed quota for black people for tonight is full', 'you do not respect our dress-code' etc. Blacks and Muslims, especially men, are frequently confronted with this experience. Also many people report being ignored outright and not being served in certain shops if they call for the staff's attention.

Mr. U. is Brazilian. He has been living and working in Vienna for one year as an associate professor. One evening he wants to visit a discotheque but the doorman refuses him entry. Although he asks several times he is not given a reason for the refusal. He asks two other security employees who arrive for the reason and hears from them, 'We don't want any drug dealers here!' Mr. U. calls the police but they refuse to come on the grounds that it is a matter of a private locale and they are not responsible in this case. Mr. U. is bewildered because in Brazil the police would intervene in such a case. Brazilian local owners would then let people in after all, because otherwise they would be threatened with expensive legal action. Mr. U. approaches ZARA and together they file a petition to the Equal Treatment Commission³⁴. Proceedings were not yet concluded at the time of going to print. Mr. U. wants the public to be made aware of this case and writes an article in the magazine 'Stimme'³⁵. ZARA sets up an interview with an Online-Standard journalist.³⁶. The ORF (Austrian Broadcasting Corporation) program 'Heimat fremde Heimat' reports on the case and carries out a test at other locales.³⁷

Mr. T is an Austrian citizen. His mother comes from Israel. He wants to celebrate his birthday with friends in a Vienna city-centre locale. He had rented a separate room in which he could celebrate in peace from 11 pm until one am. They group is then asked by a waiter to pay for the consumed drinks. They do this when suddenly the locale owner approaches Mr. T. and shouts at him, 'The space, we need the space there! Leave now!' Mr. T. wanted to go somewhere else anyway so he told the owner that he would finish his drink and then leave. Thereupon, the owner tries to pull the glass out of his hand and in doing so spills its contents. However, Mr. T. holds on to it and in doing so it hits the owner on the head. Mr. T. apologizes immediately but the owner reacts aggressively and throws glasses and ashtrays around and shouts, 'Piss off out of here!' A third man intervenes and grabs one of the guests by the shirt. Mr. T. and his friends wanted to leave the locale but he is prevented from fetching his jacket by the second man. The man also grabs his shirt and chokes him forcibly. Mr. T. is able to get away by taking off his shirt. One of his friends finally manages to fetch his jacket and calls the police. Mr. T. leaves the locale but the owner and two other men follow him. In front of the locale they push him into a corner, verbally abuse him shouting 'Jewish prick' and hitting him in the face. Mr. T. falls to the ground and injures himself again. Finally he manages to get away. The locale owner calls after him 'Piss off . You pack of Jews! Get out of Austria! We don't need you!' At this moment the police arrive and the aggressors try to run away but the police officers catch up with them. When Mr. T. goes to the police officers the owner shouts at him again, 'There he is, the Jewish prick!'

³⁴ See the glossary at the end of the present report.

³⁵ In edition No. 59 / Summer 2006. Published online at: www.no-racism.net.

³⁶ Available online at: www.derstandard.at.

³⁷ Zara Racism Report 2006, p.48.

Mr. T. asks the police officers to put a stop to this but they do nothing to prevent further insults and threats. The locale owner threatens to 'deal with him' with an iron bar.³⁸

Ms. N. wants to travel by bus in Salzburg with her friend from Poland. Her friend is on the phone and speaking Polish, whereupon the bus driver refuses to sell them tickets. A couple on the bus also intervenes directly with racist verbal abuse. As Ms. N. and her friend defend themselves verbally they are attacked with pepper spray. Ms. N. manages to get out of the way, the acid mixture hits her friend in the face. Ms. N. is able to call the police. Now the perpetrators attempt to run away but the bus driver detains them. He is obliged by law to prevent aggressive behaviour and protect his passengers from attack. The police arrive and arrest the perpetrators. Ms. N. reports the case for documentation.³⁹

4.8 Media, including the internet

The local Bruck an der Mur FPÖ (Austrian Freedom Party) organisation put the following version of the national anthem in their display window:
'Land of Turks and Arabs, land of Slavs and also N██████████,⁴⁰ land of Muslims, rich in fundamentalists, home of you with not many kids so you also need the Indians, multicultural Austria.⁴¹

Ms. P. works in an internet café in Vienna and informs ZARA of the following incident. In September a man of around 50 years old comes in, buys an internet ticket and sits down at a terminal. As she goes past him she sees a big swastika tattoo. A short time later he begins with anti-Semitic abuse at the bar. Ms P. is afraid of him and therefore does not dare to intervene. Eventually the man leaves the café with a nazi salute. The cameras installed in the café only serve as a deterrent and are not switched on. The internet access history is also deleted when the computers are switched off. The café owner promises not to delete the access history in future and to have the cameras ready to film in emergencies. ZARA passes the case on to the Federal Office for the Protection of the Constitution and Anti-Terrorism. (Zara Racism Report 2006, p.16)

Media plays an important role, when talking about racism in a society. The media's representation of immigrants, minorities and asylum seekers gives an indication of the state of mind of a society. Migration and the topics related to

³⁸ Zara Racism Report 2006, p.47.

³⁹ Zara Racism Report 2006, p.51.

⁴⁰ According to the usage of the earlier stated Research Group for Black Austrian History and Presence, the authors choose not to write the discriminatory term commonly used in the Austrian context for Black people and Africans. This term is no self-definition, but carries a history full of violence and oppression, namely the bloody history of enslavement, which is denied especially in the Austrian context. See more on this usage of this term in a text by Claudia Unterweger, 'Black Austrian History -Telling about ourselves instead of being talked about' (2006). Available online at: <http://remappingmozart.mur.at/joomla/content/view/23/40/lang.en/>.

⁴¹ Afrikanet.info 14 May 2006. Translated by the authors.

immigrant communities, when reported on at all, most often receive negative coverage. Racial Profiling in the media is hardly criticised by journalists. In many cases, this leaves the feeling that 'foreigners' are a threat to national security and values. At present, migrant communities are gravely misrepresented in Austrian mainstream media. There is a need for more objective media representation of migrants.

5. Political and legal context

The highlights of political and legal developments in Austria in 2006 include: Austria's presidency of the European Union, general elections in conducted October 2006 and the implementation of a new Aliens Law Act.

The general elections in October 2006 saw a new government formation. The SPÖ won the election and formed a new government with the ÖVP. This did not lead to any positive changes in the Aliens Law Package 2005. The Aliens Law package 2005 (Fremdenrechtspaket 2005) was issued on 16 August 2005 and became effective on 1 January 2006. It consists of the Asylum Law (Asylgesetz 2005), the Settlement and Residence Act (Niederlassungs-und Aufenthaltsgesetz 2005) and the Aliens Police Act (Fremdenpolizeigesetz 2005).

The Citizenship Amendment 2005 (Staatsbürgerschaftsnovelle 2005) was implemented on 23 March 2006 and in addition existing laws were altered. The law was passed under the coalition government of the FPÖ and ÖVP with the approval of the SPÖ. The main characteristic of this new law is its restrictive nature both on migration in general and on regulations regarding Austrian citizenship requirements. Since January 2006, anyone applying for the Austrian citizenship must, in addition to passing a German language test, pass a written test comprised of questions on the history and geography of Austria. The acquisition of citizenship is possible after 10 years of residence and continued stay in Austria and is seen as a 'reward' for successful integration⁴². The fees to obtain citizenship have risen and this, in addition to stricter requirements, presents a further obstacle in the already difficult procedure for many low-income immigrants.

This new law has often been cited as a great success by the Ministry of the Interior, as the number of asylum applications has been reduced and number of the rejections of residence permits has increased. According to an article in 'Der Standard' on 11 December 2006 former Interior Minister Prokop (ÖVP) was delighted to announce that in 2005 considerably less residence and settlement permits were granted in 2006 and that many foreigners were (Fremde) expelled (deported) from Austria, prevented from entering 'illegally' or induced to leave Austria voluntarily. Moreover Prokop said, despite criticism from NGOs and Human Rights Organisations that, 'the law is suitable now.' ('Das Gesetz passt jetzt.')⁴³

The law caused outrage and uproar amongst NGOs and Initiatives such as Ehe Ohne Grenzen (Marriage without Borders) which was founded by Austrians with non-Austrian spouses who have lost their partners through deportation or who have spouses that were at risk of deportation after the law was passed in 2006.

⁴²Schumacher and Peyrl, 2006, p. 263.

⁴³Der Standard, 11/12/2006.

The organisation is a formation of bi-national couples who are affected by the strict immigration regulations, specifically by the regulations which hinder a joint family life. An administrative appeal was made to the Constitutional Court and individual appeals are also in process. Lawyers have defined the law as a human rights abuse. The Austrian Alien Law is said to be one of the most stringent in Europe.⁴⁴

Major political developments

The general election (Nationalratswahl) was held in Austria on 1 October 2006. The slogans of the FPÖ against immigrants - 'Ausländer' ('foreigners') - as well as Blacks and Muslims were very prominent during the election campaign. Prior to the general election the same type of campaign was run in 2005 during the regional elections (Gemeinderatswahl) and lead to the founding in 2006 of the Documentation archive for Islamophobia – DAI (Dokumentationsarchiv für Islamophobie).

The DAI documents acts of Islamophobic discrimination in Austria and protests against them in written commentaries. In the summer of 2006, the DAI analysed daily newspapers during the period in which an 'integration survey' (Integrationsstudie) was carried out at the request of the former Minister of the Interior Minister Liese Prokop. The survey was released in a Tyrolean daily newspaper on 13 May 2006. Prokop came to the conclusion that 45% of Muslims in Austria were 'not willing to integrate' ('nicht integrationswillig'). Two weeks later there were intense public discussions as a result of his conclusions.

Quotes⁴⁵ from public discussions on integration following the integration survey commissioned by former Minister of the Interior Liese Prokop:

Former Minister for Interior Liese Prokop announcing the results of survey: '45% percent of Muslims are not willing to integrate.'

2006 Election campaign of the BZÖ: 'Percentage of foreigners reduced to 30%'

2006 Election campaign of the Freedom Party Austria FPÖ: 'Homeland not Islam-land.' And 'Free women instead of the enforcement of head scarves'.

Veit Schalle, when asked about bilingual (Slovene and German) street signs in Carinthia: 'They are guests⁴⁶ in this country and therefore have to orientate towards Austria, instead of fighting for place-name signs'⁴⁷

⁴⁴ See: <http://www.orf.at/ticker/215579.html?tmp=705>.

⁴⁵ Translated by the authors.

⁴⁶ It is obvious that the Slovenes are not guests, but live in Austria as one of the six officially recognized minorities.

⁴⁷ Tiroler Zeitung 9. Sept 2006.

The SPÖ won the general election with 35.3% of the votes (68 mandates) followed by the ÖVP with 34.3% (66 mandates). The Green Party (Grüne) and the FPÖ both drew 11% (21 mandates each). The BZÖ, which was established in 2005 after the FPÖ divided, was up for a general election for the first time and received 4.1 % of the votes (7 mandates).

The ÖVP lost 8% compared to the elections of 2002 which left the SPÖ as the stronger party and set to form the ground for the coalition negotiations. Shortly after the election the constellation of the government was indefinite and not clear cut. Due to the distribution of votes the SPÖ had a range of with which to form a coalition. After months of discussions and debates including the idea of possible re-elections the SPÖ formed the national government with the ÖVP. The SPÖ/ÖVP government took over from the ÖVP/FPÖ and Alfred Gusenbauer took over Wolfgang Schüssel's position as Chancellor.⁴⁸

In June 2006, Jörg Haider (BZÖ) tried to hold a referendum on the placement of bilingual place name signs in German and Slovene. According to the 1955 State Treaty, Austria must respect the rights of the Slovenian minority.⁴⁹ The debate on bilingual signposts in Carinthia has been going on for decades and has become typical of Austrian political debates which often taken on racist and discriminatory tones, especially concerning ethnic minorities.

The Constitutional Court turned down Haider's request and he claimed he would appeal the decision. The BZÖ called for a ballot asking 40,000 people in towns with bilingual place name signs to vote using postcards. Slovenians in the Council of Carinthia protested, claiming the vote was not legal and was even sponsored using public funding. Still, 10,422 people responded. The slogan used in the campaign bears semblance to Nazi propaganda: 'Do you want a final solution to the place-name signs?' ('Wollen Sie eine endgültige Lösung der Ortstafelfrage?').⁵⁰

5.1 Anti discrimination

In consideration of the Alien Law Package, the full implementation of anti-discrimination law seems a long way away from Austrian politics and legal developments. Indeed, while Austria has in part transposed the EU Equality Directives, implementation remains an issue. Nonetheless, there have been some recent legislative developments and progress.

Austria did not manage to transpose Council Directive 2000/43/EC (the Race Equality Directive) and Council Directive 2000/78/EC (the Employment Equality Directive) by their individual deadlines, but has managed to do so later in 2006.

⁴⁸ See: <http://wahl06.bmi.gv.at/>, accessed on 24 June 2007.

⁴⁹ Schulze 2006, p. 4.

⁵⁰ Schulze 2006, p. 4. Translated by the authors.

In this way, Austria has made some legislative steps forward in the transposition of EU law and the introduction of new legislation prohibiting discrimination.⁵¹ Various steps in this process are outlined below.

The Equal Treatment Act (Gleichbehandlungsgesetz) provides the possibility of intervention in cases of discrimination. It makes it possible to intervene in working situations where discrimination takes place. No one should be discriminated against on the grounds of ethnicity, religion or belief, age, sexual orientation, disability or gender. On 1 July 2004 the Equal Treatment Act⁵² was amended to include protection on these grounds in line with the EU anti-discrimination guidelines.

In December 2005 the Federal Minister for Social Affairs put forward a proposal for a 'Supplementary Act to the Disability Equality Act'. The government bill (Regierungs vorlage) was considered by the National Council (Nationalrat) on 24 May 2006 and was adopted by the Council of Ministers (Bundesrat) on 9 June 2006. This Act entered into force on 1 September 2006. The main changes provided for by the Act includes those in the formulation of certain requirements for a wide-range of jobs such as pharmacists, midwives, nurses and teachers, civil servants, judges and others.⁵³

On 31 March 2006, the province of Salzburg published the Salzburg Equal Treatment Act in the Salzburg Law Gazette No. 31/2006. The Act entered into force on 1 May 2006. Salzburg is the last Austrian province to introduce legislation transposing Directives 2000/43 and 2000/78. There are provisions concerning access to employment, promotion, working conditions, training, and dismissal. It includes definitions of discrimination, harassment, victimisation and reasonable accommodation.⁵⁴

In all Federal States of Austria there are equal treatment bodies, however this still does not offer sufficient protection and moreover, does not replace an effective anti-discrimination law. In an effort to fill this gap, various self-organisations of immigrants and NGOs fighting against discrimination, have offered support and guidance to victims of discrimination.⁵⁵

On 26 January 2006. the anti-racist NGO ZARA held a press conference in Vienna explaining that within a period of two weeks two of their volunteers had

⁵¹ Chibo Onyeji, ENAR 2005 Shadow Report on Austria.

⁵² The Austrian Equal Treatment Act, download under <http://www.migrant.at>, accessed on 7 July 2007 and the Anti-discriminative company agreement (Anti-diskriminierende Betriebsvereinbarung) under <http://minderheiten.at/stat/anti-bv.htm>.

⁵³ European Anti-Discrimination Law Review Issue No.4 November 2006.

⁵⁴ Ibid.

⁵⁵ The Klagsverband is a Litigation Association of NGOs Against Discrimination, which offers support for victims of discrimination. The organisation's website offers links to advice centres such as: [BIZEPS - Independent Living Center Vienna](http://BIZEPS-IndependentLivingCenterVienna), [Helping Hands Graz](http://HelpingHandsGraz), [HOSI Vienna - Homosexual Initiative Vienna](http://HOSIVienna-HomosexualInitiativeVienna), [Ludwig Boltzmann Institut of Human Rights - Research Association\(BIM-FV\)](http://LudwigBoltzmannInstitutofHumanRights-ResearchAssociation(BIM-FV)), [Austrian National Association of the Deaf](http://AustrianNationalAssociationoftheDeaf), [Independent Living Innsbruck](http://IndependentLivingInnsbruck), and the [Association of Austrian Female Lawyers](http://AssociationofAustrianFemaleLawyers). For further information see <http://www.klagsverband.at/>, accessed on 7 July 2007.

found 100 advertisements in newspapers and online media that were openly discriminatory. This fact was reported to the competent regional authorities with a request for action to prosecute under §24 of the Equal Treatment Act concerning advertisements for employment vacancies and under Art. XI of the Code of Administrative Procedure for advertisements for housing.

The National Equality Body was also informed about all cases. The media reported extensively on this action and announced that it was unlawful to publish adverts for jobs or housing using criteria such as 'Austrians only' or 'no foreigners' as well as 'German native speakers only'. Politicians from opposition parties criticised the existing anti-discrimination policy for being too weak.

On 8 May 2006 the Minister for Health and Women, Mrs Rauch-Kallat, held a first meeting with NGOs to discuss anti-discrimination issues. The Minister invited all those NGOs who are members of the umbrella organisation 'Litigation Association of NGOs against Discrimination' (with the exception of those dealing with issues of disability as disability falls within the competence of the Ministry of Social Affairs).

In assessing the efficiency of the new anti-discrimination regulations, ZARA will be supported by the National Ombudsman (Volksanwalt) who will keep track of all proceedings and assess the outcome.

5.2 Migration and integration

The implementation in 2006 of the Aliens Law Package, the most significant development in 2006 in the area of migration, caused much outrage among human rights organisations, NGOs, migrant organisations, etc. It led to weekly demonstrations in front of the Ministry of the Interior by Marriage Without Borders (Ehe Ohne Grenzen). Without examining all provisions of the law, this section aims to present general insight into aspects of the law that have a direct impact on migration, integration and anti-discrimination, as well as examples of how the law affects non-Austrian citizens specifically.

Due to the fact that Austrian law was adapted to be in line with the EU Equality Directives, and because of the apparent infringement of the rights of immigrants, the alien law was reformed with amendments in the areas of employment and naturalisation. The main changes applied to the Asylum Law, the Settlement and Residence Act 2005, the Aliens Police Act 2005 and the Citizenship Act 2005.

To be able to obtain a settlement and residence permit as the spouse of an Austrian citizen, the Austrian citizen must demonstrate a regular monthly income

of at least €1065⁵⁶ (as of 2007 this has risen to €1091⁵⁷). What makes this particularly difficult is that since 1 January 2006, non-Austrian citizens do not automatically receive a working permit after marriage as it had been prior to 2006. This means that the Austrian or EU-citizen bears the sole responsibility to provide sufficient income in the family. This approach highlights structures that reinforce racial and class discrimination.

Moreover, not everyone is in the position to earn €1065 per month and this requirement adversely affects certain in particular for example pregnant women, women on maternity leave, students, and low-income immigrants. This makes family life and family planning virtually impossible, as there is the constant threat of not being able to provide sufficient proof of the required income.

Asylum seekers are also adversely affected by the revised Alien Law 2006. Under the revised law, third country nationals wanting to apply for residence and settlement permits must return to their country of origin in order to apply. Asylum seekers who withdraw their asylum applications to apply for a residence permit therefore are forced to return to a country from which they fled.

Angela Magenheimer, spokesperson for Marriage Without Borders (Ehe Ohne Grenzen), in several statements has expressed that these are extreme situations for couples which are affected: being separated for an indefinite period of time from spouses and not having any guarantee of them returning to Austria. These measures have resulted in people being deported, waiting for months on end for visas to re-enter Austria. They often were misinformed by authorities who assured them that 'it is a very simple procedure of travelling to your home country and returning within 1 or 2 months'⁵⁸.

New regulations mean that marriage is no longer sufficient justification for asylum seekers to be able to stay in the country. Although access to the labour market during asylum procedures is possible in theory, it is limited due to internal regulations. As a consequence asylum seekers have the least chance of being employed.

Asylum cases can run for years with no final decision. Some asylum seekers who got married in 2005 were told by authorities to withdraw their asylum applications in order to apply for a residence permit, which has meant that as of the beginning of 2005 they became 'illegal'. This chain of developments has led to the arrest of many married asylum seekers in 2006, who are currently in detention pending deportation⁵⁹ which leaves them in no position to acquire a residence permit and therefore unable to work.

⁵⁶ Schulze 2006, p. 26.

⁵⁷ While this report does not include developments in 2007, it is important to state that this is a significant change in requirements for a residence permit in 2007. For further details see: <http://www.ehe-ohne-grenzen.at/>, accessed on 21 June 2007.

⁵⁸ This information was gathered from accounts made by witnesses and reports collected by Ehe ohne Grenzen.

⁵⁹ Schubhaft.

One of the main points of critique stated by many NGOs and self-organisations such as AFRA – International Center for Black Women's Perspectives⁶⁰ SOS Mitmensch, Helping Hands, Asyl in Not etc., is the violation of article 8 of the Human Rights Act which state that 'Everyone has the right to respect for his private and family life, his home and his correspondence.'⁶¹

5.3 Criminal justice

5.3.1 Racism as a crime

Due to strict migration regulations and a law which clearly states that its aim is to 'close the borders' and restrict immigration, many racist acts find their justification in the social state of mind backed by and connected with these laws. The law itself violates the human rights of migrants in various ways (i.e. family life, access to services etc.) and reinforces racist actions by individuals as well as in institutions.

In this context, it is relevant to mention that third country nationals have died in police custody, for example in detention after expulsion or pending deportation in the case of asylum seekers⁶², the majority being people of African decent. When a law directly or indirectly allows for the formation on racially motivated police controls and other aspects of discrimination, then it becomes almost impossible to recognise racism as a crime.

Discussing racism as a crime in an Austrian context is by no means an easy task. One has the feeling in Austria that there are no clear legal consequences concerning racism as a crime. The new restrictive Aliens Police Act states more severe punishment for asylum abuse and the force feeding of asylum seekers who have gone on hunger strike⁶³ in detention pending deportation.⁶⁴

5.3.2 Counter terrorism

Since 9/11 and the attacks in London in July 2005 there have been measures to tighten national security, which are stated in the Aliens Law package 2005. There

⁶⁰ Helping Hands is an organisation which gives legal advice for immigrants. It was founded in 1993 after the fall of Yugoslavia and the implementation of new laws. The main focus is on the immigration law, the labour market, asylum procedures and anti-discrimination. Helping Hands is one of the main pillars which support Ehe ohne Grenzen in legal questions and in the organisation of demonstrations. Helping Hands has written statements concerning the Aliens Law Package and has published them on the website. For further information see: <http://www.helpinghands.at>, accessed on 22 June 2007.

⁶¹ European Convention on Human Rights and its Five Protocols. Available online at: <http://www.hri.org/docs/ECHR50.html#C.Art8>, accessed on July 9 2007.

⁶² Schubhaft.

⁶³ For further information on the case of Geoffrey A. See: http://www.afrikanet.info/index.php?option=com_content&task=view&id=460&Itemid=2.

⁶⁴ Schubhaft. Translated by the authors.

are several reasons for not granting residence to aliens and expelling them for any suspicious activity if they are seen as a threat to national security. Reasons for not granting a residence permit are e.g.:

- Belonging to or having previously belonged to a criminal organisation or terrorist group;
- A threat to national security by publicly participating in violent acts, or publicly instigating violent acts or violence;
- Supporting or inciting crimes against peace, war crimes or a crime against humanity or terrorist acts in a public assembly or by spreading written materials (Par 21 section 4 and section 5 subsection 7, 8 and 9 Aliens Police Act).⁶⁵

Austria was the holder of the EU presidency from January to July 2006, consequently taking part in discussions concerning Turkey's potential accession to the European Union. During this period a referendum was held from the 6th to the 13th of March by the Freedom Party (FPÖ) with the title 'Österreich bleib frei!' ('Austria, remain free!'). The advertisements for the referendum included Islamophobic images and slogans. The FPÖ stated that Austria did not want Turkey to become an EU-member state claiming, 'Stoppt den Türkeiwahnsinn!', ('Stop the Turkey-madness!') furthermore according to the FPÖ Turkey's accession would lead to 3 million people leaving Turkey to enter Austria. In the result of the referendum, 25,881 people signed the petition against Turkey's accession. No action was taken by the Parliament in this matter, as it was considered inappropriate.⁶⁶

5.3.3 Racial profiling

In Austria visible minorities regularly undergo random police controls without any indications of suspicious criminal behaviour. Visible minorities, primarily Black people, experience police raids in their houses and on the streets. Once again this is backed by the Aliens Law package 2005 with the aim of finding undocumented, 'illegal' immigrants. The criminalisation of Black men as drug dealers and Black women as prostitutes often leads to people being arrested because they are Black and therefore perceived as 'illegal' and 'criminal'. In Austria, judges and police have claimed that many Africans are so dark, that one can not tell one from the other, saying; 'they all look the same.' This also leads to random arrests of people who were in the 'right place at the right time'⁶⁷ and happen to be black.

⁶⁵ Chibo Onyeji, ENAR 2005 Shadow Report on Austria, p. 9.

⁶⁶ Schulze 2006 p. 3.

⁶⁷ A comment by the authors using a reversed phrase to refer to the cynical and harsh way immigrants are dealt with in connection with arrests and the fact that one is primarily labelled 'guilty'.

The Aliens Law package has led to the systematic illegalisation of third country nationals thus creating exceptional circumstances of vulnerability for many immigrants, especially asylum seekers. These groups are most vulnerable to police raids leading to imprisonment if the residence status is not clear at the time of the police control. At the same time, it is important to add that visible minorities, even those possessing Austrian or European citizenship at the time of a police raid, still face police harassment and/or long procedures of questioning. This is true for Black people and other visible minorities.

5.4 Social inclusion

Austria has signed and ratified a large number of international legal instruments relevant in the field of combating racism and intolerance, but equality clauses with different scope are also contained in the various laws and provisions which compose its Constitutional order.⁶⁸ The Austrian constitutional framework is the Bundesverfassungsgesetz (B-VG, Federal Constitutional Statute) of 1920 as amended in 1929, which includes the Staatsgrundgesetz (StGG, Basic Law of the State) of 1867, the Treaty of St. Germain of 1919 and the Treaty of Vienna, 1955.

At a National level, the situation of immigrants and minorities is very often discussed in a one-sided approach. Immigrants are expected to integrate themselves into Austrian society, but not much is being done to prepare the Austrians on how to receive them and to live together with them in harmony. The Austrian Integrations funds are responsible for the implementation of the so-called 'Integration Agreement' (Integrationsvereinbarung). The Integration Agreement was adopted on 1 January 2003 by the Austrian Government, despite massive protest from many NGOs and human right organisations. The Integration Agreement focuses more on forcing immigrants to learn the German language; or else they may face sanctions ranging from penalties to deportation.

In some Federal states like Vienna, Styria, and Upper Austria there are national platforms dealing mostly with the situation of immigrants. In Vienna, for example, there is the WIK-Vernetzungsbüro (Vienna Integration Conference - Networking Office), which is an Umbrella organisation of organisations of immigrants and organisations working with immigrants. Its main mandate is to lobby for issues concerning immigrants and to promote networking of their members. In Styria and Upper Austria respectively are the 'Ausländerbeirat' – (Foreigners Council) with the same mandate.

The Vienna Municipal Department 17 / Integration and Diversity is responsible among others, for implementing and funding projects and initiatives related to migration, women and integration. However, this department can only fund

⁶⁸ Chibo Onyeji, ENAR 2005 Shadow Report on Austria.

limited projects for and of Immigrants. At the same time many immigrants and other discriminated groups are organising themselves in so-called self-organisations as an attempt to empower themselves, through identifying their own needs and articulating them. Many want to become independent and self-reliant, active members of the Austrian society, but quite often most of these self-organisations have to dissolve due to lack of appropriate funding and structural support.

6. National recommendations and conclusions

6.1 General

In general, since many of these topics overlap each other, it will be necessary to think in networks, taking into consideration the intersectionality of these issues in order to achieve a larger objective.

6.2 Anti discrimination and criminal justice

We demand an Anti-discrimination Law that provides effective legal remedy for victims of discrimination. There must be a clear timeline set decision-making and results, so as to avoid unnecessarily long process. The Equal Treatment Commission and the Equal Treatment Act must be reinforced by further supportive legislative measures since these are alone are not enough.

Society has to pay special attention to the police as a representative of the executive organ of the state in its interaction with immigrants, particularly since police officers are in a powerful position that could be abused if left unchecked, compared to people non-Austrians who are in one way or another vulnerable.

6.3 Migration and integration

Since Austria is a country of immigration (Einwanderungsland) multicultural society should not only be accepted but be promoted in all levels. Immigrants and minorities are an important part of Austria's society, culture and economy, and not a threat to the national well-being.

In this respect, politicians, as heads of state, must encourage a climate in which the challenges and difficulties of a changing image of society can be discussed. This presupposes the understanding of discrimination as something structural and not personal on a political level. It has to be clear that society has to work on its structures in order to face the growing challenges.

Since integration is a process to be undertaken by society as a whole, society self-organisations, NGOs and activists in this field have to be facilitated in order to start a discourse in the civil society, which is not only influenced by propaganda out of populist and nationalistic segments. There has to be a clear standpoint against racist content in politics, also enabling further steps, like a dismissal, if someone acts against such order.

Immigrants and asylum seekers must have free access to every sector of the Austrian labour market and not just those prescribed by Austria. Immigrants and asylum seekers have skills, knowledge and experience that can positively benefit the Austrian society and economy. Especially in sectors like e.g. educational field, social competences, media etc., official institutions of immigrants must be promoted and made visible, as key positions. Affirmative Action should not only

be taken into consideration, but be implemented in order to change the structure of Austria's segmented labour market. Migrant journalists and media workers should be encouraged and supported in engaging in Austrian mainstream media to help change the constant negative stereotyping of immigrants in media.

A series of articles published by 'Der Standard' are relevant in this regard as they present contributions from various organisations, institutions and politicians. Self-organisations and NGOs which took part are: Ute Bock, Initiative Ehe ohne Grenzen, Amnesty International, Wiener Flüchtlingshaus, ZARA, Islamische Glaubensgemeinschaft, Initiative Minderheiten, Netzwerk SpracheRechte, Diakonie Österreich, Caritas, Schwarze Frauen Community (SFC), MAIZ, LEFÖ⁶⁹

6.4 Social inclusion

The New Aliens Law Package must be abolished as has been demanded by many self-organisations of immigrants and NGOs.

Authorities have to realise that there is a growing percentage of people not having German as first language and offer information in further languages like e.g. Arabic, French, Spanish, Mandarin, English, Portuguese, Russian Pidgin, Swahili, Lingala, Hungarian and Polish etc. Of course learning of German must also be encouraged through affordable courses for everyone interested.⁷⁰

Multilingualism must be seen as something positive which should be further developed, especially in the case of children, regardless of their nationality. If the spoken languages of immigrants are respected and not seen as something worthless compared to the German language than, immigrants will be more encouraged to learn German, than through forced actions like the 'Integrationsvereinbarungen' (Integration Agreement).

This topic also includes the bilingual place-name signs, which have been debated for years. In other countries this is already a common practice, so it should be implemented by the National Council of Austria as soon as possible, regardless of the opinion of local politicians.

⁶⁹ See the complete articles online at: <http://derstandard.at/?url=/?id=2772522>, accessed 6 July 2007.

⁷⁰ Especially in the case of migrant women being mothers, carers and workers, there is often a problem with the offered lecture times. A possible solution could be the offering of more kindergarten services with the possibility to learn German for migrant parents.

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8. Immigrant Self-organisations

Black

AFRA – International Center for
Black Women's Perspectives
www.blackwomencenter.org

Black Community Linz
www.afrikanet.info

afrikazentrum chiala'afriqas graz
www.chiala.at/

Panafrikanisches Forum
www.panafa.net

Muslim

Islamische glaubengemeinschaft in
österreich
www.derislam.at

Initiative muslimischer
ÖsterreicherInnen
www.islaminitiative.at

Muslimische Jugend Österreich
www.mjoe.at

Jewish

Israelitische Kultusgemeinde Wien
www.ikg-wien.at

Minorities
Initiative Minderheiten
www.initiative.minderheiten.at

Roma

Roma-Verein/Oberwart
www.verein-roma.at

Kulturverein Österreichischer Roma
www.kv-roma.at

Roma Centro
www.roma-centro.org

Others

Maiz -Autonomes
Integrationszentrum von & für
Migrantinnen
www.maiz.at

M-Media
<http://www.m-media.or.at>

9. Annex: List of terminology

Definition of racism:

'Under the term racism we understand, [...] according to the definition of the Austrian Network Against Racism (ANAR)[...], historically grown systematic asymmetries, between racially defined groups of people and hegemonic groups of people in a society defined through the latter. Racism connects with other systematic asymmetries like sexism, classism, disability, age, religion, and thus becomes a social relation.'⁷¹

Structures can also be understood as historical settings of racism in European history, making clear that it is not only important to focus on recent occurrences but also reflect upon the European history that is strongly connected to colonialism and imperialism. Still it can be said that 'we are in a situation that is defined through old and new forms of colonial racism, anti-Semitism, anti-Arabism and xenophobia. Racism in Europe has to be connected with neo-colonialism and the south-north migration that takes place within Europe and the former colonies and other 'Third World' countries to Europe'.⁷²

Definition of Islamophobic discrimination:

'Under the term Islamophobia we understand the arbitrary fear of Islam and Muslims. It is grounded in a set of stereotypes that connect Muslims with a certain set of homogeneous terms, including cultural, social and political assumptions. These assumptions tend to be static and unchangeable, and get a negative connotation compared to oneself. What is left out in this assumption is that identity is not something fixed, but a variable process that starts with the interaction on various levels.'⁷³

The term Islamophobia tends to, at least in our opinion, make invisible the very historically grown structures of discrimination Muslims face; that is why we will refer to the term as Islamophobic discrimination.

⁷¹ Bratic 2002, p.120. Translated by the authors.

⁷² Essed 1994, p.20. Translated by the authors.

⁷³ Bratic 2002, p.120. Translated by the authors.



european network against racism

ENAR Shadow Report 2006