

ADVANCE QUESTIONS TO AUSTRIA

CZECH REPUBLIC

- While appreciating the entry into force of the Criminal Procedure Reform Act 55 in January 2008 providing more rights for defendants and additional transparency in proceedings to those, who contests the excessive use of power by law enforcement officials, we would like to know whether the independent body has been set up in order to investigate alleged abuses of power by law enforcement officials. Could you further elaborate on how an independent investigation of such offences is guaranteed apart from the condition that such investigations may only be carried out by officials who are “not biased”?
- The Austrian Ombudsman Board (AOB) noted that violations of the prohibition of discrimination were often considered as minor offences, and consequently were not adequately prosecuted or penalized. AOB states that a change of public attitude and awareness cannot be expected until public authorities cease to consider such violations as minor offences and ensure that these offences are efficiently prosecuted and penalized. What steps has the Government of Austria taken to address the AOB concern?
- Amnesty International reports the failure of the police and judicial organs to routinely extend the same quality of service to foreign nationals and members of ethnic minorities. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE CPT) recommends that the Austrian authorities take the necessary measures to ensure that all persons detained by the police are fully informed of their fundamental rights from the very outset of their deprivation of liberty. CoE CPT further recommends that the Austrian authorities develop a fully fledged legal aid system in the context of police custody, so as to ensure that persons who are not in a position to pay for a lawyer can effectively benefit, if they so wish, from the assistance of a lawyer throughout their police custody. How the CoE CPT recommendations are being implemented in practice?
- Could you explain how the Government of Austria combat manifestation of neo-Nazi, right-wing extremist, xenophobic and anti-Semitic incidents directed against members of minority groups?
- What steps has the Government of Austria taken to ensure a full enjoyment of human rights by immigrants within the immigration procedure? How are the rights of applicants reviewed and what remedies are provided by law in case of excess of power by immigration authorities?

DENMARK

- Why is the National Action Plan for the Rights of Children as envisaged by the UN Convention on the Rights of the Child (CRC) not fully implemented

and what is being done to guarantee direct legal application of CRC provisions in Austria?

- When is the Austrian Government planning to ratify the Optional Protocol to the Convention against Torture and which steps are being taken to establish a National Preventive Mechanism (NPM) according to OP-CAT and in line with the Paris Principles, particularly with regard to resources and independence?
- What is Austria doing in order to establish a NHRI with A status according to the Paris Principles?

GERMANY

- In 2005, the Committee on the Rights of the Child, CRC, had expressed concern that persons below 18 are not always separated from adult inmates. And the Committee Against Torture, CAT, recommended that Austria should take necessary steps to ensure the proper functioning of the juvenile justice system in compliance with international standards and to guarantee that minors are always heard in the presence of a legal representation.

Germany would appreciate information on how the government of Austria did follow-up on these recommendations and what is the current situation of the juvenile justice.

NETHERLANDS

- **National Human Rights Institute**

With reference to the recommendation expressed in paragraph 11 of the stakeholder report to establish a National Human Rights Institution based on the Paris Principles, and in light of the observation in paragraph 5 of the OHCHR compilation that the Austrian Ombudsman Board is currently accredited with B status by the ICC, does the Government plan to create an independent National Human Rights Institution that would qualify for the A status?

- **OPCAT**

Regarding the commitment of Austria as part of its candidature for the Human Rights Council to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as reiterated in paragraphs 24, 59 and 129 of the national report, could the Government elaborate on the state of affairs of the ratification of this Optional Protocol?

- **Civil Society**

With regard to paragraphs 26 and 27 of the national report which mention the involvement of civil society in government work, and considering the remarks in paragraphs 14 and 15 of the stakeholder report on the perceived lack of regular engagement with civil society on current and structural human rights concerns, could the Government elaborate on the engagement of civil society in addressing human rights concerns, in particular in the development of

specific human rights policies, such as the National Action Plan on Human Rights and the National Action Plan on Racism and Xenophobia?

- **Minorities**

In light of the concerns and recommendations raised in paragraphs 19, 20, and 21 of the OHCHR compilation and in paragraphs 24 and 26 of the stakeholder report on complaints of abuse by law-enforcement officials against ethnic minorities and the alleged insufficient investigation by the police force of such complaints, can the Government elaborate on how it deals with such accusations of excessive use of force and abuse by law-enforcement officials against ethnic minorities?

- **LGBT rights**

On the subject of same-sex couples' right to cohabitation mentioned in paragraph 57 of the national report and the remarks in that same paragraph on the absence of the right of same-sex couples to reproductive medicines and adoption, and in light of the recommendation in paragraph 37 of the stakeholder report that Austria ensures the rights for same-sex partnerships according to international standards, does the Government plan to extend the set of rights that a registered partnership entails so that they are similar to those of a marriage, or, alternatively, extend marriage to same-sex couples?

SWEDEN

- Sweden would like to ask the Government of Austria to elaborate on what actions are taken to protect all persons residing in the territory of Austria from abuse and the use of excessive force by the police?
- How does the Government intend to ensure the respect and protection of the rights of refugees and asylum-seekers?
- According to the data available, only few of the reported cases of abuse and excessive force result in trial or conviction. We would kindly ask Austria for clarification on this matter.
- We would be grateful if the Austrian Government could elaborate on the state of affairs with regards to xenophobia and racism?
- What actions have been undertaken to prevent, investigate and prosecute hate speech, in accordance with article 19 of the ICCPR?
- Which next steps are the Government planning to undertake to further promote the fundamental values of mutual respect and understanding in the Austrian society?

SWITZERLAND

- **OP-CAT**

How will a National Preventive Mechanism (NPM) according to OP-CAT be brought to bear, given the varied nature of mechanisms? How does the government intend to ensure the highest level of independence and adequate resources for the NPM?

- **Violence against women and trafficked women**

What measures are taken to effectively implement the laws against domestic violence in accordance with the CEDAW recommendations?

Why are trafficked women still subject to pre-deportation detention and what measures are in place to guarantee their human rights?

UNITED KINGDOM

- We should be grateful if you would provide information on the extent to which civil society will be involved in the follow-up to this review.
- We should be grateful to know, following on from the National Action Plan (NAP) for the Equality of Women and Men in the Labour Market, what measures have been taken as part of this plan.
- Please could you tell us what steps you intend to take to improve the independence and effectiveness of the Austrian Ombudsman Board, so that it is fully in line with the Paris Principles?
- The OECD's recent report entitled Sustainable Government Indicators 2011 suggested that Austria could reduce inequality in access to education. Please could you tell us how you intend to address these concerns?
- We would be interested to know what progress has been made to include the crimes listed under the Rome Statute into the Austrian Penal system.
- Please could you inform us about the work that has been carried out with the aim of including a definition of torture in the Austrian Criminal Code?
- We would be grateful to know what steps have been taken to address the concerns raised by the Committee Against Torture during their 2010 visit with regard to the prevention of violence against women and children and the punishment of perpetrators.