

Franet National contribution to the Fundamental Rights Report 2021

AUSTRIA

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Franet country study: policy and legal highlights 2020	
Issues in the fundamental rights institutional landscape	No development in 2020.
EU Charter of Fundamental Rights	Highest Administrative Court annuls a court decision for violation of Art 47 CFR: As the case of an Afghan asylum applicant went up and down the instances, it was assigned to a different judge at the Federal Administrative Court. This judge dismissed the appeal without conducting another oral hearing. The Highest Administrative Court annulled the decision because the obligation to hold a hearing was disregarded.
Equality and non-discrimination	Birth certificate with the gender entry "inter" issued for the first time in Austria: In July 2020, a registry office in Upper Austria made the entry after the complainant lodged a report of abuse of office against the current Minister of the Interior and his predecessor. The software of the Central Register of Civil Status (<i>Personstandsregister</i>) was amended and now provides for the possibility to make such entries, according to media reports referring to an unpublished decree by the Federal Ministry of the Interior.
Racism, xenophobia & Roma integration	Combat-Hate-on-the-Internet-Act will get into force on 1 January 2021: The new Act (Hass-im-Netz-Bekämpfungsgesetz , HiNBG) introduces wide-ranging amendments to civic law, civic procedural law, criminal law, criminal procedural law, and media laws. The protection of personal rights, access to justice and the amelioration of victims' rights are in the focus of the amended provisions.
Asylum & migration	Visa holders unable to leave Austria before their visa expires due to non-existent transport connections are not at fault: According to the Federal Minister of the Interior , an unpublished decree provides that such persons do not have to pay administrative fines for unlawful residence.
Data protection and digital society	CJEU invalidates EU-US Privacy Shield: In C-311/18 - Facebook Ireland and Schrems the Court of Justice of the European Union found that Article 1 of the Privacy Shield Decision is incompatible with Article 45(1) of the GDPR, read in the light of Articles 7, 8 and 47 of CFR. The Court invalidated Commission Decision 2016/1250, which was the legal basis of the EU-US Privacy Shield.
Rights of the child	Measures to address specific vulnerabilities of children, living in poverty include the Directives on the Family Crisis Fund : providing financial support to parents, who became unemployed in the period from February 2020 onwards to help coping with additional expenses due to the consequences of the pandemic. Providing tablets to pupils is planned from the 2021/22 school year onwards. Policies and legal highlights to protect children from violence include the Styrian protection package and an increase of resources for helplines and HelpChats. The EU Criminal Law Adaption Act entered into force. It includes amendments of the Juvenile Courts Act, which fully transposes Directive (EU) 2016/800.

<p>Access to justice, including victims of crime</p>	<p>Various measures have been taken to address the risk of domestic violence during the pandemic: These include a decree providing for special rules concerning submissions to the courts that shall provide increased protection during the restrictions of movement, information campaigns including the website "Safe at Home", information folders and an online helpchat offering anonymous and confidential help.</p>
<p>Convention on the Rights of Persons with Disability</p>	<p>Evaluation of the National Action Plan (NAP) Disability (2014-2020): The Evaluation contains a detailed assessment of the NAP Disability based on which the new NAP will be prepared. It includes an assessment of positive and negative points of the NAP as well as recommendations (also connected to Covid-19). Information about Covid-19 measures is available in easy language.</p>

Chapter 1. Equality and non-discrimination

1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against older people and against LGBTI people.

Since a landmark ruling by the Constitutional Court in 2018, a third gender entry in official documents should be possible and contribute to the recognition of the rights of inter-gender people in Austria. However, due to a decree by the former Minister of the Interior issued in December 2018 (BMI-VA1300/0528-III/4/b/2018, 20.12.2018), the possibility of such an entry had been implemented in an extremely restrictive way, which led to the fact that many people were turned away in the registry offices. Instead of withdrawing the decree, the current Minister of the Interior defended the decree in answer to a parliamentary inquiry¹ in April 2020. In July 2020, however, a birth certificate with the gender entry "inter" was issued for the first time in Austria. A registry office in Upper Austria made the entry after the complainant lodged a report of abuse of office against the current Minister of the Interior and his predecessor.² The software of the Central Register of Civil Status (*Personstandsregister*) has since been amended and now provides for the possibility to make such entries.³ According to a media report⁴, a new (unpublished) decree on how to deal with the entry of gender in official documents was adopted by the Federal Ministry of the Interior, the Ministry of Health, and the Constitutional Service in the Federal Chancellery in September 2020. Those who are neither female nor male can now choose between "divers", "inter", "open", and "no entry" in the Central Register of Civil Status. Changes as well as corrections are possible. Other key points of the decree according to the media report⁵ include: amendments, additions or deletions for someone who is neither male nor female to an existing entry in the Central Register of Civil Status are possible upon notification by the person concerned or their legal representative. A correction of the gender entry "male" or "female" to a third gender (or vice versa) can be made based on an expert opinion.

The National Council addressed a motion to the Federal Government on the recording of hate crime based on gender or sexual orientation.⁶ The National

1 Austria, Federal Minister of the Interior, Answer to parliamentary inquiry 864/J on 'Prevention of registration of the third gender by instruction of former Federal Minister Herbert Kickl', ([Beantwortung der Parlamentarische Anfrage 864/J betreffend „Verhinderung der Eintragung des dritten Geschlechts durch Weisung des ehemaligen Bundesministers Herbert Kickls“](#)), 10 April 2020.

2 Austria, Litigation Association of NGOs Against Discrimination (*Klagsverband*) (2020), Stage victory for the rights of intersex persons ([Etappensieg für die Rechte von intergeschlechtlichen Personen](#)), 20 July 2020.

3 Austria, Rechtskomitee LAMBDA (2020), Third gender - success after criminal complaint: First birth certificate issued with 'inter' ([Drittes Geschlecht - Erfolg nach Strafanzeige: Erste Geburtsurkunde mit "inter" ausgestellt](#)), 16 July 2020.

4 Austria, orf.at (2020), 'Third gender: new decree for documents' ([Drittes Geschlecht: Neuer Erlass für Dokumente](#)'), 9 September 2020.

5 Austria, orf.at (2020), 'Third gender: new decree for documents' ([Drittes Geschlecht: Neuer Erlass für Dokumente](#)'), 9 September 2020.

6 Austria, National Council (2020), Resolution of the National Council of 9 July 2020 on the recording of attacks based on gender or sexual orientation ([Entschließung des Nationalrates vom 9. Juli 2020 betreffend](#)

Council requested in particular the Federal Minister of the Interior to report details and the content of the planned systematic recording of motives of prejudice in criminal charges (hate crime) as soon as possible and to present the results and measures to the National Council. Moreover, the National Council requested to develop appropriate preventive measures, such as awareness raising and training of police officers.⁷

Until late 2019, there was a *de facto* total ban on blood donations by men who had had sex with men, due to fears of HIV transmission via blood. At the end of 2019, this total ban was changed to a 12-month period in Austria based on the new Blood Donor Decree⁸. According to this amendment, men who did not have sexual contact with men in the past year are no longer excluded from donating blood. However, critics still regard this approach as discriminatory and, therefore, submitted a petition⁹ to the Government calling on the Austrian Federal Government to stop this discrimination of gay and bisexual men finally.

2. Findings and methodology of research, studies or surveys on experiences of discrimination against older people and against LGBTI people.

In its 2020 report on Austria, ECRI¹⁰ recommends that "intersex children's right to physical integrity and bodily autonomy be effectively protected and that medically unnecessary 'sex normalising' surgery and other treatments be prohibited until such time as the child is able to participate in the decision about them, based on the right to self-determination and the principle of free and informed consent".

The Anti-Discrimination Office Styria (*Anti-Diskriminierungsstelle Steiermark*) reports that between 1 April and 28 June 142 cases relating to COVID-19 were reported to them.¹¹

[Erfassung von hassmotivierten Übergriffen aufgrund des Geschlechts oder der sexuellen Orientierung](#)), 9 July 2020.

7 Austria, National Council (2020), Resolution of the National Council of 9 July 2020 on the recording of attacks based on gender or sexual orientation ([Entschließung des Nationalrates vom 9. Juli 2020 betreffend Erfassung von hassmotivierten Übergriffen aufgrund des Geschlechts oder der sexuellen Orientierung](#)), 9 July 2020.

8 Austria, Blood Donor Decree ([Verordnung der Bundesministerin für Arbeit, Gesundheit und Soziales betreffend den Gesundheitsschutz von Spendern und die Qualitätssicherung von Blut und Blutbestandteilen \(Blutspenderverordnung – BSV\)](#)), Federal Law Gazette II No. 100/1999.

9 Austria, Petition concerning "Stop discrimination in blood donation" ([Petition betreffend "Schluss mit der Diskriminierung bei der Blutspende!"](#)), 10 July 2020.

10 ECRI (2020), [ECRI Report on Austria \(sixth monitoring cycle\)](#), adopted on 7 April 2020 and published on 2 June 2020.

11 Austria, Anti-Discrimination Office Styria (2020) (*Anti-Diskriminierungsstelle Steiermark*), [website on ban hate app](#). For more information see page 13 [Franet Country Study](#) released on 29 July.

Chapter 2. Racism, xenophobia and related intolerance

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

Despite the governments' announcement of a National Action Plan against Racism and Discrimination, there are no significant legal and policy developments to report concerning the implementation of the Racial Equality Directive in 2020.¹²

ECRI, in its 6th report on Austria, recommends "that the authorities collect data on the number and living conditions of migrants irregularly present in Austria" and, further, in relation to the Race Equality Directive, "work to eliminate the practical obstacles limiting migrants' access to services in the fields of education, health care and employment."¹³ The government remained silent on irregularly residing migrants in its comments, however, referred to the entitlement to health care for all who have applied for asylum without difference within the basic care system.¹⁴

With regard to the COVID-19 pandemic, the Ministry of Education introduced a summer school. This initiative implements a two-week educational programme for the individual and targeted support of pupils. The programme aims to strengthen the pupils' German language skills in order to enable them to follow the lessons of the next school year in primary and lower secondary schools. Target groups are extraordinary pupils, pupils with insufficient grades in the subject German and pupils with a particular need to catch up on the German language also due to home schooling in the summer term.¹⁵

The Initiative for an Education System free of Discrimination (*Initiative für ein diskriminierungsfreies Bildungswesen, IDB*) states in its report for the year 2019 an increase of 36% of discrimination cases in education institutions compared to 2018.¹⁶ 44% of these discrimination cases concerned ethnicity and 43% religion and belief. The latter are split into 74% of cases concerning Muslims and Islam, and 24% cases with an anti-Semitic motivation. The report states that 41% of

12 Federal Republic of Austria, [Observations by the Republic of Austria in respect of the sixth report by the European Commission against Racism and Intolerance \(ECRI\) on Austria](#), May 2020.

13 Council of Europe, European Commission against Racism and Intolerance, [ECRI Report on Austria](#) (Sixth Monitoring Cycle), adopted 7 April 2020, para 25.

14 Federal Republic of Austria, [Governments comments](#), I.C.

15 Austria, Federal Ministry for Education, Science and Research, (*Bundesministerium für Bildung Wissenschaft und Forschung*), Summer School 2020 ([Sommerschule 2020](#)). For more information see page 5 of the [Franet Country Study](#) released on 29 July.

16 Austria, Initiative for an Education System free of Discrimination (*Initiative für ein diskriminierungsfreies Bildungswesen, IDB*), Discrimination in the Austrian Education Sector, report 2019 ([Diskriminierung im österreichischen Bildungswesen, Bericht 2019](#)), p. 12.

the offenders were teachers and 28% peers. The victims were mostly students (71%).¹⁷

The Constitutional Court (*Verfassungsgerichtshof, VfGH*) ruled unconstitutional the law on the prohibition of veiling at primary schools (*Verhüllungsverbot*) on 11 December 2020. It interferes with the equality requirement in relation to the freedom of believe. The law prohibited the veiling of the head, which was seen in relation to Islam and therefore violating the principle of ideological neutrality of the state.¹⁸

2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant to combating hate speech and hate crime

The Combat-Hate-on-the-Internet-Act (*Hass-im-Netz-Bekämpfungsgesetz, HiNBG*) was brought to parliament for adoption as a new legal instrument against hate on the internet. It is planned to enter into force on 1 January 2021.¹⁹ The materials to the draft state that the HiNBG transposes Art. 21 of the Fight against Terrorism Directive, Art. 25 of the Directive against sexual Exploitation of Children, as well as several articles of the Victims Directive, and does not explicitly mention the Framework Decision on Racism and Xenophobia.²⁰ However, the act is clearly related to it as already the first paragraph of the explanatory remarks to the act addresses racist and xenophobic hate on the internet, besides gender-based and homophobic hatred.²¹ The HiNBG introduces wide-ranging amendments to civic law, civic procedural law, criminal law, criminal procedural law, and media laws. The amended provisions focus on the protection of personal rights and the access to justice.

The HiNBG provides the enforcement of personal rights including a legitimation for action of an employer in case employees are targets of hate postings on the internet. It introduces a claim for immaterial compensation for the infringement of privacy. Moreover, it creates a simplified omission procedure with the possibility of immediate enforcement and reduced entry costs for court proceedings. The offense of 'Cybermobbing' laid down in the Criminal Code as well as the provision of incitement is extended by the HiNBG. §283 (1)2 Criminal Code is extended to individual insults against the human dignity of a member of

17 Austria, Initiative for an Education System free of Discrimination (*Initiative für ein diskriminierungsfreies Bildungswesen, IDB*), Discrimination in the Austrian Education Sector, report 2019 ([Diskriminierung im österreichischen Bildungswesen, Bericht 2019](#)), p. 15.

18 Austria, Constitutional Court (*Verfassungsgerichtshof*), [G 4/2020](#), 11 December 2020.

19 Austria, Draft federal law which provides for civil law and civil procedural measures to combat hate on the Internet ([Ministerialentwurf betreffend Bundesgesetz, mit dem zivilrechtliche und zivilprozessuale Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden \(Hass-im-Netz-Bekämpfungsgesetz – HiNBG\)](#)).

Federal Law Gazette to be added when published.

20 Austria, Parliament, Governmental draft – Explanatory remarks (*Regierungsvorlage – Erläuterungen*), „Art. 21 Directive (EU) 2017/541; Art. 25 Directive 2011/93/EU; Art. 3 para. 3, Art. 8 para. 1, para. 3 und para. 4, Art. 9 para. 1 lit. a to e and para. 2, Art. 13, Art. 18, Art. 20 lit. c, Art. 22 para. 1 to 4, Art. 23 para. 2 lit. b and Art. 24 para. 1 lit. c Directive 2012/29/EU“, General part, p5.

21 Austria, Parliament, Governmental draft – Explanatory remarks (*Regierungsvorlage – Erläuterungen*), General part, p1.

a vulnerable group. Procedural rights are strengthened and amended. Process support is extended to victims of hate speech on the internet and to minors witnessing violence. The court procedural costs for victims of hate speech are abolished. The provisions in the criminal procedural laws aim at the amelioration of victims' rights.

The HiNBG amends media laws, in particular the periods in which a claim is covered by the law and extensions of limitation periods in order to facilitate the access to justice. Further amendments aim at the fast deletion of incriminating postings.

For further aspects of this law, see Chapters 5 and 7 of this report.

In its report to the Human Rights Council in the frame of the UPR, the Federal Ministry for European and International Affairs concretises and announces the following policy developments in this respect. "Non-legislative measures are also being taken, in particular in the field of education, training and awareness-raising. These measures will be further increased and strengthened through the 'National Action Plan Integration'. Furthermore, the preparation of a 'National Action Plan for Human Rights in Austria' and a 'comprehensive Strategy to prevent and combat all forms of racism, xenophobia, radicalisation and violent extremism' planned for the XXVII legislative period (2020-2024), will bring further concrete progress in this area. It is also planned to elaborate a 'comprehensive Strategy to prevent and combat antisemitism'. Austria is a member of the International Holocaust Remembrance Alliance (IHRA) [and] has accepted in 2017 its working definition of antisemitism."²² A parliamentary inquiry on the status and progress of the action plan against racism and discrimination was answered on 8 September 2020 by a government representative. She explained that the framework is currently being set up and the details of the action plan will be elaborated during the current legislation period employing a participatory process.²³

The Federal Ministry for European and International Affairs further reports on the Republic's efforts to improve its capacities in the statistical data collection on discrimination, xenophobia, and related hate crime. In its UPR report, it refers to the Federal Office for State Protection and Counterterrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT*), which structures its report along the categories 'right-wing extremism', 'racist', 'anti-Semitic', and 'anti-muslimic'. Further, the technical implementation of the systemic collection of bias motives in hate crime cases in the databases of the police and within the judicial administration started in 2020.²⁴

"ECRI is particularly concerned that although the Austrian legislation prohibits racial profiling and provides a legal framework to deal with such complaints, there have been only two judgments on racial profiling so far. Moreover, despite the fact that the Austrian Ombudsman Board has a competence to deal with

22 Austria, Federal Ministry for European and International Affairs, [Fight Against Racism and Discrimination](#).

23 Austria, Parliament, [2751/AB XXVII. GP – Anfragebeantwortung](#).

24 Austria, Federal Ministry for European and International Affairs, UN Human Rights Council, Universal Periodic Review, Third National Report of Austria.

cases of racial profiling (as ECRI recommended in its last report), no statistics have yet been made available in relation to complaints about this issue.”²⁵ Amnesty International Austria, referring to the Austrian Government Programme 2020-24 “Responsibility for Austria” (*Aus Verantwortung für Österreich*), urges the Ministries of Justice and of the Interior in an open letter, signed by 40 Austrian human rights institutions and experts, to create an independent complaint and investigation office competent for alleged abuses of power by law enforcement authorities.²⁶ The third UPR report states in this respect: “All (advanced) training also aims at ensuring that police work is based on facts only – there is no room for prejudice, stereotypes or ethnic profiling in investigative work. Allegations against police officers are investigated and, if applicable, sanctioned under criminal and disciplinary law. Furthermore, increased efforts are made to recruit more Austrian nationals with migration background for basic police training, to reflect diversity of Austrian society in law enforcement, aiming at counteracting prejudice and stereotypes from within.”²⁷

In 2019, the Austrian security authorities registered a total of 954 right-wing extremist, xenophobic/racist, Islamophobic, anti-Semitic and unspecified or other criminal acts, in the course of which relevant offences were reported to the authorities. One criminal act may comprise several offences, which are separately reported to the authorities. Compared to 2018 (1,075 offences), the number decreased by 11.3 percent. Out of these, 645 criminal acts (67.6 percent) were successfully investigated. In 2018, the rate of successfully solved cases amounted to 63 percent. In connection with the criminal offences mentioned, 1,678 offences were reported in Austria in 2019, which is 3.5 percent more than in 2018 (1,622 offences). It is noted that the topics of “anti-Islam”, “anti-multiculturalism” as well as asylum and refugees continue to be a central focus of agitation and action, in both the virtual and the real world of the right-wing extremist scene in Austria.²⁸

The UPR report provides data on incitement to hatred (§283 criminal code) for March 2020: 97 reported cases (2019: 465), 18 accusations (2019: 99), 15 diversions (2019: 74), 8 convictions (2019: 43).²⁹ The Minister of the Interior answered a parliamentary inquiry on the number of right-wing extremist, racist, and anti-Semitic crimes in the first half of 2020: right-wing-extremist crimes 253 (60 on the internet); racist crimes 42 (28 on the internet); anti-Semitic crimes 13 (3 on the internet); anti-Muslim 6 (5 on the internet); other crimes with a prohibited motive 29.³⁰

25 Council of Europe, European Commission against Racism and Intolerance, [ECRI Report on Austria](#) (Sixth Monitoring Cycle), adopted 7 April 2020, paras. 186, 187.

26 Amnesty International Austria, Open Letter as of 6 August 2020: consequent and human rights compliant police reforms ([Offener Brief: konsequente und menschenrechtskonforme Polizeireformen](#)), 6 August 2020.

27 Austria, Federal Ministry for European and International Affairs, UN Human Rights Council, Universal Periodic Review, Third National Report of Austria, para 18.

28 Austria, Federal Ministry of the Interior, Report on the Protection of the Constitution 2019 ([Verfassungsschutzbericht 2019](#)), p. 86.

29 Austria, Federal Ministry for European and International Affairs, Universal Periodic Report 3 (draft), endnote vi.

30 Austria, Parliament, [2596/AB XXVII. GP – Anfragebeantwortung](#).

In order to provide better data on the phenomenon of hate speech and because underreporting is a major concern, two online initiatives were introduced with a special focus on hate on the internet. These are the 'banhateapp'³¹ and the initiative against hate on the Web (#GegenHassimNetz)³².

Relevant research on the topic of racism in Austria is hard to find. The company 'research affairs' conducted a survey on the perception of racism by the Austrian population.³³ In a representative online survey (n=503), Austrians above the age of 16 responded between 22 June and 3 August 2020. 34% of the respondents state that racism is taken seriously in Austria; 55% vote for more severe punishment of racist offences; 25% are ready to demonstrate against racism; 32% believe that police forces treat people less favourably due to their culture, skin colour, faith, affiliation or names; 20% say that they themselves treat people differently due to these (ascribed) categories; 17% felt being discriminated against in the past; 10% feel uncomfortable when meeting Black people in the street and 19% believe that Black people are prone to criminality.

No studies or surveys in relation to racism, victimisation, and hate crime/speech caused by the COVID-19 crisis were published in 2020 yet.

No example of a promising practice of the government at any level to address racism and xenophobia in the context of the COVID-19 pandemic can be mentioned fulfilling the criteria of the guidelines. No case law was published on the legal information system of the Republic.

31 Austria, Anti-Discrimination Office Styria, [Website on BanHateApp](#).

32 Austria, ZARA, [Website on #GegenHassimNetz](#).

33 S. Beinschab (2020), Racism Report: A study on the perception of racism in Austria ([Rassismus Report: Eine Studie über die Wahrnehmung von Rassismus in Österreich](#)), August 2020.

Chapter 3. Roma equality and inclusion

1. Measures and developments addressing Roma/Travellers

There are no measures or developments addressing Roma/Travellers segregation in 2020 to be reported.

The previous FRANET COVID-19 research provides no relevant findings on legal or policy developments or measures addressing Roma/Travellers or relating to the application of the EU Framework on national Roma integration strategies.

Monitoring of the implementation of the national Roma integration strategies in Austria is carried out on a dialogue platform, which includes representatives of government agencies and civil society associations, as well as experts from science and research. In 2020, the dialogue platform met twice virtually. Both meetings dealt with exchanging ideas on commemoration.³⁴

On 8 October 2020, the International Holocaust Remembrance Alliance (IHRA) and its 34 member states, including Austria, unanimously adopted a working definition of antigypsyism. The IHRA Working Group on the Genocide of Roma initiated the working definition.³⁵

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

There are no policy and legal measures and developments directly addressing Roma/Travellers inclusion. Roma communities were not particularly affected by the measures imposed by the government during the pandemic. The effects on them were similar as on other population groups. However, incidents of hate and harassment against Roma and travellers occurred during the lockdown between March and May 2020, as well as during the following period of restrictions in access to the public sphere.

In the province of Salzburg, a Holocaust memorial was severely damaged between 22 and 29 February 2020. On 29 February, a neighbour reported the incident to the police, saying that the sculpture had been violently pushed off the stone pedestal. On 2 March, the police station in charge lodged a formal complaint to the prosecutor.³⁶ On 22 April, a written parliamentary inquiry was submitted to the National Council, requesting information about the current state of the criminal investigations. The Federal Minister of the Interior answered it on 22 June 2020, stating that a complaint in accordance with § 126 Criminal Code (serious damage of property) and § 3 Prohibition Act (prohibition of actions related to National Socialism) was filed with the public prosecution in Salzburg. Further, he stated that there were no video recordings of the crime and the exact time of the crime is unknown. Thus, there is no evidence people actually caused the damage. A violent storm could also have caused the damage.

34 Austria, Federal Chancellery, [Roma Dialogue Platform](#), 18 December 2020.

35 The Holocaust-Education Institute of the Federal Ministry of Education, Science and Research (*das Holocaust-Education Institut des BMBWF*), [Was ist Antiziganismus? IHRA und ihre 34 Mitgliedsstaaten nehmen Arbeitsdefinition von Antiziganismus an](#), 18 December 2020.

36 Roma Service, [Salzburger NS-Mahnmal geschändet](#), 3 March 2020.

Moreover, the amount of damage is not clear.³⁷ According to the NGO Roma Service, the storm can in any case be excluded as possible cause for the damage of the memorial. Roma Service refers to an inspection and points out that the memorial weighs several hundred kilograms. Moreover, a tree next to the memorial remained undamaged.³⁸ Until November 2020, there are no developments in relation to this case; the criminal investigations are without any outcome so far. The incident resulted in no legal or policy developments or measures affecting the Roma communities.

The written parliamentary inquiry also asked about the number of right wing extremist smearing in Salzburg. According to the Federal Minister of the Interior, there were 18 incidents in the whole region of Salzburg (23 in 2018 and 40 in 2017).³⁹

The second incident to be reported was related to an annual meeting of Roma and Sinti travellers in Lower Austria, which took place in 2020 during the lockdown. About 40 Sinti and Roma met and settled with their caravans. The meeting led to hate and harassment among residents. The municipal department tried to find a solution for both the Roma travellers and the residents. The municipality argued that the meeting could not be banned. The Roma people in the camp needed to be treated as if they were at home, because they actually live in their caravans in the camp. Apart from the basic right to stay, the Roma travellers have nowhere else to go, because most of the relevant borders were closed during that time. Still, the local authorities talked with the Roma or Sinti and offered them a temporary home at another place. Moreover, the municipality informed the Roma travellers about their rights and obligations concerning the COVID-19 pandemic. An evacuation of the camp or quarantine of the people can only be imposed by the local authorities if there is a strong suspicion of COVID-19 infections in the camp, which was not the case.⁴⁰

In July 2020, a member of the Austrian Freedom Party (*Freiheitliche Partei Österreichs*), who is also a member of a Provincial parliament, shared a video on Facebook, which insulted the Roma camp and the people living in it. As a result, several (Roma) NGOs filed a complaint on suspicion of incitement to hatred. The complaint requested the provincial parliament to waive the immunity of this politician and to facilitate criminal investigations. The local prosecutor's office supported the complaint and applied to the parliament to waive the immunity of the politician. However, the provincial government decided to maintain the member's immunity and referred to the right to freedom of expression. Nonetheless, the provincial parliament announced, that they will "keep an eye" on this politician and the Freedom Party. The provincial government recommended the Freedom Party to attend a training on dealing with online media. Other than that, there were no consequences or implications on the Roma.⁴¹

37 Austria, National Council, [Response to the information request on the damage of the Roma memorial in Leopoldskron-Moos](#), 1689 / AB on 22 June 2020 to request 1649 / J on 22 April 2020.

38 Roma Service, [Salzburger NS-Mahnmal geschändet](#), 3 March 2020.

39 Austria, National Council, [Response to the information request on the damage of the Roma memorial in Leopoldskron-Moos](#), 1689 / AB on 22 June 2020 to request 1649 / J on 22 April 2020.

40 Austrian Broadcasting Corporation, [Aufregung um Romatreffen](#), 22 March 2020.

41 Austrian Broadcasting Corporation, [ÖVP und SPÖ gegen Hermann-Auslieferung](#), 15 September 2020.

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

Extension of residence permits and other authorisations to stay that expired during COVID 19 pandemic measures.

EUMS/ Republic of North Macedonia, Republic of Serbia	Category of TCN	Brief description of the measure	Legal source (legislation or case law as relevant) with hyperlink	Comments
	Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID 19 related travel restrictions. In this case indicate in the next rows the categories to which the measure	An unpublished decree (2020-0.188.288) entered into force on 18 March 2020. According to the Federal Minister of the Interior ⁴² , this decree specifies that individuals who are unable to leave the territory of Austria before their visa expires due to non-existent transport connections, and who could not be issued a visa for reasons which merit special consideration	Decree 2020-0.188.288 by the Federal Minister of the Interior of 18 March 2020 (unpublished) Decree 2020-0.186.871 by the Federal Minister of the Interior, of 17 March 2020 (unpublished)	Another, yet also unpublished, decree (2020-0.186.871) by the Federal Minister of the Interior, which entered into force on 17 March 2020, specifies that applications for the extension of visas do not necessarily have to be submitted in person. ⁴⁴ Comment on decree

⁴² Austria, Federal Minister of the Interior (2020), Response to parliamentary inquiry 1406/J on ‘Decisions on measures in the wake of the Corona crisis’ ([Beantwortung der parlamentarischen Anfrage Nr. 1406/J betreffend „Maßnahmenentscheidungen im Zuge der Corona-Krise“](#)), 3 June 2020.

⁴⁴ Austria, Federal Minister of the Interior (2020), Response to parliamentary inquiry 1406/J on ‘Decisions on measures in the wake of the Corona crisis’ ([Beantwortung der parlamentarischen Anfrage Nr. 1406/J betreffend „Maßnahmenentscheidungen im Zuge der Corona-Krise“](#)), 3 June 2020.

	applies	(i.e. persons who cannot receive a visa for humanitarian reasons, on grounds of national interest, or due to international obligations pursuant to § 22a Aliens Police Act 2005 ⁴³), are not at fault. For this reason, proceedings under § 120 of the Aliens Police Act (imposing administrative fines for unlawful residence) shall not be initiated and the authorities should merely make a note of the facts of the case.		2020-0.188.288: The Federal Minister of the Interior did not specify any further to which visas this decree applies. As it is unpublished, no further information could be obtained.
	Holders of visas issued based on the Visa Code No. 810/2009 (as last amended by Regulation (EU) No. 2019/1155) (Schengen visas)	See above.	Decree 2020-0.188.288 by the Federal Minister of the Interior of 18 March 2020 (unpublished)	See above.

⁴³ Austria, Alien Police Act 2005 ([Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteil \(Fremdenpolizeigesetz 2005 – FPG\)](#)), Federal Law Gazette I No. 100/2005.

Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the Visa List Regulation (Regulation (EU) 2018/1806)	Not applicable.		
Holders of long-term visas issued by the EUMS (under Regulation (EU) No. 265/2010 and beyond, under national law)	See above.	Decree 2020-0.188.288 by the Federal Minister of the Interior of 18 March 2020 (unpublished)	See above.
Holders of residence permits issued under Regulation (EC) No. 1030/2002 (as last amended by Regulation (EU)	Decree 2020-0.184.494 ⁴⁵ by the Federal Minister of the Interior, which entered into force on 17 March 2020, specifies that applications for a renewal of a residence permit can	Decree 2020-0.184.494 ⁴⁷ by the Federal Minister of the Interior §§19 (1a) and 82 (31) Residence and Settlement Act (Bundesgesetz über die	

45 Austria, Federal Minister of the Interior (2020), Decree 2020-0.184.494 on information concerning the Residence and Settlement Act ([NAG - Informationen Information zum Verfahrensablauf im Niederlassungsverfahren - Änderungen durch Maßnahmen der Bundesregierung im Zusammenhang mit dem Coronavirus \(COVID 19\)](#)), 17 March 2020.

47 Austria, Federal Minister of the Interior (2020), Decree 2020-0.184.494 on information concerning the Residence and Settlement Act ([NAG - Informationen Information zum Verfahrensablauf im Niederlassungsverfahren - Änderungen durch Maßnahmen der Bundesregierung im Zusammenhang mit dem Coronavirus \(COVID 19\)](#)), 17 March 2020.

	<p>2017/1954)</p>	<p>be submitted to the competent residence authority by post or by electronic means because of COVID-19. The application for the renewal of a residence permit must be submitted before the expiry of the old residence permit.</p> <p>This provision has later also been part of an amendment to the Residence and Settlement Act, which introduced §19 (1a) Residence and Settlement Act, laying down that applications for a renewal of a residence permit can be submitted to the competent national residence authority by post or by electronic means as long as measures are taken to prevent the spread of COVID-19. According to § 82 (31) Residence and Settlement Act, this</p>	<p>Niederlassung und den Aufenthalt in Österreich (Niederlassungs- und Aufenthaltsgesetz - NAG)), Federal Law Gazette I No 100/2005.</p>	
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		<p>provision is in force until 31 December 2020.</p> <p>Please note: § 24 (1) Residence and Settlement Act⁴⁶ (which has not been amended recently) specifies that residence in Austria remains legal until a decision on the application for extension has been made, even if the previous residence title has already expired.</p>		
	<p>Holders of local border traffic permit under Regulation (EC) No. 1931/2006</p>	<p>Not applicable.</p>		
	<p>Any other category of TCN not listed</p>	<p>The 4th COVID-19 act, which entered into force</p>	<p>The 4th COVID 19 Act⁴⁹ introduced (inter alia) §§20 (7)</p>	

46 Austria, Residence and Settlement Act ([Bundesgesetz über die Niederlassung und den Aufenthalt in Österreich \(Niederlassungs- und Aufenthaltsgesetz – NAG\)](#)), Federal Law Gazette I No 100/2005.

49 Austria, 4th COVID 19 Act ([24. Bundesgesetz, mit dem das Bundesgesetz betreffend Begleitmaßnahmen zu COVID 19 im Verwaltungsverfahren, im Verfahren der Verwaltungsgerichte sowie im Verfahren des Verwaltungsgerichtshofes und des Verfassungsgerichtshofes, das Verwaltungsgerichtshofgesetz 1985, das Verfassungsgerichtshofgesetz 1953, das Bundes-gesetzblattgesetz, das Bundes-Verfassungsgesetz – B-VG, das Parteiengesetz 2012, das KommAustria-Gesetz, das Presseförderungsgesetz 2004, das Publizistikförderungs-gesetz 1984, das ORF-Gesetz, das Volksbegehrengesetz 2018, das Staatsbürgerschafts-gesetz 1985, das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Beamten-Dienstrechtsgesetz 1979, das Gehaltsgesetz 1956, das Vertragsbediensteten-gesetz 1948, das Landeslehrer-Dienstrechtsgesetz, das Land- und forstwirtschaftliche Landeslehrer-Dienstrechtsgesetz, das Landesvertragslehrpersonengesetz 1966, das Bundes-](#)

	above.	<p>on 16 March 2020, introduced special regulations for harvest workers in Austria. In order to avoid imminent shortages of harvest workers, farmers will be temporarily allowed to employ third-country seasonal workers beyond the current nine-month maximum employment period. Expired visas of these seasonal workers will remain valid for the time being as long as a work permit is available. The extension or change of purpose of residence permits does not have to be applied for in person,</p>	<p>and §125 (35) Aliens Police Act 2005.⁵⁰</p> <p>www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_I_24/BGBLA_2020_I_24.html</p> <p>According to § 126 (24) Aliens Police Act 2005 the newly introduced §§ 20 (2) and (7) as well as §125 (35) Aliens Police Act 2005 in the version of Federal Law Gazette I No. 24/2020 cease to have effect at the end of 30 June 2020.</p> <p>Decree 2020-0.192.151 (unpublished) by the Federal Minister of the Interior</p>	
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[Gleichbehandlungsgesetz, das Kraftfahrzeuggesetz 1967, das Führerscheinggesetz, die Straßenverkehrsordnung 1960, das Schifffahrtsgesetz, das Seilbahngesetz 2003, das Abfallwirtschaftsgesetz 2002, das Gelegenheitsverkehrs-Gesetz 1996, das Ökostrom-gesetz 2012, das KWK-Gesetz, das Künstler-Sozialversicherungsfondsgesetz, das Bundesgesetz betreffend Begleitmaßnahmen zu COVID 19 in der Justiz, die Insolvenzordnung, die Notariatsordnung, das Gesellschaftsrechtliche COVID 19-Gesetz und die Strafprozeßordnung 1975 geändert werden sowie ein 2. Bundesgesetz betreffend Begleitmaßnahmen zu COVID 19 in der Justiz \(2. COVID 19-Justiz-Begleitgesetz - 2. COVID 19-JuBG\), ein Bundesverfassungsgesetz betreffend Begleitmaßnahmen zu COVID 19 in Angelegenheiten des öffentlichen Auftragswesens \(COVID 19 Begleitgesetz Vergabe\) und ein Bundesgesetz betreffend Begleitmaßnahmen zu COVID 19 im Bereich des gewerblichen Rechtsschutzes beschlossen werden \(4. COVID 19-Gesetz\)](#), Federal Law Gazette I No. 24/2020.

⁵⁰ Austria, Alien Police Act 2005 ([Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteil \(Fremdenpolizeigesetz 2005 – FPG\)](#)), Federal Law Gazette I No. 100/2005.

		but can also be done by post or electronically. According to the Federal Minister of the Interior ⁴⁸ , decree 2020-0.192.151 (unpublished) specifies the implementation of these special rules concerning such visas.		
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Notes:

TCN = third-country nationals

EUMS = EU Member State

⁴⁸ Austria, Federal Minister of the Interior (2020), Response to parliamentary inquiry 1406/J on ‘Decisions on measures in the wake of the Corona crisis’ ([Beantwortung der parlamentarischen Anfrage Nr. 1406/J betreffend „Maßnahmenentscheidungen im Zuge der Corona-Krise“](#)), 3 June 2020.

Chapter 5. Information society, privacy and data protection

1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

During the lockdown, the telecommunications company A1 provided users' movement data to the government to help understand mobility behaviours. A1 stated on its website that the procedure was similar to what many companies do in Europe, and that this data was provided to the government in times of crisis to support the "well-being of the public".⁵¹

In March 2020, the Austrian Red Cross (*Österreichisches Rotes Kreuz*) developed and published the contact-tracing app "Stopp Corona".⁵² The app is operated by the Austrian Red Cross, was realised in cooperation with the consulting firm Accenture Austria, and was financed by the UNIQA Private Foundation (*UNIQA Privatstiftung*). Although the app is not an explicit arrangement with Austrian public authorities, its voluntary use is encouraged as a digital supplement to other measures by the Federal Minister of Social Affairs, Health, Care and Consumer Protection. "Stopp Corona" allows for the exchange of (manual and automatic) digital handshakes via Bluetooth.⁵³ The contact tracing app was reviewed by independent research organisations following an intense public debate about privacy concerns.⁵⁴ The NGO *Hilfsgemeinschaft der Blinden und Sehschwachen Österreichs*, an organisation for blind people and people with visual impairments, pointed out that no barrier-free version of the Austrian Red Cross' (*Österreichisches Rotes Kreuz*) Stopp Corona app was available.⁵⁵ The Federal Ministry of Social Affairs, Health, Care and Consumer Protection published a position paper on contact tracing apps.⁵⁶ ARGE DATEN, a leading privacy organisation criticised the app in a statement.⁵⁷ According to ARGE DATEN, the matching

51 Austria, A1 (2020), [Warum stellt A1 Bewegungsdaten zur Verfügung?](#), without date. For more information see page 10 of the [Franet Country Study](#) released on 25 May and page 10 of the [Franet Country Study](#) released on 6 April.

52 Austria, Austrian Red Cross (2020), [Website on the Stopp Corona App](#).

53 For more information see page 10 of the [Franet Country Study](#) released on 6 April and page 11 of the [Franet Country Study](#) released on 25 May.

54 For more information see pages 11 and 12 of the [Franet Country Study](#) released on 25 May.

55 Austria, *Hilfsgemeinschaft der Blinden und Sehschwachen Österreichs* (2020), *Corona-App nicht barrierefrei*, press release, 3 June 2020. For more details see page 10 of the [Franet country study](#) released on 29 July.

56 Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (2020), [BMSGPK Position zu Contact Tracing Apps](#), 10 June 2020. For more details see page 15 of the [Franet country study](#) released on 29 July.

57 Austria, ARGE DATEN (2020), ['Corona-App - nicht praxistauglich'](#), 14 August 2020.

probability, i.e. the fact that a recorded match is also an actual contact within two metres, would be less than one per thousand. Moreover, Bluetooth was not suitable for reliable distance measurements in public spaces and there are protective measures in place that reduce the probability of a real match, i.e. a recorded contact that actually leads to a transmission. In April 2020, Amnesty International published a report on how surveillance threatens the rights of people in times of COVID-19.⁵⁸

In April 2020, the Austrian insurance carriers decided to provide the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz*) with pseudonymised data to aid research. According to the statement made, there are several unique medical databases in Austria and, when combining data from all of them, insights to help combat the spread of COVID-19 can be gained and “data can help save lives”.⁵⁹

Data about the infected individual must be submitted to the epidemiological registration system (*Epidemiologisches Meldesystem, EMS*) within 24 hours of a positive test result. The EMS is rooted in the Law on Epidemics.⁶⁰ It is an electronic notification system⁶¹ on diseases and pathogens, which can be used by the competent authorities for collection purposes and means of disease control, or for the evaluation, prevention, and control of infectious diseases. Data is matched with data from the central civil register and personal identifiers. The health authority of the relevant province must be informed of all new cases.⁶² In June 2020 the Federal Ministry of Social Affairs, Health, Care and Consumer Protection announced that the usage of data in the epidemiological registration system was being provided to scientific institutions.⁶³

58 Amnesty International (2020), COVID 19: How surveillance threatens your rights ([COVID 19: Wie Überwachung deine Rechte bedroht](#)), 21 April 2020.

59 For more information see page 13 of the [Franet Country Study](#) released on 25 May.

60 Austria, Law on Epidemics (*Epidemiegesetz 1950*), Federal Law Gazette No. 186/1950. For more details see page 15 of the [Franet country study](#) released on 29 July.

61 Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz*) (2020) [Häufige Fragestellungen in Bezug auf das Epidemiologische Meldesystem \(EMS\)](#).

62 For more information see page 3 of the [Franet Country Study](#) released on 6 April.

63 Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (2020), [ANSCHÖBER: Plattform zur Datenbereitstellung für wissenschaftliche Community ab sofort verfügbar](#), press release, 4 June 2020.

The Second COVID-19 Law amended the Telecommunications Act 2003.⁶⁴ A newly introduced provision obliges mobile phone carriers to send public warnings about potential and/or unfolding emergencies, catastrophes or similar, to end users via text message.⁶⁵

The Law on Epidemics was amended with the Third COVID-19 Law⁶⁶, allowing district authorities to forward personal and contact data of infected individuals in mandatory quarantine to mayors, insofar as this is deemed necessary for the provision of goods and services needed on a day-to-day basis. Mayors may only use the data for this purpose and data must be deleted as soon as this reason for usage no longer exists.⁶⁷

The Austrian Data Protection Agency (*Datenschutzbehörde, DSB*) published a guideline for employers and employees on data protection in times of the COVID-19 pandemic, related in particular to the manner in which data related to health can be used.⁶⁸ The Data Protection Authority issued FAQ⁶⁹ on data protection during the COVID-19 crisis.⁷⁰

The Federal Minister of the Interior reported that in 2019, data from airlines on 36,657,405 passengers were received and processed by the Passenger Information Unit. 400,348 flights were registered. Since the unit was established, 577 hit reports have been transmitted to the police according to the Minister.⁷¹

The Federal Ministry of the Interior pushes the digitisation of associations. As of autumn 2020, associations can make changes directly in the Central Register of Associations. The new "self-service" will be possible through mobile phone signature or citizen card.⁷²

64 Austria, Second COVID 19 Law ([2. COVID 19-Gesetz](#)), Federal Law Gazette I No. 16/2020.

65 For more information see page 13 of the [Franet Country Study](#) released on 25 May.

66 Austria, Third COVID 19 Law ([3. COVID 19 Gesetz](#)), Federal Law Gazette I No. 23/2020

67 For more information see page 13 of the [Franet Country Study](#) released on 25 May.

68 Austria, Austrian Data Protection Agency (2020), [Information der Datenschutzbehörde zum Coronavirus \(COVID 19\)](#), 17 March 2020. For more information see page 11 of the [Franet Country Study](#) released on 6 April.

69 Austria, Austria Data Protection Authority (2020), [FAQ zum Thema Datenschutz und Coronavirus \(COVID 19\)](#), 20 Mai 2020.

70 For more details see page 15 of the [Franet country study](#) released on 29 July.

71 Austria, Federal Minister of the Interior, Response to parliamentary inquiry 707/J on "Passenger Information Unit, 2019 figures" ([Beantwortung der parlamentarische Anfrage 707/J betreffend „Fluggastdatenzentralstelle, Zahlen für 2019“](#)), 30 March 2020.

The Austrian Public Employment Service, Austria's leading provider of labour-market related services, tested an algorithm that matches candidates with job openings and assists job seekers. By classifying unemployed people into three categories with high, medium, and low labour market chances via algorithm, the Austrian Public Employment Service wanted to make the allocation of support measures more efficient. People in group C (i.e. people who are considered unemployable) will receive less assistance from the Austrian Public Employment Service and will be allocated fewer resources than group B (i.e. people considered for retraining). The Austrian data protection authority declared the system illegal according to media reports.⁷³ The reason given for this decision is the lack of a legal basis for the "profiling" of unemployed people. The Austrian Public Employment Service had also not taken any precautions against a "routine adoption" of the results by the counsellor, which is why a real supervision by humans is not guaranteed in all cases. According to the (unpublished) decision by the data protection authority, the obligation to conduct a data protection impact assessment pursuant to Article 35 General Data Protection Regulation was also not fulfilled.

The Health Telematics Act 2012 was amended⁷⁴ in October 2020. It now allows the introduction of an electronic vaccination certificate. This will make it possible to create a central vaccination register in which all vaccinations carried out can be electronically documented. The data protection NGO epicenter.works criticised the lack of an option to opt-out.⁷⁵

The Federal Minister of Education, Science and Research proposed an amendment to the Education Documentation Act 2020.⁷⁶ The data protection NGO epicenter.works criticised the draft.⁷⁷ In the future, special educational needs will also be stored with a personal reference. Educational institutions will be given access to the central passport database in order to be able to use biometric facial images for pupils' and students' ID cards. Overall, the draft causes many deteriorations in data protection at schools and universities according to the NGO.

72 Austria, Federal Ministry of the Interior (2020), Minister of the Interior Karl Nehammer pushes digitisation of associations ([Innenminister Karl Nehammer forciert Digitalisierung des Vereinswesens](#)), 7 August 2020.

73 Der Kurier (2020), '[Datenschutzbehörde dreht den AMS-Algorithmus ab](#)', 20 August 2020.

74 Austria, 115th Federal Act amending the Health Telematics Act 2012 ([115. Bundesgesetz, mit dem das Gesundheitstelematikgesetz 2012 geändert wird](#)), Federal Law Gazette I No. 115/2020.

75 Austria, Epicenter.works, '[E-Impfpass - Opt-out-Möglichkeit hätte Vertrauen geschaffen](#)', 30 October 2020.

76 Austria, Draft Amendment to the Education Documentation Act ([Ministerialentwurf betreffend Bundesgesetz, mit dem das Bildungsdokumentationsgesetz 2020 erlassen wird und das Schulpflichtgesetz 1985, das Pflichtschulabschluss-Prüfungs-Gesetz, das Hochschulgesetz 2005, das Hochschul-Qualitätssicherungsgesetz, das Universitätsgesetz 2002, das IQS-Gesetz sowie das Anerkennungs- und Bewertungsgesetz geändert werden](#)).

77 Austria, Epicenter.works, Verschlechterungen für Datenschutz an Schulen und Unis: Das neue Bildungsdokumentationsgesetz, 28 October 2020.

The Federal Ministry of Justice proposed the Combat-Hate-on-the-Internet-Act (*Hass-im-Netz-Bekämpfungsgesetz, HiNBG*) which provides for civil law and civil procedural measures to combat hate on the Internet.⁷⁸ In principle, epicenter.works welcomed the objective of the draft to strengthen Internet users in the enforcement of the law.⁷⁹ However, epicenter.works also identified deficits and rejected the draft in its present form. According to epicenter.works, the widespread use of upload filters is to be expected wherever violations of personal rights are detected and blocked automatically. Moreover, this new law might enable the blocking of entire websites due to violations of personal rights. The provision is so broadly defined that it allows in principle to block an entire blog or social network based on illegal posting according to epicenter.works. For additional details on this law, see Chapter 2.

The police are increasingly relying on facial recognition software for the investigation of crimes, which has been in operation since December 2019. According to the Ministry of the Interior, this software has been used for 931 crimes until 1 October 2020. 1,343 suspects had been screened using the software according to the Minister of the Interior. The software is primarily used for burglaries and other property crimes that have been documented by surveillance cameras. The legal basis for this can be found in §75 Security Police Act and in §§ 110 to 115 Criminal Procedure Code.⁸⁰

2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

M S	Actor*	Type**	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned ?	Reference
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78 Austria, Draft federal law which provides for civil law and civil procedural measures to combat hate on the Internet ([Ministerialentwurf betreffend Bundesgesetz, mit dem zivilrechtliche und zivilprozessuale Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden \(Hass-im-Netz-Bekämpfungsgesetz – HiNBG\)](#)).

79 Austria, epicenter.works, '[Stellungnahme HiNBG \(Zivilrecht\)](#)', Vienna, 13 October 2020.

80 Austria, Federal Minister of the Interior, Answer to parliamentary question No. 3445/J on the use of facial recognition software ([Beantwortung der parlamentarischen Anfrage Nr. 3445/J betreffend Einsatz von Gesichtserkennungssoftware](#)), 20 November 2020.

					(yes/no)	
AT	Government	Report	<p>The Austrian traffic telematics report presents the status quo on research, implementation, and development of IVS (intelligent traffic system) applications at the national and international levels. Generating and interpreting trustworthy data is vital for the digitalisation of the Austrian traffic systems. Future applications shall adhere to data protection and data security standards.</p> <p>Currently, the ASFINAG (<i>Autobahnen- und Schnellstraßen-</i></p>	No	<p>Yes</p> <p>Data protection.</p> <p>No mention of child rights or gender issues.</p>	<p>Austria, Federal Ministry for Climate Action, Environment, Innovation and Technology (<i>Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie</i>), Report on Traffic Telematics 2020 (Verkehrstelematikbericht 2020), Vienna 2020.</p>

			<p><i>Finanzierungs-Aktiengesellschaft</i>) , which plans, finances, builds, maintains, and collects tolls for the motorways (<i>Autobahnen</i>), runs a travel management system to calculate travel and waiting times. It provides data interfaces to transmit data in line with the General Data Protection Act.</p> <p>Furthermore, the provinces offer so-called "public safety answering points" (PSAP). Vehicles are equipped with an electronic security system, which automatically</p>			
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			transmits the location of the vehicle to the police in case of a serious accident. The Federal Ministry of the Interior oversees the conformity of the PSAP systems. All systems correspond to national guidelines on the protection of privacy and data protection.			
AT	Independent state institution: Council for Research and Technology Development	Report	The report on the economic and technological efficiency of Austria presents an assessment of the country's innovative performance (measured by its FTI system; <i>research, technology, innovation, FTI</i>) as well as the results	No	No Role of women in realising an effective FTI strategy mentioned. No mention of child	Austria, Council for Research and Technology Development (<i>Rat für Forschung und Technologieentwicklung</i>), Report on the economic and technological efficiency of Austria 2020 (<u>Bericht zur wissenschaftlichen und technologischen Leistungsfähigkeit Österreichs 2020</u>), June 2020.

			<p>of the monitoring of the governmental FTI strategy 2020. The report highlights systemic indicators used to evaluate the strategy and explicitly highlights the role of education, the labour market, quality of life, and women for the realisation of an effective strategy. Recommendations include using existing economic resources to ensure equality of opportunity in the aforementioned areas and to create legally certain framework conditions for improvements.</p>		<p>rights.</p> <p>In terms of regulations for the protection of intellectual property rights, the report finds that Austria is in a very good position - even in relation to the Best Performers Finland, Switzerland and the Netherlands .</p>	
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AT	Government	National Draft Act	The draft amendment and corresponding elaborations outline the envisioned implementation of transaction monitoring using an AI-based approach to improve the exchange of information in the context of the Financial Market Money Laundering Act. Examples of transaction monitoring systems include network analysis, graph algorithms and alert scoring/triage models. The principle of due diligence must be observed and rests with the responsible person	Yes Due diligence	no	Austria, Parliament, Ministerial Draft of a Federal Act amending the Account Register and Account Inspection Act, the Financial Market Money Laundering Act, the Banking Act, the Federal Fiscal Code, the Financial Market Supervisory Authority Act and the Securities Supervision Act 2018 (<u>Ministerialentwurf betreffend Bundesgesetz, mit dem das Kontenregister- und Konteneinschaugesetz, das Finanzmarkt-Geldwäschegesetz, das Bankwesengesetz, die Bundesabgabenordnung, das Finanzmarktaufsichtsbehördengesetz und das Wertpapieraufsichtsgesetz 2018 geändert werden</u>) 33/ME.
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			and staff undertaking the monitoring. Implementing such a system is not mandatory. The use of scenarios, parameters, and thresholds is only mandatory if an AI-based approach to transaction monitoring is used.			
AT	Republic of Austria Data Protection Authority	Other: opinion	The Austrian Data Protection Authority's opinion statement on the draft law amending the Financial Market Money Laundering Act states that the outlined transaction monitoring forms may include profiling (i.e. solely automated decision-making	Yes human vs. solely automated intervention	Yes Presumption of innocence, Right to defence No mention of child	Austria, Austrian Data Protection Authority (<i>Österreichische Datenschutzbehörde</i>), Opinion on the Ministerial Draft of a Federal Act amending the Account Register and Account Inspection Act, the Financial Market Money Laundering Act, the Banking Act, the Federal Fiscal Code, the Financial Market Supervisory Authority Act and the Securities Supervision Act 2018 (<i>Stellungnahme zu dem Ministerialentwurf betreffend Bundesgesetz, mit dem das Kontenregister- und</i>

			without human intervention). Profiling is only permissible if the rights, freedoms, and the legitimate interests of the affected person are preserved. In particular, the rights to human intervention, to express one's point of view, and to challenge the decision shall be observed.		rights or gender issues	Konteneinschaugesetz, das Finanzmarkt-Geldwäschegesetz, das Bankwesengesetz, die Bundesabgabenordnung, das Finanzmarktaufsichtsbehördengesetz und das Wertpapieraufsichtsgesetz 2018 geändert werden), 7/SN-33/ME, GZ D055.242.
AT	Government	Other: explanation to Adopted Act	The elaborations on the governmental bill regarding the Health Telematics Act 2012 outline the creation of a legal framework regulating an electronic vaccination certificate ("E-Impfpass") as well as the transfer of	No	Yes Data protection No mention of child rights or gender issues	Austria, Parliament, Elaborations on the governmental bill regarding the Federal law amending the Health Telematics Act 2012 (Erläuterungen zur Regierungsvorlage betreffend Bundesgesetz, mit dem das Gesundheitstelematikgesetz 2012 geändert wird), 232 d.B.

			<p>personal data to evaluate meta-data and improve the usage opportunities for eHealth applications. User data shall be fully encrypted using cartographic algorithms. The vaccination certificate app shall be in line with the General Data Protection Act, personal data shall not be saved longer than for the duration of matching with the patient registry.</p>			
AT	Independent state institution: Austrian Research Promotion	Report	In its annual report 2019, the Austrian Research Promotion Agency reviews developments in	no	no	Austrian Research Promotion Agency (<i>Österreichische Forschungsförderungsgesellschaft</i>), 2019 Annual report - Upswing through innovation (2019)

	Agency		research and innovation relating to the market and society. The report presents best practices of how digital means, for example artificial intelligence in online shopping, have been used in business and in society.			Jahresbericht - Aufschwung durch Innovation), May 2020.
AT	Government : Federal Ministry of Finance	Report	The Federal Government's report on the financial framework budget 2020-2023 outlines the ongoing challenges, emerging priorities, and fiscal measures envisioned for the upcoming years, with particular reference to the COVID-19 pandemic.	no	no	Austria, Federal Ministry of Finance (<i>Bundesministerium für Finanzen</i>), Strategy report on the Federal Framework Budget 2020 to 2023 (Strategiebericht 2020 bis 2023), March 2020.

			<p>Objectives for foreign affairs include overcoming challenges in multilateralism using value and norm-based AI, and continuing developments in the FTI (research, technology, innovation) area including automatised driving, production technologies, climate and energy research, etc. Regarding the Federal Audit Office, objectives include making increased use of Big and Open Data for audits and increasingly invoking the SDGs and Agenda 2030 to increase public use and lead</p>			
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			public efforts.			
AT	Government : Federal Minister of Justice	Other: response to parliamentary enquiry	Following a parliamentary enquiry, the Federal Minister of Justice states that in the future, efforts shall be made to provide framework conditions for anonymising data using AI to increase the publication range of final court decisions.	no	no	Austria, Federal Ministry of Justice (<i>Bundesministerium für Justiz</i>), Response to parliamentary enquiry 1095/J on planned measures for the judiciary to speed up procedures (Antwort auf parlamentarische Anfrage 1095/J betreffend geplante Maßnahmen zur Ausstattung der Justiz, um Verfahren zu beschleunigen), 27 April 2020.
AT	Independent state institution: Austrian Medical Chamber	Other: press release	In a press release, the Austrian Medical Chamber responds to the Federal Chancellor's hinted use of Big Data evaluations to prevent waves of infection. The Chamber states	Yes Trade off data usage vs. medical necessity	Yes Data protection No mention of child	Austrian Medical Chamber, <i>Österreichische Ärztekammer</i> Coronavirus: "Big Data" only within bounds (Coronavirus: "Big Data" nur mit Maß und Ziel), press statement, 27 March 2020.

			Big Data should only be used within bounds and in an anonymised form. Furthermore, data protection standards must be upheld and not traded off against medical necessity.		rights or gender issues	
AT	Government : Federal Council of Austria	Other: resolution to a motion	In a resolution to a motion regarding the protection of fundamental rights in the context of COVID-19, it is stated that the Federal Government is tasked with establishing a reporting mechanism at the beginning of every month on the protection of fundamental rights. Concretely, the report shall	No	Yes Data protection, right to privacy No mention of child rights or gender issues	Federal Council of Austria (<i>Bundesrat</i>), Resolution of the Federal Council on the motion for a resolution by Federal Councillors Josef Ofner, Korinna Schumann and colleagues concerning the protection of fundamental rights (<i>EntschlieÙung des Bundesrates über den unselbständigen EntschlieÙungsantrag der Bundesräte Josef Ofner, Korinna Schumann, Kolleginnen und Kollegen betreffend Wahrung der Grundrechte</i>), 283/E-BR/2020.

			contain all planned and implemented measures, decrees, and other administrative decisions to mitigate the effect of the pandemic, the measures against "fake news", the administrative penalties issued, and the use and sources of data for data-mining and other Big Data measures.			
AT	Other: consultative body to Federal Ministry for Climate Action, Environment , Innovation and Technology	Other: opinion	The opinion on the COVID-19 pandemic by the Austrian Council for Robotics and Artificial Intelligence highlights challenges and potential areas of use for robotics and AI, which could be useful in	Yes Implementation only after testing and ethical consideration	Yes Data protection	Austrian Council for Robotics and Artificial Intelligence (<i>Österreichischer Rat für Robotik und künstliche Intelligenz</i>), Opinion on the COVID-19 pandemic (<i>Stellungnahme zur COVID-19 Pandemie</i>), 22 July 2020.

			<p> combatting the current crisis. Topics mentioned include the use of robotics in production and in the service sector, and the use of AI to improve diagnostics, resilience, working from home, and in undertaking administrative tasks. It is stated that none of the recommendations shall be implemented in an ignorant manner, but rather require testing and ethical consideration, particularly when concerning areas of private life. Systems must be secure, protect data, and be in line with ethical principles. </p>			
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*For the actors, please pick from the following suggestions:

Government/ Parliamentary

DPA

NGO/Other Non Profit

Academia

Domestic Courts

Business

Independent State Institution

Other

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

National Draft Acts / Adopted Acts

report/study

other projects

Chapter 6. Rights of the child

1. Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence.

<p>Measures to address the specific vulnerabilities of children living in poverty</p>	<p><i>e.g. income support to single-headed families or dependant on number of children in the household; meals for children provided for free; free access to health services; suspension of evictions in households with children; support for distance learning (e.g. provision of computers/tablets, or access to internet)</i></p> <p>Family Crisis Fund</p> <p>Pursuant to § 38a (10) of the Family Burden Equalisation Act 1967 (<i>Familienlastenausgleichsgesetz, FLAG</i>), the Federal Ministry of Work, Family and Youth issued directives on the Family Crisis Fund on the provision of financial support to parents who became unemployed starting from 28 February 2020. The aim of the Fund is to help coping with additional expenses due to the consequences of the pandemic. The following allowances are granted: 50 euros per child and month for two months (this corresponds to an allowance of 100 euros per child). The directives enter into force on 23 June 2020 and are valid until 31 December 2020.⁸¹</p> <p>Directive on summer special care time</p> <p>Working parents of children under the age of 15 years are legally entitled to a three weeks special leave of absence between 25 July 2020 and 30 September 2020, 30% of which is paid for by the government.⁸² The special care leave is granted in case the children are usually in a school/kindergarten, which is closed during the summer because of COVID-19 or summer holidays. The summer special care time is granted only at the discretion of the employer.⁸³ As of 20 March, the special care time was extended to individuals, who care for relatives with disabilities.⁸⁴</p>
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81 Austria, Federal Ministry of Work, Family and Youth (2020), [Directives for the Family Crisis Fund \(Richtlinien für den Familienkrisenfonds\)](#) (2020).

82 Austria, COVID 19 Law (*COVID 19 Gesetz*), Federal Law Gazette I No. 12/2020.

83 Austrian Broadcasting Corporation (*Österreichischer Rundfunk, ORF*) (2020), [‘Alleinerziehende geraten ans Limit’](#), 24 March 2020.

84 Austrian Press Agency (2020), [‘44 neue Gesetze zur Bekämpfung der Corona-Krise abgesegnet’](#), *Die Presse*, 20 March 2020.

In a response to a written parliamentary request, the Federal Minister for Work, Family and the Youth reported on the use of the special care time until 25 May 2020: in total, 3.502 women and 1.372 men (4.874 people) made use of the summer special care time. 5.490 children, 30 people with disabilities and 22 people in care needs were cared for by their relatives with the use of the special care time. The data were provided by the Federal Accounting Agency.⁸⁵

Masterplan and 8-points action plan for digital teaching

In derivation of the master plan for digitalisation in education,⁸⁶ an 8-point plan for digital teaching will be implemented. The provision of tablets to pupils is planned among other measures from the 2021/22 school year onwards, starting with the 5th and 6th graders. Consequently, the equipment will be gradually installed for each new class entering the 5th grade. Schools decide autonomously on the devices and a private financing share of 25% is foreseen. An additional investment volume totalling 200 million euros will be made available until 2022 for the implementation of the 8-point plan.⁸⁷

Survey Corona and Child Poverty

In June 2020, Volkshilfe Austria conducted a survey among 100 families who were affected by poverty. Telephone interviews were carried out throughout Austria between 1 and 29 June. The sample's representativeness is limited, but the survey still offers insights into the consequences of COVID-19 for families affected by poverty in Austria. 51% of the families interviewed said that the COVID-19 crisis had a negative financial impact – considering that their income has already been under the poverty risk threshold before the pandemic. 58% of the parents said that they did not have enough skills to support their children in home schooling. Half of the parents stated that their children were sadder (74%), lonelier (57%) or more aggressive (53%) than before the COVID-19 crisis. Children with special needs, due to learning disabilities, ADHD, dyslexia or dyscalculia, were

85 Austria, Federal Ministry for Work, Family and Youth, [Response to a written parliamentary request concerning Covid-19 special care time](#), No. 1631 / AB, 22 June 2020.

86 Austria, Federal Ministry of Education, Science and Research, '[Masterplan for the Digitalisation in Education](#)', (2020).

87 Austria, Federal Ministry of Work, Family and Youth, (2020), '[8 points plan for digital teaching](#)'.

	<p>in a particularly vulnerable situation as the findings showed. Home schooling was more difficult for them, as their parents in home schooling could not compensate their usual support (small classes, special trainers, etc.) in school.⁸⁸</p>
<p>Measures to protect children from violence</p>	<p><i>e.g. set up of new helplines or strengthening of existing ones through training or increased number of staff; campaigning on issues related to violence and COVID 19; revision of standard operating procedures for health and social workers to ensure identification and referral of victims of violence during Covid 19; social services identify alternative methods if home visits become impossible; internet safety support to families.</i></p> <p>Increase of resources for helpline and set up of HelpChat</p> <p>Strengthening the women's helpline against violence and the setting up of the HelpChat "Stop the violence" (<i>Halt der Gewalt</i>), which offer anonymous initial counselling and support for women and children affected by violence. Moreover, folders, containing information on support services in cases of domestic violence and contact addresses were distributed in supermarkets (More information is available in Chapter 7).</p> <p>Child protection Package for Styrian primary schools (<i>Kinderschutzpaket für steirische Volksschulen</i>)</p> <p>The organisation <i>Kinderfreunde Steiermark</i> developed a violence protection set on behalf of the Styrian provincial government. The violence protection set will be used in the fourth grades of Styrian primary schools. Its aim is to sensitise children and young people to their rights. The child protection package was presented by the responsible members of the Styrian government in the frame of a press conference on 14 September 2020.⁸⁹</p> <p>The preventive child protection set comprises 12 rights and demands to raise awareness among children and adults about the child right to protection. The set consists of a game, a method booklet, stickers, postcards, posters, and an information card. The materials are provided to schools and other institutions, working with children. Teachers of fourth grade classes in primary school should discuss the materials and the issue with the pupils. The aim is to inform children</p>

88 Austria, Volkshilfe, '[Wie wirkt sich Corona auf armutsbetroffene Kinder aus?](#)'. Document for the press conference on 8 July 2020.

89 Kallweit, D. (2020), '[Kinderschutz-Paket für steirische Volksschulen](#)', press release, 14 September 2020.

	<p>throughout Styria on the issue of protection against violence.⁹⁰</p> <p>The Styrian protection package was established in 2020 on the 30th anniversary of the UN Convention on the Rights of the Child and the 15th anniversary of the Styrian Violence Protection Act. It is not linked to COVID-19.⁹¹</p> <p>Violence Protection Summit</p> <p>In November 2020, the police, the centres for the protection from violence, victim support organisations, as well as women's organisations gathered at the regular Violence Protection Summit (<i>Gewaltschutzgipfel</i>) to identify gaps and needs for improvement in the protection of women from violence.⁹² The Violence Protection Summit is not linked to COVID-19. More information on the summit is available in Chapter 7.</p>
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2. Legal and policy measures or initiatives developed about criminal proceedings

<p>Legislative changes</p>	<p>The EU Criminal Law Adaption Act entered into force</p> <p>This EU Criminal Law Adaption Act⁹³ enters into force on 1 June 2020. The Federal act was enacted on 20 March 2020. The EU Criminal Adaption Act aims at the complete implementation of Directive (EU) 2016/800 (juvenile criminal procedure Directive). It contains an extension of the provisions on the obligatory provision of a defence</p>
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90 Kallweit, D. (2020), '[Kinderschutz-Paket für steirische Volksschulen](#)', press release, 14 September 2020.

91 Kallweit, D. (2020), '[Kinderschutz-Paket für steirische Volksschulen](#)', press release, 14 September 2020.

92 Austria, Federal Chancellery, Rescuing girls and women from the spiral of violence ([Frauenministerin Raab: Mädchen und Frauen aus der Gewaltspirale befreien](#)), 24 November 2020.

93 Austria, Federal Act enacting a Federal Act on surrender procedures with Iceland and Norway (Iceland-Norway Surrender Act - INÜG), the Code of Criminal Procedure 1975, the Juvenile Courts Act 1988, the Federal Act on Judicial Cooperation in Criminal Matters with the Member States of the European Union, the Extradition and Mutual Legal Assistance Act, the Federal Act on Cooperation with the International Criminal Court, the Federal Act on Cooperation with International Courts, the Stock Exchange Act 2018 and the Redemption Act 1972 be amended (Criminal Law EU Amendment Act 2020 - StrEU-AG 2020) BGBl. I Nr. 20/2020 of 21 March 2020 ([Bundesgesetz, mit dem ein Bundesgesetz über das Übergabeverfahren mit Island und Norwegen \(Island-Norwegen-Übergabegesetz – INÜG\) erlassen wird sowie die Strafprozeßordnung 1975, das Jugendgerichtsgesetz 1988, das Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union, das Auslieferungs- und Rechtshilfegesetz, das Bundesgesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof, das Bundesgesetz über die Zusammenarbeit mit den internationalen Gerichten, das Börseggesetz 2018 und das Tilgungsgesetz 1972 geändert werden – Strafrechtliches EU-Anpassungsgesetz 2020 – StrEU-AG 2020](#)), Federal Law Gazette, No. 20/2020.

	<p>lawyer (Art. 37, 39), an obligation to audio-visual recordings of interrogations with arrested minors, in case no defence lawyer/person of trust is present (Art. 36a), and an expansion of juvenile court assistance.</p> <p>Moreover, if it is doubtful whether an accused person was an adult or minor at the time of the accused crime or at the time of the procedural act, the provisions for minors apply (Art. 1 (2)).</p> <p>The Criminal Law Adaption Act produces improvements for the juveniles' criminal procedure rights; the most important are:</p> <ul style="list-style-type: none"> - § 31a of the Juvenile Courts Act (JGG) stipulates a special acceleration requirement for juvenile criminal cases. - § 32a JGG comprehensively regulates the legal instruction of juveniles. - § 37 stipulates the obligatory representation of a juvenile by a defence lawyer during interrogation in the event of arrest or presentation for immediate interrogation, during a reconstruction of the offence and during a confrontation. The juvenile must not waive the right to a defence lawyer in these types of interrogation. - In all other cases of interrogation, if the juvenile is not represented by a defence lawyer, a person of trust shall be called in or, if such a call in is not possible within a reasonable period of time due to the lack of a suitable person being available, the interrogation shall be recorded in sound and vision. (§ 36a) <p>The Juvenile Courts Act fully transposes Directive (EU) 2016/800 (juvenile criminal procedure Directive) with regard to measures which the Federal Government is obliged to take under mandatory provisions of Union law.</p>
<p>Policy developments</p>	<p><i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i></p> <p>Nothing to report.</p>
<p>Other measures or initiatives</p>	<p><i>E.g., relevant activities to promote alternatives to detention, community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i></p> <p>Nothing to report.</p>

Chapter 7. Access to justice including crime victims

1. Victims' Rights Directive

The 22 February has been the European Day for Victims of Crime for 30 years. On this occasion, the Federal Ministry of the Interior and the *Weisser Ring* invited to a symposium for the tenth time.⁹⁴ The organisers took the anniversary as an opportunity to look at the topics of the past years together with experts and to evaluate their significance for the present and future of victim support. The content of the symposium included volunteer work, the EU Victims' Rights Directive, various target groups of victim support, and current offences such as hate crime and cybercrime.

In June 2020, the National Council unanimously adopted a motion⁹⁵ calling on the government to reinforce the protection of people who suffer discrimination based on different characteristics, such as disabilities, migrant backgrounds, different skin colour or religion, as well as LGBTI people. These individuals are sometimes subject to multiple discrimination and increasingly affected by devaluation and hate crime, according to the motion.

The Combat-Hate-on-the-Internet-Act (*Hass-im-Netz-Bekämpfungsgesetz, HiNBG*) was brought to parliament for adoption as a new legal instrument against hate on the internet. It is planned to enter into force on 1 January 2021.⁹⁶ Please see Chapter 2 for all details.

2. Violence against women

Parliament adopted the Protection from Violence Act 2019 (*Gewaltschutzgesetz 2019*)⁹⁷ in September 2019, introducing amendments to

94 Austria, Federal Minister of the Interior, [‘Tag der Kriminalitätsoffer: Nehammer betont Nachhaltigkeit als Schlüssel zum Erfolg’](#), Press release, 21 February 2020.

95 Austria, Motion on setting a strong signal against hate crimes and discrimination against LGBTIQ people ([Ein starkes Zeichen gegen Hassverbrechen und Diskriminierung von LGBTIQ-Personen setzen \(593/A\(E\)\)](#)), 17 June 2020.

96 Austria, Draft federal law which provides for civil law and civil procedural measures to combat hate on the Internet ([Ministerialentwurf betreffend Bundesgesetz, mit dem zivilrechtliche und zivilprozessuale Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden \(Hass-im-Netz-Bekämpfungsgesetz – HiNBG\)](#)).

Federal Law Gazette to be added when published.

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

25 Austrian laws. The new provisions mainly entered into force on 1 January 2020. The amendments in the area of substantive criminal law largely tighten criminal law provisions that concern offences regarding women as victims of gender-based violence. The amendment introduces an extension of the aggravating circumstances (§ 33 (1) and (2) Criminal Code), an increase of maximum penalties for repeat offenders (§ 39 Criminal Code), a modification of penalties for certain violent acts (§ 39a Criminal Code), an exclusion of conditional punishment for rape (§ 43 (3) Criminal Code), the establishment of genital mutilation as a case of serious and consequential bodily harm (§ 85 (1) 2a Criminal Code), a widening of the offense of stalking (§ 107a Criminal Code), a tightening of the penalty of continued violence against immature and defenceless persons (§ 107b Criminal Code), an extension of the minimum penalty for rape (§ 201 Criminal Code), and the extension of a lifelong prohibition to work for violent and sexual offenses to the detriment of minors or defenceless persons (§ 220b Criminal Code). The rights of particularly vulnerable victims (§ 66a Criminal Procedure Code) were improved with respect to the right to interpreting services by people of the same gender during interrogations and in the main proceedings.

The Protection from Violence Act 2019 introduced a general notification obligation for health professionals in the Austrian Law on Doctors in the event of justified suspicion of certain criminal offences. However, the newly introduced provisions now stipulate that medical doctors are not obliged to report if this is against the will of the person concerned (§ 54 (5) Law on Doctors).⁹⁸

The “restraining order and prohibition of approach for the protection against violence” (*Betretungs- und Annäherungsverbot zum Schutz vor Gewalt*), laid down in § 38a Security Police Act (*Sicherheitspolizeigesetz, SPG*),⁹⁹ was fundamentally revised and restructured. Major changes include the introduction of a prohibition of approach and the mandatory violence prevention counselling. Now, the restraining order will always be combined with a prohibition of approach. The threatening person may not approach the endangered person at less than 100 metres, regardless of where the endangered person is located. This way, it is possible to cover all places, regardless of whether it is the workplace, the school, the kindergarten, etc. It is no longer necessary to list protection areas explicitly.

In addition, an explicit right to searches was introduced for obtaining the apartment keys from the threatening person. Previously, keys could only be removed if the threatening person had voluntarily handed them over or if it was evident that the keys were in his or her trousers’ pocket.

The “active perpetrator work” is now anchored in so-called violence prevention centres. Specific centres are to be contractually entrusted by the Minister of the Interior with the task of providing violence prevention

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

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

counselling to the threatening person, if a prohibition order or a prohibition of approach was imposed on him or her (§ 25 (4) Security Police Act). In the future, the threatening person is obliged to participate in such counselling within a short period after the measure has been enacted. If he or she does not do so, he or she is committing an administrative offence (§ 84 (1b) Security Police Act). This mandatory prevention counselling introduced by Protection from Violence Act 2019 (*Gewaltschutzgesetz 2019*)¹⁰⁰ will start on 1 July 2021.¹⁰¹ In November 2020, the governing parties have agreed to double the number of these counselling hours from three to six. In addition, the federal government will cover the entire costs of these counselling sessions.¹⁰²

Amendments also concern the case conventions for high-risk cases. §22 (2) Security Police Act now stipulates that the security authorities may initiate case conferences with the competent Centres for the Protection against Violence in high-risk cases. Such case conferences may be convened by the police if it can be assumed (e.g. due to a previous dangerous attack) that a certain person will commit an act that is threatened with considerable punishment against the life, health, freedom, or morality of a person. Case conferences aim to bring together all responsible organisations (in particular the police and the Centres for the Protection against Violence) to discuss and evaluate the individual case and develop and coordinate appropriate measures. The amendment aims to establish a uniform regulation of such case conferences on the initiative and under the direction of the police. The amendment also introduces the legal basis for an information exchange for the participants of these case conferences and for the further use of the information obtained.

The Federal Minister for Women and Integration reported in April 2020 that the majority of the budget of the Ministry for Women's Affairs would be used for measures against violence against women. Moreover, the budget of the Women's Ministry will be increased for the first time in 10 years - by 20

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

101 Austria, Federal Chancellery, Rescuing girls and women from the spiral of violence ([Frauenministerin Raab: Mädchen und Frauen aus der Gewaltspirale befreien](#)), 24 November 2020.

102 Austria, Greens, Disoski/Greens on protection from violence package: counselling hours doubled, federal government bears costs, evaluation after one year, ([Disoski/Grüne zu Gewaltschutzpaket: Beratungsstunden verdoppelt, Bund trägt Kosten, Evaluierung nach einem Jahr](#)), Press release, 23 November 2020.

percent from the previous 10,150,000 Euros to 12,150,000 Euros.¹⁰³ The budget for 2021 has now been increased once again to 14.65 million Euros.¹⁰⁴

During the COVID-19 restrictions, the Minister of the Interior together with the Minister for Women's Affairs drew attention to the increased risk of domestic violence and the existing offer of support in several press conferences.¹⁰⁵ In the context of the COVID-19 pandemic, various measures have been taken by the competent Ministries to address such risks related to violence against women:

- Due to the restrictions on freedom of movement caused by the measures to contain COVID-19, the Federal Minister of Justice issued a decree¹⁰⁶ laying down special rules for submissions to the courts. Relevant amendments in respect to violence against women are laid down in § 1(3) of this decree. For the duration of the restriction of freedom of movement due to the COVID-19 measures, suitable victim support organisations established according to § 25 (3) Security Police Act (*Sicherheitspolizeigesetz, SPG*)¹⁰⁷, namely Centres for the protection from violence/Intervention Centres, may represent victims of violence (with some restrictions). They may file applications for interim injunctions ("*einstweilige Verfügungen*") for protection against violence according to §§ 382b, 382e Act on the Enforcement of Judgments (*Exekutionsordnung, EO*)¹⁰⁸ and for the protection against infringements of privacy (§ 382g EO) and other pleadings in these proceedings (with the exception of appeals and legal remedies) on behalf of the persons concerned. They have to be granted the power of attorney to do so. They are to submit their written submissions by electronic legal transactions (*Elektronischen Rechtsverkehr, ERV*) where possible. If this is not possible, they can also submit their submissions by email after prior contact with the court by telephone.

103 Austria, Federal Minister for Women and Integration (2020), Response to parliamentary inquiry No. 1077/J on "Murder of women in Austria" ([Beantwortung der parlamentarischen Anfrage betreffend „Frauenmorde in Österreich“](#)), 27 April 2020.

104 Austria, Federal Ministry for Women and Integration, [Frauenministerin Susanne Raab: "Die größte Budgeterhöhung seit 2010 bringt ein Budget von knapp 15 Millionen Euro." Gewaltschutz und Stärkung von Frauen als Schwerpunkte](#), press release, 14 October 2020.

105 Austria, Federal Minister of the Interior (2020), Answer to parliamentary inquiry 2508/J on "MARAC case conferences to prevent serious and repeated violence, murders and attempted murders in the area of violence against women" ([Beantwortung der parlamentarische Anfrage 2508/J betreffend „MARAC-Fallkonferenzen zur Verhinderung von schwerer und wiederholter Gewalt, Morden und Mordversuchen im Bereich Gewalt gegen Frauen“](#)), 24 August 2020.

106 Austria, Federal Minister of Justice (2020), Decree by the Federal Minister of Justice laying down special rules for submissions to the courts ([Verordnung der Bundesministerin für Justiz, mit der besondere Vorschriften für die Einbringung von Eingaben bei Gericht erlassen werden \(1. COVID 19 Ziviljustiz-VO\)](#), Federal Law Gazette II No. 163/2020.

107 Austria, Security Police Act ([Bundesgesetz über die Organisation der Sicherheitsverwaltung und die Ausübung der Sicherheitspolizei, Sicherheitspolizeigesetz – SPG](#)), Federal Law Gazette No. 566/1991.

108 Austria, Act on the Enforcement of Judgments ([Exekutionsordnung, EO](#)), Federal Law Gazette I No. 68/2005.

- Moreover, the decree¹⁰⁹ issued by the Federal Minister of Justice stipulates that persons who are in quarantine according to the Law on Epidemics can also file an application for a temporary injunction for protection against violence in their homes (§ 382b EO) or for general protection against violence (§ 382e EO) via the police. For this purpose, a special form has been developed which is handed out together with an information sheet in the course of the barring procedure. The handing over of the application to the police is considered as notification in the sense of § 38a (10) Security Police Act (*Sicherheitspolizeigesetz, SPG*)¹¹⁰, so that the restraining order and prohibition of approach for the protection against violence is extended by two weeks. The police must immediately submit the application to the court together with documentation (e.g. report), if possible by way of electronic legal transactions (*Elektronischen Rechtsverkehr, ERV*).
- The Federal Minister of the Interior has launched an information campaign against violence in daily newspapers, several print and social media channels, as well as prevention spots on TV and radio. On the website of the Federal Ministry of the Interior, a site entitled "Safe at Home"¹¹¹ was published with numerous questions on the subject of violence and the corresponding answers, psychological support, behavioural tips for victims, information on police intervention in this context, and information on civic courage.¹¹² The Federal Chancellery has produced information folders specific to the federal provinces with regional offers of violence protection facilities. These folders were distributed by the Federal Ministry of the Interior to every police station in Austria.¹¹³ The Federal Minister for Labour, Family and Youth provides information about various offers of help for women, children, and young people in crises on the website "www.gewaltinfo.at". Since 15 May 2020, "www.gewaltinfo.at" has provided a link to the Federal Ministry of the Interior's website "Safe at Home", which provides information on the subject of violence in the family and offers the

109 Austria, Federal Minister of Justice (2020), Decree by the Federal Minister of Justice laying down special rules for submissions the courts ([Verordnung der Bundesministerin für Justiz, mit der besondere Vorschriften für die Einbringung von Eingaben bei Gericht erlassen werden \(1. COVID 19 Ziviljustiz-VO\)](#), Federal Law Gazette II No. 163/2020.

110 Austria, Security Police Act ([Bundesgesetz über die Organisation der Sicherheitsverwaltung und die Ausübung der Sicherheitspolizei, Sicherheitspolizeigesetz – SPG](#)), Federal Law Gazette No. 566/1991.

111 Federal Ministry of the Interior, Safe at Home ([Sicher zu Hause](#)).

112 Austria, Federal Minister of the Interior (2020), Answer to parliamentary inquiry 2508/J on "MARAC case conferences to prevent serious and repeated violence, murders and attempted murders in the area of violence against women ([Beantwortung der parlamentarische Anfrage 2508/J betreffend „MARAC-Fallkonferenzen zur Verhinderung von schwerer und wiederholter Gewalt, Morden und Mordversuchen im Bereich Gewalt gegen Frauen“](#))", 24 August 2020.

113 Austria, Federal Minister of the Interior (2020), Answer to parliamentary inquiry 2508/J on "MARAC case conferences to prevent serious and repeated violence, murders and attempted murders in the area of violence against women ([Beantwortung der parlamentarische Anfrage 2508/J betreffend „MARAC-Fallkonferenzen zur Verhinderung von schwerer und wiederholter Gewalt, Morden und Mordversuchen im Bereich Gewalt gegen Frauen“](#))", 24 August 2020.

direct contact to suitable support facilities.¹¹⁴ In November 2020, around 400,000 protection from violence leaflets containing information on support services including all important addresses and telephone numbers have been made available in supermarkets, doctors' practices, and pharmacies throughout Austria. The Minister for Women's Affairs implemented the project in cooperation with the trade association, the chamber of pharmacists, and the medical association.¹¹⁵

- In June 2020, the Federal Minister for Women and Integration developed the online HelpChat "www.haltdergewalt.at" offering anonymous and confidential help. The HelpChat is a virtual information centre for women and girls who are experiencing violence in all forms – physical, psychological, and sexual.¹¹⁶

In July 2020, the Federal Minister for Labour, Family and Youth reported that in case of violence in the family, personal counselling appointments could also be arranged at the family counselling centres during the lockdown while following the general hygiene protection recommendations.¹¹⁷

In September 2020, the Federal Minister of the Interior, the Minister for Women's Affairs, and the head of OGM research institute presented a study¹¹⁸ on domestic violence during the lockdown. The representative survey on the perception of domestic violence in the population (N=811, July 2020) was commissioned by the Federal Ministry of the Interior and the Federal Ministry for Women's Affairs and conducted by the OGM research institute. The study essentially found that the COVID-19 crisis has not led to a significant increase in domestic violence in Austria. The imposed prohibitions of approach and entry had increased throughout Austria from 886 in February 2020 to 1,081 in the lockdown month of April 2020. In July, the number had risen to 1,085; in August, it decreased to 1,055, and in September to 507. In this respect, the Federal Minister of the Interior¹¹⁹ added and confirmed in August 2020 that in January 2020, 936 (of which 849 against men), in February 2020 886 (of which 791 against men) and in March 2020 972 (of which 882 against men) restraining orders and prohibitions of approach for the protection against violence pursuant to §38a of the Security Police Act were issued

114 Austria, Federal Minister for Labour, Family and Youth (2020), Answer to parliamentary question 2138/ on "urgent action to prevent violence against women" ([Beantwortung der parlamentarischen Anfrage 2138/ betreffend „drängende Gewaltschutzmaßnahmen für Frauen“](#)), 27 July 2020.

115 Austria, Federal Ministry of Women's Affairs, [Frauenministerin Raab: 400.000 Folder mit Infos zu Gewaltschutz für ganz Österreich](#), 19 November 2020.

116 Austria, Federal Minister for Women and Integration (2020), Response to parliamentary inquiry No. 2139/J on "Urgent violence protection measures for women" ([Beantwortung der parlamentarischen Anfrage betreffend „drängende Gewaltschutzmaßnahmen für Frauen“](#)), 27 July 2020.

117 Austria, Federal Minister for Labour, Family and Youth (2020), Answer to parliamentary question 2138/ on "urgent action to prevent violence against women" ([Beantwortung der parlamentarischen Anfrage 2138/ betreffend „drängende Gewaltschutzmaßnahmen für Frauen“](#)), 27 July 2020.

118 Austria, Österreichische Gesellschaft für Marketing, Analysis on domestic violence during the Corona-lockdown ([Analyse zu häuslicher Gewalt während des Corona-Lockdowns](#)), September 2020.

119 Austria, Federal Minister of the Interior (2020), [Answer to written parliamentary inquiry 2365/J concerning „COVID 19 – Restraining orders and prohibitions of approach for the protection against violence by police“](#), 18 August 2020.

throughout Austria. However, since 1 January 2020 a victim-oriented counting method has been applied according to the Federal Minister of the Interior. This means that the data from 2019 (or from previous years) are not comparable with the data from 2020.

In June 2020, the National Council passed a motion calling on the government to continue the information and prevention work in the area of violence against women.¹²⁰ In June, the majority of the National Council adopted another resolution¹²¹, calling on the government to evaluate and further develop the National Action Plan for the Protection of Women against Violence and to allocate sufficient resources for this purpose. In addition to the best-possible implementation of the Istanbul Convention and the development of victim protection and violence protection centres and intervention centres, the National Action Plan also provides for measures in the areas of prevention, education, and awareness-raising, according to the resolution.

The Combat-Hate-on-the-Internet-Act (*Hass-im-Netz-Bekämpfungsgesetz, HiNBG*) was brought to parliament for adoption as a new legal instrument against hate on the internet. It is planned to enter into force on 1 January 2021.¹²² It will introduce a new criminal offence against unauthorized taking of pictures, in particular "upskirting" (§ 120a Criminal Code). Please see Chapter 2 for further information.

In November 2020, the police, the centres for the protection from violence, victim support organisations, as well as women's organisations gathered at the regular Violence Protection Summit (*Gewaltschutzgipfel*) to identify gaps in and needs for improvement of the protection of women from violence.¹²³ Building on this exchange, concrete measures to reduce violence have been agreed upon. A counselling centre for women affected by sexual violence will be made available in every province. The budget of existing counselling centres will be increased. The counselling services for the approximately 5,000 to 8,000 girls and women in Austria who are affected or threatened by forced marriage will be expanded and a contact point will be established for these girls and women in the west of Austria.¹²⁴

120 Austria, Motion of the National Council of 17 June 2020 on priority areas: violence against women and girls ([*Schwerpunktsetzung: Gewalt an Frauen und Mädchen \(582/A\(E\)\)*](#)), 17 June 2020.

121 Austria, Motion of the National Council of 17 June 2020 on the continuation of the National Action Plan for the protection of women against violence ([*Fortführung des Nationalen Aktionsplans zum Schutz von Frauen vor Gewalt \(96/A\(E\)\)*](#)), 17 June 2020.

122 Austria, Draft federal law which provides for civil law and civil procedural measures to combat hate on the Internet ([*Ministerialentwurf betreffend Bundesgesetz, mit dem zivilrechtliche und zivilprozessuale Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden \(Hass-im-Netz-Bekämpfungsgesetz – HiNBG\)*](#)). Federal Law Gazette to be added when published.

123 Austria, Federal Chancellery, Rescuing girls and women from the spiral of violence ([*Frauenministerin Raab: Mädchen und Frauen aus der Gewaltspirale befreien*](#)), 24 November 2020.

124 Austria, Federal Chancellery, Rescuing girls and women from the spiral of violence ([*Frauenministerin Raab: Mädchen und Frauen aus der Gewaltspirale befreien*](#)), 24 November 2020.

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

1. CRPD policy & legal developments

Funding of online and telephone psychotherapeutic treatment

The Austrian Federal Association for Psychotherapy negotiated a special arrangement with the Austrian Health Insurance Funds (*Österreichische Gesundheitskasse, ÖGK and Versicherungsanstalt öffentlich Bediensteter, Eisenbahnen und Bergbau, BVAEB*), whereby online and telephone psychotherapy is paid for in accordance with the applicable standards in the same way as if it was carried out face to face. This measure facilitates access to psychotherapeutic treatment in case social distancing measures apply. Independently from social distance measures, it facilitates access for persons with disabilities or mobility impairments.¹²⁵

Publication of information on COVID-19 measures in easy language

The Association "Easy reading" (*Leichter Lesen*) developed information about COVID-19 in easy language.¹²⁶ The publication of information material in easy language, supplemented with explanatory pictures, enables barrier-free access to the latest information. Moreover, it facilitates access to information about important measures taken by the government during the COVID-19 crisis. Article 21 of the UN Convention on the Rights of Persons with Disabilities obliges Austria to make information available in barrier-free formats. This also applies to information issued by the government regarding the current situation in the COVID-19 crisis. Especially people with learning difficulties, elderly people and people of lower German language skills benefit from these offers. Thus, the information material provided by the Independent Monitoring Committee and Easy Reading is an example of the barrier-free preparation of complex content in easy reading.¹²⁷

Challenges in relation to COVID-19 and disability

The Austrian Monitoring Committee critically states that the COVID-19 crisis illustrates the urgency of the consistent implementation of the CRPD. The Committee argues that the COVID-19 pandemic has shown that people with disabilities are particularly affected in times of crisis. The reasons for this are manifest discrimination and lack of equality in all areas of life. Measures should therefore urgently consider the living realities of

125 Austrian Federal Association for Psychotherapy (*Österreichischer Bundesverband für Psychotherapie, ÖBVP*), (2020), '[Coronavirus – Information für PsychotherapeutInnen](#)', 5 May 2020.

126 Austria, Independent Monitoring Committee on the implementation of the UN Convention on the Rights of Persons with Disabilities, '[Informationen zum Corona Virus in Leichter Sprache](#)', 26 March 2020.

127 Austria, Independent Monitoring Committee on the implementation of the UN Convention on the Rights of Persons with Disabilities, '[Informationen zum Corona Virus in Leichter Sprache](#)', 26 March 2020.

people with disabilities to recognise the need for action at an early stage. E.g. persons with disabilities, who use personal assistance, cannot follow the personal distance rules during service provision. They faced major problems due to the shortage of protective equipment/clothing for personal assistants. Thus, the self-determined life of persons with disabilities (Art. 19 CRPD) was and still is endangered by the COVID-19 pandemic.

Moreover, the Austrian Independent Monitoring Committee highlights the urgent recommendation of the UN Committee of Experts to include people with disabilities in state emergency planning and the adoption of crisis measures explicitly. The chairperson of the Committee emphasises: *"It must be clear that the expertise of people with disabilities must be represented in all crisis teams. They are experts in their own field and must never be excluded from central decisions. This is the only way to ensure that necessary measures for people with disabilities are practicable, non-discriminatory and barrier-free."* The COVID-19 crisis shows that the implementation of the CRPD at the regional, local, and national level is the best safeguard to protect people with disabilities from the effects of the crisis and to prevent discrimination.¹²⁸

Concrete demands in relation to the COVID-19 pandemic and the rights of persons with disabilities according to the CRPD are: the obligation to provide sufficient inclusive holiday offers for children – especially in the times of COVID-19 and after the long quarantine, all children should enjoy carefree social contacts and leisure adventures; to ensure the access of children with disabilities, sufficient places have to be created and they have to be comprehensively inclusive and barrier-free. The Committee refers to Article 30 of the CRPD, which obliges Austria as a State Party to ensure that children with disabilities can participate in play, recreation, leisure, and sports activities on an equal footing with other children. Further, the parents of children with disabilities have the right to know that their children are well cared for during the summer.¹²⁹

Women with disabilities

In terms of the situation of women with disabilities, it is stated that the multiple burdens affecting all women during the COVID-19 pandemic have a particularly serious impact on women with disabilities. Home schooling, the loss of childcare, and the loss of support for coping with everyday life lead to a massive overload of women with disabilities. Thus, it is important to secure structures to ensure that these women have at least a minimum of self-determination. The successful model of personal assistance only works in times of crisis if it takes place in regular employment with sufficient funding. COVID-19 has endangered the support structures and networks of women with disabilities. The COVID-19 crisis is a challenge for all people. For women with disabilities the challenges increase, as they are

128 Austria, Independent Monitoring Committee on the implementation of the UN Convention on the Rights of Persons with Disabilities, [Aus Krise lernen: UN-Behindertenrechtskonvention consequent umsetzen](#), 20 June 2020.

129 Austria, Independent Monitoring Committee on the implementation of the UN Convention on the Rights of Persons with Disabilities, [Kinder mit Behinderungen haben Recht auf inklusive Ferienangebote](#), 8 July 2020.

disadvantaged as women and as people with disabilities. The COVID-19 crisis reinforces what was already a challenge before, and acts like a magnifying glass. *“Women with disabilities slide into poverty, have to constantly achieve top organisational and psychological performance and for many the COVID-19 virus is particularly dangerous,”* reports Gabriele Sprengseis, managing director of the Austrian Council for the Disabled and co-founder of the competence team Women with Disabilities. During and also after the crisis, women with disabilities need much more support and crisis-proof networks.¹³⁰

Evaluation of the National Action Plan Disability 2012-2020

The Federal Ministry of Social Affairs commissioned the University of Vienna with evaluating the National Action Plan Disability 2012-2020 in the period from December 2019 to August 2020. The evaluation is based on a comprehensive analysis of documents and guideline-based interviews with 72 experts from civil society, interest groups, and self-representation, academia, and the monitoring committee, the social partners, the social insurance, as well as the federal and provincial administration.¹³¹

The final report contains a detailed assessment of the NAP Disability and its results form the basis for the preparation of the new Action Plan 2022-2030. The final report lists a number of structural recommendations for the preparation and implementation of the future NAP Disability as well as recommendations on disability policy, protection against discrimination, accessibility, education, employment, independent living, health and rehabilitation, and awareness raising and information. Specific recommendations in relation to the COVID-19 pandemic can be found as well, and include: data collection on the impact of COVID-19 on persons with disabilities, inclusion of the issue crisis management in the NAP 2022-2030, compliance of crisis management with the relevant articles in the CRPD, institutionalisation of a participatory crisis management and addressing the limitations of digital alternatives for people with disabilities and improving the digital infrastructure for social and educational purposes.¹³²

The findings of the evaluation indicate the following positive points in relation to the NAP Disability 2012-2020: the improvement of the cooperation between the individual Federal Ministries and the Provinces because of the NAP Monitoring Group and improvements in the accessibility of federal buildings and public websites. The following points of criticism were made: a lack of participation of people with disabilities in the preparation of the NAP, a lack of political commitment of the nine Provinces to the implementation of the UN Convention on the Rights of

130 Austria, Independent Monitoring Committee on the implementation of the UN Convention on the Rights of Persons with Disabilities, [Corona-Krise: Situationen von Frauen mit Behinderungen beachten](#), 28 May 2020.

131 Austria, Federal Ministry for Social Affairs, Health, Care and Consumer Protection (2020), [Evaluation of the National Action Plan Disability 2012-2020](#), Vienna

132 Austria, Federal Ministry for Social Affairs, Health, Care and Consumer Protection (2020), [Evaluation of the National Action Plan Disability 2012-2020](#), Vienna, p. 36.

Persons with Disabilities, too few statistics and indicators are available for monitoring the implementation of the NAP.

2. CRPD monitoring at national level

No information available. No key developments or changes relating to the structures established under Article 33 of the Convention to report.

Annex 1 – Promising Practices

Thematic area	<p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one example of a promising practice to tackle discrimination against older people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of older people or LGBTI people, preferably one conducted by a national equality body.</p>
	No promising practice has been identified for this thematic area.

Thematic area	<p>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</p> <p>Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.</p>
Title (original language)	Dialog statt Hass
Title (EN)	Dialogue instead of Hate
Organisation (original language)	NEUSTART (Bewährungshilfe)
Organisation (EN)	New Start (Probation association)
Government / Civil society	Government/ probation association
Funding body	Ministry of Justice
Reference (incl. url, where available)	https://www.neustart.at/at/de/unsere_angebote/nach_verurteilung/dialog_statt_hass.php

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Pilot phase started Jan 2019; permanent offer since July 2020
Type of initiative	Training and dialogue to change attitudes
Main target group	The programme addresses persons who have a criminal procedure pending because of incitement, hate or infringement of the NAZI prohibition laws on the internet/social media.
Indicate level of implementation: Local/Regional/National	national
Brief description (max. 1000 chars)	<p>Polarising and biased debates on social media often go beyond the limitations criminal laws set, particularly incitement to hatred or degradation of faith groups.</p> <p>NEUSTART therefore, has developed in cooperation with prosecutors and judges a rational and socially constructive response, namely an adequate intervention to sensitize offenders for discrimination, develop a sense for injustice and reflection in order to initiate changes of attitudes and behaviour.</p> <p>In case of an investigation by the public prosecutor, the prosecutor's office can order the intervention by NEUSTART.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	Fully transferable
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It had a pilot phase and was transferred into a permanent programme in cooperation with the prosecutors' offices

Give reasons why you consider the practice as having concrete measurable impact	Dialogue works
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Can be transferred to any setting or State
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	See above
Explain, if applicable, how the practice provides for review and assessment.	Cases are fully documented

Thematic area	<p>ROMA EQUALITY AND INCLUSION</p> <p>Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.</p>
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	No promising practice has been identified for this thematic area.
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Thematic area	INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.
	No promising practice has been identified for this thematic area.

Thematic area	RIGHTS OF THE CHILD Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Kinderschutzpaket für steirische Volksschulen
Title (EN)	Child protection package for Styrian primary schools
Organisation (original language)	Steiermärkische Landesregierung, Ressorts Soziales und Jugend
Organisation (EN)	Provincial Government Styria, ressorts social affairs and youth
Government / Civil society	government
Funding body	government
Reference (incl. url, where available)	https://www.soziales.steiermark.at/cms/beitrag/12795160/5195/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Starting date: 14 September 2020 (school start in Styria) – ongoing
Type of initiative	Awareness raising and providing information about child rights and child protection
Main target group	Children in primary school, teachers, parents and institutions, working with children
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	The violence protection set aim is to sensitise children and young people to their rights. The set consists of a game, a method booklet, stickers, postcards, posters and an information card. The materials are provided to schools and other institutions, working with children. The child-friendly materials enable the awareness raising among children. Teachers of fourth grade classes in primary school should discuss the materials with the

	pupils. The aim is to inform children throughout Styria on the issue of protection against violence
Highlight any element of the actions that is transferable (max. 500 chars)	<ul style="list-style-type: none"> - Development of child-friendly information on protection against violence and child rights - Distribution of the materials in schools and institutions working with children - Asking teachers to use and distribute the materials in classes and to discuss the issue "protection against violence" during teaching
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<ul style="list-style-type: none"> - It is an initiative by the provincial government, rather than a single project - Child rights and mechanisms to protect children against violence have a relative long validity (compared to other policy issues) - The development of child-friendly information materials secures effective access to this information - The measure is implemented in the whole Region - The information materials enable the discussion of these matters with children in schools
Give reasons why you consider the practice as having concrete measurable impact	<ul style="list-style-type: none"> - The awareness of children and their parents on child rights and child protection mechanisms in place can be measured; - The children are accessed via schools
Give reasons why you consider the practice as transferable to other settings and/or Member States?	<p>The development of child-friendly information (using games, stickers, posters, songs) is transferable to other settings and Member States. The distribution of these information materials via schools is transferable too.</p> <p>The need for such measures (lacking awareness on child rights and child protection) is expected to be valid for other settings and Member States. Information and awareness about the right of children to live free from all kinds of violence among teachers, parents and pupils is an important factor for the prevention of violence and child protection.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the	The Kinderfreunde Styria carried out the design of the information materials. This is a NGO, which provides care and leisure activities to children. Thus, the Kinderfreunde Styria have first-hand experience and knowledge on the needs and concerns of children.

design, planning, evaluation, review assessment and implementation of the practice.	However, it is not known whether children were involved in the design, planning, evaluation.
Explain, if applicable, how the practice provides for review and assessment.	No information available.

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Sicher zu Hause
Title (EN)	Safe at home
Organisation (original language)	Bundesministerium für Inneres
Organisation (EN)	Federal Ministry of the Interior
Government / Civil society	Government
Funding body	Federal Ministry of the Interior
Reference (incl. url, where available)	Federal Ministry of the Interior, Safe at Home (Sicher zu Hause).
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	April 2020 - ongoing
Type of initiative	information campaign (website)
Main target group	(potential) victims of domestic violence

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Under the motto „Violence is not a private matter“ Federal Ministry of the published a website on domestic violence during the outbreak of COVID-19. The rationale behind setting up a website is that the living conditions in the COVID-19 crisis are challenging. Families and couples spent the whole day together at home, sometimes in very confined spaces. In addition, there might be existential concerns - a mixture that can lead to violence in the worst case. The website thus provides information on where and how potential victims of domestic violence can get quick and professional support for themselves and their relatives, as well as the legal information on domestic violence. The website includes a FAQ-section, tips for the special everyday life, psychological help, information on what the police are doing, tips for victims, a call for civic courage and important contacts to support organisations. The website is also available in a German Easy Language.
Highlight any element of the actions that is transferable (max. 500 chars)	The entire campaign can be transferred.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The website provides comprehensive information on preventing and dealing with violence in the social sphere in an accessible manner. (Potential) victims of domestic violence receive important information on how to deal with the challenges imposed by COVID-19 and potential violent acts and where to receive support. The information material is available online and facilitates permanent access to information.
Give reasons why you consider the practice as having concrete measurable impact	Measuring the impact is not foreseen. However, providing the target group with accessible information seems to be of particular important in times of the COVID-19 crisis.
Give reasons why you consider the practice as transferable to	The information campaign can easily be transferred to other Member States, because providing accessible and context-specific information appears to be beneficial for potential victims of violence in all Member States.

other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	n/a
Explain, if applicable, how the practice provides for review and assessment.	n/a

Thematic area	<p>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p>
Title (original language)	Informationen zum Corona Virus in Leichter Sprache
Title (EN)	Information on the Corona Virus in easy language
Organisation (original language)	Monitoringausschuss zur Umsetzung der UN Konvention über die Rechte der Menschen mit Behinderungen, Verein Leichter Lesen
Organisation (EN)	Monitoring Committee on the Implementation of the CRPD, Association Easy Reading
Government / Civil society	Civil Society
Funding body	The Monitoring Committee on the Implementation of the CRPD commissioned the text.

Reference (incl. url, where available)	https://www.monitoringausschuss.at/download/broschueren/MA_CoronaVirus_Infomaterial_LL.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The text was drafted on 18 March 2020 and reviewed on 26 March 2020.
Type of initiative	Translation, information provision (referring to Art. 21 CRPD)
Main target group	Persons with disabilities and learning difficulties, the elderly and persons with weak German language skills.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The information material was produced by the Association Easy Reading and subsequently reviewed comprehensibility and approved by experts of the Monitoring Committee. This text together with the explanatory pictures enables barrier-free access to the latest information and important measures taken by the government.</p> <p>Especially people with learning difficulties, older people and people with poorer German language skills benefit from these offers. The information material provided by the Independent Monitoring Committee and Easy Reading is an example of the barrier-free preparation of complex content in Easy Reading.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	The entire action is transferable to any other EU member state.
Give reasons why you consider the practice as sustainable (as	The information material is available online and it facilitates permanent access to information.

opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	There are no means for measuring impact foreseen. However, the German Easy Language version facilitates the access to information for many people, in particular people with learning difficulties or people with little knowledge of German. Particularly in times of health (care) crises and severe measures, applied by the state, access to information is important. Accessible information leads the target group to act in line with the rules and to understand why this is necessary.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The translation of information into easy language is applicable in all Member States and in all languages.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The text was translated into easy language by experts on language (of the Association easy reading). These experts are social pedagogues with experience in working with persons with disabilities and a certificate in easy language. Members of the CRPD monitoring committee then reviewed the text.
Explain, if applicable, how the practice provides for review and assessment.	No information available.

Annex 2 – Case Law

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination against older people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
	No case law has been identified for this thematic area

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

Thematic area	ROMA EQUALITY AND INCLUSION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
	No case law has been identified for this thematic area.

Thematic area	INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.
Decision date	16 July 2020

Reference details	Court of Justice of the European Union (CJEU), C-311/18 - Facebook Ireland and Schrems , 16 July 2020.
Key facts of the case (max. 500 chars)	Mr. Schrems lodged a complaint with the Irish data protection commission that Facebook Ireland forwards its data to its parent company in the USA, although it is not adequately protected against spying there. The data protection commission brought proceedings before the High Court. On 9 May 2018, the High Court referred eleven questions to the CJEU for a preliminary ruling.
Main reasoning/argumentation (max. 500 chars)	Mr. Schrems argues that Facebook in the US is obliged to allow US authorities such as the NSA and the FBI access to the data without the possibility for data subjects to take action against it. The Irish High Court referred the matter to the CJEU, asking whether standard contractual clauses and the EU-US data protection shield („Privacy Shield) were compatible with the European level of data protection.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Court found that the US surveillance laws are in conflict with EU fundamental rights. The US limits most protections to “US persons”, but does not protect the data of foreign customers of US companies. As there is no way of finding out if you or your business are under surveillance, people also have no option to go to the courts. The CJEU found that this violates the essence of certain EU fundamental rights. The Court has also clarified that EU data protection authorities have a duty to take action.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court affirmed the validity of the standard contractual clauses (SCCs) for data transfers under Commission Decision 2010/87/EU (later amended by Commission Decision 2016/2297) with strict conditions, while completely invalidated Commission Decision 2016/1250, which was the legal basis of the EU-US Privacy Shield. The US is to be considered as a "third country" and no longer enjoys privileges for the transfer

	<p>of personal data. Therefore, the "general provisions" of Art. 45 et seq. of the GDPR for data transfers to third countries must be applied.</p> <p>Article 1 of the Privacy Shield Decision is incompatible with Article 45(1) of the GDPR, read in the light of Articles 7, 8 and 47 of the Charter, and is therefore invalid.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>156. As follows from the case law set out in paragraphs 117 and 118 above, the Privacy Shield Decision is binding on the supervisory authorities as far as it finds that the United States ensures an adequate level of protection and, therefore, has the effect of authorising personal data transferred under the EU-US Privacy Shield. Therefore, until the Court should declare that decision invalid, the competent supervisory authority cannot suspend or prohibit a transfer of personal data to an organisation that abides by that privacy shield on the ground that it considers, contrary to the finding made by the Commission in that decision, that the US legislation governing the access to personal data transferred under that privacy shield and the use of that data by the public authorities of that third country for national security, law enforcement and other public interest purposes does not ensure an adequate level of protection.</p>

<p>Thematic area</p>	<p>RIGHTS OF THE CHILD Please provide the most relevant high court decision relating to the topics addressed in this chapter.</p>
	<p>No case law has been identified for this thematic area.</p>

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide the most relevant high court decision relating to the topics addressed in this chapter.
	No case law has been identified for this thematic area.

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