

Frant National contribution to the Fundamental Rights Report 2023

Austria

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Policy and legal highlights 2022

Franet country study: policy and legal highlights 2022	
Issues in the fundamental rights institutional landscape	No development in 2022.
EU Charter of Fundamental Rights	Decision annulled due to a violation of Article 47 (2) of the Charter: On 17 March 2022, the Constitutional Court annulled a decision by the Federal Administrative Court in an asylum procedure. The Federal Administrative Court had come to the conclusion that the complainant had not withdrawn from the Islam without holding an oral hearing on this matter. The Constitutional Court found that the challenged decision violated the complainant's constitutionally guaranteed right under Article 47 (2) of the Charter.
Equality and non-discrimination	Ban on blood donations lifted: An amendment to the Blood Donor Ordinance came into force on 1 September 2022. With the entry into force of the amendment, the previous ban on blood donations for homosexual men or men that were sexually active with other men was lifted.
Racism, xenophobia & Roma Equality and Inclusion	Strategy for fighting anti-Semitism in schools adopted: In September 2022, the Agency for Education and Internationalisation together with the Federal Ministry of Education, Science and Research published a strategy paper that aims to improve the handling and prevention anti-Semitism in schools. The proposals presented in the strategy build on the National Strategy to Combat Anti-Semitism adopted by the Austrian Federal Government in 2021.
Asylum & migration	Guide on the "Best interests of the child in Asylum and Aliens Law" published: In 2022, the Ministry of Justice published a Guide for the Federal Administrative Court on the topic of "Best interests of the child in Asylum and Aliens Law".
Data protection and digital society	New instruments introduced for the judicial supervision: On 1 January 2022, § 52b Criminal Code, which was introduced by the Counter-Terrorism Act , entered into force. This new provision introduces measures for the judicial supervision in criminal cases involving subversion of the state and terrorism as well as genocide, crimes against humanity or war crimes. The provision introduces a bundle of instruments, including the possibility of electronic monitoring of compliance with judicial orders (<i>Weisungen</i>).
Rights of the child	Anti-inflation-package focuses on relief measures for families: On 15 June 2022, the Austrian federal government presented the third anti-

	inflation-package of the year 2022 with a focus on relief measures for families and it was adopted by the National Council on 23 June 2022.
Access to justice, including victims of crime	New possibilities for Courts ordering violence prevention counselling: On 1 July 2022, amendments to the Act on the Enforcement of Judgments came into effect, which now allow courts to order a perpetrator of violence to participate in violence prevention counselling upon application or also ex officio (§ 382f (4) Act on the Enforcement of Judgments).
Convention on the Rights of Persons with Disability	National Action Plan on Disability 2022-2030 adopted: On 6 July 2022, the Federal Government adopted the "National Action Plan on Disability 2022-2030" in the Council of Ministers. The nine provinces participated in the development and implementation of the NAP Disability II.

Equality and non-discrimination

Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance

An amendment to the Blood Donor Ordinance¹ came into force on 1 September 2022. With the entry into force of the amendment, the previous ban on blood donations for homosexual men or men that were sexually active with other men was lifted. Now, anyone who has had sex with three different partners (no matter what gender) within the last three months will be exempt from donating blood for three months regardless of sexual orientation according to § 6 (2) 15 Blood Donor Ordinance.² The Red Cross questionnaire on the basis of which high-risk persons are excluded from donating blood has been adapted accordingly.³

Since the landmark decision of the Constitutional Court of 15 June 2018, intersexual persons are entitled to an adequate designation in the civil status register of the Civil Status Act 2013.⁴ Thus, intersexual persons have the right to an entry in the civil status register and in documents corresponding to their sex. The Constitutional Court's decision required corresponding adjustments⁵ to the Registration Act 1991⁶ and to the annexes in the area of registration, which have already been proposed for the first time in 2021. The amendments introduce further selection options for gender in the area of registration, analogous to the Central Civil Status Register and a redesign of all annexes (registration form, declaration of residence and confirmation of main residence), which shall include alternative gender designations (diverse, inter, open, no information). These amendments have now been proposed in a government bill⁷ in June 2022.

A cross-party intergroup on LGBTIQ issues was established in Parliament in June 2022. This first cross-party working group aims at a better and more objective

¹ Austria, Blood Donor Ordinance ([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.

² Austria, Blood Donor Ordinance ([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.

³ Austria, Red Cross (*Rotes Kreuz*), Health questionnaire ([Gesundheitsfragebogen](#)), without date.

⁴ Austria, Civil Status Act 2013 ([Personenstandsgesetzes 2013](#)), Federal Law Gazette I No. 16/2013.

⁵ Austria, Draft Amendment to the Registration Act 1991, ([Ministerialentwurf betreffend Bundesgesetz, mit dem das Meldegesetz 1991 geändert wird](#)), 11 June 2021.

⁶ Austria, Registration Act 1991 ([Meldegesetz 1991](#)), Federal Law Gazette No. 9/1992.

⁷ Austria, Government bill amending the Registration Act 1991 ([Regierungsvorlage für ein Bundesgesetz, mit dem das Meldegesetz 1991 geändert wird](#)), 6 June 2022.

discourse as well as regular activities in the form of events and expert discussions on LGBTI issues. The group is open to all members of the National Council, Federal Councillors and Austrian members of the European Parliament.⁸

In June 2022, the Federal Ministry of Justice commissioned the "QWien Centre", a non-university research centres for the history of LGBTIQ persons, for the study "Everyone is equal before the law?".⁹ This study is a review to make visible discrimination and inequality against lesbian, gay, bisexual, trans*, non-binary, intersexual and queer persons in the justice sector. The project will examine the Austrian legal situation in the areas of criminal law, marriage and partnership law as well as child and reproductive law since 1945 in a legal-historical report. The publication of a project report is planned for summer 2023.¹⁰

On 16 June 2022, the Court of Justice of the European Union found in its Judgment of the Case C-328/20 that the adjustment of family allowances and of various tax advantages granted by Austria to workers according to their children's State of residence is contrary to EU law.¹¹ As explained in a press release by the Court, "[o]n 1 January 2019, Austria put in place an adjustment mechanism for calculating the flat-rate amount of family allowances and of various tax advantages which it grants to workers whose children reside permanently in another Member State. Those tax advantages include the child tax credit, the Family Bonus Plus, the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments. The adjustment may be made upwards or downwards depending on the general price level in the Member State concerned. Taking the view that that adjustment mechanism and the resulting difference in treatment, which affects mainly migrant workers as opposed to Austrian nationals, are contrary to EU law, the Commission brought an action against Austria before the Court of Justice for failure to fulfil obligations Austria put in place an adjustment mechanism for calculating the flat-rate amount of family allowances and of various tax advantages which it grants to workers whose children reside permanently in another Member State. Those tax advantages include the child tax credit, the Family Bonus Plus, the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments. The adjustment may be made upwards or downwards depending on the general price level in the Member State concerned. Taking the view that that adjustment mechanism and the resulting difference in treatment, which affects mainly migrant workers as opposed to Austrian nationals, are contrary to EU law, the Commission brought an action against Austria before the Court of Justice for failure to fulfil

⁸ Austria, 'Parliamentary Correspondence No. 798' ([Parlamentarische Korrespondenz Nr. 798](#)), 30 June 2022.

⁹ Austria, Federal Ministry of Justice (*Bundesministerium für Justiz*) (2022), '[BMJ-Projekt "Vor dem Gesetz sind alle gleich?"](#)', 9 June 2022.

¹⁰ Austria, QWien, '[Beauftragung vom BMJ für die Studie „Vor dem Gesetz sind alle gleich?“](#)', 3 August 2022.

¹¹ Court of Justice of the European Union (CJEU), [C-328/20, Commission v. Austria](#), 16 June 2022.

obligations.”¹² The Court now found found that such a mechanism constitutes unjustified indirect discrimination based on the nationality of migrant workers.

Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance

In 2022, the Ombud for Equal Treatment published its biannual report covering 2021 and 2022. In this report, the Ombud for Equal Treatment recalls that Austria still only fulfils minimum standard with regard to the discrimination on grounds of gender, religion and belief, age and sexual orientation in respect to federal competences. These grounds of discrimination are still only protected in the field of employment, but not for the provision of goods and services. The Ombud for Equal Treatment reports that in the period 2020 to 2021 a total of 217 people have reported discriminatory incidents in those areas of life where there are gaps in protection. According to the report, many affected persons know that the protection against discrimination does not apply in their case and therefore do not turn to the Ombud for Equal Treatment and remain underreported. Moreover, affected persons often find it time-consuming and emotionally demanding to report incidents, as they cannot legally do anything about the behaviour that violates their dignity. One of the most important and long-standing demands of the Ombud for Equal Treatment repeated in the report is thus the levelling-up, that is the extension of the protection against discrimination of the Equal Treatment Act for all grounds of discrimination to all areas of life.¹³

No research, studies, or surveys on experiences of discrimination (against LGBTI and on the grounds of socio-economic status, health status and physical appearance) were published in 2022.

¹² Court of Justice of the European Union, '[Press release No 102/22](#)', Luxembourg, 16 June 2022.

¹³ Austria, Ombud for Equal Treatment (2022), Report of the Ombud for Equal Treatment 2020/2021 ([Bericht der Gleichbehandlungsanwaltschaft 2020/2021](#)), Vienna, 2022, p. 89 et seqq.

Racism, xenophobia and related intolerance

Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

A parliamentary inquiry on the number of reported criminal offences with a right-wing extremist, racist or antisemitic motivation in the year 2021, was answered by the Minister of the Interior on 3 March 2022 as follows:¹⁴ 1,053 offences (729 committed by male persons) were reported in total (total offenses 2020: 697). 816 offences had a clear right-wing extremist background (male offenders: 580; total offenses 2020: 697), less than a quarter were committed on the internet (22%). Unequivocally racist offences counted 66 (2020: 104), 9 anti-Islamic, and 52 offences were antisemitic. In 1,045 cases a violation of the Prohibition Act (*Verbotsgesetz*) was stated (2020: 711),¹⁵ in 998 cases of violations against the Prohibition Act reports were filed. 326 other criminal offences where a right-wing, racist or antisemitic motivation was identified were noted by the police, all of which got reported. In total, criminal reports on right-wing extremist, racist, anti-Islamic, antisemitic or related criminal activities were noted against 1,148 persons (729 male).¹⁶

In the recent safety report concerning criminal activities in 2021 (*Sicherheitsbericht 2021 Kriminalität*) by the Federal Ministry of the Interior, some additional statistics to the data above were published. The Ministry is mentioning an increase in criminal acts with a right-wing extremist, racist or antisemitic motivation of 17.7% (a total of 1,053), compared to the year 2020 (895). According to the Ministry, the total number of relevant criminal offences connected to these offences with a right-wing extremist, racist or antisemitic motivation, that resulted in a filed report in 2021, is 1,607 (17.8% increase compared to 2020). (*Author's note: respective criminal acts can show multiple right-wing extremist, racist or antisemitic offences, therefore multiple reports can be filed regarding a respective criminal act.*)

¹⁴ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Response to parliamentary inquiry on right-wing extremist, racist and anti-Semitic offences in the year 2021 ([9048/AB \(XXVII. GP\) - "rechtsextreme, rassistische und antisemitische Straftaten im Jahr 2021" | Parlament Österreich](#)), 3 March 2022.

¹⁵ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2021), Response to parliamentary inquiry on right-wing extremist, racist and anti-Semitic offences in the year 2020 ([4822/AB \(XXVII. GP\) - rechtsextreme, rassistische und antisemitische Straftaten im Jahr 2020 | Parlament Österreich](#)), 2 March 2021.

¹⁶ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Response to parliamentary inquiry on right-wing extremist, racist and anti-Semitic offences in the year 2021 ([9048/AB \(XXVII. GP\) - "rechtsextreme, rassistische und antisemitische Straftaten im Jahr 2021" | Parlament Österreich](#)), 3 March 2022.

The report also corrected the amount of offences committed online to 33%.¹⁷

On 30 August 2022 the Federal Minister of the Interior provided updated data on the respective statistics above for the first half of 2022: 322 offences (187 committed by male persons) were reported in total. 269 offences had a clear right-wing extremist background (male offenders: 153), less than a quarter were committed on the internet (around 17%). Unequivocally racist offences counted 16, 1 anti-Islamic, and 15 offences were antisemitic. In 292 cases a violation of the Prohibition Act (*Verbotsgesetz*) was stated, in 331 cases of violations against the Prohibition Act reports were filed. 150 other criminal offences where a right-wing, racist or antisemitic motivation was identified were noted by the police. In total, criminal reports on right-wing extremist, racist, anti-Islamic, antisemitic or related criminal activities were noted against 378 persons (187 male).¹⁸

In their annual report for 2021, the Austrian Ombudsman Board identified two racist or discriminatory practices. The following case has been most prominent in the report:

- A police officer racially insulted a cleaner. Along with the Ombudsman Board's investigation of the case, the Federal Ministry of the Interior confirmed the incident. However, the Ministry did not confirm the usage of racial insults. There has been a personal discussion of the incident with the police officer after which he apologized to the cleaner.¹⁹

~~The annual reports for the years 2021 or 2022 have not yet been published.~~²⁰

As stated in their yearly report for 2020/ 2021, the Ombud for Equal Treatment (*Gleichbehandlungsanwaltschaft*) received 5,691 inquiries regarding discriminatory incidents in this period. Ethnic discrimination was the second leading discrimination motivation for the processed incidents (1,024 of 5,691 incidents). In general, more than 50% of these incidents happened in the employment sector (in all stages of employment relationship) followed by 43% in the housing sector. Regarding anti-Islamic racism, the Ombud for Equal Treatment found women to be especially affected in the areas leisure and education.²¹

¹⁷ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Safety Report 2021. Criminality. Prevention and Combating. ([Sicherheitsbericht 2021. Kriminalität. Vorbeugung und Bekämpfung](#)), Vienna, 2022.

¹⁸ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Response to parliamentary inquiry on right-wing extremist, racist and anti-Semitic offences in the first half of 2022 ([11284/AB \(XXVII. GP\) - "rechtsextreme, rassistische und antisemitische Straftaten im ersten Halbjahr 2022" | Parlament Österreich](#)), 3 March 2022.

¹⁹ Austrian Ombudsman Board (*Volksanwaltschaft*) (2022), Annual Report 2021 – Monitoring Public Administration ([Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2021 - Kontrolle der öffentlichen Verwaltung](#)), p. 108.

²⁰ As of 28 November 2022.

²¹ Austria, Ombud for Equal Treatment (2022), Report of the Ombud for Equal Treatment 2020/2021 ([Bericht der Gleichbehandlungsanwaltschaft 2020/2021](#)), Vienna, 2022.

The Anti-Semitic Reporting Office (*Antisemitismus Meldestelle*) documented 381 anti-Semitic incidents in the first half of 2022.²² This is a decrease of 32% compared to the year 2021. In general, an ideological motivation was identified in 83% of the total number of incidents. The reporting office argues that the decrease of anti-Semitic incidents in 2022 correlates with the decrease in anti-Semitic incidents related to the COVID19-pandemic. Additionally, the milder course of the pandemic led to less pandemic-related restrictions which weakened the mobilization potentials of right-wing-extremist and neo-Nazi-movements. Lastly, the reporting office identified a more aggravated approach by the state of Austria against the widespread Shoah-relativizations in 2020 and 2021 as another relevant factor. The Anti-Semitic Reporting Office also identified a noticeable increase in anti-Semitism regarding Israel in May 2022. According to the report, the increase correlated with the intensifying of the Palestine-Israeli-conflict. Another concern stated by the Anti-Semitic Reporting Office is the overrepresentation of verbal and physical attacks against Jewish children and Jewish youth.²³

With the annual Hate Crime Report 2021, published in 2022 by the Federal Ministry of the Interior, bias-motivated crimes documented by the police were specifically presented for the first time. Only those offences were included when investigations were already closed. The report is based on reports filed by the general public as well as the investigation and documentation practices of the police and can therefore not serve as comprehensive statistics, but rather as a display of reported offenses.

The Federal Ministry of the Interior registered 5,464 bias-motivated crimes for the year 2021 in this report. Out of the total 5,464 bias-motivated crimes, 1,874 were related to biases against ethnicity and nationality and 408 related to discrimination based on skin color. The numbers of bias-motivated offenses against ethnicity and nationality as well as world view are highest compared to other bias-motivated offenses in all Austrian provinces. These three bias motives were also reported in combination with each other the most (intersectional discrimination). In total, 842 criminal offenses motivated by more than one bias were registered (15.4%). The report states that the recorded intersectional discrimination predominantly was related to the context of nationalism, racism, xenophobia, and hostility against religions.

The registered hate-crime suspects were most often male adolescents with an Austrian citizenship, especially regarding antisemitic criminal offenses (85% of antisemitic hate crimes are committed by male offenders with an Austrian citizenship). Antisemitic hate crimes and those informed by biases based on skin

²² Austria, Anti-Semitic Reporting Office (2022), Anti-Semitic Incidents January – June 2022 in Austria (*Antisemitische Vorfälle Jänner – Juni 2022 in Österreich*), Vienna, 2022.

²³ Austria, Anti-Semitic Reporting Office (2022), Anti-Semitic Incidents January – June 2022 in Austria (*Antisemitische Vorfälle Jänner – Juni 2022 in Österreich*), Vienna, 2022.

color were committed online to a large part (36.1% and 33.1%). The report states that this high percentage could be linked to antisemitism- and racism-informed hatred and the dissemination of antisemitic and racist memes and content on social media platforms or messenger services.²⁴

On 7 November 2022, the Documentation Centre Political Islam (*Dokumentationsstelle Politischer Islam, DPI*) published a report concerning the current rise of the anti-Semitic, cult-like movement "Anastasia" in Austria. The movement was inspired by Russian author Wladimir Megre's book series about a fictional character named *Anastasia* who calls on the readers to escape the "technocratic" modern world by founding self-sufficient country estates. One of the underlying assumptions of the movement – based on Megre's novels – is that the Jewish group of the Levites are embodying the dark powers of the modern world and that Jewish people are to blame for their own persecution. The movement also shows characteristics of novel religious movements (according to criteria by the Cambridge Companion).²⁵

The movement has been active in Austria since 2012. In 2015, their country estate "Anastasia Land" in Upper Austria got nominated for a Regionality Award due to the contribution to the quality of life in the region. Such country estates are the core of the movement due to its non-central, network-like organization. According to the DPI, the movement, which reproduces several anti-semitic conspiracy theories, got accelerated by the COVID-Pandemic as well as social media networks and messenger services. For example, one of their Telegram-Channels called "Anastasia Hörbücher" (engl. *Anastasia audio books*) has over 20,000 subscribers.²⁶

In September 2022, the Extremism Prevention Office Styria (*Extremismuspräventionsstelle Steiermark*) also reported on the spreading movement.²⁷ The parliamentary member Sabine Schatz (SPÖ) requested information on this case from the Minister of the Interior on 15 November 2022. The request has not yet been answered.²⁸

In their annual report on racism for the year 2021 (*Rassismus Report 2021*), the NGO ZARA reports a total of 1,117 racist incidents documented by them. More

²⁴ Austria, Federal Ministry of the Interior (*Bundesminister für Inneres*) (2022), "Hate Crime" in Austria. Annual Report 2021 (["Hate Crime" in Österreich. Jahresbericht 2021](#)), Vienna.

²⁵ Austria, Documentation Centre Political Islam (*Dokumentationsstelle Politischer Islam, DPI*) (2022), DPI Focus: The Anastasia-Movement, ([DPI Fokus: Die Anastasia-Bewegung](#)), Vienna, 2022.

²⁶ Austria, Documentation Centre Political Islam (*Dokumentationsstelle Politischer Islam, DPI*) (2022), DPI Focus: The Anastasia-Movement, ([DPI Fokus: Die Anastasia-Bewegung](#)), Vienna, 2022.

²⁷ Austria, Documentation Centre Political Islam (*Dokumentationsstelle Politischer Islam, DPI*) (2022), DPI Focus: The Anastasia-Movement, ([DPI Fokus: Die Anastasia-Bewegung](#)), Vienna, 2022.

²⁸ Austria, Parliamentary Information Request regarding the spreading of the antisemitic 'Anastasia' movement in Austria ([Ausbreitung der antisemitischen Anastasia-Bewegung in Österreich \(13011/J\)](#)), 15 November 2022.

than half of the offenses (56%) were committed online. 273 cases of racist incidents were reported in public spaces, 185 in the area of goods and services and 112 of racist incidents were reported in state authorities and institutions. Some of these incidents included state authorities, for example, a racism-biased evaluation of a driver's license exam, the racist discrimination of a nine-year-old school boy by his class teacher and principle (which was followed by racist discrimination by police officers in a dispute at school and an unlawful suspension of the boy), as well as racist treatment in other state authorities.

Additionally, 84 of the documented cases occurred in politics and media (racism-informed propaganda and racist generalizations). One of the documented cases describes the presentation of the "Islam Map" (*Islam-Landkarte*) and the related general suspicion of Muslims in 2021. The remaining incidents occurred in working environments (104 cases) and in the context of police work (102 cases). The latter mainly consisted of ethnic profiling incidents and racism-motivated police violence. In 8 of the 102 cases of documented police violence formal complaints were filed. In 82 cases ZARA consulted the victims and lead relief conversations with them. In 30 cases other intervention measures were applied by ZARA. ZARA reports women to be subjected to racial discrimination twice as much as male victims.²⁹

The annual report on anti-Muslim racism by the „Dokustelle“ states 1,061 cases of anti-Muslim incidents for the year 2021. The data is based on officially reported incidents as well as media monitoring and was retrieved in cooperation with other Anti-Discrimination offices like the Initiative for a discrimination-free Education System (*Initiative für ein Diskriminierungsfreies Bildungswesen*) as well as the ZARA association.

The "Dokustelle" reports an increase in anti-Muslim racism as well as anti-Muslim attitudes. Due to the above average increase of respective incidents in places that were registered on the "Islam Map" (*Islamlandkarte*), the *Dokustelle* points out that political actions and statements against Muslim people can be seen as predominantly responsible for this increase.³⁰

The most documented form of anti-Muslim racism is the dissemination of hatred against Muslims, which accounts for 68.3% of all identified cases (725 of 1,061 cases). The second most common form of anti-Muslim racism is incitement with 108 cases (10.2%) followed by insulting with 97 cases (9.1%). 65.4% of the documented cases occurred online. 32.4% of the offline-offenses were committed in politics, followed by incidents in public space (25.6%) and incidents at the workplace (8.2%). The offenders are mostly individual perpetrators (58%)

²⁹ Austria, ZARA association for Civil Courage and Anti-Racism Work (*Verein ZARA Zivilcourage und Anti-Rassismuserbeit*) (2022), Racism Report 2021 ([ZARA Rassismus Report 2021](#)) March 2022.

³⁰ Austria, Documentation and Consultation Centre for Islamophobic and Anti-Muslim Racism (*Dokumentations- und Beratungsstelle Islamfeindlichkeit und antimuslimischer Rassismus; „Dokustelle“*) (2022), Anti-Muslim Racism Report 2021 ([Antimuslimischer Rassismus Report 2021](#)), 2022.

followed by politicians (30.5%) and police officers (7.1%). Out of the documented offenders 436 were men (76.9%) and 124 were women (21.9%). The victims are mostly women (137; 69.2%). Detailed description of the documented cases can be found in the report.³¹

The Austrian organisation „SOS Mitmensch“ published a report on anti-Muslim actions and statements by politicians in Austria in 2021.³² The report does not include controversial and unconstitutional measures by politicians, nor are racist offenses against Muslims in everyday life included as they are reported by ZARA and the Documentation and Consultation Center for Islamophobic Anti-Muslim Racism (see above). The report identified 69 anti-Muslim racist incidents involving Austrian politicians. According to the report, the main actors of the identified anti-Muslim racism are the party "*Freiheitliche Partei Österreichs*" (FPÖ) as well as prominent politicians of the party "*Österreichische Volkspartei*" (ÖVP). These actors have also been involved in anti-Muslim incidents in the past, as the report states. Details of the identified anti-Muslim racism of Austrian politicians can be found in the report.³³

In the Statistical Yearbook on Migration and Integration, Statistics Austria presents the results of the most recent integration monitoring. The survey was based on 25 objective indicators regarding the integration of migrants as well as ten subjective questions. The objective data for the integration monitoring has been collected in the period 1 October 2020 – 30 September 2021. The subjective data was collected via an online survey in April 2022 among the following three samples: 1,143 participants born in Austria, 981 participants born in Bosnia and Herzegovina, Serbia, and Turkey, as well as 1,107 refugees born in the most common countries of origin of refugees in the last 10 years (Afghanistan, Syria and the Russian Federation). It shows that 2/5 of migrants from Turkey, Afghanistan, Syria, or Russia experience discrimination at least occasionally. Especially migrants from Serbia and Syria stated to experience discrimination at the workplace, job search or in education more often than in their daily life. 33% of the participants from Serbia and 48% of the participants from Syria stated to feel discriminated in these areas more than in others.

In general, the majority of migrants and refugees felt like they are discriminated against or disadvantaged when dealing with state authorities or public institutions.

³¹ Austria, Documentation and Consultation Centre for Islamophobic and Anti-Muslim Racism (*Dokumentations- und Beratungsstelle Islamfeindlichkeit und antimuslimischer Rassismus; „Dokustelle“*) (2022), Anti-Muslim Racism Report 2021 ([Antimuslimischer Rassismus Report 2021, 2022](#)).

³² Austria, SOS Mitmensch (2022), Anti-Muslim Racism in Austrian Politics ([Antimuslimischer Rassismus in der österreichischen Politik](#)), March 2022.

³³ Austria, SOS Mitmensch (2022), Anti-Muslim Racism in Austrian Politics ([Antimuslimischer Rassismus in der österreichischen Politik](#)), March 2022.

Lastly, roughly a quarter of participants born in Turkey, Afghanistan, or Syria felt discriminated against in health care institutions.³⁴

In their latest report on the global situation regarding human rights, Amnesty International identified some unlawful practices regarding the treatment of asylum seekers in Austria:

- Between January and August, 64 Afghan nationals were deported to Afghanistan, despite a real risk of serious human rights violations upon return.
- In August, the government opposed the evacuation of Afghans fleeing the Taliban takeover of Afghanistan. The government also continued to oppose the relocation of asylum seekers from the Greek islands.
- In July, the Styrian Regional Administrative Court ruled that a group of seven asylum seekers had been illegally pushed back to Slovenia, noting that such illegal pushbacks were a recurrent practice.³⁵

On 15 June 2022, the new cooperation between Austrian police and the Jewish Religious Community called "*GEMEINSAM.SICHER mit der Israelitischen Religionsgemeinschaft*" (translation: *TOGETHER.SAFE with the Jewish Religious Community*) was signed in Vienna. The cooperation aims at creating a dialog between the Jewish Religious Community and the police to facilitate an easier exchange of information as well as to reduce barriers and inhibitions by increasing trust. The cooperation is practically enhanced in police training by the recent implementation of a module on recognizing and approaching anti-Semitism.³⁶

Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive

Austria has not adopted a national anti-racism action plan yet. However, the adoption of an action plan against racism and discrimination is included in the government program and is to be implemented during the legislative period.³⁷

In September 2022, the Agency for Education and Internationalisation together with the Federal Ministry of Education, Science and Research published a strategy paper that aims to improve the handling and prevention anti-Semitism in schools. The proposals presented in the strategy build on the National Strategy to Combat

³⁴ Statistics Austria (2022), Statistical Yearbook on Migration and Integration 2022 ([Statistisches Jahrbuch Migration und Integration 2022](#)), Vienna.

³⁵ Amnesty International (2022), [Amnesty International Report 2021/22](#).

³⁶ Austria, Federal Ministry of the Interior (*Bundesministerium für Inneres*) (2022), '[Karner: 'GEMEINSAM.SICHER' künftig Schnittstelle zwischen jüdischer Gemeinde und Polizei](#)'.

³⁷ Austria, Government Programme 2020-2024 ([Aus Verantwortung für Österreich. Regierungsprogramm 2020-2024](#)), p. 149.

Anti-Semitism adopted by the Austrian Federal Government in 2021.³⁸ The suggested measures aim to provide a framework for the prevention of antisemitism in education and are addressed to five different stakeholders of the education system: Political decision makers, the departments of the Federal Ministry of Education, the respective departments of education, pedagogic universities or study programmes, as well as school principals.³⁹

In 2022, the first report on the progress of the national action plan against antisemitism was published. According to the report, the following legal or policy developments – among others – could be detected since the adoption of the national plan:

- Establishment of the staff unit “Austrian-Jewish Cultural Heritage” (*Österreichisch-Jüdisches Kulturerbe*) in the Federal Chancellery
- Unanimous approval of the federal law concerning the securing of Austrian-jewish cultural heritage on 24 February 2021 (*Österreichisch-Jüdisches Kulturerbe*gesetz – ÖJKG)
- Conclusion of a funding contract for the implementation of the ÖJKG between the federal state and the Jewish religious community (*Israelitische Religionsgemeinschaft, IRG*)
- Implementation of a *flag* regarding hate crimes in the police logging system (protocols, reports, data)
- Implementation of the seminar “Antisemitism - early detection - sensitisation” (*Antisemitismus-Früherkennung-Sensibilisierung*) for police training
- Austria-wide expansion of the compulsory value and orientation courses (*Werte- und Orientierungskurse, WOK*) by the Austrian Integration Fund (*Österreichischer Integrationsfonds, ÖIF*)
- Agreement on the establishment of a Centre for Antisemitism Research at the Austrian Academy of Sciences (*Österreichischen Akademie der*

³⁸ Austria, Agency for Education and Internationalisation (ed.), (2022), Prevention of Anti-Semitism through education: Recommendations for the implementation of the National Strategy against Anti-Semitism for the Austrian education administration and teacher training institutions ([*Prävention von Antisemitismus durch Bildung: Empfehlungen zur Umsetzung der Nationalen Strategie gegen Antisemitismus für die österreichische Bildungsverwaltung und Einrichtungen der Lehrpersonenbildung*](#)), August 2022.

³⁹ Austria, Agency for Education and Internationalisation (ed.), (2022), Prevention of Anti-Semitism through education: Recommendations for the implementation of the National Strategy against Anti-Semitism for the Austrian education administration and teacher training institutions ([*Prävention von Antisemitismus durch Bildung: Empfehlungen zur Umsetzung der Nationalen Strategie gegen Antisemitismus für die österreichische Bildungsverwaltung und Einrichtungen der Lehrpersonenbildung*](#)), August 2022.

Wissenschaften, ÖAW) between the academy and the Federal Minister of education, science and research.⁴⁰

Further policy developments regarding antisemitism in 2022 to report are:

- The legal foundation of the Austrian Agency for Education and Internationalization (OeAD-GmbH – Agentur für Bildung und Internationalisierung) was adapted in November 2022. The adaption aims to integrate the association "erinnern.at", which is providing antisemitic political education material for schools, into the administration level of the Austrian Exchange Service (*Österreichischer Austauschdienst, OeAD*) in order to support the dissemination of the antisemitic education material. (1788 d.B.)⁴¹
- The Board of Trustees of the General Settlement Fund for Holocaust Victims (*Kuratorium des Allgemeinen Entschädigungsfonds*) decided on 26 April 2022 that the Fund has completed its tasks in compensating Holocaust victims. Therefore, the Settlement Fund is to be considered resolved as of 26 April 2022.⁴²

From 19 September – 26 September 2022, the registration for the "Black Voices" petition for a referendum was open. The Petition had been accepted by the Federal Minister of the Interior on 17 May 2022. During the registration period, the petition for a referendum reached 99,381 signatures (national share of participation: 1.56%) and therefore failed the requirement of 100,000 signatures to be discussed in the National Council. This result initiated a nation-wide public debate about the respective representation and participation in Austria.⁴³ Following the debates, the members of Parliament Mario Lindner, Julia Herr and Nurten Yilmaz (all *SPÖ*) decided to present the demands of the Black Voices Petition to the National Court in the form of a parliamentary petition.⁴⁴

No recent legal or policy developments to be reported regarding the Framework Decision on Racism and Xenophobia.

⁴⁰ Austria, Federal Chancellery (*Bundeskanzleramt*) (2022), Implementation Report 2021 on the national strategy against Antisemitism ([Umsetzungsbericht 2021. Nationale Strategie gegen Antisemitismus](#)), Vienna, 2022.

⁴¹ Austria, Parliamentary Correspondence regarding changes in the administrative level of the Austrian Exchange Service ([Parlamentsskorrespondenz Nr. 1325 vom 23.11.2022](#)), 23 November 2022.

⁴² Austria, Austrian Parliament, General Settlement Fund for Holocaust Victims ([Allgemeiner Entschädigungsfonds für Opfer des Nationalsozialismus](#)).

⁴³ Austria, OTS (*Originaltext-Service*) (2022), SPÖ deputies bring petition for a referendum to the National Council as a parliamentary petition ([SPÖ-Abgeordnete bringen Volksbegehren als parlamentarische Petition in den Nationalrat](#)), Vienna, 5 October 2022.

⁴⁴ Austria, Parliamentary Petition (2022), BLACK VOICES. Making anti-racism a practice in Austria ([BLACK VOICES. Anti-Rassismus in Österreich zur Praxis machen. \(102/PET\)](#)), Vienna, 28 September 2022.

Roma equality and inclusion

3.1 Policy developments in regards to the implementation of national action plans

Development regarding the implementation of the action plans	
Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink	No (please specify) The Strategy for the continuation of Roma inclusion in Austria is not implemented by means of one or several action plan(s). The strategic framework itself points out specific implementation measures and addresses their financing.
How were Roma and Traveller civil society organizations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organizations)?	N/A (there is no action plan). A central element of the Roma Strategy is the direct involvement and influence of Roma civil society organisations in the conception, implementation, and evaluation of the planned measures. (p. 9) The development of the Roma strategy and the above-mentioned focal points were carried out in close cooperation with the Roma civil society. The results of studies commissioned by the National Roma Contact Point were used in the preparation of the strategy. ⁴⁵ Moreover, reports and assessments by representatives of Roma civil society, made during Roma dialogue platforms and numerous individual discussions with the National Roma Contact Point, were included into the Strategy. Finally, the draft strategy was sent to Roma civil society organisations for an online consultation. ⁴⁶

⁴⁵ Austria, L&R Social Research Vienna (2014), 'Roma in Austria: Aspects of Integration in the areas Employment, Housing, and Leisure Time' ([Roma in Österreich: Integrationsaspekte in den Bereichen Beschäftigung, Wohnen und Freizeit](#)), Vienna, 30 April 2014. Austria, Centre for Health and Migration (2015) 'Roma and Health' ([Roma und Gesundheit. Gesundheit, Gesundheitswissen und Zugang zur Gesundheitsversorgung](#)), Vienna, 2015. Austria, 'Study regarding the educational situation of Roma in Austria' ("[Studie zur Bildungs- und Ausbildungssituation der Roma in Österreich](#)")

⁴⁶ Austria, Federal Chancellery ([Bundeskanzleramt](#)), (2021), 'EU Strategic Framework on Equality, Inclusion and Roma participation until 2030 Strategy for the continuation of the Inclusion of Roma in Austria' ([Strategischer Rahmen der EU zur Gleichstellung, Inklusion und Teilhabe der Roma bis 2030 Strategie zur Fortführung der Inklusion der Roma in Österreich](#)), p. 10, Vienna, 2021.

	<p>Upon request of the CSOs, the following priorities were included into the Roma strategy: antiziganism, women and youth. The addition of these priorities to the former priorities (education, employment, strengthening of Roma CSOs) was initiated based on comments from Roma civil society during the online consulting process.⁴⁷</p> <p>According to the findings of the Sensiro study (see below), the central participatory aspect of the dialogue platform is not as well-developed as could be expected. The study found that roughly 2/3 of participants did not know about the Roma Strategy and the respective participation tools. The study sees a lack of communication and public relation efforts as well as the lack of stakeholder- and user-friendly information structures as some of the reasons for this result.</p> <p>Furthermore, a homogenous and one-dimensional perspective on stakeholder groups was found: The Roma civil society is found to be underrepresented in the dialogue platform. Participants can roughly be categorized as administration personell or Roma CSOs, which are representing the Roma civil society. The study concludes, that there is therefore a lack of direct participation of affected persons.⁴⁸</p>
<p>Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the Equality body, NHRI and Ombuds institution)?</p>	<p>N/A (there is no action plan). Equality Body and Human Rights Institutes are member of the Roma Dialogue Platform. Thus, these organisations participated in the development of the Strategy for the continuation of the Roma inclusion in Austria via the Roma Dialogue Platform and the</p>

⁴⁷ Austria, Federal Chancellery (*Bundeskanzleramt*), (2021), 'EU Strategic Framework on Equality, Inclusion and Roma participation until 2030 Strategy for the continuation of the Inclusion of Roma in Austria' ([Strategischer Rahmen der EU zur Gleichstellung, Inklusion und Teilhabe der Roma bis 2030 Strategie zur Fortführung der Inklusion der Roma in Österreich](#)), p. 10, Vienna, 2021.

⁴⁸ Reinprecht, Ch., Walch, N. and Nardai, T. (2022), Study on the evaluation of the national strategy for the inclusion of Rom:nja in Austria (Sensiro). Final Report ([Studie zur Evaluierung der nationalen Strategie zur Inklusion der Rom:nja in Österreich \(Sensiro\). Endbericht](#)), p. 33 et seq., Vienna, 2022.

	consultations named above. There were no separate consultations of EBs and NHRIs.
Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this.	<p>Yes (please specify)</p> <p>The Roma Platform meets regularly and carries out the regular national monitoring in Austria. The dialogue platform includes representatives of government agencies, including Equality Bodies and civil society, including NHRI associations as well as experts from science and research. Within the framework of the regular monitoring measures, relevant projects are reviewed whether they contribute to fulfilling the objectives of the strategic framework. In particular, the fulfilment of time the monitoring of measures includes the review of projects that are supposed to contribute to the achievement of the objectives.⁴⁹ The reports of the several dialogue platforms, which deal with different focus areas, such as hate crime or health, are available online.⁵⁰</p> <p>Part IV of the strategic framework deals with monitoring. The strategic framework addressed challenges in relation to a comprehensive assessment of the current situation of the Roma in in the areas of education, employment, health and housing. The monitoring is hampered by the lack of basic statistical information, as it says in the strategic framework. For reasons of data protection and international law, the ethnic affiliation of members of ethnic groups and members of minorities cannot be collected without the consent of the persons concerned. However, the historical persecution and genocide of the Roma and Sinti during</p>

⁴⁹ Austria, Federal Chancellery (*Bundeskanzleramt*), (2021), 'EU Strategic Framework on Equality, Inclusion and Roma participation until 2030 Strategy for the continuation of the Inclusion of Roma in Austria' ([Strategischer Rahmen der EU zur Gleichstellung, Inklusion und Teilhabe der Roma bis 2030 Strategie zur Fortführung der Inklusion der Roma in Österreich](#)), p. 25, Vienna, 2021.

⁵⁰ Austria, Federal Chancellery (*Bundeskanzleramt*), Roma Dialogue Platform ([Roma Dialogplattform](#)).

	<p>National Socialism as well as constant discrimination significantly hinder the will to self-identification of the Roma and Sinti.⁵¹ However, the University Vienna, in close cooperation with the Roma civil society, indeed managed to collect data on Roma (based on self-identification). The data was collected in the framework of an evaluation of the effectiveness of national measures of Roma inclusion. The quota sample consists of 395 Roma who were not randomly selected but based on their self-identification and according to the requirements of the quota plan. The study applied the following strategies to access Roma as respondents:</p> <ul style="list-style-type: none"> • Recruitment of 31 gatekeepers to Roma communities, who acted as interviewers. The gatekeepers were briefed by the researchers regarding the Roma Strategy, the Study at stake and on interviewing • Active recruitment of interviewees and interviewers at the Study's website • Recruitment of interviewers and interviewees from Roma-Projects, that were funded by the ESF⁵² <p>The Study is linked to the national Roma Platform by means of four workshops, which took place in parallel to the evaluation of the strategy. The team of the National Roma Contact Point at the Federal Chancellery, which is politically responsible for the inclusion strategy, invites interested parties from the Roma Contact Platform to the workshops and coordinates them. In the workshops, different</p>
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⁵¹ Austria, Federal Chancellery (*Bundeskanzleramt*), (2021), 'EU Strategic Framework on Equality, Inclusion and Roma participation until 2030 Strategy for the continuation of the Inclusion of Roma in Austria' ([*Strategischer Rahmen der EU zur Gleichstellung, Inklusion und Teilhabe der Roma bis 2030 Strategie zur Fortführung der Inklusion der Roma in Österreich*](#)), p. 25, Vienna, 2021.

⁵² Reinprecht Christoph, Walch Nora, Nardai Tina (2022), Study on the evaluation of the national strategy for the inclusion of Rom:nja in Austria (Sensiro). Final Report ([*Studie zur Evaluierung der nationalen Strategie zur Inklusion der Rom:nja in Österreich \(Sensiro\). Endbericht*](#)), Vienna, 2022.

	<p>actors (those affected by the measures, those responsible for the strategy, those implementing it, etc.) had the opportunity to discuss the evaluation together. These workshops are an additional offer that is intended as an open space for the exchange of actors from the various areas relevant to the topic with the research group of the University of Vienna.⁵³</p> <p>The findings of the study were presented in the framework of an event, that took place on 5 October 2022. A comprehensive research report (in German) is available at the website of the study as well as via the page of the Department of Ethnic Group Affairs in the Federal Chancellery, which is responsible for the implementation of the strategy and commissioned the study.⁵⁴</p> <p>As regards the Roma Strategy, the Romano Centro has published as part of the Roma civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion and participation in Austria.⁵⁵</p>
Implications of the war in Ukraine on the situation of Roma	
Have Roma from Ukraine entered your country?	<p>Yes</p> <p>There is no data on the share of Roma among the refugees from Ukraine available, due to the challenges in gathering data on ethnicity as reported in the section on monitoring above.</p>
If Roma from Ukraine entered your country how was this communicated in the media?	<p>Yes</p>

⁵³ Institute for Sociology at the University of Vienna, [SENSIRO](#).

⁵⁴ Institute for Sociology at the University of Vienna, [Präsentation des SENSIRO-Forschungsberichts](#).

⁵⁵ Romano Centro (2022), [Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion and participation in Austria](#), Brussels, European Parliament Directorate-General for Justice and Consumers.

	Media report on single cases of Roma families, who entered the country from the Ukraine, and who receive support from local Roma NGOs, e.g. learning support and housing placement. ⁵⁶
Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference	No No such evidence available so far.

3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion

On the occasion of the World Roma Day, the President of the Austrian National Council Wolfgang Sobotka hosted a discussion event on the 2030 Roma Strategy in the Austrian Parliament on 8 April 2022. During this event, the chairman of the Austrian Ethnic Groups Advisory Board Emmerich Gärtner-Horvath handed over a position paper regarding the potential erection of a monument for the Roma and Sinti in Austria that were murdered during the NS-Regime.⁵⁷

During a session of the National Council on 8 July 2022, the two coalition parties submitted a proposal (2723/A(E)) regarding the introduction of a national Memorial Day for the Roma and Sinti, who were murdered during the NS-Regime. The parties propose the 2 August as the National Day of Remembrance in line with the European day of remembrance of the genocide on Roma and Sinti during the NS-Regime.⁵⁸

⁵⁶ Austrian Broadcasting Corporation (2022), 'Roma from Ukraine | Roma associations and NGOs help' ([Roma aus der Ukraine | Roma-Vereine und NGO's helfen](#)), 9 Juni 2022.

⁵⁷ Austrian Parliament (2022), 'Discussion Event on the Roma Strategy 2030 of the European Union in the Austrian Parliament' ([Roma: Einsatz der EU für mehr Gleichstellung, Inklusion und Teilhabe. Diskussionsveranstaltung zur Roma-Strategie 2030 der Europäischen Union im österreichischen Parlament](#)) Parliamentary Correspondence No. 372 of 8 April 2022.

⁵⁸ Austrian Parliament (2022), 'Introduction of a national day of remembrance to commemorate the Roma and Romnja, Sinti and Sintizze murdered during National Socialism' ([Einführung eines nationalen Gedenktages zum Gedenken an die während des Nationalsozialismus ermordeten Roma und Romnja, Sinti und Sintizze](#)) Independent Resolution, No. 2723/A(E) of 8 July 2022.

On 8 July 2022, the NEOS submitted a resolution proposal to the National Council regarding a potential self-government in the form of corporate law organisations (*Körperschaftsrechtliche Organisationen*) to guarantee the collective rights of ethnic groups in Austria. The resolution proposal (2693/A(E)) concerns the protection and support of the six recognized autochthonous ethnic groups in Austria which include the ethnic group of Roma. Additionally, the constitutional rights of ethnic group rights shall be newly codified to ensure the continuing existence of ethnic groups as well as to support their languages and cultural practices.⁵⁹ The proposal has been on the agenda of the 20th meeting of the Constitutional Committee on 30 November 2022. However, no information is available on the discussion results or whether these claims have been implemented.⁶⁰

Lastly, the coalition parties also submitted a proposal regarding the minority school law. The proposal addresses the need for an increased offer, continuity, as well as quality of lessons and education materials in minority languages.⁶¹

On 27 April 2022, a resolution proposal regarding the implementation of ethnic group affairs as listed in the government program was submitted. The following proposals directly or indirectly address Roma and travellers:

- A revision of the minority law with a declared commitment to develop the minority school system as well as language diversity
- To increase visibility of ethnic groups on Austrian Broadcasting
- The modernization of ethnic group representation
- To award a more central role to minority languages in virtual spaces

⁵⁹ Austrian Parliament (2022), 'Resolution regarding the self-government for ethnic groups' ([Entschließungsantrag betreffend Selbstverwaltung von Volksgruppen](#)) Resolution, No. 2693/A(E) of 6 July 2022.

⁶⁰ Austrian Parliament (2022), 'Agenda of the 20th meeting of the Constitutional Committee (1/A-VF XXVII. GP)' ([Tagesordnung der 20. Sitzung des Verfassungsausschusses \(1/A-VF XXVII. GP\)](#)), 29 November 2022.

⁶¹ Austrian Parliament (2022), 'New in the Constitutional Committee. Motions of the coalition parties and the NEOS on the subject of ethnic groups', ([Neu im Verfassungsausschuss: Anträge der Koalitionsparteien und der NEOS zum Thema Volksgruppen](#)), Parliamentary Correspondence No. 876 of 12 July 2022.

- To improve bilingual jurisdiction.⁶²

⁶² Austrian Parliament (2022), `Resolution proposal regarding the implementation of ethnic group affairs as listed in the government program`, ([Entschließungsantrag betreffend Umsetzung der Volksgruppenangelegenheiten im Regierungsprogramm](#)), Resolution Proposal No. 2456/A/E XXVII. GP of 27 April 2022.

Asylum, borders, visas, migration and integration

National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

EUMS	Implementation of Article 3 of Directive 2002/90/EC	
	How has your EUMS implemented Article 3 of Directive 2002/90/EU	<p>Hyperlinked legal provision in EN and national language</p> <p>§ 114 Aliens Police Act 2005 (human smuggling)</p> <p>§ 115 Aliens Police Act 2005 (assistance to reside for financial gain)</p> <p><i>§ 114 Fremdenpolizeigesetz 2005 (Schlepperei)</i></p> <p><i>§115 Fremdenpolizeigesetz 2005 (Entgeltliche Beihilfe zum unbefugten Aufenthalt)</i></p> <p><i>Austria, Aliens Police Act 2005 (Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreisetitel, Fremdenpolizeigesetz 2005 – FPG), Federal Law Gazette I No. 100/2005.</i></p>
	Cases [incident numbers] of criminalisation of humanitarian assistance	
	Number of cases recorded by the police in 2022	Number and details of cases (if available) Not available.

	Number of investigations initiated in 2022	Number and details of cases (if available) Not available.
	Number of court decisions taken in 2022	<ul style="list-style-type: none"> • Number and type of court decisions, information if decision is final. Not available. Only the number of convictions for §§ 114 and 115 Aliens Police Act in 2021 is available from the Statistical database of Statistics Austria: § 114 Aliens Police Act: 243 convictions § 115 Aliens Police Act: 15 convictions • Type of penalties imposed according to Article 1 2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence Not available for the individual offences of the Aliens Police Act. The penalties imposed for all offences of the Alien Police Act 2021 in total is available from Statistics Austria: Fine: 5.3% Prison sentence: 93.9 % Combination of fine and prison sentence: 0.9% Information on the severity of the sentence is not available.

		<ul style="list-style-type: none"> • Describe in max three-four sentences the key court decisions in 2022 and add hyperlink to decision (if available) <p>There is no court decision available.</p>
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Use of the large-scale IT Systems in the area of asylum, migration and border control

On 3 June 2022, the Federal Minister of the Interior submitted a ministerial proposal for a second amendment act regarding EU information systems⁶³. The amendment act proposes amendments to the EU police cooperation act (*EU-Polizeikooperationsgesetz*), the national police cooperation act (*Polizeikooperationsgesetz*), the law on processing advance passenger Information (*PNR*), the Aliens Police Act 2005 (*FPG*), the border control act (*Grenzkontrollgesetz*), the Settlement and Residence Act (*NAG*), the Citizenship Act 1985 (*Staatsbürgerschaftsgesetz 1985*), as well as the Aliens Employment Act (*Ausländerbeschäftigungsgesetz*). The proposed amendmends shall introduce the necessary adaptations to create a framework for the interoperability of the EU information systems and the establishment of the European Travel Information and Authorisation System (ETIAS). The act has not been adopted yet.

⁶³ Austria, Ministerial proposal for a second amendment act regarding EU information systems ([Zweites EU-Informationssysteme-Anpassungsgesetz](#)), 3 June 2022.

Information society, privacy and data protection

Initiatives in the use of artificial intelligence in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Independent state institution	Report	<p>The Austrian Institute of Technology, Centre for Innovation Systems & Policy (<i>Institut für Technikfolgen-Abschätzung der Österreichischen Akademie der Wissenschaften</i>) in cooperation with the Austrian Chamber of Labour (<i>Bundesarbeiterkammer</i>) analyse the EU Artificial Intelligence Act from a consumer perspective.</p> <p>The report outlines AI as a socio-technical system and makes ten recommendations are</p>	<p>Yes, there is in-depth mention of human rights in the report as well as in the recommendations.</p> <p>The report argues for AI as a socio-technical system that should be inclusive, active and participatory in its development and that should strengthen the individual and collective freedoms and rights reflected in human rights, rather than limit them.</p> <p>The report explains that any AI system is prone to errors and therefore discrimination can occur when working with humans. It is recommended that any AI system that impacts the lives of humans should be registered, undergo a basic certification process, and shall be labelled as AI in public.</p> <p>Another recommendation proposes the development of a broad definition of AI that</p>	<p>Austrian Chamber of Labour (<i>Arbeiterkammer Wien</i>) (2022), Artificial Intelligence – Understandability and Transparency, final report (Künstliche Intelligenz – Verstehbarkeit und Transparenz, Endbericht), February 2022.</p>

		made on how to make AI socially responsible in this regard.	<p>includes consequences and risks. Future AI regulations should be developed with respect to this definition. Furthermore, it is described that all future regulations should have the wellbeing of people as a prime focus with fundamental rights being the minimum requirement.</p> <p>Certain AI systems have the potential to severely damage existing fundamental rights, as well as democracy. As a recommendation for action, it is suggested that AI applications that must be rejected because of fundamental ethical principles (human dignity, equality, the sanctity of life, etc.) should also be legally prohibited. Examples include AI-supported weapon systems or systems of mass surveillance.</p> <p>Finally, it is recommended to include research on ethical AI, that asks about fairness, justice, accountability and responsibility, into the further development of XAI systems (explainable artificial intelligence).</p>	
Independent state institution	Report	The Austrian Institute of Technology, Centre for Innovation Systems & Policy (<i>Institut für</i>	Yes, human rights are mentioned in-depth in several chapters. Key topics include data protection and anonymity, discrimination, freedom	Austrian Institute of Technology, Center for Innovation Systems & Policy (<i>Institut für Technikfolgen-Abschätzung der</i>

		<p><i>Technikfolgen-Abschätzung der Österreichischen Akademie der Wissenschaften</i>) published its report entitled „Foresight and Technology Assessment: Monitoring future issues for the Austrian Parliament“ in May 2022. The report was commissioned by the Austrian Parliament provides a monitoring of current and emerging scientific and technological developments in the societal context (socio-technical trends) and identifies key future issues for Austrian policy.</p>	<p>of expression and democracy, autonomy and individual liberty.</p> <p>The chapter “Transparent Algorithms - How to prevent algorithmic discrimination?” addresses the question of the extent to which transparency, ethical principles, and democracy can be ensured when it comes to the rise of opaque algorithm systems and machine learning. Since the central feature of algorithmic control mechanisms is classification, this results in a high potential for discrimination. The report exemplifies how these technologies can not only be a threat, but how they can also make a positive contribution to justice if implemented properly. However, since the political challenges in dealing with these technologies are yet to be assessed, policy-makers are requested to address these issues in a forward-looking manner.</p> <p>The chapter “Digitalisation and anonymity – a contradiction in itself?” states that the anonymous use of public and private spaces is becoming increasingly difficult due to the prevalence of digital systems. The public space and the ability to express oneself are cornerstones of lived</p>	<p>Österreichischen Akademie der Wissenschaften) (2022), Foresight and Technology Assessment: Monitoring future issues for the Austrian Parliament (Foresight und Technikfolgenabschätzung: Monitoring von Zukunftsthemen für das Österreichische Parlament), May 2022.</p>
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			<p>democracy. They are under threat due to large scale surveillance. Also private spaces of communication are under threat due to the use of facial recognition in smartphones. It is crucial for the Parliament to question business models and to regulate them, if needed, to ensure guidelines for democratically acceptable and privacy-friendly products. The report outlines technical development concepts like privacy-by-design, new social contracts and political framework conditions can help secure anonymity amidst continued digitalisation.</p> <p>In the chapter "Pandemic management with technological help", the report outlines the application of several AI-driven systems that have been developed since the outbreak of the Covid-19 pandemic, including contact tracing. The report points out that although some technical solutions may be unproblematic, like the electronic doctor's note, others pose risks to democracy and human rights, like the use of drones to monitor the wearing of face masks or using facial recognition. These should be closely examined and monitored by the Parliament.</p>	
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			<p>The chapter “Digital nudging and democracy” highlights the question of autonomy and fundamental rights in the use of nudging and big data. Nudging refers to small behavioural “shoves” that seek to evoke desired behaviours. The increasingly large scale of “big nudging” raises questions of autonomy and individual liberty, for example when used in election campaigns: people are selectively nudged based on prognoses on electoral behavior. The Parliament should identify and analyze such nudging systems in different areas and make them visible to the public to guarantee the right to individual liberty.</p>	
Independent state institution	Report	<p>The Austrian Institute of Technology, Centre for Innovation Systems & Policy (<i>Institut für Technikfolgen-Abschätzung der Österreichischen Akademie der Wissenschaften</i>) published its report entitled „Foresight and Technology Assessment: Monitoring future issues for the</p>	<p>Yes, human rights are mentioned in-depth in several chapters. The 140 topics touched upon in the report can be clustered broadly into eight themes. Each theme contains reference to multiple aspects of AI and its (human rights-related effect on various areas of life. The topics touched upon relating to human rights can be summarized as follows: digitalisation brings benefits but also merits careful and close consideration from political actors, particularly when it comes to ensuring the ethical use of AI and the modalities pertaining to the storage of data to ensure that there is no discrimination, abuse of data, or violation of the right to privacy.</p>	<p>Austrian Institute of Technology, Center for Innovation Systems & Policy (<i>Institut für Technikfolgen-Abschätzung der Österreichischen Akademie der Wissenschaften</i>) (2022), Foresight and Technology Assessment: Monitoring future issues for the Austrian Parliament (Foresight und Technikfolgenabschätzung: Monitoring von Zukunftsthemen)</p>

		<p>Austrian Parliament“ in November 2022. The report was commissioned by th Austrian Parliament provides a monitoring of current and emerging scientific and technological developments in the societal context (socio-technical trends) and identifies key future issues for Austrian policy. The report showcases an overview of all 140 topics that were identified between 2017 and 2022.</p>		<p><u>für das Österreichische Parlament</u>), November 2022.</p>
<p>Government</p>	<p>Other: press release</p>	<p>In this press release the Austrian Ministry of Finance (<i>Bundesministerium für Finanzen</i>) announces the methods to identify tax fraud by the</p>	<p>No, human rights are not mentioned.</p>	<p>Austria, Federal Ministry of Finances (<i>Bundesministerium für Finanzen</i>) (2022), BMF/Special PACC Unit: around 6 million tax returns and 1,4 million applications for COVID-19 assistance payments reviewed in 2021</p>

		<p>Predictive Analytics Competence Center (PACC). The main methodology used is predictive analytics: a machine learning-based artificial intelligence that can infer potential fraud scenarios from a variety of data sources.</p> <p>The press release states that in 2021, around 6 million tax returns and 1.4 million applications for COVID-19 assistance payments have been analyzed to combat organized tax fraud and customs fraud. In the first half of 2022, around 4 million tax returns were checked. Special algorithms are used to determine irregularities and to</p>		<p><i>(BMF/Spezialeinheit PACC: 2021 rund 6 Mio. Arbeitnehmerveranlagungen und 1,4 Mio. Anträge auf COVID-19 Hilfszahlungen überprüft)</i></p>
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		<p>send the cases to a separate in-depth check. The information used by the PACC is obtained from internal data sources, i.e. the basic data stored in the Ministry of Finance, such as the reporting data of taxpayers, tax assessment notices, declarations, customs declarations or also data on vehicles, but also from external data sources, such as the company register, the land register or the trade register. From these data sources, the relevant information is processed in pseudonymised form and serves as the basis for the PACC topics to be analysed.</p>		
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<p>Government and academia</p>	<p>Report</p>	<p>The Austrian Report on Research and Technology is commissioned by the Federal Ministry of Education, Science and Research (<i>Bundesministerium für Bildung, Wissenschaft und Forschung</i>), the Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology (<i>Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie</i>) and the Federal Ministry for Digitalisation and Economic Location (<i>Bundesministerium für</i></p>	<p>Yes. The report outlines several national developments of the past year pertaining to the use of AI in various sectors. In this context, the report mentions the 2021 Austrian strategy on AI, and highlights how it is anchored in the European strategy, which prioritizes fundamental rights protection.</p>	<p>Austria, Federal Ministry of Education, Science and Research (<i>Bundesministerium für Bildung, Wissenschaft und Forschung</i>), the Federal Ministry for Climate Protection, Environment (Energy, Mobility, Innovation and Technology (<i>Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie</i>) and the Federal Ministry for Digitalisation and Economic Location (<i>Bundesministerium für Digitalisierung und Wirtschaftsstandort</i>) (2022), Austrian Report on Research and Technology (<i>Österreichischer Forschungs- und Technologiebericht 2022</i>), Vienna, 2022.</p>
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		<p><i>Digitalisierung und Wirtschaftsstandort</i>).</p> <p>Based on current data, Austria's position in research, technology and innovation policy and Austria's position is presented. The report also focuses on trends in research, technology and innovation that are relevant for the future, including artificial intelligence.</p>		
Academia	Report	<p>The Austrian Institute for SME Research (<i>KMU Forschung Austria</i>), was commissioned by the Austrian Promotional Bank (aws – Austria Wirtschaftsservice) to draft a report on the “Potentials of trustworthy AI for digitalisation in Austria</p>	<p>Yes, the report mentions human rights. In the literature review, different legal developments and initiatives are outlined including the EU draft regulation and its definition of trustworthy AI as fulfilling the following requirements: (1) primacy of human action and human oversight, (2) technical robustness and security, (3) privacy and data quality management, (4) transparency, (5) diversity, non-discrimination and fairness, (6) social and environmental well-being, and (7) accountability.</p>	<p>The Austrian Institute for SME Research, (<i>KMU Forschung Austria</i>) (2022), Potentials of trustworthy AI for digitalisation in Austria with focus on the areas of production, mobility and health (<i>Potenziale vertrauenswürdiger KI für die Digitalisierung in Österreich mit Fokus auf die Bereiche Produktion, Mobilität</i>)</p>

		<p>with focus on the areas of production, mobility and health”.</p> <p>The report defines trustworthy AI, introduces its potentials and challenges, and introduces applications in various industries. There is a collection of political measures and best practice examples on the use and development of trustworthy AI, as well as a range of recommendations made.</p>	<p>The report posits that a fundamental requirement for the use of AI is the definition of standards, norms and certifications. As a best practice example of certifications for trustworthy AI, the report mentions the initiative “Trust your AI”, which provides a 360 degree certification for AI for businesses. Training data as well as predictions of AI systems are analysed with regard to possible discrimination, unfair imbalances and biases, and the robustness of the AI system is tested. The TÜV AUSTRIA then confirms the robustness, safety and suitability of a certified AI application for defined purposes and areas of application with the certificate TRUSTED AI.</p>	<p>und Gesundheit), Vienna, January 2022.</p>
Independent state institution	Report	<p>The Austrian Institute for Applied Telecommunications (<i>Österreichisches Institut für angewandte Telekommunikation</i>)</p>	<p>Yes, human rights are mentioned. When analysing the application of AI for consumers, the report highlights a series of problems that may arise using international case examples. It is stated that particular attention should be paid to discrimination, different types of errors in</p>	<p>The Austrian Institute for Applied Telecommunications (<i>Österreichisches Institut für angewandte Telekommunikation</i>) (2022), AI and consumer protection – risks</p>

		<p>was commissioned by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (<i>Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz</i>) to publish a report on „AI and consumer protection – risks for consumers and selected examples of consumer protection activities“. The report assesses the ways in which consumer protection actors are challenged on the topic of artificial intelligence.</p> <p>The report outlines five key application areas of AI from a consumer’s point of view and introduces a set of</p>	<p>automated decision-making (eg. bias), the lack of transparency, the risk of manipulation or the misuse of emotion analysis.</p>	<p>for consumers and selected examples of consumer protection activities (<i>Künstliche Intelligenz & Konsumentenschutz, Risiken für Konsument:innen und ausgewählte Beispiele von Konsumentenschutz-Aktivitäten</i>), Vienna, May 2022.</p>
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		<p>national and international examples pertaining to:</p> <ul style="list-style-type: none"> • Decisions about contracts • Personalisation of content • Image recognition • Speech processing and dialogue systems <p>Devices with AI functionalities</p>		
Civil society organisation	Other: project report	<p>The Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology</p> <p><i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> funds the use of AI technologies to combat environmental</p>	There is no mention of human rights.	<p>Austria, The Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology</p> <p><i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> (2022), APPETITE: Fighting food waste with artificial intelligence (<u>APPETITE: Mit Künstlicher Intelligenz gegen</u></p>

		<p>challenges in the funding scheme “AI for Green”, administered by the Austrian Research Promotion Agency (<i>Österreichische Forschungsförderungsgesellschaft</i>).</p> <p>One of the funded projects, undertaken by the research organization Fraunhofer, is called APPETITE seeks to combat food waste by using AI. “Appetite” stands for “AI-driven collaborative supply and demand matching platform for food waste reduction in the perishable food supply chain”. The project aims to create a prototype of a collaborative forecasting platform</p>		<p><u>Lebensmittelverschwendung</u>), BMF Infothek, 30 March 2022.</p>
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		that enables the matching of supply and demand of perishable food. To this end, expertise from the fields of supply chain management, information and communications technology and food retailing will be brought together.		
Civil society organisation	Other: project report	The Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology <i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> funds the use of AI technologies to combat environmental	There is no mention of human rights.	Austria, The Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology <i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> (2022), Artificial intelligence refines satellite imagery for more sustainable agriculture (<u>Künstliche Intelligenz verfeinert Satellitenbilder für eine</u>

		<p>challenges in the funding scheme “AI for Green”, administered by the Austrian Research Promotion Agency (<i>Österreichische Forschungsförderungsgesellschaft</i>).</p> <p>One of the funded projects, undertaken by the research institute VRV, is called SMAIL and seeks to use AI to refine freely available satellite images of agricultural land. This helps analyze and monitor local conditions such as vegetation, soils or the state of biodiversity in order to achieve more sustainable management.</p>		<p><i>nachhaltigere Landwirtschaft</i>), BMF Infothek, 13 May 2022.</p>
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Parliament	Other: parliamentary correspondence	<p>The EU subcommittee of the Austrian Federal Parliament debated the European Commission's AI draft regulation.</p> <p>The parliamentarians generally welcome the creation of a Europe-wide legal framework for AI applications in order to avoid national isolated solutions and to promote Europe's industrial and technical performance with a common solution for AI regulation.</p>	<p>Yes, human rights are mentioned. In the debate, parliamentarians stated it is particularly positive that a new approach is chosen for the definition of risk, which takes into account the possible violation of fundamental rights and ethical principles. The Federal Minister of Digital Affairs pointed out that in this way, the EU is consolidating a human-centred approach to AI, which is also being pursued at national level.</p>	<p>Austria, Federal Parliament (2022), EU Subcommittee: Debate on chip law and artificial intelligence (EU-Unterausschuss: Debatte über Chip-Gesetz und künstliche Intelligenz), Parliamentary correspondence no. 389, 20 April 2022.</p>
Government	Report	<p>The Austrian Federal Computing Center (<i>Bundesrechenzentrum</i>) published a report on its thematic perspectives and focal points for 2022. One key topic is</p>	<p>Human rights are not mentioned.</p>	<p>Austria, Federal Computing Center (<i>Bundesrechenzentrum</i>) (2022) , BRZ-Perspectives 2022 Innovations for the Public Sector</p>

		<p>the use of AI and big data to “bring Austrian public administration into the future”. Three key perspectives are identified: digital sovereignty, container-platforms and microservices, and AI. The report illustrates opportunities for action in these areas. In terms of AI, the BRZ has created an environment that is tailored to the development of AI applications: The BRZ AI Hub dynamically makes resources available and enables the knowledge transfer between similar projects. Practical examples of project include initiatives to combat deep fakes or</p>		<p><i>(BRZ- Perspektiven 2022 Innovationen für den Public Sector)</i>, Vienna, April 2022.</p>
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		face detection mechanisms.		
Government	Other: event invitation	<p>The Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology</p> <p><i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> is organizing a policy forum on AI in public administration. The event will provide insights into topics such as data, regulation, trustworthiness, security, etc., which are highly relevant in the context of AI and public administration, and will illustrate them with concrete applications.</p>	<p>No information available yet. The event description hints at a discussion about risks: The use of secure AI solutions can not only offer citizens more efficient and time-saving administrative services, it can also facilitate and improve the work within the administration. In addition to many opportunities, however, AI also entails risks for which a responsible approach is necessary.</p>	<p>Austria, Federal Ministry for Climate Protection, Environment, Energy, Mobility, Innovation and Technology</p> <p><i>(Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie)</i> (2022), AI in public administration (<i>KI in der öffentlichen Verwaltung</i>), Vienna, 2022.</p>

		The event is scheduled to take place on 19 October 2022.		
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Legal and policy initiatives on data protection and private life

On 1 January 2022, § 52b Criminal Code, which was introduced by the Counter-Terrorism Act⁶⁴, entered into force. This new provision introduces measures for the judicial supervision in criminal cases involving subversion of the state and terrorism as well as genocide, crimes against humanity or war crimes. The provision introduces a bundle of instruments, including in § 52b (4) Criminal Code the possibility of electronic monitoring of compliance with judicial orders (*Weisungen*). This type of order within the framework of judicial supervision is distinct from electronically monitored house arrest, because it is not a specific form of penal execution, but a measure within the framework of a probationary period and thus against a person of liberty and not a prisoner.⁶⁵ The legislator assumes that the permanent electronic monitoring of compliance with orders for the duration of the probationary period (i.e. as a rule for one to three years, under certain conditions also longer, § 48 Criminal Code) represents a massive intrusion into the privacy and the fundamental right to data protection of the persons concerned and can therefore only be permissible in strict compliance with the principle of proportionality. Necessity and proportionality are to be expressed in the fact that an electronic surveillance should only be permissible if this type of surveillance is absolutely necessary to ensure conduct in accordance with the order and the offender has given his or her consent. Such “consent” does not constitute consent in the sense of data protection law according to the explanatory remarks to the act.⁶⁶ The provision ties the admissibility of the data processing to the consent of the offender, since he is supposed to

⁶⁴ Austria, Counter-Terrorism Act ([Terror-Bekämpfungsgesetz, TeBG](#)), Federal Law Gazette I Nr. 159/2021.

⁶⁵ Austria, Explanatory remarks to the Counter-Terrorism Act ([Erläuterungen zum Terror-Bekämpfungsgesetz](#)).

⁶⁶ Austria, Explanatory remarks to the Counter-Terrorism Act ([Erläuterungen zum Terror-Bekämpfungsgesetz](#)).

actively participate in his resocialisation and deradicalisation, which can also be expressed with this consent. Massive concerns of a data protection nature were articulated in the legislative review process, as well as in connection with the principle of proportionality, but also with regard to reasonableness. According to the explanatory remarks to the Counter-Terrorism Act, these concerns were taken into account by further specifying the regulation.⁶⁷

On 1 January 2022, amendments to the Federal Statistics Act 2000 and the Research Organisation Act⁶⁸ came into force. Government data bases (register data) is now open to researchers under certain circumstances. Access to data is limited to scientific purposes. Accredited scientists have access to Statistics Austria's data files, which have been anonymised in such a way that they cannot be traced back to individual cases, on the basis of a regulated procedure. The "Austrian Micro Data Centre" providing access for scientists is operative since 1 Junly 2022.⁶⁹ This development provides accredited research institutions with access to microdata from Austria for the first time under strict data protection conditions.

⁶⁷ Austria, Explanatory remarks to the Counter-Terrorism Act ([Erläuterungen zum Terror-Bekämpfungs-Gesetz](#)).

⁶⁸ Austria, Federal Act amending the Federal Statistics Act 2000 and the Research Organisation Act ([Bundesgesetz, mit dem das Bundesstatistikgesetz 2000 und das Forschungsorganisationsgesetz geändert werden](#)), Federal Law Gazette I Nr. 205/2021.

⁶⁹ Austria, AMDC - Microdata for Science AMDC ([Mikrodaten für die Wissenschaft](#)), without date.

Rights of the child

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

Legislative changes	<i>e.g., any legislative development having an impact on children accessing health, education, social protection or other services</i> Nothing to report.
Policy changes	I. National action plan for the Child Guarantee The Federal Ministry of Social Affairs, Health, Care, and Consumer Protection was given the coordinating role of implementing the EU Child Guarantee in coordination with the Federal Ministry of Family Affairs and Youth as well as the Federal Ministry for Education, Science, and Research. The cabinet appointed Dr. Klaus Vavrik as the national coordinator of the EU Child Guarantee. ⁷⁰ Austria was not able to fulfil its obligation to submit the National Action Plan (NAP) to the EU Commission by March 2022. In response to a parliamentary question submitted on 7 July 2022, the Minister of Social Affairs explained it referring to the high complexity of the individual subject areas, the large number of measures and also to the effects of the pandemic. According to the Minister of Social Affairs, the National Action Plan is in the final political vote. After the political agreement, the National Action Plan will be submitted to the Council of Ministers. Following the

⁷⁰ Austria, Federal Ministry for Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und KonsumentInnenschutz*) (2021), `Report on the Multi-Stakeholder Dialogue on the EU Child Guarantee ([Bericht zum Multi-Stakeholder-Dialog zur EU Kindergarantie](#))`, 13 – 14 December 2021.

decision of the Council of Ministers, the National Action Plan is submitted to the President of the National Council and the President of the Federal Council.⁷¹

Members of the Social Democratic Party submitted a Parliamentary Inquiry to the Minister of Social Affairs in the National Council, requesting information on the completion of the NAP, the measures envisaged, as well as on financing and monitoring the implementation of the measures foreseen in the NAP. The receipt of the Parliamentary Inquiry by the National Council has been confirmed on 13 December 2022, the deadline for providing the requested information is 1 February 2023.⁷²

Also civil society released an urgent appeal to finalise the National Action Plan to Combat Child Poverty in Austria on 13 December 2022. The urgent appeal was signed by several civil society organisations dealing with child rights.⁷³

II. Child poverty/ Anti-inflation package

Amidst the still on-going COVID-19 pandemic as well as the current inflation of prices, on 15 June 2022, the Austrian federal government presented the third anti-inflation-package of the year 2022 with a focus on relief measures for families and it was adopted by the National Council on 23 June 2022.⁷⁴ The budget for this package amounts to a total of €28.6 billion and it is dedicated to the

⁷¹ Austria, Federal Ministry of Social Affairs (*Sozialminister*), `Response to the written parliamentary question concerning the notification of measures for the European Child Guarantee ([Antwort auf die schriftliche parlamentarische Anfrage Nr. 11054 /J betreffend die Maßnahmenmeldung für die Europäische Kindergarantie](#)), Parliamentary question No. No. 11054 /J, 7 July 2022.

⁷² Republic Austria, Parliament (2022), Notification of measures for the European Child Guarantee ([Maßnahmenmeldung für die Europäische Kindergarantie](#)), Parliamentary Inquiry No. 13174/J of 1 December 2022 (XXVII. GP)

⁷³ Schink, R. (2022), Urgent Appeal: Where is the National Action Plan to Combat Child Poverty in Austria? ([Dringender Appell: Wo bleibt der Nationale Aktionsplan zur Bekämpfung von Kinderarmut in Österreich?](#)), Press Release of 13 December 2022, published by the Austrian Press Agency, APA.

⁷⁴ Austria, Parliamentary Correspondence (2021), `Inflation: National Council approves new relief package One-off payments and tax measures to provide up to €5 billion in relief for population ` ([Teuerung: Nationalrat beschließt neues Entlastungspaket Einmalzahlungen und steuerliche Maßnahmen sollen Bevölkerung mit bis zu 5 Mrd. € entlasten](#)), Parliamentary Correspondence No. 753, 23 June 2022.

period 2022-2026 and the first payouts took place in August 2022.⁷⁵ The anti-inflation package includes the following relief measures for families:⁷⁶

- A special one-time payment of €180 per child which is automatically paid together with the regular family allowance. It is granted independently from the household income.
- Another measure of the anti-inflation package is the so-called "Family Bonus Plus" (*Familienbonus plus*) which is a tax deduction that directly reduces the families' tax burden. It is available to all parents who are subject to unlimited tax liability in Austria and receive family allowance for their child(ren). The Family Bonus Plus replaces the child allowance and the tax deductibility of childcare costs as of 2019. It is granted independently from the parents' income. The paid amount was increased on 1 July 2022 with retroactive effect as of 1 January 2022 from €1,500 to €2,000 or from €500 to €650 for children over 18 years of age who are currently in education or training.
- The same applies to the children surplus amount (*Kindermehrbetrag*) which will be raised from €450 to €550.⁷⁷
- Additionally, families will receive a one-time school start grant of €100.⁷⁸

No measures have been taken to combat energy / inflation related poverty, affecting children.

III. Family allowance for refugees from Ukraine

⁷⁵ Austria, Ministry for Family at the Federal Chancellery (*Familienministerium in Bundeskanzleramt*) (2022), `[Familienministerin Raab: Startschuss für erste Auszahlungen aus dem Anti-Teuerungspaket \(bundeskanzleramt.gv.at\)](#)` , press release, 2 August 2022.

⁷⁶ Austria, Parliamentary Administration, Budget Service (*Parlamentsdirektion, Budgetdienst*) (2022), `Third package of cost-of-living adjustment measures. Analysis of the budget service` ([BD - Drittes Maßnahmenpaket zum Teuerungsausgleich Analyse des Budgetdienstes](#)), 20 June 2022.

⁷⁷ Austria, Federal Ministry of Finances (*Bundesminister für Finanzen*) (2022), [Maßnahmen zur Abfederung der hohen Energiekosten \(bmf.gv.at\)](#).

⁷⁸ Austria, Federal Chancellery (*Bundeskanzleramt*) (2022), [Schulstartgeld - Bundeskanzleramt Österreich](#).

	<p>Due to an amendment of the Family Burden Equalisation Act (<i>Familienlastenausgleichsgesetz</i>) in March 2022, refugees from Ukraine are eligible for receiving family allowances in Austria. The allowances can be claimed until the end of the granted temporary right of residence.⁷⁹</p>
<p>Other measures or initiatives</p>	<p><i>e.g., income support to single-headed families or based on number of children in the household; meals for children provided for free; other actions or measures linked to the implementation of the EU Child Guarantee.</i></p> <p>I. Child Guarantee Conference Report published</p> <p>The results of the first Multi-Stakeholder-Dialogue concerning the European Child Guarantee in Austria, hosted by the Austrian Federal Ministry of Social Affairs, Health, Care, and Consumer Protection in cooperation with the Austrian Committee for UNICEF on 13 and 14 December 2021, are published in a conference report in June 2022. The report on the Multi-Stakeholder Dialogue, which took place under participation of civil society, will serve as a basis for the National Action Plan of Austria.⁸⁰</p> <p>II. Referendum on Children’s Rights</p> <p>A petition for a referendum on child rights (<i>Kinderrechte Volksbegehren</i>) received enough signatures to be considered by the National Council by 26 September 2022.⁸¹ The referendum is demanding the following:</p> <ul style="list-style-type: none"> • the raise of the complete UN Convention on the Rights of the Child to the constitutional level;

⁷⁹ Austria, 135th Federal Act amending the Family Burden Equalisation Act 1967 and the Income Tax Act 1988 ([135. Bundesgesetz, mit dem Familienlastenausgleichsgesetz 1967 und das Einkommensteuergesetz 1988 geändert werden](#)), Federal Law Gazette I No. 135/2022, 28 July 2022.

⁸⁰ Austria, Federal Ministry for Sozial Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und KonsumentInnenschutz*) (2021), `Report on the Multi-Stakeholder Dialogue on the EU Child Guarantee ([Bericht zum Multi-Stakeholder-Dialog zur EU Kindergarantie](#))`, 13 – 14 December 2021.

Austria, Federal Ministry of the Interior (*Bundesministerium für Inneres*) (2022), `CORRECTION to OTS0174: Results of the seven referendums` ([KORREKTUR zu OTS0174: Ergebnisse der sieben Volksbegehren](#)), press release, 26 September 2022.

	<ul style="list-style-type: none"> • the banning of the import of products that were produced with child labour or in which's supply chains child labour occurs; • the introduction of daily P.E. classes as well as regional and free-of-charge lunch at schools; • a significant and sustainable raise of the child care allowance (<i>Kinderbetreuungsgeld</i>); • the implementation of the national subsistence guarantee (<i>Staatliche Unterhaltsgarantie</i>).⁸² <p>The children's rights petition was submitted to the National Council on 22 November 2022.⁸³</p> <p>The National Council on 13 December unanimously agreed on a first reading of the petition in the Committee for Family and Youth (<i>Ausschuss für Familie und Jugend</i>).⁸⁴</p>
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Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.

Legislative changes	<p><i>e.g., reform of the criminal code, new law on violence against children with procedural safeguards.</i></p> <p>Nothing to report.</p>
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⁸² Austria, Federal Ministry of the Interior (*Bundesministerium für Inneres*) (2022), 'Procedure for the petition for the Children's rights referendum' ([Volksbegehren 'Kinderrechte-Volksbegehren'](https://www.bmi.gv.at/voelksbegehren/kinderrechte-voelksbegehren)) ([bmi.gv.at](https://www.bmi.gv.at)) on 15 July 2022.

⁸³ Austrian Parliament (*Österreichisches Parlament*) (2022), 'Status of the parliamentary procedure of the Children's Rights Referendum' ([Stand des parlamentarischen Verfahrens des Kinderrechte-Volksbegehren](#))

⁸⁴ Austrian Parliament (*Österreichisches Parlament*) (2022), 'Status of the parliamentary procedure of the Children's rights petition (1796 d.B.)' ([Stand des parlamentarischen Verfahrens des Kinderrechte-Volksbegehrens](#)).

<p>Policy developments</p>	<p><i>e.g., guidance or training for law enforcement officers on the treatment of child suspects or victims; 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; set-up of Barnahus houses or other specific programmes for children in the criminal system.</i></p> <p>Nothing to report.</p>

Access to justice – Victims’ Rights and Judicial Independence

Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025

The Federal Chancellery (Section III) and the Federal Ministry of the Interior are jointly responsible for ensuring that all victims have access to appropriate support services as they finance the Violence Protection Centres (or Intervention Centre Vienna) in each province as well as the Intervention Centre for Victims of Trafficking in Women.⁸⁵ Moreover, the Federal Ministry of Justice is responsible for process support (*Prozessbegleitung*).⁸⁶

On 22 February 2022, the Federal Ministry of the Interior and the victim support organisation WEISSER RING organised the Victims of Crime Day on the topic of terrorism.⁸⁷ On this occasion and against the background of the terrorist attack in Vienna on 2 November 2020, the WEISSER RING proposed amendments to the Victims of Crime Act and called for the full implementation of the Victims’ Rights Directive, in particular concerning the equal treatment of victims of situational violence with those of violence in the family. According to § 56 (1) 3 Security Police Act the police currently forwards the data to the competent intervention centres or centres for the protection against violence in all cases in which women are victims of domestic violence. However, an analogous provision for victims of situational violence is still missing despite the explicit mandate of Article 8 of the EU Victim Protection Directive. As a result, many victims learn about their rights too late or not at all according to the WEISSER RING.⁸⁸

The Federal Minister of Justice reported on 14 April 2022, that in 2021, only a total of 16 victims of online hate (7 male, 9 female) were supported by psychosocial process support. The number of cases of process support for hate crime on the net has therefore fallen short of expectations according to the Minister.⁸⁹ As a result, the Federal Ministry of Justice launched an Austria-wide information campaign on 9 August 2022. People who have become victims of violence or

⁸⁵ Austria, Federal Minister for Women and Integration at the Federal Chancellery (*Bundesministerin für Frauen und Integration im Bundeskanzleramt*) (2021), ‘Response to parliamentary question 8393/J ([Beantwortung der parlamentarischen Anfrage 8393/J](#))’, 22 December 2021.

⁸⁶ Austria, Federal Ministry of the Interior (*Bundesminister für Inneres*) (2021), Victim support and process support ([Opferhilfe und Prozessbegleitung](#)), January 2021.

⁸⁷ Austria, Federal Ministry of the Interior (*Bundesminister für Inneres*) (2022), Victims of Crime Day ([Tag der Kriminalitätsoffer 2022](#)).

⁸⁸ Austria, Weisser Ring (2022), 22.2.2022 Victims of Crime Day ([22.2.2022 – Tag der Kriminalitätsoffer](#)).

⁸⁹ Austria, Federal Minister of Justice (*Bundesministerin für Justiz*) (2022), ‘Response to parliamentary question 9816/J-NR/2022 ([Beantwortung der parlamentarischen Anfrage 9816/J-NR/2022](#))’, 14 April 2022.

hatred online should know that they can make use of free psychosocial and legal process support in Austria. In order to make this offer better known and to sensitise the target group, several measures are being taken, including Austria-wide social media advertising, information screens in public transport or at doctors' offices, as well as a classic mailshot. The central element of the campaign is the victim hotline number 0800 112 112, which serves as a point of contact to the respective process support facilities. A new information website (www.hilfe-bei-gewalt.gv.at) also offers all information on process support, the mediating agencies throughout Austria as well as contact possibilities to the victim emergency hotline (via helpline or instant chat).⁹⁰

In June 2022, the Austrian Centres for the Protection against Violence and the Intervention published their comprehensive proposals for reforms.⁹¹ Based on their experience in working with victims of violence, the Austrian Centres for Protection against Violence analyse all relevant legislation for the protection against violence and provide the ministries with detailed annual reform proposals to close gaps in the law and overcome implementation difficulties. The proposals include, for instance:

- the introduction of legal amendments so that the police is informed of criminal court orders and is able to intervene if these orders are violated;
- the introduction of legal amendments so that psychological violence is sanctioned through criminal law;
- the introduction of legal amendments so that so that all victims are automatically informed about any final judgment in a trial (Article 6 of Directive 2012/29/EU), irrespective of the use of the process support;
- the introduction of legal amendments allowing the filing of an appeal for annulment in case of violations of victims' rights (e.g. granting access to files, rights to information, right to a contradictory hearing, etc.);
- The vow not to violate an ordered prohibition of entry and approach or not to enter a certain flat is possible as a more lenient measure instead of the imposition of pre-trial detention often is not sufficient to protect the victims. Such a measure should therefore be excluded in cases of domestic violence, provided that the further requirements for the imposition of pre-trial detention are met.

⁹⁰ Austria, Federal Ministry of Justice (*Bundesministerin für Justiz*) (2022), Information campaign on process support ([Infokampagne zur Prozessbegleitung](#)), 9 August 2022.

⁹¹ Austria, Austrian Centres for Protection against Violence (2022), Proposal for reform 2022 ([Reformvorschläge 2022](#)), June 2022.

- Diversionary measures should be excluded in cases of long-lasting violent relationships with clear imbalance of power or severe violence. Community services or a fines are inappropriate in cases of domestic violence.⁹²

Measures addressing violence against women

On 1 January 2022, amendments to § 13 of the Weapons Act⁹³ came into force. Since then, a temporary weapons ban is automatically imposed on defendants when a prohibition to enter or approach is issued.

In 2022, a new coordination office against female genital mutilation started its work.⁹⁴ The centre functions as an Austria-wide coordination and information platform on female genital mutilation. The specialised counselling centres for sexual violence will be further strengthened financially in order to sustainably expand the range of support services for sexual violence according to the Minister.

Since 1 March 2022, new features of the app "DEC112" are operative according the Federal Minister of the Interior.⁹⁵ With this app⁹⁶ an emergency call can now be made silently, while the required communication with the police is kept to a minimum and the police are sent to the person submitting the silent call. The silent emergency call may be used in cases of acute danger when a voice call is not possible (e.g. violence in the private sphere). This form of emergency call is intended to protect women in particular from physical violence. Media reported that as of 21 December 2022, a total of 5,500 persons are registered for the app and 13 silent calls have been submitted so far.⁹⁷

On 1 July 2022, amendments⁹⁸ to the Act on the Enforcement of Judgments⁹⁹ came into effect, which now allow courts to order a perpetrator of violence to participate in violence prevention counselling upon application or also ex officio (§ 382f (4) Act on the Enforcement of Judgments). The prerequisite is that the court has issued an interim injunction in the proceedings on protection against violence in the home (§ 382b Act on the Enforcement of Judgments) and general protection against violence (§ 382c Act on the Enforcement of Judgments) and the defendant has not yet participated in violence prevention counselling on the basis of the Security Police Act. The defendant shall contact a counselling centre within

⁹² Austria, Austrian Centres for Protection against Violence (2022), Proposal for reform 2022 ([Reformvorschläge 2022](#)), June 2022.

⁹³ Austria, Weapons Act 1996 ([Waffengesetz 1996](#)), Federal Law Gazette I Nr. 12/1997.

⁹⁴ Austria, FGM/C Koordinationsstelle, [website](#).

⁹⁵ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Karner: Together against violence ([Karner: Gemeinsam gegen die Gewalt](#)), 7 March 2022.

⁹⁶ Austria, DEC112 (2022), Silent emergency call in the DEC112 app ([Stiller Notruf in der DEC112 App](#)).

⁹⁷ Austria, orf.at (2022), [„Stiller Notruf“ bisher 13 Mal abgesetzt](#), 21 December 2022.

⁹⁸ Austria, Budget Accompanying Act 2022 ([Budgetbegleitgesetz 2022](#)), Federal Law Gazette I No. 202/2021.

⁹⁹ Austria, Act on the Enforcement of Judgments ([Exekutionsordnung](#)), Imperial Law Gazette No. 79/1896.

five days of the issuance of an interim injunction to arrange counselling and shall actively participate in counselling for the prevention of violence. The counselling must take place for the first time within 14 days at the latest from the date of contact. The Federal Minister of Justice reported that the association NEUSTART was commissioned to provide violence prevention counselling for the whole of Austria in accordance with § 382f (4) Act on the Enforcement of Judgments. The budget for this measure was estimated at 150,000 € for 2022 and 300,000 € for 2023.¹⁰⁰

On 26 July 2022, Federal Criminal Police Office reported¹⁰¹ that in the first half of 2022, the police issued around 7,100 prohibitions to enter and approach (in 2021, the total was 13,686) and referred around 5,900 dangerous persons to the Violence Prevention Counselling Centre.

The 2020 amendment to the Protection against Violence Act 2019 provides for annual evaluations of the measures for the protection from violence introduced by the same act. On 16 September 2022, this evaluation¹⁰² commissioned by the Federal Ministry of the Interior and the Federal Criminal Police Office was presented at a press conference.¹⁰³ The comprehensive evaluation is based on questionnaires sent to target groups of violence protection centres, counselling centres for violence prevention and prevention officers of the police as well as focus groups with representatives from violence protection centres, counselling centres for violence prevention, police and security authorities as well as child and youth welfare services. The Minister of the Interior also reported at the press conference that in 2021, 13,690 bans on entering and approaching were issued and that in 2022, there were already 9,500 such bans by the end of July.¹⁰⁴

The Report on the activities of the criminal justice system by the Federal Ministry of the Interior shows an increase of 15.3% in convictions for offences against sexual integrity. Despite a lower incidence, there were more convictions for violence in the domestic sphere and continued violence. Out of 1,438 preliminary proceedings (2020: 1,508), charges were brought in 612 proceedings and 82 (2020: 83) were settled by diversion. In the proceedings, there were 228

¹⁰⁰ Austria, Federal Minister of Justice (*Bundesministerin für Justiz*) (2022), 'Response to parliamentary question 11746/J-NR/2022 ([Beantwortung der parlamentarischen Anfrage 11746/J-NR/2022](#))', 7 September 2022.

¹⁰¹ Austria, Federal Criminal Police Office (*Bundeskriminalamt*) (2022), Violence protection in the first half of 2022 ([Gewaltschutzbilanz zum ersten Halbjahr 2022](#)), 26 July 2022.

¹⁰² Austria, Federal Ministry of the Interior and Centre for Social Research and Science Didactics and University of Applied Sciences Campus Vienna (eds.) (2022), Evaluation of the Protection against Violence Act 2019 ([Evaluierung Gewaltschutz-Gesetz 2019](#)), commissioned by the Federal Ministry of the Interior, Vienna, August 2022.

¹⁰³ Austria, Federal Ministry of the Interior (*Bundesminister für Inneres*) (2022), [Karner und Raab präsentieren Evaluierungsbericht zu Gewaltschutzgesetz](#), 16 September 2022.

¹⁰⁴ Austria, Federal Ministry of the Interior (*Bundesminister für Inneres*) (2022), [Karner und Raab präsentieren Evaluierungsbericht zu Gewaltschutzgesetz](#), 16 September 2022.

convictions (2020: 169), 31 diversions (2020: 38) and 128 acquittals (2020: 101).¹⁰⁵

According to the Federal Minister of Justice, work is underway in Austria to effectively counter the prevailing shortage of forensic medical experts, to promote the expansion of clinical forensic examination centres for victims of violence and to develop a concept for the nationwide establishment of outpatient clinics for violence on the basis of Article 25 of the Istanbul Convention.¹⁰⁶ In order to implement this project, interdepartmental talks were held between relevant Ministries. Work is currently underway to commission a study on the status quo of forensic medicine and the preparation of recommendations for the establishment of violence outpatient clinics. The results of the study should be available by the end of 2022 and form the basis for necessary political decisions.

According to the 2022 Federal Finance Act 2022¹⁰⁷, a total of € 18.4 million has been earmarked for women's and gender equality policy measures, compared to € 14.65 million in the previous year. This means an increase of € 3.75 million or 25.6%. The increase in funds is due to the "Package of Measures to Combat Violence against Women and Strengthen Violence Prevention" initiated by the federal government. According to a decision of the Council of Ministers, a total of € 24.6 million is to be made available for interdepartmental measures such as the strengthening of violence protection institutions, victim protection-oriented work with perpetrators, the expansion of family counselling centres, projects for women with a migration background as well as male-specific violence prevention.¹⁰⁸

In November 2022, the Federal Minister for Women's Affairs reported that a total of € 24.3 million has been budgeted for 2023, with a large part of this going to the protection of women against violence. According to the Minister, this will make it possible to finance the violence protection centres, to increase the budgets of the women's and girls' counselling centres, to expand the women's counselling centres in cases of sexual violence and to implement cyber violence training initiatives.¹⁰⁹

¹⁰⁵ Austria, Federal Minister of the Interior (*Bundesminister für Inneres*) (2022), Security Report 2021: Report on the activities of the criminal justice system ([Sicherheitsbericht 2021 Bericht über die Tätigkeit der Strafrechtspflege](#)), Vienna, 2022.

¹⁰⁶ Austria, Federal Minister of Justice (*Bundesministerin für Justiz*) (2022), Response to parliamentary question 11553/J-NR/2022 ([Beantwortung der parlamentarischen Anfrage 11553/J-NR/2022](#)), 1 September 2022.

¹⁰⁷ Austria, Federal Finance Act 2022 ([Bundesfinanzgesetz 2022](#)), Federal Law Gazette I No. 195/2021.

¹⁰⁸ Austria, Parliamentary Correspondence No. 1249 ([Parlamentarische Korrespondenz Nr. 1249](#)), 10 November 2022.

¹⁰⁹ Austria, Federal Minister for Women's Affairs (*Bundesministerin für Frauen*) (2022), [Bundesministerin Raab: "Starker Schulterschluss der Regierung gegen Gewalt an Mädchen und Frauen"](#), 23 November 2022.

Developments in the implementation of the Convention on the Rights of Persons with Disabilities

CRPD policy and legal developments & implementation of the European Accessibility Act

On 6 July 2022, the Federal Government adopted the “National Action Plan on Disability 2022-2030” in the Council of Ministers. This NAP Disability II follows NAP Disability I, which was adopted in 2012 and expired at the end of 2021. The nine Provinces now also participate in the development and implementation of the NAP Disability II.¹¹⁰

The NAP Disability II presents the current situation for the subject areas in the form of a problem outline (“initial situation”). In addition, it contains almost 300 common political objectives agreed upon by all Federal Ministries and the provinces, as well as about 150 indicators to measure the degree to which the objectives have been achieved. Finally, the NAP contains 375 measures - divided into eight priority chapters - to be implemented by 2030. The NAP Disability 2022-2030 will be available in several language versions, in particular in easy language. Currently, the NAP II is accessible online in the version that has been adopted by the Council of Ministers, but in future it will be made available in several accessible versions, in particular also in a summary in easy language.¹¹¹

The NAP Disability II foresees the following measures with reference to the EAA:

¹¹⁰ Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium Soziales, Gesundheit, Pflege und Konsumentenschutz*), National Action Plan Disability in Austria ([Nationaler Aktionsplan Behinderung in Österreich \(sozialministerium.at\)](https://www.sozialministerium.at/Nationaler-Aktionsplan-Behinderung-in-Österreich))

¹¹¹ Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium Soziales, Gesundheit, Pflege und Konsumentenschutz*), National Action Plan Disability 2022-2030. Austrian Strategy for the Implementation of the UN Disability Rights Convention ([Nationaler Aktionsplan Behinderung 2022-2030. Österreichische Strategie zur Umsetzung der UN-Behindertenrechtskonvention](https://www.sozialministerium.at/Nationaler-Aktionsplan-Behinderung-2022-2030-Osterreichische-Strategie-zur-Umsetzung-der-UN-Behindertenrechtskonvention)), adopted by the Austrian Federal Government on 6 July 2022.

Measure 52 foresees the establishment of a National Contact Point and cooperation with the European Commission and exchange with other EU Member States for the successful implementation and application of Directive (EU) 2019/882 on accessibility requirements for products and services according to the EAA (European Accessibility Act, EAA).¹¹²

Measure 170 foresees the legislative implementation of Directive (EU) 2019/882 on accessibility requirements for products and services (EAA), which is foreseen for 2022. The Federal Ministry of Social Affairs, Health, Care and Consumer Protection will be responsible for this.¹¹³

Legally, the EAA will be essentially implemented in Austria by a single, comprehensive act, covering all sectors (Accessibility Act, *Barrierefreiheitsgesetz*) implemented by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection. It includes therefore relevant aspects in the areas of audiovisual media, telecommunications, transport, banking, e-commerce, etc., and will enter into force on 28 June 2025.¹¹⁴

On 30 November 2022, the Minister for Social Affairs introduced measures for the expansion of personal assistance (*persönliche Assistenz*) in order to better implement the UN CRPD. Personal assistance enables persons with disabilities' participation in society and supports them in shaping their lives independently. The former provision of personal assistance within a federalist system will be simplified by creating a uniform, nationwide funding guideline. Moreover, personal assistance will be available not only for people with physical disabilities, but also for people with mental or intellectual disabilities. Personal assistants will

¹¹² Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium Soziales, Gesundheit, Pflege und Konsumentenschutz*), National Action Plan Disability 2022-2030. Austrian Strategy for the Implementation of the UN Disability Rights Convention ([Nationaler Aktionsplan Behinderung 2022-2030. Österreichische Strategie zur Umsetzung der UN-Behindertenrechtskonvention](#)), adopted by the Austrian Federal Government on 6 July 2022, p. 30.

¹¹³ Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium Soziales, Gesundheit, Pflege und Konsumentenschutz*), National Action Plan Disability 2022-2030. Austrian Strategy for the Implementation of the UN Disability Rights Convention ([Nationaler Aktionsplan Behinderung 2022-2030. Österreichische Strategie zur Umsetzung der UN-Behindertenrechtskonvention](#)), adopted by the Austrian Federal Government on 6 July 2022, p. 72.

¹¹⁴ Austria, Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium Soziales, Gesundheit, Pflege und Konsumentenschutz*), Report on the assessment of the establishment of a specialized body to represent the interests of consumers in standardization including accessibility ([Bericht zur Prüfung der Errichtung einer Fachstelle zur Wahrnehmung der Interessen der VerbraucherInnen in der Normung einschließlich Barrierefreiheiten](#)), Vienna, February 2022, p. 7.

be employed (previously, they were free-lancers without leave entitlements).¹¹⁵ These measures will be implemented, starting with a pilot project in the provinces Salzburg, Tyrol and Vorarlberg from spring 2023 on. The pilot project brings together personal assistance in work and leisure. The pilot project is monitored in order to continually implement adaptations. 100 million euros will be spent on the pilot project, that will take place over the next two years.¹¹⁶

In Austria, compulsory schooling applies to every child: they must complete nine years of schooling – including children with special educational needs, such as students with cognitive impairments, trisomy 21, autism or other developmental delays. While for most students school continues after nine years, this is not guaranteed for children with disabilities. In order for one's child to continue education after the tenth grade, approval is needed from the school's principal, as well as the appropriate school board. The conditions when the request may be approved or denied are not defined in the law. In reality, these approvals are often not granted. Young people with disabilities are thus denied equal participation in education - this does not comply with the guidelines of the UN Convention on the Rights of Persons with Disabilities. Against this background, parents of affected children formed an citizens' initiative, demanding the right to later school enrollment for children with disabilities, a legal right to an eleventh and twelfth school year, as well as the expansion of special education services in secondary level 2, including "inclusive settings" and qualified professionals to ensure meaningful inclusion that is appropriate for the children.¹¹⁷

CRPD monitoring at national level

Nothing to report.

¹¹⁵ Austria, Salzburger Nachrichten (2022), `Minister of Social Affairs: 100 million euros for personal assistance' ([Sozialminister: 100 Millionen Euro für Persönliche Assistenz](#)), 6 December 2022.

¹¹⁶ Austria, Bizeps (2022), `Personal Assistance: 100 millions Euro for significant improvements' ([Persönliche Assistenz: 100 Millionen für deutliche Verbesserungen](#)), 6 December 2022.

¹¹⁷ Austria, Austrian Parliament (2022), `Right to education for ALL children - Right to an 11th and 12th grade education for children with disabilities' ([Recht auf Bildung für ALLE Kinder – Recht auf ein 11. und 12. Schuljahr für Kinder mit Behinderung](#)), Citizens' initiative No. 51/BI.

Annex 1 – Promising Practices

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body.
Title (original language)	Parlament gründet überparteiliche Intergroup zum Thema LGBTIQ
Title (EN)	Parliament establishes cross-party intergroup on LGBTIQ issues
Organisation (original language)	Präsidentalkonferenz des Nationalrats
Organisation (EN)	Presidential Conference of the National Council
Government / Civil society	Parliament
Funding body	n/a
Reference (incl. URL, where available)	n/a
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	June 2022
Type of initiative	Working group on LGBTIQ issues

Main target group	LGBTIQ
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	A cross-party intergroup on LGBTIQ issues was established in Parliament in June 2022. This first cross-party working group aims at a better and more objective discourse as well as regular activities in the form of events and expert discussions of LGBTI issues. This initiative is driven by 4 members of the Austrian People's Party (ÖVP), the Social Democratic Party (SPÖ), the Greens and the NEOS. The group is open to all members of the National Council, Federal Councillors and Austrian members of the European Parliament. ¹¹⁸
Highlight any element of the actions that is transferable (max. 500 chars)	The entire practice is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The group is established for an unlimited time.
Give reasons why you consider the practice as having	The intergroup institutionalizes cross-party cooperation and furthers the debate on equal treatment of LGBTIQ persons. The LGBTIQ intergroup creates a new space for future perspectives irrespective of day-to-day politics. LGBTIQ people are represented in all areas and should therefore be represented accordingly, especially in parliament.

¹¹⁸ Austria, Parliamentary Correspondence No. 798 ([Parlamentarische Korrespondenz Nr. 798](#)), 30 June 2022.

concrete measurable impact	
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The establishment of such a group is in principle possible in any EUMS.
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	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.
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Title (original language)	No promising practice has been identified for this thematic area.
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Thematic area	ROMA EQUALITY AND INCLUSION Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion.
Title (original language)	No promising practice has been identified for this thematic area.

Thematic area	INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems.
Title (original language)	Projekt "privacy4kids"
Title (EN)	Project "privacy4kids - Rising awareness about privacy of children in the digital age"
Organisation (original language)	Datenschutzbehörde und Universität Wien
Organisation (EN)	Austrian Data Protection Authority and University of Vienna
Government / Civil society	Data Protection Authority and University of Vienna
Funding body	Funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020)
Reference (incl. URL, where available)	Project website: https://www.privacy4kids.at/ videos: https://www.privacy4kids.at/lernvideos/

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	1 March 2021 to 31 December 2022
Type of initiative	Research project
Main target group	Children aged 6-14 years
Indicate level of implementation: Local/Regional/National	national
Brief description (max. 1000 chars)	The aim of the research project is to familiarise children and young people between the ages of 6 and 14 with the topic of data protection through educational videos and to explain to them why the protection of personal data is important, what rights they have as data subjects, what dangers exist for their privacy on the internet or how they can protect themselves, for example, from fraud on the internet and manipulation in social media. Videos were created by students from different fields of study in the context of a workshop-like course. Lecturers and external experts from various relevant fields continuously accompanied this process. It is planned to further expand the learning material by 2023.
Highlight any element of the actions that is transferable (max. 500 chars)	The entire project is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	Educational videos on the topics of social media and influencers, internet fraud phishing, apps, disclosure of personal data, big brother is watching you, gaming, hate on the net, data subject rights, cookies, digital footprint, and privacy continue to be available online.

<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The videos aim to sensitise children and parents to the opportunities, challenges and dangers of the digital age and to help them understand what they can do to protect their privacy.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The project and the project outputs are fully transferable, as the content is of equal relevance for the target groups in other all member states as well.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The educational videos were created by students from various fields of study as part of a workshop-like course. Lecturers and external experts from various relevant fields continuously accompany this process.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>n/a</p>

Thematic area	RIGHTS OF THE CHILD Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice).
Title (original language)	Kinderarmut erkennen & handeln. Wie elementare Bildungseinrichtungen armutsbetroffenen Kindern und ihren Familien in der Praxis begegnen können
Title (EN)	Recognising & acting on child poverty. How elementary educational institutions can practically deal with children and their families, who are affected by poverty.
Organisation (original language)	Volkshilfe und Kinderfreunde
Organisation (EN)	Volkshilfe und Kinderfreunde
Government / Civil society	Civil Society
Funding body	
Reference (incl. URL, where available)	Gruber-Pruner Daniela, Lichtenberger Hanna, Pfeifer Tamara, Rehner Bettina (2022), ‚Kinderarmut erkennen und handeln. Wie elementare Bildungseinrichtungen armutbetroffenen Kindern und ihren Familien in der Praxis begegnen können‘, Kinderfreunde Österreich/Volkshilfe Österreich, Wien. Brosch Volkshilfe-Kinderfreunde Kinderarmut in der Elementarbildung web 10-2022.pdf (kinderarmut-abschaffen.at)
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The brochure was published in 2022
Type of initiative	It is a brochure, which aims to provide basic knowledge on (child) poverty (pp. 6-15), to give advice on how to deal with (child) poverty in elementary educational institutions (pp. 14-24) and to provide tips and ideas for everyday kindergarten and pedagogical practice (pp. 25-37)
Main target group	Staff in elementary educational institutions

Indicate level of implementation: Local/Regional/National	national
Brief description (max. 1000 chars)	<p>Rationale: The COVID 19 pandemic and the inflation since spring 2022 have exacerbated poverty. The impact of these events on children and young people, but also on adults, will remain with society for a long time. Thus, staff members in elementary educational institutions need to devote themselves to the consequences of growing up in poverty and dealing with poverty. This aspect is often neglected in training and further education training of paedagogs. This brochure provides guidance on how to deal with child and family poverty in pedagogical practice.</p> <p>Aim: To provide information on the following questions:</p> <ul style="list-style-type: none"> • So how can the complex issue of child poverty be understood? • How can child and family poverty be identified in elementary educational institutions? • How can families affected by poverty be addressed? • What can elementary educational institutions and their teams contribute to the prevention of poverty? <p>Content / Structure:</p> <ul style="list-style-type: none"> • Facts and figures about child poverty in Austria • Scope for action of elementary education institutions in poverty reduction and prevention <p>Best practices for daily work in Kindergarden and the pedagogical practice (methods, guidelines, food for thought)</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<ul style="list-style-type: none"> • Addressing elementary education institutions as multipliers and gatekeepers to the prevention and reduction of child poverty • Providing an overview of facts and consequences of child poverty • Addressing the target groups' (pedagogues) scope of action <p>Providing best practices for the daily work and pedagogical practice, e.g. on how to work with children on poverty (e.g. singing songs dealing with poverty, successful methods to discuss poverty and its consequences with children, etc.)</p>
Give reasons why you consider the	<p>The brochure is publicly available. It contains information (methods, guidelines, good practices, facts and figures) of long-term relevance.</p>

practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	Elementary education institutions access children in low-threshold level. Thus, they have great potential to act in preventing and addressing poverty of children.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The content-specific elements of the brochure are applicable to other Member States: child poverty, elementary education institutions and their scopes of action, good practices of dealing with poverty in daily work in kindergarten and elementary school
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Volkshilfe Austria and Kinderfreunde Austria have a long tradition in combating child poverty. Both organisations offer child care themselves and operate kindergardens and extracurricular care.
Explain, if applicable, how the practice provides for review and assessment.	n.a.

Thematic area	ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women.
Title (original language)	Stiller Notruf in der DEC112 App
Title (EN)	Silent Emergency Call in the DEC112 App
Organisation (original language)	Verein zur Entwicklung von standardisierten und barrierefreien Notrufen
Organisation (EN)	Association for the development of standardised and barrier-free emergency calls
Government / Civil society	Government
Funding body	The association for the development of standardised and barrier-free emergency calls has a cooperation agreement with the Federal Ministry of the Interior for the operation of the barrier-free emergency call infrastructure DEC112. The implementation of the silent emergency call is based on this cooperation agreement and to a large extent on the voluntary work of the members of the association.
Reference (incl. URL, where available)	Stiller Notruf in der DEC112 App, https://www.dec112.at/stiller-notruf/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Active since 1 March 2022
Type of initiative	Emergency call
Main target group	primarily women as victims of violence

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Silent Emergency Call in Austria is a supplement to the accessible and text-based and barrier-free Emergency DEC112 Call. With this app an emergency call to the police can be made silently. By pressing a button, the police are now notified and a police patrol is sent to the person making the emergency call. Communication with a silent emergency call is kept to a minimum. A silent emergency call is especially helpful in situations of acute threat or violence because the emergency call can be triggered almost unnoticed. The difference to a normal voice emergency call is that important data is automatically transmitted in the background. This includes the current location, the current address of the person making the emergency call, as well as additionally specified personal data. It is also possible to chat with the control centre without being noticed.
Highlight any element of the actions that is transferable (max. 500 chars)	The entire initiative is transferrable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The app is operative since 1 March 2022 and is available to all since then without a planned end date.
Give reasons why you consider the practice as having concrete measurable impact	The silent emergency call may be used in cases of acute danger when a voice call is not possible. It is a tool intended to protect women in particular from physical violence as a police patrol is sent to the person making the emergency call.
Give reasons why you consider the	This app could be implemented in other Member States if compatible with the national system for emergency calls to enable women in situation of acute danger to silently call the police.

<p>practice as transferable to other settings and/or Member States?</p>	
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>There is no such involvement foreseen. In fact critique was raised that relevant stakeholders, such as Centres for the Protection from Violence, have not been involved in the development of the app.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>n/a</p>

<p>Thematic area</p>	<p>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.</p>
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Title (original language)	andererseits – Österreichs erstes inklusives Online-Magazin
Title (EN)	On the other hand – Austria's first inclusive Online-Magazine
Organisation (original language)	Medienhaus andererseits GmbH
Organisation (EN)	Media house andererseits GmbH
Government / Civil society	Civil Society
Funding body	Donations, crowd-funding, sponsoring (advertisements), selling merchandising products, "Media Project" funding by the Vienna Business Agency
Reference (incl. URL, where available)	https://andererseits.org/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Summer 2022
Type of initiative	<i>andererseits</i> is the first Austrian online medium, where people with and without disabilities work together on an equal footing. The practice is particularly relevant regarding the following articles of the CRPD: Article 8 (Awareness-raising), article 9 (Accessibility)
Main target group	The general population; people with disability, who want to work as journalists, and all people who want to understand disability better
Indicate level of implementation: Local/Regional/National	The medium is located in Vienna, but addresses issues of nation-wide relevance

<p>Brief description (max. 1000 chars)</p>	<p><i>andererseits</i> creates a structure in which people with and without (intellectual) disabilities can work together as journalists. "The more diverse the people who do journalism, the more diverse the perspectives and the more complete the view of the world," says co-founder Clara Porák.</p> <p>The medium tries to make all areas of production, such as text work to graphics, podcast inclusive. A person with journalistic or graphic experience works together with a person who has had little access to journalism so far. Depending on the individual needs, the editorial team supports the research, writing or production process. Regular editorial meetings take place.</p> <p>The topics addressed deal with several aspects of live (education, work, love, climate protection); disability-specific topics, e.g. the National Action Plan Disability, are addressed too. The medium is accessible barrier-free.¹¹⁹</p> <p>All journalists work self-determined and are paid fairly. The medium aims to remain independent by financing through its community.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>Goal: <i>andererseits</i> is an independent, inclusive online magazine. Its goal is to tell socially relevant stories from diverse perspectives. Especially those of people with disabilities. Persons with disability produce texts and graphic and participate in editorial decision making.</p> <p>Methods: Producing texts in teams of two: Co-authorship: Both or all of the named persons shape the content, narrative and theme of the text. Supported authorship: Authors with support needs shape the text in content, narrative, theme with the support they need Graphic teams collaboratively design the contributions (idea and implementation)</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The content- and purpose-aspects "journalism for all" of the practice are sustainable, given the methods of the practice: persons with and without disability do journalism together on an equal footing.</p> <p>The project-team aims at achieving sustainable funding the project by means of putting the financing on different pillars, such as: sponsoring (advertisements), selling merchandising products, funding, donations of readers, etc. However, no information can be provided if this actually works in the long run.</p>

¹¹⁹ For more information, see the organisation's website on: [Barrierefreiheit - andererseits - Journalismus für alle](#)

<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The impact of this measure can be assessed by considering the number of readers, comments, visibility in social media (clicks); No information on the concrete impact is available so far (the project only began in 2022).</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The creation of a structure, in which persons with and without (intellectual) disabilities do journalism together is transferrable to other Member States with similar conditions to establish media.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Decisions are made as democratically as possible. The organization has established an advisory board, which advises the management with its expertise and experience. The team members (journalists, graphics) are members of the advisory board.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The medium has developed editorial guidelines, which do not claim to be complete and are constantly being updated. The medium engages discussions and questions about its journalistic approach. The editorial guidelines include journalistic quality criteria, e.g. to publish factually correct, well-told, socially relevant stories. To be critical and philanthropic and responsibility towards the readers and society. Innovative approaches, like the use of digital tools to share stories and tell them differently. Using social networks to spread topics. <i>Andererseits</i> perceives itself as a digital project that tells stories with text, audio and video formats close to the people. Everyone is welcome and should contribute what they do best. They are aware that inclusion will always be a process. They learn from their mistakes.</p>

	<p>Andererseits ist redaktionell unabhängig. Sie arbeiten mit Werbetreibenden und Sponsoren, um ihre Arbeit zu finanzieren. Diese Unternehmen müssen sich an ihren Werten halten. Ihre ethischen Grundsätze basieren auf dem Code of Ethics für die österreichische Presse und auf anderen Medien, einschließlich den Redaktionsrichtlinien der BBC.</p>
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Annex 2 – Case Law

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
Decision date	18 June 2022
Reference details	Austria, Constitutional Court (<i>Verfassungsgerichtshof</i>), G 30/2022-12 , 18 June 2022.
Key facts of the case (max. 500 chars)	The applicants are registered partners and have concluded an adoption contract with the Vienna Child and Youth Welfare concerning a minor in 2021. In January 2022, the District Court of Vienna dismissed the application for granting the adoption on the grounds that the requirements for adoption were to be assessed (cumulatively) according to Czech and Slovak law (on the basis of the nationality of the applicants) and that according to Czech law an adoption by couples living in a registered partnership was not possible. The applicants appealed against this decision and filed an application for review of the law with the Constitutional Court on the occasion of this appeal.
Main reasoning/argumentation (max. 500 chars)	The complainants argued that the Czech and Slovak law applicable on the basis of § 26 (1) of the Austrian Act on International Private Law ¹²⁰ did not permit adoption by same-sex couples. This was contrary to fundamental rights, as the provision had the consequence that same-sex couples were denied access to adoption solely on the basis of their gender or sexual orientation, which the Constitutional Court had already found to be unconstitutional in its decision 19.942/2014. The challenged provision would oblige the Adoption Court to apply unconstitutional laws that excluded joint adoptive parenthood of same-sex couples.

¹²⁰ Austria, Act on International Private Law ([Bundesgesetz vom 15. Juni 1978 über das internationale Privatrecht, IPR-Gesetz](#)), Federal Law Gazette No. 304/1978

<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Court confirmed that adoption is now granted regardless of the respective sexual orientation of the adopting persons. § 6 of the Act on International Private Law allows the courts to disregard the foreign law that is in principle applicable under the contested provision if - as in the present case - it would lead to a result that would contradict the fundamental values of the Austrian legal system. For this reason, the Court found that § 26 (1) Act on International Private Law is not unconstitutional.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The court of first instance should therefore have assumed that the provisions of the foreign law were not applicable and should instead have applied the corresponding provisions of Austrian law, which in principle do not preclude an adoption of a child by registered partners of the same sex. The objections raised as to the constitutionality of § 26 (1) of the Act on International Private Law do not apply. The application must therefore be dismissed.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>§ 6 IPR-G ermöglicht es den ordentlichen Gerichten, das nach der angefochtenen Bestimmung grundsätzlich zur Anwendung berufene ausländische Recht unangewendet zu lassen, wenn dieses – wie im vorliegenden Fall – zu einem Ergebnis führte, das den Grundwertungen der österreichischen Rechtsordnung widerspräche. Die von den Antragstellern behauptete Verfassungswidrigkeit des § 26 Abs. 1 IPR-G liegt aus diesem Grund nicht vor. Das Erstgericht hätte daher aus verfassungsrechtlichen Gründen davon ausgehen müssen, dass die verwiesenen Bestimmungen des ausländischen Rechtes nicht zur Anwendung gelangen, und stattdessen die entsprechenden Bestimmungen des österreichischen Rechtes anwenden müssen, die einer Annahme an Kindes statt durch eingetragene Partner gleichen Geschlechtes dem Grundsatz nach nicht entgegenstehen.</p> <p>§ 6 of the Act on International Private Law enables the ordinary courts to disregard the foreign law that is in principle to be applied according to the contested provision, if - as in the present case - this would lead to a result that would contradict the fundamental values of the Austrian legal system. For this reason, the unconstitutionality of § 26 (1) of the Act on International Private Law alleged by the applicants does not exist. For reasons of constitutional law, the court of first instance should therefore have assumed that the referred provisions of the foreign law were not applicable and should instead have applied the corresponding provisions of Austrian law, which in principle do not preclude adoption of a child by registered partners of the same sex.</p>

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

Thematic area	ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS).
Decision date	No caselaw 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. data protection, and/or artificial intelligence systems).
Decision date	2 February 2022

Reference details	Supreme Court (<i>Oberster Gerichtshof</i>), 6 Ob 129/21w , 2 February 2022.
Key facts of the case (max. 500 chars)	The defendant operates an app for rating schools and teachers. Users can give one to five stars in several categories (teaching, fairness, respect, motivational ability, patience, preparation, assertiveness and punctuality). To give a rating, they have to register with a mobile phone number but not with their name. The app displays the average ratings for each teacher. A teacher sued to stop the data processing and to have his name and ratings deleted from the app.
Main reasoning/argumentation (max. 500 chars)	The Supreme Court recognised the problem that the app does not prevent certain abuses (people who do not know a teacher at all can give evaluations). Such abuse could only be prevented by registering users by name. However, this would restrict the students' freedom of expression, because they could be prevented from giving a rating at all. The Supreme Court weighed the restriction of the plaintiff's rights through the possibility of abuse less heavily than the restriction of freedom of expression that would occur if users had to register by name or if such an app was not allowed to be operated at all.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Freedom of expression and freedom of information of pupils also protect anonymously submitted rating. The publication of a teacher's name and average ratings is equally protected. It was important to note that the rating app was about the exercise of a profession, because there is less protection from public expression in the exercise of a profession than in privacy.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Supreme Court allowed this kind of data processing (evaluation and publication) in the app. The Court weighed the plaintiff's fundamental rights to data protection, privacy, anonymity, honour and good reputation against the fundamental right to freedom of expression and information of the app operator and the app users.
Key quotation in original language and translated into English with reference details (max. 500 chars)	Zusammengefasst liegt bei Bewertungen, die von den eigenen Schülern des Klägers abgegeben werden, kein überwiegendes Interesse des Klägers am Unterbleiben der beanstandeten Verarbeitung seiner personenbezogenen Daten vor. [...] Aber auch die Gefahr, dass Bewertungen von Personen abgegeben werden, die nicht Schüler des Klägers waren, führt nicht zur Unzulässigkeit der hier beanstandeten Datenverarbeitungen. [...] Auch in diesem Zusammenhang ist wesentlich, dass die Bewertung allein die von der Schulöffentlichkeit wahrnehmbare berufliche Tätigkeit des Klägers, nicht aber seine Privatsphäre betrifft [...]

	In summary, there is no overriding interest of the plaintiff in not having the contested processing of his personal data in the case of ratings given by the plaintiff's own pupils. [...] However, even the risk that ratings are given by persons who were not pupils of the plaintiff does not lead to the inadmissibility of the data processing objected to here. [...] In this context, too, it is essential that the evaluation only concerns the professional activity of the plaintiff, which can be perceived by the school public, but not his private sphere [...].
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Thematic area	RIGHTS OF THE CHILD Please provide the most relevant high court decision for the related topics addressed in the chapter.
Decision date	No caselaw has been identified for this thematic area.

Thematic area	ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women).
Decision date	No caselaw 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, which quoted the CRPD or prominently referred to the CRPD in the reasoning.
Decision date	No caselaw has been identified for this thematic area.