



## **Quality in Gender+ Equality Policies**

European Commission Sixth Framework Programme  
Integrated Project

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**Table of Contents**

**Abbreviations and Glossary..... 3**

**1. ‘Deficiencies, deviations and inconsistencies in EU and Member State’s gender+ equality laws’ ..... 4**

**2. Plans and programmes .....22**

**3. Governmental Machinery For Equality.....27**

**4. Policy summary questions .....33**

**5. Political system.....40**

**6. Political Representation .....42**

**7. Civil Society .....45**

**8. Wider Social Environment .....65**

**9. SUMMARY .....66**

## **Abbreviations and Glossary**

<i>SPÖ</i>	<i>Sozialdemokratische Partei Österreichs (Social Democratic Party)</i>
<i>ÖVP</i>	<i>Österreichische Volkspartei (Austrian People's Party, Conservative Party)</i>
<i>Grüne</i>	<i>Grüne (Green Party)</i>
<i>FPÖ</i>	<i>Freiheitliche Partei Österreichs (Freedom Party)</i>
<i>BZÖ</i>	<i>Bündnis Zukunft Österreich (Association Future Austria)</i>

**Note:** Where no source is stated, the information rests on the personal judgement of the researcher Karin Tertinegg.

## **DEFICIENCIES, DEVIATIONS AND INCONSISTENCIES IN EU AND MEMBER STATE'S GENDER+ EQUALITY POLICIES**

### **1. 'Deficiencies, deviations and inconsistencies in EU and Member State's gender+ equality laws'**

#### **1.1 Gender+ equality legislation**

Please summarise the key developments, with dates, in gender equality law as provided by the governmental gender equality unit, i.e. list the legislation that the gender equality unit (or equivalent governmental body) name as (gender+) equality legislation. If important legislation seems to have been omitted by the authority, please comment on this.

The most comprehensive list of legislation that the governmental body responsible for gender equality (Federal Ministry for Women's Affairs in its various institutional arrangements between 1995 and 2007) names gender+ equality legislation is derived from Austria's periodic reports to CEDAW (Combined Fourth and Fifth Periodic Reports, 1999 and Sixth Periodic Report, 2004)

<b>Legislation</b>	<b>Year</b>	<b>Main provision(s)</b>
Decree by Minister for Education <sup>1</sup>	1995	Introducing 'equality between women and men' as educational principle in secondary education and training of teachers
Equal Treatment Acts for Public Service in Provinces	1994-1997 <sup>2</sup>	Equal treatment provisions for employment in provincial and community service (amended or superseded by Anti-discrimination regulations following the implementation of EU-anti-discrimination directives from 2004 - 2006)
Amendment to Marital Name Law <sup>3</sup>	1995	Spouses can keep their original last name, but a common family name must be chosen
Law for protection against violence in the family <sup>4</sup>	1996	Perpetrator may be evicted from home ; Perpetrator may be banned from returning if

<sup>1</sup> Grundsatzterlass ZI 15.510/60-Präs 3/95; Rundschreiben des BMUK Nr. 77/1995

<sup>2</sup> Equal Treatment Law Carinthia in 1994: Kärntner Landes-Gleichbehandlungsgesetz LGBl 65/1994 idF LGBl 25/2006; Equal Treatment Law Vienna in 1996: Wiener Gleichbehandlungsgesetz, LGBl 18/1996 idF LGBl 49/2005; Equal Treatment Law Burgenland in 1997: Landes-Gleichbehandlungsgesetz LGBl.Nr. 59/1997 idF LGBl 10/2006; Upper Austria in 1995: Landes-Gleichbehandlungsgesetz, LGBl Nr 30/1996, as last amended by LGBl Nr 46/2001, superseded by Salzburger Gleichbehandlungsgesetz LGBl 31/2006; Equal Treatment Law Styria in 1997: Landes-Gleichbehandlungsgesetz LGBl. Nr. 63/1997 as last amended by LGBl. Nr. 45/2003, superseded by Landesgleichbehandlungsgesetz LGBl Nr. 66/2004. Equal Treatment Law Tyrol in 1997: Landes-Gleichbehandlungsgesetz, LGBl. Nr. 71/1997, as superseded by Landes-Gleichbehandlungsgesetz 2005, LGBl. Nr. 1/2005; Equal Treatment Law Lower Austria 1997, LGBl 2060-0 idF.2060-3 (2005); Equal Opportunities Law Vorarlberg in 1997: Gesetz zur Förderung der Chancengleichheit von Frauen und Männern, LGBl. Nr. 1/1997. Anti-discrimination Law Vorarlberg 2005, Gesetz über das Verbot der Diskriminierung, LGBl. Nr. 17/2005.

<sup>3</sup> Namensrechtsänderungsgesetz, BGBl Nr. 25/1995

<sup>4</sup> BGBl 759/1996

		dangerous attack on life, health or freedom is to be expected
Penal Code (Amendment) <sup>5</sup>		Introduction of § 104a Penal Code 'Exploitation of smuggling': a person may be punished for deceiving an alien into illegally entering the country or for enabling entering the country in order to exploit the person; sexual violence crimes against minors committed by an Austrian citizen abroad may be prosecuted in Austria regardless of legislation of the country where the crime was committed.
Alien Law <sup>6</sup>	1997	Introduction of limited residency permit for victims and witnesses of trafficking for the purpose of enabling a court procedure (penal and civil law)
Labour and Social Law (Amendment) <sup>7</sup>	1997	Employed person may negotiate decrease of norm working time with employer if he or she must care for close relatives
Labour and Social Law: Pension Reform <sup>8</sup>	1997	Introduction of limited social security for 'minor employment' (earning not more than €314 per month); insurance against work hazards
Ordinance by Minister for Labour <sup>9</sup>	1997	Aliens who are victims of violence or threatened by violence by their spouse may be granted working permits even if the maximum total number allotted for working permits for aliens has already been granted.
University Studies Law <sup>10</sup>	1997	Introduction of the principle of equal treatment between women and men in all legal norms relevant to universities; aim of institutionalising women's and gender studies in all new curricula
Equal Treatment Act (for Private Sector) (Amendment) <sup>11</sup>	1998	Employers must act to stop sexual harassment by third parties; Establishment of regional offices for Equal Treatment is introduced
Article 7 Federal Constitutional Law <sup>12</sup> (Amendment)	1998	Federal, provincial and local levels commit to de-facto equality of women and men; measures to promote de-facto equality such as quota are in accordance with constitutional principles
Penal Code (Amendment) <sup>13</sup>	1998	Range of punishment for sexual abuse crimes of minors is made higher; statute-barred prosecution of grave sexual abuse begins only after majority (18 years); introduction of 'gentle interrogation' for victims of sexual abuse crimes at court.

<sup>5</sup> § 104a Strafgesetzbuch (Penal Code), BGBl 762/1996

<sup>6</sup> § 10 para 4, Fremdengesetz 1997, BGBl I Nr. 75/1997, as last amended by BGBl. I Nr. 134/2000.

<sup>7</sup> BGBl I 139/1997; Arbeits- und Sozialrechts-Änderungsgesetz 1997

<sup>8</sup> BGBl I Nr 139/1997;

<sup>9</sup> Bundeshöchstzahlenüberziehungsverordnung, BGBl II 256/1997

<sup>10</sup> BGBl I Nr. 48/1997, Universtitäts-Studiengesetz

<sup>11</sup> The Equal Treatment Act for the private sector was originally introduced in 1979 and amended several times. The current version is BGBl. 108/1979 idF. BGBl I Nr. 82/2005

<sup>12</sup> BGBl I Nr. 68/1998

<sup>13</sup> BGBl I Nr 153/1998

Law on women's training in military service <sup>14</sup> 1998	Enables previously barred access of women to military service (voluntary)
Equal Treatment in Federal Service Act <sup>15</sup> (Amendment) entering harassment Commission. 1999	Introducing open maximum of financial compensation for discrimination on grounds of gender when or advancing in public service; sexual has to be reported to Disciplinary
Marriage Law (Amendment) <sup>16</sup> 1999	Clarification of distribution of tasks within marriage: tasks (such as gainful employment, household, child care) must be distributed 'with the aim of full balance of contributions' (if one spouse is gainfully employed and the other isn't, the non-employed spouse is obliged to do household and care work but the employed spouse is obliged to help); one spouse may unilaterally change the original agreement on distribution of tasks if there are important personal reasons (such as the wish to be gainfully employed) and this does no longer constitute a ground for divorce (through fault of one's own).
Maternity Leave Act, Paternity Leave Act 1999 (Amendment) <sup>17</sup>	Unpaid parental leave for mothers in addition to 16 weeks paid maternity leave <u>or unpaid parental leave for fathers until child's 2<sup>nd</sup> birthday</u> . Father's right to paternity leave independent of mother, but remains secondary to mother's right (no simultaneous parental leave possible)
Custody Law Amendment <sup>18</sup> 2000	Introduction of obligatory joint custody after divorce <sup>19</sup>
Childcare Benefit Law <sup>20</sup> 2001	Monthly child-care benefit (€436) per birth irrespective of former employment; only one parent may receive it at a time (no simultaneous receipt for both parents); dependent on eligibility for family benefit; maximum additional income of parent must be below € 14.600 per year; maximum period of 36 months <sup>21</sup> if parents share, maximum period 30 months for single parents and parents who don't share. Non-Austrian nationals must have valid long-term residency permit (both parent and child).
Parental Part-Time Work Act <sup>22</sup> 2004	Introduction of right to part-time work for parents up to child's 7 <sup>th</sup> birthday under restricted conditions (employed for 3 years and if employer has more than 20 employees)

<sup>14</sup> BGBl I Nr 30/1998, Gesetz über die Ausbildung von Frauen im Bundesheer

<sup>15</sup> The Act on Equal Treatment in Federal Service was first introduced in 1993 and amended several times. The current version is BGBl I Nr. 100/1993 idF BGBl I 53/2007.

<sup>16</sup> Eherechtsänderungsgesetz, BGBl Nr. 125/1999.

<sup>17</sup> Änderung des Muttschutz- und Väterkarenzgesetzes, BGBl. I Nr. 153/1999

<sup>18</sup> Kindschaftsrechtsänderungsgesetz, BGBl I Nr. 135/2000.

<sup>19</sup> The introduction of obligatory joint custody after divorce was heavily criticised with respect to its implications for gender equality, especially in relation to divorce after violence against women. The government at the time (Conservative Party ÖVP and right-wing Freedom Party FPÖ) labelled joint custody as a step towards gender equality by eliminating role stereotypes in Austria's Sixth Periodic Report to the CEDAW Committee (2004).

<sup>20</sup> Kinderbetreuungsgeldgesetz, BGBl. I Nr. 103/2001

<sup>21</sup> Labour law protection against dismissal ends after 24 months after birth of child.

<sup>22</sup> Elternteilzeitgesetz, BGBl. I. Nr. 64/2004.

Maternity Leave Act, Paternity Leave Act (Amendment) <sup>23</sup> was	2004	Father's and mother's right to parental leave is <u>reated exactly the same</u> . Earlier, the father's right secondary to the mother's, as the law did not allow for simultaneous parental leave for both.
Penal Code (Amendment) <sup>24</sup>	2004	Change of definition of crimes: differentiation between 'trafficking in persons' (§ 104a Penal Code) and 'trafficking crossing borders for the purpose of prostitution' (§ 217 Penal Code).
Federal Law on Equal Treatment (in federal service) (Amendment) <sup>25</sup>	2004	Change of previous equal treatment provisions in the area of public service, implementing EU-directives.
Law on Equal Treatment (Private Sector, Amendment) <sup>26</sup>	2004	Change of previous equal treatment provisions in the private sector, implementing EU-directives
Penal Code (Amendment) <sup>27</sup>	2006	Comprehensive changes in penal code, making dangerous threat against close relatives a crime to be prosecuted without consent by the victim, and introducing criminalisation of stalking (Anti-stalking-Law)
Insurance Law (Amendment) <sup>28</sup>	2006	Different insurance premium or insurance benefits for women and men are only admissible if the differentiation is based on a statistical and insurance-mathematical evaluation of risks. In health insurance, pregnancy and maternity may not lead to different premium or benefits for women and men.
Childcare Benefit Law (Amendment) <sup>29</sup>	2007	More flexible childcare benefits for either shorter time with higher amounts (20 months plus 4 months other parent, 15 months plus 3 months other parent) or longer time with lower amount (30 months plus 6 months other parent).

## **1.2 EU Policy and Member State Law: Comparisons and Struggles**<sup>30</sup>

***Have there been disputes in your country over significant parts of EU Directives on gender? Are there significant parts of EU Directives on gender equality that have not been implemented into national law? If some aspects are not transposed, what are they? Have there been disputes (1995-2007) between the EU and the country over transposition? Or within the country over this process? Or where local/national groups have gone direct to the EU? If so, what is the location of the dispute (e.g. intervention by Commission, Court of***

<sup>23</sup> BGBl. I. Nr. 64/2004, same as Law on Parental Part-Time Work.

<sup>24</sup> § 217 Strafgesetzbuch, BGBl I Nr. 15/2004

<sup>25</sup> Änderung des Bundes-Gleichbehandlungsgesetzes 2004 (BGBl I Nr. 65/2004)

<sup>26</sup> Gleichbehandlungsgesetz – GLBG und Änderung des Bundesgesetzes über die Gleichbehandlung von Frau und Mann im Arbeitsleben (Gleichbehandlungsgesetz), BGBl. I Nr. 66/2004, same as Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft (GBK/GAW-Gesetz).

<sup>27</sup> Strafrechtsänderungsgesetz 2006, BGBl. I. Nr. 56/2006. This information is not contained in Austria's Sixth periodic Report to CEDAW from 2004. However, the Penal Code amendment was the subject of a parliamentary inquiry by the Green Party in July 2006 to the Minister of Justice, requiring information on governmental measures against domestic violence. In the answer by the Minister of Justice (on behalf of the government, thus including on behalf of the Minister for Health and Women, the amendment is seen as a major step against domestic violence and towards gender equality.

<sup>28</sup> Versicherungsrechts-Änderungsgesetz 2006 (VersRÄG 2006), BGBl. I Nr. 95/2006. **Note:** This law has been named as law relevant for equal opportunities by the Ministry for Economy and Labour.

<sup>29</sup> Änderung des Kinderbetreuungsgeldgesetzes, des Karenzgeldgesetzes und des Allgemeinen Sozialversicherungsgesetzes BGBl. I Nr. 76/2007. Note: This law has been named as relevant for gender equality on the website of the Minister for Women, Media and Public Service in 2007. See also Tertinegg/Sauer 2007: Issue Histories Report Austria, 40.

<sup>30</sup> Directives: [http://ec.europa.eu/employment\\_social/gender\\_equality/legislation/legalacts\\_en.html](http://ec.europa.eu/employment_social/gender_equality/legislation/legalacts_en.html).

ECJ cases: [http://ec.europa.eu/employment\\_social/gender\\_equality/legislation/case\\_law\\_en.html](http://ec.europa.eu/employment_social/gender_equality/legislation/case_law_en.html); More info on transposition: [http://ec.europa.eu/employment\\_social/fundamental\\_rights/policy/aneval/legnet\\_en.htm#comp](http://ec.europa.eu/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#comp).

Justice; national court)? What was the outcome?

All these questions are very difficult to answer in detail because the transposition process is so complex. EU Directives are transposed into member state legislation in very different ways using different procedures, different terminology and different legal frames. The aim is to collect all the information that is available for your country in the table below, using secondary literature.

**Please fill in one table for each significant issue,**

**Please consider the following examples: include if relevant; omit if not; add any others that are relevant in your country. Examples: equal pay & equal treatment; sexual harassment & discrimination; equality bodies; civil society involvement; parental leave and the organisation of working time (example provided).<sup>31</sup>**

<b>Issue</b>	<b>Equal pay &amp; equal treatment</b> (equal pay: Article 141 Treaty of the European Community, Council Directive 75/117 EEC <sup>32</sup> ), for equal treatment see also below section on equality bodies
<b>Has law been passed or changed prior to the Directive</b>	No - regarding <u>equal pay</u> the Austrian law was passed after 1975 (first directive on equal pay) in 1979 (Equal Treatment Act for the private sector).  Regarding <u>equal treatment in employment in the private sector</u> , the 1990 amendment of the Equal Treatment Act introduced a provision allowing employers, collective agreements or laws to contain 'temporary special measures' to achieve an accelerated de-facto equality of women and men with reference to CEDAW. <sup>33</sup>  Regarding <u>equal treatment in federal service</u> (including measures for the advancement of the underrepresented sex), the first law containing women's advancement provisions was passed in 1993. The first amendment in 1999 introduced improvements regarding the equality machinery. The second amendment in 2001 introduced a provision with the aim to prevent 'automatic preference' for a woman. <sup>34</sup>
<b>Legislation transposing Directive</b>	'Equal Treatment Act' for employment in private sector in 1979, with most recent amendments in 1998, 2004, and further amendments scheduled to take place in 2008 (see above) 'Federal Equal Treatment Act' for employment in public service in 1993, amendments in 1999, 2001, 2004 (see above) Various 'Equal Treatment Acts for Public Service in Provinces' (1994-1997)
<b>Does the country claim to have transposed the Directive?</b>	Unclear, but the persistence of the gender pay gap is acknowledged <sup>35</sup> .

<sup>31</sup> Other gender+ equality related directives you might want to consider include: Directive 75/117/EEC on the principle of equal pay for men and women; Directive 79/7/EEC on the principle of equal treatment for men and women in social security; Directive 86/378/EEC on principle of equal treatment for men and women in occupational social security schemes; Directive 86/613/EEC on equal treatment between self employed men and women; Directive 92/85/EEC on the safety and health at work of pregnant workers and workers; Directive 97/80/EC on the burden of proof in cases of discrimination based on sex; Directive 2000/78 on equal treatment in employment and occupation.

<sup>32</sup> Council Directive [75/117/EEC](#) of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women

<sup>33</sup> BGBl Nr. I 410/1990, amendment to Equal Treatment Act.

<sup>34</sup> Doris Allhutter. 2003. Europäische Chancengleichheit von Frauen und Männern im österreichischen Recht. Linz: Trauner, 57

<sup>35</sup> Bundesministerium für Gesundheit und Frauen 2004. Diskriminierungsfreie Arbeitsbewertung und Arbeitsorganisation. Forschungsbericht. Wien. 3. See also 6th Austrian Report to CEDAW 2004, edited by Federal Ministry for Health and Women, 10.



<b>Significant provisions that are mentioned by experts or political actors as not being transposed</b>	Experts agree that the principle of <u>equal treatment regarding determining pay</u> has been transposed adequately in principle, as the Equal Treatment Act and the Federal Equal Treatment Act prohibit direct and indirect discrimination when determining pay. <sup>36</sup> Yet a <u>clarifying definition of 'work of equal value' is missing</u> in Austrian law, such as total of capacities and knowledge, responsibility and mental and bodily requirements and conditions of work. Evaluation of 'work of equal value' takes place at the lowest level of comparison, the individual employer. <sup>37</sup> Regarding <u>equal treatment apart from equal pay</u> , it is noted that amendments to the Austrian Equal Treatment Act in (1985, 1990), 1998, and 2001 failed to incorporate various aspects of the EU-directives, such as shifting the burden of proof and compensation provisions that are in line with EU-law. <sup>38</sup> Other equal treatment provisions of EU-law that have not been transposed include requirements regarding dialogue with NGOs, the facilitation of dialogue between employers and employees and the involvement of the Social Partners. <sup>39</sup>
<b>Important differences between law and Directive now?</b>	Regarding <u>equal pay</u> , the respective EU directives seem to allow for a broader range of comparison to determine 'work of equal value' than the Austrian law. Differences between Austrian law and the directive <a href="#">2006/54/EC</a> of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation <sup>40</sup> cannot be assessed due to lack of secondary literature.
<b>What is claimed to be better in law and since when?</b>	No information available.
<b>Content of dispute(s) + date</b>	Regarding <u>equal pay</u> , to the researcher's knowledge there was no major formal dispute between Austria and the EU that took the form of infringement proceedings.
<b>Has any other inequality been part of the transposition disputes? Which inequality axis?</b>	<u>Age, sexual orientation, religion or belief and ethnic origin</u> as grounds for discrimination were introduced by the 2004 major amendments of the Equal Treatment Act (for the private sector) and the Federal Equal Treatment Act (for federal service) . Before the law was passed, the Commission initiated an infringement procedure against Austria for the failure to transpose the respective directives in time (see below 1.4). Regarding <u>disability</u> , national experts heavily criticised that existing separate legislation on disability was amended rather than incorporating disability as a ground in the two Equal Treatment acts mentioned above. However, some legal experts judge the current situation regarding disability as covering far more than the EU-directive 2000/78/EC calls for, as the 2005 Federal Law on Equality of Disabled Persons covers all aspects of life. <sup>41</sup>
<b>Parties to the dispute</b>	Austria, European Commission (regarding transposition of EU anti-discrimination directives), various NGOs
<b>Location or arena</b>	Austrian and European level (infringement procedures 2004)
<b>Outcome of the dispute</b>	Austria passed the respective amendments to the Equal Treatment Act and the Federal Equal Treatment Act in 2005.

<sup>36</sup> Doris Allhutter. 2003. Europäische Chancengleichheit von Frauen und Männern im österreichischen Recht. Linz: Trauner, 65. Christopf Radlingmayer 2006: 188.

<sup>37</sup> Doris Allhutter. 2003. Europäische Chancengleichheit von Frauen und Männern im österreichischen Recht. Linz: Trauner, 65, 66.

<sup>38</sup> Allhutter 2003: 54.

<sup>39</sup> Requirements as derived from Articles 11 and 12 Directive 2000/43/EC, Articles 13 and 14 Directive 2000/78/EC and Articles 8b and 8c Directive 2002/73/EC, see: Radlingmayer 2006: 222..

<sup>40</sup> Directive [2006/54/EC](#) of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [Official Journal L 204 of 26.07.2006].

<sup>41</sup> Radlingmayr 2006:224.

<b>Civil society engagement</b>	Criticism for failure to implement EU-law in time. Statements to draft amendments. <sup>42</sup>
<b>Other notes</b>	None

<b>Issue</b>	<b>Sexual harassment</b> Directive 2002/73/EC <sup>43</sup> (principle of equal treatment for men and women in employment, vocational training and promotion, and working conditions)
<b>Has law been passed or changed prior to the Directive</b>	Yes. The 1992 amendment of the Equal Treatment Act for the private sector and the 1993 Federal Equal Treatment Act (for federal service) introduced sexual harassment as constituting discrimination and defined it comprehensively with reference to EU-norms. <sup>44</sup>
<b>Legislation transposing Directive</b>	1992 amendment of the Equal Treatment Act for the private sector 1993 Federal Equal Treatment Act (for federal service)
<b>Does the country claim to have transposed the Directive?</b>	Yes. Amendments in 2004 introduced 'gender based harassment' for both laws.
<b>Significant provisions that are mentioned by experts or political actors as not being transposed</b>	The definition of sexual harassment in Austrian laws is narrower than the definition in Directive 2002/73/EC, which means that more facts have to be fulfilled (unwanted behaviour and hostile environment) in order to legally constitute sexual harassment. <sup>45</sup>
<b>Important differences between law and Directive now?</b>	The definition of sexual harassment in Austrian law is narrower than the definition in Directive 2002/73/EC and does therefore not implement the full content of the directive, (see above).
<b>What is claimed to be better in law and since when?</b>	Sexual harassment by third parties other than employer, such as customers, colleagues, is covered in the Austrian law.
<b>Content of dispute(s) + date</b>	There was no formal dispute between Austria and the EU regarding sexual harassment. As for national level disputes, in 1998 the Equal Treatment Lawyer/Ombudsperson (body concerned with the implementation of the Equal Treatment Act for the private Sector), along with feminist lawyers, have criticised the <u>provisions for the burden of proof</u> regarding sexual harassment (victim has the full burden of proof) <sup>46</sup> . The provisions for burden of proof were improved regarding the victim's position by the 2004 amendments of the Equal Treatment Act and the Federal Equal Treatment Act. <sup>47</sup>

<sup>42</sup> See Tertinegg/Sauer 2007: Issue Histories Report Austria, 15-22.

<sup>43</sup> Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

<sup>44</sup> Such as the 1991 Recommendation of the Commission for the Protection of the Dignity of Women and Men at Work, Allhutter 2003:77

<sup>45</sup> In the directive, sexual harassment is defined as 'any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment'. The definition used in the Austrian Equal Treatment laws sees sexual harassment as constituted only if unwanted behaviour results in intimidating, hostile etc. environment, which means that both unwanted behaviour AND a hostile environment as a consequence have to be established. See Radlingmayer 2006:190.

<sup>46</sup> Anwaltschaft für Gleichbehandlungsfragen, 1998. Tätigkeitsbericht der Anwaltschaft für Gleichbehandlungsfragen, Wien (unpublished), cited in Allhutter 2003: 81.

<sup>47</sup> Radlingmayer 2006:205, 206

<b>Has any other inequality been part of the transposition disputes? Which inequality axis?</b>	No.
<b>Parties to the dispute</b>	Inner-Austria: Equal Treatment Lawyer/Ombudsperson (Anwaltschaft für Gleichbehandlungsfragen) and various feminist lawyers criticised the burden of proof regulation of the law and the corresponding jurisprudence by the Highest Court (OGH) <sup>48</sup>
<b>Location or arena</b>	National level legal discourse
<b>Outcome of the dispute</b>	Improvement of burden of proof regulation for victims in the 2004 amendments to Equal Treatment laws due to transposing EU-anti-discrimination directives.
<b>Civil society engagement</b>	No information available
<b>Other notes</b>	None

<b>Issue</b>	<b>Equality bodies</b> See also above section on equal pay
<b>Has law been passed or changed prior to the Directive</b>	No, after the Directive and after the infringement proceedings initiated by the Commission against Austria for failure to implement three anti-discrimination directives, see above 1.1.
<b>Legislation transposing Directive</b>	Amendment to Federal Law on Equal Treatment (in federal service) and Amendment to Equal Treatment Law (in private sector) in 2004, see above 1.1.
<b>Does the country claim to have transposed the Directive?</b>	Unclear
<b>Significant provisions that are mentioned by experts or political actors as not being transposed</b>	<p>The legal character and <u>grade of autonomy</u> of the Equal Treatment Commission (for the private sector), the Equal Treatment Lawyer/Ombudsperson and the Federal Equal Treatment Commission (for federal service) is disputed among legal experts.<sup>49</sup> The Equal Treatment Commission is considered to be formally part of the federal administration, and a material embodiment of social partnership due to its composition. It is not a court nor a tribunal as it cannot issue authoritative legal acts. It may be characterised as a special federal administrative body. Its independence from government and ministries does not seem to be granted.</p> <p>Disability as a ground for discrimination is not covered by the Equal Treatment Commissions, but by a separate Law for Disabled Persons.<sup>50</sup></p> <p>NGO involvement is not sufficiently granted.<sup>51</sup></p> <p>Only access to self-employment is protected against discrimination, while the anti-discrimination directives include contract- and working conditions for self-employed persons; inclusion of atypical employment is unclear.<sup>52</sup></p> <p>Unclear whether burden of proof provisions are transposed.<sup>53</sup></p>

<sup>48</sup> Radlingmayer 2006: 205, Allhutter 2003: 80.

<sup>49</sup> Franz Heidinger, Alix Frank-Thomasser, Thomas Schmid. 2004: Antidiskriminierung. Rechtliche Gleichbehandlung in Österreich und in der EU. Wien, LexisNexis. 31, also Doris Gerhartl 2005: Die Antidiskriminierungsrichtlinien der EU. Hintergrund, Analyse der Entstehungsgeschichte und Umsetzung der Richtlinien 2000/43/EG und 2000/78/EG in das österreichische Recht. Master Thesis, Wirtschaftsuniversität Wien, 151

<sup>50</sup> As provided for in the Federal Law on Equality of Disabled Persons, in force since January 2006 (Bundesbehindertengleichstellungsgesetz, BGBl. I Nr. 82/2005), see Tertinegg/Sauer 2007: 20, 37.

<b>Important differences between law and Directive now?</b>	<u>Independence and autonomy of equality bodies</u> is disputed (see above). <u>NGO involvement is not granted</u> (see below). <u>Self-employed persons</u> only partially protected against discrimination in access to self-employment; inclusion of <u>atypical employment</u> is unclear, unclear whether burden of proof provisions are transposed. (see above).
<b>What is claimed to be better in law and since when?</b>	No information available.
<b>Content of dispute(s) + date</b>	Infringement proceedings against Austria for failure to implement anti-discrimination directives, see above 1.1.
<b>Has any other inequality been part of the transposition disputes? Which inequality axis?</b>	Gender, ethnicity , religion or belief, age, sexual orientation and disability (according to the three anti-discrimination directives.)
<b>Parties to the dispute</b>	Austrian, EU Commission. National level critique, mainly from NGOs and legal experts.
<b>Location or arena</b>	National level legal discourse, public discourse, EU infringement proceedings.
<b>Outcome of the dispute</b>	Amendment to Federal Law on Equal Treatment (in federal service) and Amendment to Equal Treatment Law (in private sector) in 2004, draft amendments again in 2008 (see above 1.1). Federal Law on Equality of Disabled Persons in 2006.
<b>Civil society engagement</b>	Critique of draft laws and statements to draft laws by various NGOs, mostly in the field of anti-discrimination and gender, disability, sexual orientation, ethnicity
<b>Other notes</b>	None

<b>Issue</b>	<b>Civil society involvement</b>
<b>Has law been passed or changed prior to the Directive</b>	No
<b>Legislation transposing Directive</b>	None
<b>Does the country claim to have transposed the Directive?</b>	No information available
<b>Significant provisions that are mentioned by experts or political actors as not being transposed</b>	Directive 2000/43/EC (Articles 11 and 12), Directive 2000/78/EC (Articles 13 and 14), and Directive 2002/73/EC (Articles 8b and 8c) have not been transposed. <sup>54</sup>

<sup>51</sup> Gerhartl 2005:151

<sup>52</sup> Gerhartl 2005:149.

<sup>53</sup> Gerhartl 2005:148.

<sup>54</sup> Radlingmayer 2006: 222.

<b>Important differences between law and Directive now?</b>	Directive regarding involvement of NGOs in Austrian Equal Treatment laws has not been transposed. Since the amendment of the Equal Treatment Act in 2004 there is only very marginal 'involvement' of NGOs in the sense that NGOs may represent a victim before the Equal Treatment Commission in discrimination procedures, and that the Litigation Association of NGOs Against Discrimination (see below) may become an additional party to a discrimination case. <sup>55</sup>
<b>What is claimed to be better in law and since when?</b>	Nothing
<b>Content of dispute(s) + date</b>	Criticism by legal experts and NGOs that 'encouraging dialogue with NGOs' has not been transposed into national law in the Equal Treatment Laws.
<b>Has any other inequality been part of the transposition disputes? Which inequality axis?</b>	Various NGOs working in a broad antidiscrimination field have criticised the lack of transposition of the directive regarding NGO dialogue; they represent inequalities such as gender (including transgender), disability, sexual orientation, nationality and citizenship status, ethnic origin. <sup>56</sup>
<b>Parties to the dispute</b>	Legal experts, various NGOs representing different inequalities.
<b>Location or arena</b>	National level legal discourse
<b>Outcome of the dispute</b>	None so far.
<b>Civil society engagement</b>	Various NGOs working in a broad antidiscrimination field have criticised the lack of transposition of the directive regarding NGO dialogue; they represent inequalities such as gender (including transgender), disability, sexual orientation, nationality and citizenship status, ethnic origin. Some of these NGOs (see footnote 56) founded an umbrella organisation in 2004 <sup>57</sup> as a reaction to the non-transposition of the EU-directive regarding NGO involvement. The primary aims of the umbrella organisation include counselling victims of discrimination and raising awareness of the role of NGOs in anti-discrimination policy.
<b>Other notes</b>	Civil society involvement is not part of the new amendment to the Equal Treatment Act, which was passed in June 2008. <sup>58</sup>

<b>Issue</b>	<b>Parental leave and the organisation of working time</b>
<b>Has law been passed or changed prior to the Directive</b>	Yes (1979) but until 1990 it only applied to the mother. Since 1990, fathers have a principal right to paternity leave. The transposition of the Parental Leave Directive is better since 2005 (see 1.3 below for details)
<b>Legislation transposing Directive</b>	<u>Maternity Protection Act 1979</u> (see 1.3) <u>Paternity Leave Act 1989</u> (later renamed Parental Leave Act, see 1.3) <u>Amendment to Maternity Protection Act and Paternity Leave Act 1999</u> (see 1.3) <u>Amendment to Maternity Protection Act and Paternity Leave Act 2004, same as Parental Part-Time Work Act 2004</u> : mothers and fathers are given identical rights to parental leave; introduction of the right to part-time work for parents up to the child's 7 <sup>th</sup> birthday under restricted conditions (employed for 3 years and if employer has more than 20 employees) (see 1.3)

<sup>55</sup> Radlingmayer 2006:222.

<sup>56</sup> For a complete list of NGOs criticising the non-transposition, see <http://www.klagsverband.at/mitglieder.php>

<sup>57</sup> 'Klagsverband' – 'Litigation Association of NGOs Against Discrimination', <http://www.klagsverband.at>. They are financially supported by various ministries and the Federal Chancellery.

<sup>58</sup> Text of amendment as passed see [http://www.parlament.gv.at/PG/DE/XXIII/II/\\_00559/fname\\_110248.pdf](http://www.parlament.gv.at/PG/DE/XXIII/II/_00559/fname_110248.pdf)

<b>Does the country claim to have transposed the Directive?</b>	Unclear
<b>Significant provisions that are mentioned by experts or political actors as not being transposed</b>	Regarding maternity leave: some legal experts mention certain groups of women (such as nurses in training, dentist students and teachers during probationary period) as being partially excluded from maternity leave as provided by the EU-directive <sup>59</sup> , but it is unclear whether or not this has changed..
<b>Important differences between law and Directive now?</b>	Unclear, see above.
<b>What is claimed to be better in law and since when?</b>	Longer parental leave (since 1979 for mothers and since 1990 for fathers - but fathers' right is only secondary to mothers').
<b>Content of dispute(s) + date</b>	1999: EU Commission's infringement proceeding (99/2197) against Austria for failure to implement Parental Leave Directive.
<b>Has any other inequality been part of the transposition disputes? Which inequality axis?</b>	No information available.
<b>Parties to the dispute</b>	Austria, EU-Commission, legal experts
<b>Location or arena</b>	National level legal discourse, infringement proceedings 1999
<b>Outcome of the dispute</b>	Amendment to Maternity Protection Act and Paternity Leave Act in 2000 <sup>60</sup> and 2004 (see 1.3)
<b>Civil society engagement</b>	Criticism and statements to draft amendments
<b>Other notes</b>	None

### **1.3 Do any aspects of domestic gender equality law surpass (are better, more extensive, or more developed than) or earlier than EU law?**

	<b>EU</b>			<b>Country</b>		
	<b>Provision</b>	<b>Year</b>	<b>Notes</b>	<b>Provision</b>	<b>Year</b>	<b>Notes</b>
<b>Maternity</b>	Maternity Protection Directive <sup>61</sup>	1992	14 weeks maternity leave	Maternity Protection Act	1979	<b>Surpass:</b> Amendments 1993, 2000. <u>16 weeks of paid maternity leave</u> (two more than Directive minimum standard), plus possibility to unpaid (parental) leave for one year for mother only.

<sup>59</sup> Allhutter 2003:95.

<sup>60</sup> BGBl. I Nr. 153/1999

<sup>61</sup> Council Directive [92/85/EEC](#) of 19 October 1992 concerning the implementation of measures to encourage improvements in the safety and health of pregnant workers, workers who have recently given birth and women who are breastfeeding.

<b>Paternity</b>	Parental leave Directive <sup>62</sup>	1996	Parental leave for <u>three months minimum</u> individual right for father and mother	Paternity Leave Act (before 2001: Parental Leave Act)	1990 <sup>63</sup>  2000 <sup>64</sup>  2005 <sup>65</sup>	<p><b>Surpass:</b> Introduction of parental leave for father in 1990 (previously unpaid parental leave was restricted to the mother, following 16 weeks paid maternity leave.)</p> <p><b>Surpass:</b> Length: Paternity leave for the father is independent of the mother (unpaid) <u>until child's 2<sup>nd</sup> birthday</u> (since 2001)</p> <p><b>Surpass since infringement:</b> Father's and mother's right to parental leave is <u>treated exactly the same</u>. Before, father's right was secondary to the mother's, as the law did not allow for simultaneous parental leave for both.</p>
<b>Parental</b>	Parental leave Directive <sup>66</sup>	1996	Parental leave for <u>three months minimum</u> individual right for father and mother	Maternity Protection Act, Paternity Leave Act (before 2001: Parental Leave Act)	1979 <sup>67</sup>  2000 <sup>68</sup>  2000 <sup>69</sup>  2005 <sup>70</sup>	<p><b>Surpass length for mother:</b> <u>one year</u> parental leave (unpaid) for mother in addition to 16 weeks paid maternity leave</p> <p><b>Surpass length for mother after infringement:</b> Parental leave (unpaid) for mother in addition to 16 weeks paid maternity leave <b>or</b> parental leave for father <u>until child's 2<sup>nd</sup> birthday</u>, parental leave may be taken in turn twice.</p> <p><b>Surpass length for father after infringement:</b> Paternity leave for father independent of mother (unpaid) <u>until child's 2<sup>nd</sup> birthday</u>, but father's right to paternity leave is secondary to mother's and simultaneous leave is not possible.</p> <p><b>Surpass length for father since 2005 after</b></p>

<sup>62</sup> Council Directive [96/34/EC](#) of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

<sup>63</sup> Paternity Leave Act (Väter-Karenzgesetz, BGBl. Nr. 651/1989).

<sup>64</sup> Before the 2000 amendment (BGBl. I Nr. 153/1999), the father's right to parental leave was derived from the mother's and not individual, see Allhutter 2003:98. This non-compliance with the EU Parental Leave Directive resulted in infringement proceedings against Austria in 1999 (99/2197).

<sup>65</sup> With the new law (BGBl. I Nr 64/2004), in force since January 1, 2005, father's and mother's right to parental leave is treated exactly the same. Before, father's right to parental leave was secondary to the mother's, as the law did not allow for simultaneous parental leave for both parents. An independent right of the father to father's leave was created in 2000 after EU infringement proceedings, see footnote above.

						<b>infringement: Father's and mother's right to parental leave until child's 2<sup>nd</sup> birthday is treated exactly the same.</b> Before, father's right was secondary to the mother's, as the law did not allow for simultaneous parental leave for both.
<b>Duty on all public bodies to promote GE</b>	Treaty of Amsterdam (Article 2, 3 paragraph 2)	1997		Amendment to constitution (Article 7 Abs 2 B-VG)  Decision by Council of Ministers on Gender Mainstreaming  Ratification of CEDAW	1998  2000, 2002, 2004  1982	<b>Do not surpass!</b> Aim of de-facto equality for all federal, provincial and regional levels  2000: Set-up of interministerial working group on gender mainstreaming <sup>71</sup>  <b>Surpass in principle!</b> Already in 1982, international obligation to end all forms of discrimination against women and achieve de-facto equality with men at all levels <sup>72</sup> to enable recognition and enjoyment of all human rights by all women under Austrian jurisdiction.
<b>Equalities body (employment)</b>						<b>Unclear, for detailed information see above 1.2</b>
<b>Equalities body (goods &amp; services)</b>				None, only for ethnicity	2004	<b>Does not surpass</b>
<b>Equalities body for promotion</b>				Only for federal service	1993	<b>Unclear, see 1.2</b>
<b>Gender pay audits</b>				None		
<b>Gender Equality plan (employment)</b>				Only for federal service	1993	<b>Unclear, see 1.2</b>

<sup>66</sup> Council Directive [96/34/EC](#) of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

<sup>67</sup> 1979 Maternity Protection Act (Mutterschutzgesetz, BGBl. I Nr. 53/2007)

<sup>68</sup> Before the 2000 amendment (BGBl. I Nr. 153/1999), the father's right to parental leave was derived from the mother's and not individual, see Allhutter 2003:98.

<sup>69</sup> see footnote above, Allhutter 2003:98.

<sup>70</sup> With the new law (BGBl. I Nr. 64/2004), in force since January 1, 2005, a father's and mother's right to parental leave is treated exactly the same. Before, father's right to parental leave was secondary to the mother's, as the law did not allow for simultaneous parental leave for both parents. An independent right of the father to father's leave was created in 2000, see footnote above.

<sup>71</sup> <http://www.imag-gendermainstreaming.at/cms/imag/content.htm?channel=CH0518&doc=CMS1060357872986>

<sup>72</sup> In Austria, CEDAW is part of the legal system (Articles 1- 4 are part of the constitutional law), but its content is not directly applicable law but has to be transposed by relevant legal acts. See Tertinegg (2000), Die UN-Konvention zur Beseitigung jeder Form von Diskriminierung der Frau und ihre Umsetzung in Österreich.



<b>Requires NGO dialogue to be encouraged</b>				None		
<b>Positive action measures</b>				Only in public service (40 % quota of women), in private sector only 'allowed' but not obligatory in any way	1993 1990	Federal level, see 1.2  Allowing temporary special measures in private sector but not obligatory <sup>73</sup>
<b>Public bodies to promote racial equality</b>				Yes	2004	<b>Does not surpass, see 1.2</b>
<b>If there are no sanctions for violating the law, please state this</b>						

#### 1.4 Equality law on intersecting inequalities

1. *Is discrimination on the grounds of ethnicity/'race' illegal* Yes.

Discrimination on grounds of 'ethnic affiliation' is prohibited in employment, access to goods and services and access to space and services meant for general public use.

- *When was this law introduced?* 2004, 2005

Two laws were introduced in 2004. Both the Federal Equal Treatment Law<sup>74</sup> and the Law on Equal Treatment (in the private sector)<sup>75</sup> were completely revised as to incorporate the EU-anti discrimination directives (Race Directive 2000/43/EC, and amended Equal Treatment Directive 2002/73/EC) after a court procedure initiated by EU Commission for failure to implement these directives. Age, ethnic origin, religion or belief and sexual orientation were added to gender (as the only previous ground of discrimination) in employment (both the public and the private sector). Discrimination on grounds of ethnic origin was expanded to cover access to goods and services.<sup>76</sup>

In 2005, the Introductory Law to Laws Regulating Administrative Procedure was amended.<sup>77</sup> Discrimination against a person on grounds of race, colour of the skin, national or ethnic origin, religion or belief or disability by preventing the person from **access to space or services** meant for general public use constitutes an administrative offence and is punished with up to €1090.

- *Is this restricted to employment related issues?* No.

<sup>73</sup> Amendment to Equal Treatment Law (for the private sector), BGBl Nr 410/1990 (Änderung des Gleichbehandlungsgesetzes)

<sup>74</sup> BGBl I Nr. 65/2004 (Änderung des Bundes-Gleichbehandlungsgesetzes)

<sup>75</sup> BGBl I Nr. 66/2004 (Gleichbehandlungsgesetz – GIBG und Änderung des Bundesgesetzes über die Gleichbehandlung von Frau und Mann in Arbeitsleben)

<sup>76</sup> See Karin Tertinegg, Birgit Sauer (2007): Issue Histories Report Austria, 20.

<sup>77</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen (EGVG) 1991, BGBl. Nr. 50/1991, idF BGBl. I Nr. 106/2005.

The 2005 Amendment of the Introductory Law to Laws Regulating Administrative Procedure prohibits discrimination on grounds of ethnic origin regarding access to space and services meant for general public use. The Federal Equal Treatment law is restricted to employment in federal service. The Law on Equal Treatment (in the private sector) prohibits discrimination in employment in private sector on grounds of gender, age, ethnic origin, religion or belief, and sexual orientation, and discrimination in access to goods and services on grounds of ethnic origin.

- *Does it include the sale and supply of services?* Yes.

The Law on Equal Treatment (in the private sector) extends the prohibition of discrimination in access to goods and services on grounds of ethnic origin.<sup>78</sup> The 2005 Amendment of the Introductory Law to Laws Regulating Administrative Procedure concerns access to space and services meant for general public use

- *What disputes if any took place during its introduction?*

Court procedures in 2004 and 2005 against Austria initiated by the EU Commission for failure to implement the Employment Framework Directive (2000/78/EC) and the Race-Directive (2000/43/EC)

<sup>79</sup>

- 2. *Is discrimination on the grounds of religion illegal* Yes

Discrimination on grounds of religion is prohibited in (general) employment and employment in federal service (with an exception clause)<sup>80</sup>, and in access to space and services meant for general public use.<sup>81</sup>

- *When was this law introduced?* 2004, 2005

Two laws were introduced in 2004. Both the Federal Equal Treatment Law and Law on Equal Treatment (in the private sector) (see above) were completely revised to incorporate the EU-anti discrimination directives (Race Directive 2000/43/EC, and the amended Equal Treatment Directive 2002/73/EC) after court procedures initiated by the EU Commission for failure to implement these directives. Age, ethnic origin, religion or belief and sexual orientation were added to gender? (the only previous ground of discrimination).

In 2005, the Introductory Law to Laws Regulating Administrative Procedure was amended.<sup>82</sup> Discriminating against a person on grounds of race, colour of the skin, national or ethnic origin, religion or belief or disability by preventing the person from **access to space or services** meant for general public use constitutes an administrative offence and is punished with up to €1090

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<sup>78</sup> Tertinegg/Sauer 2007:21

<sup>79</sup> ECJ Decision on non-transposition of Race-Directive (2000/43/EC) in Austria [C335/04, http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/ip05\\_543\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/ip05_543_en.pdf); as well as legal actions against Austria regarding Employment Framework Directive (2000/78/EC), [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/arct/prinfringe947\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/arct/prinfringe947_en.pdf)

<sup>80</sup> In the Amendment of the Federal Equal Treatment Law and the Amendment to the law on Equal Treatment (in the private sector) of 2004, there are exception clauses for employment for public organisations whose ethical principles are based on religious principles. (§ 13b Federal Equal Treatment Law, BGBl. I. Nr. 65/2004 and § 20 Equal Treatment Law, BGBl. I. Nr. 66/2004)

<sup>81</sup> 2005 Amendment of the Introductory Law to Laws Regulating Administrative Procedure, Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005

<sup>82</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005.

- *Is this restricted to employment related issues?* In principle, yes.

The 2004 laws, Federal Equal Treatment Law (for the federal public sector) and Law on Equal Treatment (in the private sector), are restricted to employment related issues.

- *Does it include the sale and supply of services?* Partly.

The 2005 Introductory Law to Laws Regulating Administrative Procedure prohibits discriminating against a person on grounds of race, colour of the skin, national or ethnic origin, religion or belief or disability by preventing the person from **access to space or services** which are meant for general public use.<sup>83</sup>

- *What disputes if any took place present during its introduction?*

Court procedures in 2004 and 2005 against Austria initiated by EU Commission for failure to implement anti-discrimination directives.<sup>84</sup>

### 3. *Is discrimination on the grounds of sexual orientation illegal* Yes.

- *When was this law introduced?* 2004, 2005

Two laws were introduced in **2004** to cover discrimination in general and federal employment. Both the Federal Equal Treatment Law and Law on Equal Treatment (in the private sector) (see above) were completely revised to incorporate EU-anti discrimination directives (Race Directive 2000/43/EC, and amended Equal Treatment Directive 2002/73/EC) after court procedures initiated by the EU Commission for failure to implement these directives. Age, ethnic origin, religion or belief and sexual orientation were added to gender as the only previous ground of discrimination.

In **2005**, the Introductory Law to Laws Regulating Administrative Procedure prohibits discriminating against a person on grounds of religion or belief by preventing the person from **access to space or services** which are meant for general public use<sup>85</sup>

- *Is this restricted to employment related issues?* Yes, in principle.
- *Does it include the sale and supply of services?* Partly.

In **2005**, the Introductory Law to Laws Regulating Administrative Procedure prohibits discriminating against a person on grounds of religion or belief by preventing the person from **access to space or services** which are meant for general public use<sup>86</sup>

- *What disputes if any took place during introduction of these laws?*

Court procedure in 2004 against Austria initiated by EU Commission for failure to implement anti-discrimination directive Employment Framework Directive (2000/78/EC).<sup>87</sup>

<sup>83</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005.

<sup>84</sup> ECJ Decision on non-transposition of Race-Directive (2000/43/EC) in Austria [C335/04, http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/ip05\\_543\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/ip05_543_en.pdf); as well as legal actions against Austria regarding Employment Framework Directive (2000/78/EC), [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/arct/prinfringe947\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/arct/prinfringe947_en.pdf)

<sup>85</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005.

<sup>86</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005.

<sup>87</sup> Legal actions against Austria regarding non-transposition of Employment Framework Directive (2000/78/EC), [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/arct/prinfringe947\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/arct/prinfringe947_en.pdf)

4. *Is discrimination on the grounds of disability illegal* Yes.

- *When was this law introduced?* 1970, 2005

The Federal Law on Equality of Disabled Persons (valid for non-discrimination on grounds of disability in federal service only) was adopted in 2005.<sup>88</sup>

The Federal Law on Hiring and Employing Disabled People (concerning the private sector) was adopted in 1970, and amended in 2005.<sup>89</sup> From 1970 onwards, it obliges employers with more than 25 employees to hire one disabled person with Austrian nationality (with disability resulting in minimum 50% reduced capacity to work) per 25 employees, if that condition is not met the employer has to pay a fine of up to €727. EEC nationalities and recognized asylum status are to be considered equal to Austrian nationality. General anti-discrimination provisions in employment on grounds of disability were introduced in 2005.<sup>90</sup>

- *Is this restricted to employment related issues?* In principle, yes.

The 2005 Federal Law on Equality of Disabled Persons (valid for non-discrimination on grounds of disability in federal service only) and the 2005 Federal Law on Hiring and Employing Disabled People are **restricted to employment**.

The 2005 Introductory Law to Laws Regulating Administrative Procedure prohibits discrimination on grounds of disability by preventing from **access to space or services meant for general public use**.

- *Does it include the sale and supply of services?*

In 2005, the Introductory Law to Laws Regulating Administrative Procedure was amended.<sup>91</sup> Discriminating against a person on grounds of **disability** by preventing the person from **access to space or services** which are meant for general public use constitutes an administrative offence and is punished with up to 1090 €.

- *What disputes if any took place during introduction of these laws?*

Court procedure in 2004 against Austria initiated by EU Commission for failure to implement anti-discrimination directive (2000/78/EC).<sup>92</sup>

5. *Is discrimination on the grounds of age illegal* Yes

- *When was this law introduced?* 2004

Two laws were introduced in 2004. Both the Federal Equal Treatment Law and Law on Equal Treatment (in the private sector) (see above) were completely revised to incorporate EU-anti discrimination directives (Race Directive 2000/43/EC, and amended

<sup>88</sup> Federal Law on Equality of Persons with Disabilities, Bundesgesetz über die Gleichstellung von Menschen mit Behinderungen, BGBl. I. Nr. 82/2005.

<sup>89</sup> Federal Law on Hiring and Employing Disabled People, Bundesgesetz über die Einstellung und Beschäftigung Behinderter, BGBl. Nr. 22/1970, in der Fassung BGBl. I □Nr. 82/2005

<sup>90</sup> Anti-discrimination provisions were added in the new §§ 7a-7r, Federal Law on Hiring and Employing Disabled People.

<sup>91</sup> Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 1991, BGBl. Nr. 50/1991, in der Fassung BGBl. I Nr. 106/2005.

<sup>92</sup> Legal actions against Austria regarding non-transposition of Employment Framework Directive (2000/78/EC), [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/arct/prinfringe947\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/arct/prinfringe947_en.pdf)

Equal Treatment Directive 2002/73/EC) after court procedures initiated by the EU Commission for failure to implement these directives. Age, ethnic origin, religion or belief and sexual orientation were added to gender as the only previous ground of discrimination

- *Is this restricted to employment related issues?* Yes.
- *Does it include the sale and supply of services?* No,
- *What disputes if any took place during introduction of these laws?*

Court procedure in 2004 against Austria initiated by EU Commission for failure to implement anti-discrimination directive (Employment Framework Directive 2000/78/EC)<sup>93</sup>.

6. *Is discrimination on the grounds of marital status illegal?* Yes

For federal service: discriminatory use of the criteria 'family status' when deciding on male or female applicants for or within federal service is prohibited, comprising both marital status and whether having a child or not.<sup>94</sup> For employment in private sector, discrimination on grounds of gender, especially in relation to marital or family status, is prohibited.<sup>95</sup>

- *when was this law introduced?* 2004
- *Is this restricted to employment related issues?* Yes
- *Does it include the sale and supply of services?* No
- *What disputes if any took place during introduction of these laws?*

Court procedures in 2004 and 2005 against Austria initiated by EU Commission for failure to implement anti-discrimination directives.

7. *Are there further legal issues, especially disputed legal issues, concerning the intersection of equalities with gender that are relevant?*

The intersection **nationality/citizenship status and gender** has been an issue regarding entitlement for family-related benefits (family allowance, child-care benefit) since the restrictive amendment of 'Alien Law Package'<sup>96</sup> in 2005. Prior to the Alien Law Package, non-Austrian nationals were entitled to family benefits if they were employed for more than three months in Austria. With the Alien law Package in 2005, these criteria were changed: non-Austrian nationals and their children were only entitled to family-related benefits if they had 'legitimate residence status' according to the Residency and Domicile Act, which means either recognised asylum status or a residency and domicile card.<sup>97</sup> In the debate on the amendment of the Childcare Benefit Law in 2006, the intersection of citizenship status and nationality with gender was a hot issue, and there were several media reports about non-Austrian mothers who only received these family

<sup>93</sup> Legal actions against Austria regarding non-transposition of Employment Framework Directive (2000/78/EC), [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/arct/prinfringe947\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/arct/prinfringe947_en.pdf)

<sup>94</sup> § 5 Federal Law on Equal Treatment, BGBl I Nr. 65/2004

<sup>95</sup> § 3 Equal Treatment Law, BGBl I. Nr. 66/2004

<sup>96</sup> Alien Law Package, Fremdenrechtspaket, BGBl I Nr. 100/2005, see also: Issue Histories Report Austria, 49.

<sup>97</sup> § 3 Family Burden Relief Law (Familienlastenausgleichsgesetz, BGBl. I. Nr. 376/1967 idF BGBl. I Nr. 103/2007

related benefits once they had proven their legal residency status, and did not get paid retrospectively in case it took them some time to provide the necessary documents – this was changed with the Amendment of the Childcare Benefit Law<sup>98</sup>. Another issue was that persons not entitled to asylum, but to provisional protection (who cannot be deported to country of origin due to threat of death, torture etc.), were excluded from these family-related benefits.<sup>99</sup> A Constitutional Court Decision in March 2007 found that it was legitimate to exclude asylum-seekers from family-related benefits, as it was within the legitimate ‘range of discretion of the lawmaker’ to make the granting of family benefits dependent on a ‘qualified close relationship to Austria’. Persons receiving basic subsidy by the state (such as asylum seekers and their children) may thus legitimately be excluded from family benefits, and this does not contradict equality considerations.<sup>100</sup>

## **2. Plans and programmes**

*Two types of national gender equality plans are considered here. The first set of questions concerns plans specific to the country. (Please include not only if they are called ‘national gender equality plans’ or but also if they are just a sub-section of a larger national development plan.) The second set of questions refers to the National Reform Programmes for employment and National Reports (National Action Plans) on Strategies for social inclusion and social protection that the EU requires annually from each Member State.*

### **2.1 National gender equality plans**

*2.1.1 Is there a national gender equality plan? Or a gender equality component of a national development plan.*

No, there is no gender equality plan in Austria in general. However, there are National Action Plans for Employment (see below), a National Action Plan Against Trafficking in Human Beings (see below), a National Action Plan for the Rights of Children and Young Persons (see below).

- *If yes please name and describe very briefly the range of issues that it covers (in particular, how far beyond employment does it go?)* Not applicable
- *Is the focus restricted to non-discrimination?* Not applicable
- *Is there reference to gender mainstreaming?* Not applicable
- *Are there named policy instruments and/ institutions, if so what?* Not applicable
- *Are there indicators and statistics to evaluate the policies?* Not applicable
  
- *Is there reference to EU targets (European Employment Strategy targets: Lisbon (2000) female employment rate of 60% by 2010; Barcelona (2002) provision of childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under 3 years of age)? (Add age here)*

Not applicable

*2.1.2 Is gender equality integrated with other equalities in a national plan?*

*If yes please name and describe very briefly the range of issues that it covers, in particular, how far beyond employment does it go? Is it framed by equality or by diversity or both or a similar goal (e.g. equal opportunities)? If so, please specify.*

<sup>98</sup> Law Amending the Family Burden Compensation and Childcare Benefit Law, BGBl I Nr.

<sup>99</sup> Karin Tertinegg, Birgit Sauer 2007: Issue Histories Report Austria, 38.

<sup>100</sup> Decision by the Constitutional Court, VfGH Beschluss 16.03.2007 B 1397/06

There is a NAP against Trafficking in Human Beings (2007)<sup>101</sup>. The plan does not explicitly refer to gender equality, but rather lists involved institutions. The framing is informed by reference to human rights (CEDAW, UN Convention on the Rights of the Child) on the one hand and combating crime on the other hand.

There is a NAP on the Rights of Children and Young Persons (2004)<sup>102</sup>. The plan refers to age and gender as two inequality axes to be considered, and to gender mainstreaming as determining consequences of policies for all groups of society (meaning generations, not gender!). Traditional role stereotypes for girls and boys are addressed. Equal opportunities and protection from discrimination of children and young persons are also addressed as a concept. The overall framing seems to be human rights based (reference to UN Convention on the Rights of the Child).

### 2.1.3 Is there a gender equality (or similar) plan in the area of gender based violence

If yes please name the plan. Does it cover:

- *Domestic violence and violence in partnerships* No
- *Sexual assault/violence and rape* No, but parts of the NAP on the Rights of Children and Young Persons (2004) refer to sexual violence against children, but there is hardly any attention to gender nor a section on gender equality. Gender mainstreaming is referred to both in the context of generations in the section 'Basic Demands on New Children's and Youth Policy' and in the context of traditional gender role stereotypes in the section 'Right to Education and Work'.
- *Sexual harassment and stalking* No
- *Trafficking and prostitution* Yes regarding trafficking, but not prostitution. There is the general National Action Plan against Trafficking in Human Beings (2007). Parts of the National Action Plan on the Rights of Children and Young Persons (2004) refer to the right to protection from economic and sexual exploitation and child trafficking, but this is framed in a gender-neutral way.
- *Forced marriage, honour crimes and FGM* No.

There is no action plan, but a report by the Government of Austria on measures taken against 'Harmful Traditional Practices Affecting Women in Austria' of 2006.

*Does the plan include:*

- *named policy instruments and/or institutions, if so what;*

The NAP against Trafficking in Human Persons (2007) names various institutions responsible for action, prevention, protection of victims and criminal prosecution at both federal and provincial levels as well as NGOs working in the field of trafficking.

The NAP for the Rights of Children and Young Persons (2004) lists the following policy instruments and actors (in the section on protection from economic and sexual exploitation and child trafficking): awareness raising campaigns, best-practice examples in tourism and amendment of the penal code. Institutions responsible for action are the federal government, Ministry of the Interior and the federal office for crime, NGOs active in prevention of sexual exploitation of children, the NGO LEFÖ-IBF for women concerned by trafficking, and the association of Austrian Internet Providers.

<sup>101</sup> Nationaler Aktionsplan gegen den Menschenhandel, Ministry of Foreign Affairs (2007), adopted by the Federal Government on March 28, 2007.

<sup>102</sup> Nationaler Aktionsplan für die Rechte von Kindern und Jugendlichen (2004), coordinated by Federal Ministry for Social Security, Generations and Consumer Protection, see: [http://www.kinderrechte.gv.at/home/upload/30%20oesterreich/nap\\_041123\\_ov.pdf](http://www.kinderrechte.gv.at/home/upload/30%20oesterreich/nap_041123_ov.pdf)

- *indicators and statistics to evaluate the policies, if so which?* No

Neither the NAP against Trafficking in Human Beings (2007) nor the NAP for the Rights of Children and Young Persons (2004) list indicators or statistics to evaluate policies.

## **2.2 EU required National Reform Programme (National Action Plan) for Employment**

- *Does the EU required National Reform Programme for employment (in which one of the ten guidelines concerns gender mainstreaming) include a significant set of actions concerning gender equality? If so, what are these? Member state reports 2006: [http://ec.europa.eu/growthandjobs/key/nrp2006\\_en.htm](http://ec.europa.eu/growthandjobs/key/nrp2006_en.htm)*

In the Austrian First Implementation Report 2006<sup>103</sup>, reference to the European Pact for Gender Equality of March 2006 is made in the chapter 'Employment Policy'. It is stated that gender equality measures are crucial for reaching overall growth and employment goals. The five areas of action listed are 1. reconciliation of work and family life, 2. reducing the gender pay gap, 3. promoting the employment of women, 4. gender mainstreaming and 5. expanding childcare facilities. Only gender pay gap and childcare facilities are expanded on.

The following (past and future) measures to **close the gender pay gap** are listed:

1. Programmes for promoting women in trade, research and technology (as reducing gender-specific segregation)
2. Various awareness raising and information activities (to combat gender stereotypes, to promote equal treatment and gender-specific compensation)
3. Mentoring programmes for women ('to strengthen individual women's power of negotiation')
4. Training for equal pay agents (to reduce the gender pay gap)
5. International conference for social partners (to encourage activity in their field of responsibility).

The following (past and future) measures regarding **childcare facilities** are listed:

1. Funds provided by the Länder (provinces) to extend opening hours of childcare facilities.
2. Funds provided by the Federal Government for testing innovative projects for childcare facilities
3. Adjusting the education system to the labour market (universal introduction of five-day week in the compulsory school sector)
4. Expansion of all-day care facilities for 6-14 year old children.
5. Informing parents about the possibility of all-day care
6. Survey identifying demand for all-day care
7. Improve conditions for reconciliation of work and family life, including part-time education opportunities, tax deductibility of childcare expenses, demand-based opening hours, affordable care during holidays, founding of platform 'Austrian Family Alliance' and its coordinating agency 'Familie und Beruf GmbH'
8. Introduction of the childcare benefit.

- *Did the EU appointed National Expert (part of the EU Network of Experts on Gender and Employment and Social Inclusion) made (have) critical or positive comments on*

<sup>103</sup> Austrian Reform Programme for Growth and Employment, First Implementation Report, September 2006, download at [http://ec.europa.eu/growthandjobs/pdf/nrp/AT\\_nrp\\_en.pdf](http://ec.europa.eu/growthandjobs/pdf/nrp/AT_nrp_en.pdf)



*the gender equality dimension of the member state's programme? If so, what are these?* EGGSIE 2005 report see: [http://ec.europa.eu/employment\\_social/gender\\_equality/docs/2006/final\\_nrp\\_synthesis\\_2005\\_en.pdf](http://ec.europa.eu/employment_social/gender_equality/docs/2006/final_nrp_synthesis_2005_en.pdf)

The overall evaluation of the National Expert on Austria is rather critical, with the exception of some positive comments. In the Summary on Gender mainstreaming in the National Reform Programme, the critical points of the National Expert on Austria are the following:

1. No adequate gender mainstreaming approach throughout the whole National Reform Programme for Austria (similar to NAP Employment 2004).
2. Gender mainstreaming and/or women-specific measures are only found in the employment guidelines, primarily under guideline 18 which seems to have substituted the gender guideline of the previous NAP employment.
3. The continually falling quality of jobs for women is not dealt with.
4. Policies to expand childcare facilities are lacking.

Positive remarks the National Expert on Austria are:

1. Listing of several new policy measures aiming at reduction of gender segregation in the labour market and reduction of the gender pay gap.

The National Expert on Austria states however, that these new policy measures, which are evaluated as positive, are a reaction to the continually rising women's unemployment.

- *Did the EU Commission's response to the National Reform Programme for employment include recommendations on gender equality? If so, what were these? EC response:* [http://ec.europa.eu/growthandjobs/european-dimension/200712-annual-progress-report/index\\_en.htm](http://ec.europa.eu/growthandjobs/european-dimension/200712-annual-progress-report/index_en.htm)

The EU Commission's response was mainly positive in stating that Austria made significant progress in implementing its NRP, and that it has shown good progress in fulfilling commitments agreed by the 2006 European Spring Council in the four priority areas.

The **only reference to gender equality** is found in the Commission's recommendation to focus on the challenges of, among various other points, **tackling the gender segregation of the labour market, including by further improving the availability of childcare.**<sup>104</sup> This means that the evaluation of the EU appointed National Expert on Austria (see question above) were not taken into account by the Commission in its conclusions on Austria.

### **2.3 EU required National Reports (National Action Plans) on Strategies for Social Protection and Social Inclusion**

- *Does the EU required National Report on Strategies for Social Inclusion include a significant set of actions concerning gender equality, including gender-based violence? If so, what are these?*

In the 2006 (first) National Report on Strategies for Social Protection and Social Inclusion of Austria<sup>105</sup>, the areas reported are not gendered. Measures for women are mentioned in the subchapters on lone mothers and women in employment, some attention is given to retired women. There is no reference to gender-based violence.

<sup>104</sup> Section 28 of the EU Commission's Assessment of National Reform Programmes for Growth and Jobs (Austria), 2007, download at [http://ec.europa.eu/growthandjobs/pdf/european-dimension-200712-annual-progress-report/200712-annual-progress-report-AT\\_de.pdf](http://ec.europa.eu/growthandjobs/pdf/european-dimension-200712-annual-progress-report/200712-annual-progress-report-AT_de.pdf)

<sup>105</sup> [http://www.bmsk.gv.at/cms/site/attachments/0/7/5/CH0335/CMS1083929522616/strategy\\_report\\_social\\_inclusion.pdf](http://www.bmsk.gv.at/cms/site/attachments/0/7/5/CH0335/CMS1083929522616/strategy_report_social_inclusion.pdf)

In the 2007 Supplementary Report to the National Report on Strategies for Social Protection and Social Inclusion<sup>106</sup>, measures mentioned for women in the section 'More labour market opportunities' is 'training for girls in atypical vocations', as well as more childcare facilities, child-care benefit flexibilisation and creating a supplement for longer work. A Gender Mainstreaming approach to labour market policies is mentioned. No other chapter is gendered, including chapters on pensions, individuals with disabilities, and migrants. There is no reference to gender-based violence.

- *Did the EU Expert Group on Gender, Social Inclusion and Employment have critical or positive comments on the gender equality dimension of the report (including gender-based violence)? If so, what are these? EGGsIE Synthesis report (2006) [http://ec.europa.eu/employment\\_social/publications/2006/ke7606201\\_en.pdf](http://ec.europa.eu/employment_social/publications/2006/ke7606201_en.pdf)*

In the EGGsIE Synthesis report (2006), Austria is frequently mentioned, mostly in relation to national policies affecting the risk for poverty and labour market access of migrant and immigrant women. Austria is also criticised regarding the risk of poverty for women in the oldest age group, and because of discrimination of Roma (ungendered). The focus of concern is Austrian immigration and labour market policies with respect to their effects on migrant and immigrant women.

- *Did the EU Commission's response to the National Report on Strategies for Social Protection and Social Inclusion include recommendations on gender equality (including gender based violence)? If so, what were these?*

In the EU Commission's response to the National Report on Strategies for Social Protection and Social Inclusion by Austria, the following '**Key Challenges and Priorities**' are mentioned: 'Austria's main priorities for social inclusion policies are the prevention of poverty and social exclusion among children and young people, the promotion of more labour market opportunities for at-risk groups, in particular the long-term unemployed, older workers, women, migrants and the low qualified, and enhanced participation of people with disabilities. For all three priorities the approach is centred on access to employment and employability with the primary labour market while measures to facilitate access for all to the resources, rights and services needed for participation in society are covered to a lesser extent. The strategy focuses on continuing current policies rather than introducing new measures. The time horizon is generally limited to 2006/mid-2007. The 2006 Joint Report on Social Protection and Social Inclusion identified the increasing risk of social exclusion for the major at-risk-groups against the background of rising unemployment and the low participation in lifelong learning of the less qualified as main challenges for Austria. While the short-term increase in spending on active labour market measures for at-risk-groups has helped to counteract the negative trend in unemployment, continued efforts will be necessary. The low participation of the less qualified in lifelong learning remains a concern. **In view of the higher poverty risk for women (in particular single parents and elderly people) more determined action seems needed. Gender mainstreaming and gender specific action, although mentioned for some areas of intervention, are not strongly emphasised within the strategy. The disadvantaged position of women on the labour market, in particular with regards to atypical employments with limited security and the gender pay gap, is not directly addressed.**'<sup>107</sup>

Under '**Challenges ahead**' the following **recommendations** are given: Further reinforce efforts to break the intergenerational transmission of poverty; in this context to develop stronger links between lifelong learning and social inclusion policies, in particular for young immigrants. **Adopt stronger steps to enhance active inclusion of women, especially of**

<sup>106</sup> [http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2006/nap/au\\_update\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2006/nap/au_update_en.pdf)

<sup>107</sup> Emphasis added, p 332,

[http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2007/joint\\_report/country\\_profiles\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2007/joint_report/country_profiles_en.pdf)

**single mothers, older female workers and pensioners.** Ensure both the adequacy and sustainability of future pensions by significantly increasing the employment of older workers. It will be important to monitor the poverty risk for pensioners, as well as replacement rates, and review policy options if necessary. To strengthen control of health care expenditure increases through continuous work to counteract various cost-raising factors, such as pharmaceuticals, and to improve the overall efficiency of the health care system. To continue to improve support functions for informal (family) carers and to recruit, train and keep the professional care workers needed for future long-term care, especially with respect to changing family conditions. To implement in practice the new legal framework of quality standards and procedures for health care and long-term care services.<sup>108</sup>

## 2.4 EU funding

- *Does the EU provide funding in your country that has / has had a significant gender impact?*<sup>109</sup> *Structural funds to consider include the European Social Fund*<sup>110</sup> *and the European Regional Development Funds*<sup>111</sup>

According to an interview with a gender training expert, EU-funded projects in Austria often resulted in follow-up projects **financed usually by the provincial levels (Länder)** that were gender-related and took the results of previous EU-funded projects further.<sup>112</sup> Gender impact assessments are quite rare and there is no systematic information about the significance of gender impact by EU funding.

- *If yes, how much and over what period of time?* No information available
- *If yes, comment upon the extent to which gender was mainstreamed in associated plans and programmes (e.g. the National Development Plans for 2000-2006)?*

No information available.

## 3. Governmental Machinery For Equality

*Provide a summary of the history of governmental machinery for equality provided in the issue history D11, up-dated if appropriate. In particular, consider if there have been any developments in the relationship between the gender machinery and other equalities machinery (e.g. proposed mergers). (Approx. 250 words)*

The Gender equality machinery in Austria has changed frequently in terms of institutional setting, allocated budget and staff. Its development within the government can be divided in the introductory phase at the end of the 1970's, the phase of consolidation in the 1980's, the phase of expansion in the 1990's and the phase of institutional decline between 2000 and 2006. Following national elections, in January 2007, women's issues were transferred to Doris Bures (SPÖ), heading a ministry for women, media and public service. This ministry is situated within the federal chancellery and does not have a budget of its own. In June 2008, following changes in the SPÖ governmental team, Heidrun Silhavy (SPÖ) was announced to become minister for women and media.

The most recent institutional changes regarding the gender equality machinery and machinery for other inequalities were the result of the incorporation of EU anti-discrimination guarantees into Austrian law. Two court procedures were initiated by the European Commission against Austria in 2004 and 2005 for failing to implement anti-discrimination

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<sup>108</sup>Emphasis added, p 180,

[http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2007/joint\\_report/country\\_profiles\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2007/joint_report/country_profiles_en.pdf)

<sup>109</sup> The following link may serve as a useful starting point (see drop-down menus along the top of the page and links on the left hand side): [http://ec.europa.eu/regional\\_policy/policy/history/index\\_en.htm](http://ec.europa.eu/regional_policy/policy/history/index_en.htm)

<sup>110</sup> [http://ec.europa.eu/regional\\_policy/funds/fse/index\\_en.htm](http://ec.europa.eu/regional_policy/funds/fse/index_en.htm)

<sup>111</sup> [http://ec.europa.eu/regional\\_policy/funds/feder/index\\_en.htm](http://ec.europa.eu/regional_policy/funds/feder/index_en.htm)

<sup>112</sup> Interview with Petra Draxl in July 2007, renowned gender trainer and gender expert.

directives (race-directive and equal treatment directive). The Race Directive (2000/43/EC) and the amendment to the Equal Treatment Directive (2002/73/EC) were implemented by adopting a new Equal Treatment law (Gleichbehandlungsgesetz BGBl I. Nr. 66/2004). Both, the Equal Treatment Act and the Federal Equal Treatment Act were entirely revised and not simply amended, because the European anti-discrimination directives imposed 'completely new challenges' to Austrian law.<sup>113</sup> Until this point, both laws had only applied to discrimination on the grounds of gender. With the implementation of the anti-discrimination directives, age, ethnic origin,<sup>114</sup> religion or belief, and sexual orientation were added. Along with the adding of these new grounds of discrimination, the institutional bodies were changed. The formal contents regulating monitoring procedures and bodies were regulated in a separate law on the Equal Treatment Commission and Equal Treatment Lawyer (Gleichbehandlungskommission und Gleichbehandlungsanwaltschaft). The former body, the Equal Treatment Commission, responsible for discrimination on grounds of gender, was extended and divided into three separate senates overseeing the monitoring of different grounds of discrimination. Senate I deals with equal treatment of women and men in employment, senate II deals with equal treatment in employment regardless of ethnic origin, religion, belief, age and sexual orientation, and senate III deals with equal treatment regardless of ethnic origin in other areas (apart from employment). Before the implementation of these directives, grounds of discrimination other than gender could only be invoked under the respective constitutional guarantees and under separate legislation for people with disabilities. The new law in 2004 placed the Equal Treatment Commission within the ministry responsible for women's affairs.

*Do any or all of these forms of gender machinery exist in the country, and if so what are they called (fill in their name in original language and translated to English)?*

- *governmental (civil servants and ministers in central government);*

Yes. Since February 2007, the Federal Minister for Women, Media and Public Service (Bundesministerin für Frauen, Medien und Öffentlichen Dienst) has been Doris Bures from the Social Democratic Party (SPÖ). In June 2008, following changes in the SPÖ government team, Heidrun Silhavy (SPÖ) was announced to become minister for women and media.

The women's minister is currently located within the Federal Chancellery and does not have a ministry of her own, contrary to the last governmental periods (2000-2001, 2001-2006) where there was a Ministry of Health and Women (Bundesministerin für Gesundheit und Frauen) Maria Rauch-Kallat, from the Conservative Party ÖVP. At the level of ministries, there is an Inter-Ministerial Working Group on gender mainstreaming (IMAG Gender Mainstreaming), involving officials from each ministry).

- *enforcement and/or monitoring agency (e.g. equality authority, ombudsperson);*

Yes. The Equal Treatment Commission: responsible for cases of discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation in employment in general), situated as a separate body alongside 'Labour Law and Social Law Courts' (Arbeits- und Sozialgerichte).

Equal Treatment Lawyer: ombudsperson responsible for comprehensive information of and advising of persons in cases of discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation in employment in general.

Federal Equal Treatment Commission (responsible for cases of discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation in federal service), situated within the Federal Chancellery (Minister for Women, Media and Public

<sup>113</sup> Christoph Radlingmayr, 2006. Die drei aktuellen Gleichbehandlungsrichtlinien der EU und ihre Umsetzung in Österreich. Dissertation, University of Graz, 186.

<sup>114</sup> The directive's wording is 'racial or ethnic origin'. In German speaking countries, the notion of 'race' ('Rasse') is very much linked to racist Nazi ideology. In order to avoid any reference to Nazi ideology, texts often refer to terms such as ethnicity or ethnic origin instead. For this reason, the wording of the Austrian law only speaks of 'ethnic origin'.

Service). At the Länder-level, provinces have established Equal Treatment Commissions for public service, apart from Vorarlberg.<sup>115</sup>

2. *special legal apparatus (e.g. special courts, mediation or arbitration bodies for employment or domestic violence);*

Special courts exist for employment ('labour and social courts' – Arbeits- und Sozialgerichte). These courts deal with conflicts between employers and employees on the one hand and conflicts regarding social security (such as pensions, health insurance, insurance against work accidents) on the other hand. For equal treatment in private employment (regardless of gender, ethnic affiliation, age, sexual orientation, religion or belief), the Equal Treatment Commission, situated alongside separate labour- and social courts, issues legally non-binding suggestions to end discrimination to the person or enterprise responsible for discrimination. Further bodies dealing with equal treatment regardless of the above-mentioned grounds with rather limited legal power include: The Equal Treatment Lawyer/Ombudsperson has some mediating and preventive functions in disputes concerning cases of gender discrimination in employment in general. The Federal Equal Treatment Commission and the Länder Equal Treatment Commissions issues individual expertises ('Gutachten') on whether or not discrimination occurred in federal and Länder-level public service. These expertises are made public.<sup>116</sup> For non-discrimination regardless of disability, the Federal Office for Social Affairs (Bundessozialamt) has mediating functions.<sup>117</sup>

3. *body for consultation / dialogue with women's NGOs, or with NGOs representing other axes of inequality*

No. The principle of social partnership provides for a routine and institutionalised dialogue and consultation process before and during the drafting of laws and policies between governmental bodies and representatives of the social partners, but not representatives of NGOs. Governmental consultations with NGOs are usually not institutionalised, but seem to happen take an issue-based approach, and seem to be dependent on the willingness of decision-makers such as the minister of the ministry in charge of drafting a law to include civil society representatives.<sup>118</sup> Sometimes, NGOs are invited to participate in preparatory work for draft laws. The process of how this participation comes about is rather non-transparent and there is little research, apart from the involvement of women's and expert NGOs in the policy process on the adaption of the domestic violence law in 1997.

Examples of recent inclusion of NGOs into the drafting process of laws are the current 2007/2008 working group on the reform of family law, where HOSI Wien (gay and lesbian NGO) is participating in the drafting of a same-sex partnership law.<sup>119</sup> LEFÖ (NGO dealing with the situation of sex workers) has been involved in the working group regarding changes in the legal framework for prostitution.<sup>120</sup> LEFÖ-IBF (NGO for the support of trafficked women) has been involved in the Inter-Ministerial Task Force on Trafficking.<sup>121</sup> Regarding an improved implementation of CEDAW, the so-called NGO-CEDAW-Committee consisting of some of the authors of the 2006 NGO Shadow Report to Austria's 6<sup>th</sup> Report<sup>122</sup> has been involved in negotiations with the Women's Minister Doris Bures to bring about a comprehensive plan on gender equality policies.

• *Other, for example, Parliamentary Committees.*

Yes. There is a Parliamentary Committee on Equal Treatment (Gleichbehandlungsausschuss), whose speaker used to be Gabriele Heinisch-Hosek from

<sup>115</sup> See Tertinegg/Sauer 2007: Issue Histories Report Austria, 14.

<sup>116</sup> <http://frauen.bka.gv.at/site/5555/default.aspx>

<sup>117</sup> Tertinegg/Sauer 2007: Issue Histories Report Austria, 20.

<sup>118</sup> Personal assessment of the researcher based on consultations with people in the legislative process.

<sup>119</sup> Interview with Spokersperson of HOSI Wien, September 2007

<sup>120</sup> Interview with Evelyn Probst, member of LEFÖ, of March 2008.

<sup>121</sup> Interview with Eva Kaufmann, representative of IBF-LEFÖ in Task Force, of February 2008.

<sup>122</sup> <http://www.iwraw-ap.org/resources/pdf/Austria%20Shadow%20Report.pdf>

the Social Democratic Party (SPÖ) (until May 2008), Since May 2008, the new speaker is Gisela Wurm from the Social Democratic Party (SPÖ).

*Answering the following list of questions may require mention of any or all of these types of institution: some apply to one kind more than another.*

*The nature of the institution*

- *Is there gender machinery that meets the minimum legal requirements of the EU?*
  - *A body for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex:*
  - *providing independent assistance to victims of discrimination in pursuing their complaints about discrimination;*
  - *conducting independent surveys concerning discrimination;*
  - *publishing independent reports and*
  - *making recommendations on any issue relating to such discrimination.*

The Equal Treatment Commission, the Federal Equal Treatment Commission and the Equal Treatment Lawyer/Ombudsperson (see above) may be characterised as meeting most of the minimum legal requirements of the EU, even though their scope of action is limited to employment regarding gender (and access to goods and services regardless of ethnic origin). The issue of 'independence', however, has been assessed critically by legal experts<sup>123</sup> (see also above 1.2)

- *Is there gender machinery that meets the 'Paris Principles'?*
  - *independence guaranteed by a constitutional or legislative framework, autonomy from government,*
  - *pluralism including pluralism of composition,*
  - *a broad mandate,*
  - *adequate powers of investigation,*
  - *sufficient resources*

According to the researcher's judgement, the Equal Treatment Lawyer/Ombudsperson seems to meet the above criteria. The Equal Treatment Commission, situated as a separate body, alongside 'Labour Law and Social Law Courts' and the Federal Equal Treatment Commission seem to meet the above criteria apart from the criteria of sufficient resources, especially after the broadening of the mandate to cover not only discrimination on grounds of gender, but on grounds of ethnic origin, religion or belief, sexual orientation, and age. Autonomy from government is not so clear<sup>124</sup>, as its members are chosen by, amongst others, the Ministry for Economy and Labour and the Women's Minister. The Federal Equal Treatment Commission (responsible for cases of discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation in federal service), seems to meet the above criteria, but the autonomy from government is not so clear. The Commission is situated within the Federal Chancellery under the mandate of the Minister for Women, Media and Public Service and its members are chosen by, amongst others, the Women's Minister and the Ministry for Science and Research. Also, sufficient resources are doubtful, especially after the broadening of the mandate to cover not only discrimination on grounds of gender, but on grounds of ethnic origin, religion or belief, sexual orientation, and age as well.

- *Is there gender machinery that meets the further requirements of the UN Platform for Action?*
  - *responsibility vested at the level of a Cabinet minister.*
  - *Develop indicators and statistics to monitor policy*

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<sup>123</sup> See e.g. Doris Gerhartl, 2005: Die Antidiskriminierungsrichtlinien der EU. Hintergrund, Analyse der Entstehungsgeschichte und Umsetzung der Richtlinien 2000/43/EG und 2000/78/EG in das österreichische Recht. Mast Thesis, Wirtschaftsuniversität Wien, 151.

<sup>124</sup> Ibid.

The Minister for Women, Media and Public Service is currently situated at the level of a Cabinet minister situated within the Federal Chancellery. However, there is little information on whether or not indicators and statistics to monitor policy have been developed in the absence of National Action Plans (except for trafficking and employment).

- *How close to the centre of power (e.g. Prime Minister or other) is the governmental machinery located?*
  - *centre of power/ PM's office*
  - *Other powerful department.*
  - *Other department*

The Minister for Women, Media and Public Service is within the Federal Chancellery, thus very close to the Chancellor.

- *Would any of the bodies be described as following a 'feminist' agenda?*
  - *Briefly explain the reasoning behind your answer.*
  - *If yes, then indicate which vision of gender equality (equality through sameness, equal valuation of different contributions, or transformation) fits best.*

This question is very difficult to answer. The institutionalised equality bodies described above (Equal Treatment Commission, Federal Equal Treatment Commission, and Equal Treatment Lawyer/Ombudsperson) are concerned with judging whether or not discrimination on grounds of sex/gender occurred in employment and to define what constitutes such discrimination. They are thus relying on established legal principles when defining discrimination on grounds of gender, which comes down to the question what is equal and what is different and when is different treatment objectively justified. Feminist critique of law is relatively new, especially in the Austrian context. Thus, equality through sameness (same treatment) with some consideration for transformation (in case of discrimination on grounds of gender through sexual harassment at the workplace) might be a suggestive answer to the above question.

- *Are there other policy groups relevant to gender equality that are embedded in particular departments, but which are not usually known as gender machinery e.g. domestic violence group within the home affairs or justice department? If yes, when was it set up, what does it do, what are its resources?*

There is the Inter-ministerial Working Group on Gender Mainstreaming (IMAG Gender Mainstreaming), composed by the persons responsible for Gender Mainstreaming in each federal ministry, the Constitutional Court, the Administrative Court, the Court of Audit and the Ombudsman's Office, the Parliamentary Administration and the public service trade union<sup>125</sup>. It was set up in the year 2000. To the knowledge of the researcher, the persons responsible for Gender Mainstreaming and the IMAG do not have additional resources.

No information available.

- *Are there any special legal institutions such as special courts to assist the implementation of gender equality laws e.g. employment tribunals, domestic violence courts?*

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<sup>125</sup> <http://www.imag-gendermainstreaming.at>. See above and Tertinegg/Sauer 2007: Issue Histories Report Austria, 10.

The Domestic Abuse Intervention Centres against Violence in the Family (Interventionsstellen gegen Gewalt in der Familie) are not NGOs, but are state-funded victim information and support institutions based on the 1997 Federal Act on Protection from Violence (Gewaltschutzgesetz, see 1.1). Their function is to assist victims in cases of domestic violence by way of information, support and coordination (see below).

The Equal Treatment Commission responsible for cases of discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation in employment in general, is situated as a separate body alongside 'Labour Law and Social Law Courts' (Arbeits- und Sozialgerichte).

*Dedicated to gender or integrated with other equalities?*

- *Is the gender equality body (enforcement or monitoring agency) integrated with machinery for other equalities issues (if so which) or for human rights? If yes,*
  - *When did this happen?* 2004
  - *Was the change controversial (who fought whom, allied to whom)?*

In 2004, other grounds of discrimination were introduced into the mandate of the Equal Treatment Commissions after infringement proceedings against Austria for the failure to implement the anti-discrimination directives. The change was controversial and was criticised by many NGOs and feminist organisations, for example in the form of statements to the draft law, in the sense that not enough resources would remain for gender, as the body responsible for dealing with cases of discrimination on grounds of gender from then on would also have to decide on cases of multiple discrimination without much more resources.

- *Is the division of responsibilities by function or by strand?*

The institutional division is made according to grounds of inequality: Senate I deals with gender, Senate II with ethnic origin, age, religion or belief, sexual orientation. In case of multiple discrimination (gender and another ground), Senate I decides.

- *Is there a separate mechanism for consulting civil society by strand, including women?*

There is no formal legal mechanism for consulting between the Equal Treatment Commissions and civil society other than the position of the Klagsverband (Litigation Association of NGOs Against Discrimination, see 1.2) which may have some role supporting victims of discrimination in discrimination cases brought before the Equal Treatment Commission.<sup>126</sup>

- *Does the equality body actively engage with the issue of intersecting inequalities (e.g. gender and ethnicity, gender and disability)? If yes, please specify the intersections that are taken into account.*

Both the Equal Treatment Commission and the Federal Equal Treatment Commission have different 'Senates' dealing with discrimination on grounds of gender on the one hand (Senate I), and on grounds of age, sexual orientation, ethnic affiliation, religion or belief (Senate II) on the other hand. The Senates are working in parallel and issue their decisions independently. If 'multiple discrimination' occurs in the sense that a person claims discrimination on grounds of gender as well as on another ground, the Senate responsible for gender is the one to decide on the case.

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<sup>126</sup> According to § 62 Gleichbehandlungsgesetz (Equal Treatment Law) and § 12 Abs 2 Bundesgesetz über die Gleichbehandlungskommission und Gleichbehandlungsanwaltschaft (Federal Law on the Equal Treatment Commission and Equal Treatment Lawyer, BGBl I Nr. 66/2004)



- *If the gender equality body is not integrated with machinery for other equality issues, does the gender equality body and any other single strand equality body actively engage with the issue of intersecting inequalities? If yes, please specify the intersections that are taken into account by each of the equality bodies.*

Multiple discrimination, in the sense of gender plus another ground of discrimination (ethnic origin, religion or belief, age, sexual orientation), is dealt with by Senate I of the Equal Treatment Commission and the Federal Equal Treatment Commission.

#### *Relationship of machinery with civil society*

- *Are there procedures for the consultation of women's groups in civil society by the gender or equalities machinery?*
  - *If so, are they routinised or occasional?*  
No information available, but if consultations occur they seem to be happening on an informal level, highly ad-hoc and occasional.

## **4. Policy summary questions**

### **4.1 Non-employment**

*Is the tax system household based or individualised?*

Currently there is individual taxation of income, but in early 2008 there have been debates about changes to system of 'family-splitting' according to German or French model following Conservative suggestions.<sup>127</sup>

*Is the benefit system household based or individualised?*

The benefit system is partly household based<sup>128</sup>, partly individualised.

*How long is it legitimate for lone parents not to be in paid work? (i.e. at what age does the youngest child reach before parent is required to be available for employment and benefit stops).*

Lone parents can obtain a child-care benefit for the maximum period of 30 months, while it can be obtained for a maximum of 36 months if the other parent cares for the child at least once.<sup>129</sup> The (restricted) right to part-time work for parents ceases when the child reaches its seventh birthday.<sup>130</sup>

*Are there active labour market programmes (i.e. programmes to help people who are out of labour market back into paid employment, includes training and job placement schemes) for lone parents?*

Current active labour market programmes of the Labour Market Service (AMS, Arbeitsmarktservice) and the Chamber of Labour (Arbeiterkammer) seem to be targeted at women (and men) returning to employment ('WiedereinsteigerInnen') after taking child care leave, regardless of whether they are lone parents.<sup>131</sup>

*Are there active labour market programmes for women who are returning to employment after lengthy period of time out of the labour market?*

See above.

<sup>127</sup> See articles in daily newspapers, e.g. <http://diepresse.com/home/politik/politikimsommer/354969/index.do>

<sup>128</sup> E.g. tax reductions for 'single earner' in household according to § 33 Abs 4 EStG (Einkommenssteuergesetz, Income Tax Act). The 'single earner' tax reduction ('Alleinverdienerabsetzbetrag') is tailored to the model of the 'male breadwinner'.

<sup>129</sup> § 5 Kinderbetreuungsgeldgesetz (Childcare Benefit Act).

<sup>130</sup> Elternteilzeitgesetz (Parental Leave Act, BGBl 64/2004), amending the Maternity Protection Act (Mutterschutzgesetz) and the Paternity Leave Act (Väter-Karenzgesetz).

<sup>131</sup> See seminars 'Fit for the Job', <http://www.arbeiterkammer.at/pictures/Wiedereinstieg.pdf>,

*Are there active labour market programmes for any other category of citizens, and if so which categories?*

See above.

*What is the minimum amount of childcare that is provided by the state? (e.g. number of hours, no. of weeks per annum)*

There is no minimum provided by the state.

- *Childcare: care (under 3 years)*
- *Childcare: pre-primary education (3 yrs- school age)*

*What is the predominant form of childcare provision? i.e. public, private or mixed.*

Private as there has been a great general lack of childcare facilities, especially for children under three.

*How is childcare financed (e.g. by public funds, privately or mixed)?*

Privately, to a large extent. Public financing or support of childcare depends on the Province and Communal levels and thus varies across Austria.

*Is the pension age the same for women and men? If so, since when?*

Since 1998, the pension age has been ruled to be the same in principle for women and men (65), with a lengthy intermediate period during which women's pension ages will gradually be raised to 65.<sup>132</sup>

#### **4.2 Intimate citizenship**

*Is abortion legal? If so, in what year did this happen?*

Abortion is legal since 1975. The legal construction is that it is criminalised in principle (thus regulated in the Penal Code, § 97) but without punishment if it is performed by a doctor within the first 12 weeks of pregnancy. It also goes without punishment if it is necessary to prevent serious harm to the woman's bodily or mental health or if there is danger that the child will have a severe bodily or mental disability. In these two cases, abortion is legal in any stage of the pregnancy, up until birth. In all cases it has to be performed by a doctor. Doctors or medical staff are not obliged to perform or take part in abortions and are not to be disadvantaged because it.<sup>133</sup>

*Up to which week of pregnancy is abortion legal?*

Abortion is generally exempt from penalty up to the 12<sup>th</sup> week (see above). In case of danger to woman's health or in danger of severe bodily or mental disability of child, it is exempt from penalty up until birth.

*Are there any other conditions? If so, what are these (e.g. consent of doctor/s, counselling)?*

'After counselling by a doctor' (see above).

*How many abortions are carried out per year (select most recent year where data available. If illegal, approximately how many women travel to access abortion services in another country?)*

No data available.

*Are there any restrictions on abortion for certain categories of people? (e.g. age, nationality).*

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<sup>132</sup> See Tertinegg/Sauer 2007, Issue Histories Report Austria, 27, 28.

<sup>133</sup> § 97 Strafgesetzbuch (Penal Code).

Not in principle but abortion has to be paid for by oneself, and costs vary immensely, especially in Western Provinces (Vorarlberg, Tyrol) where abortion is only performed in private practices of doctors and not offered in public hospitals.<sup>134</sup>

*Is a marriage a state based contract, religious contract or both?*

The concept of marriage exists as both a state-based contract and, independent from it, in the provisions of the state-recognised denominations in Austria<sup>135</sup>. To be legally valid, marriage must be contracted under civil law (performed before civil registrar office), with the governing rules being the Marriage Act<sup>136</sup> and various provisions of the General Civil Code<sup>137</sup>. Religious marriage contracts contracted in Austria, such as under Roman-Catholic Church Law, or provisions of the other state-recognised denominations, do not have any effect on civil law. Religious marriage contracts contracted abroad may have effects on Austrian civil law in the sense that the validity of the religiously contracted marriage may or may not be accepted under Austrian civil law if the persons concerned move to Austria.<sup>138</sup>

*Is divorce legal and what are the conditions for divorcing (e.g. is mutual consent necessary / sufficient)?*

Divorce is legal and regulated in the General Civil Law Code and the Marriage Act. There are two ways divorce can be obtained: either 'by fault' of one spouse or 'divorce by mutual agreement'. As to divorce 'by fault', there are various legal decisions as to what behaviour constitutes an act that justifies 'divorce by fault'. There is a minimum period of time that has to pass if the divorce is not agreed upon mutually (three years), after which the marriage is divorced. The most serious consequence is that maintenance for the financially weaker ex-spouse is highest if there is divorce 'by fault'. For a mutually agreed upon divorce, six months waiting period is obligatory to obtain divorce (§ 55a Marriage Act).<sup>139</sup>

*If divorce is not legal, what are the conditions for separation or annulment?*

Divorce is legal, see above.

*Are there any restrictions to marriage other than the sex of the partners (e.g. nationality, country of origin)?*

Yes, age and nationality and citizenship status. There are formal restrictions set out in the Marriage Act (§§ 1, 2, 6, 8, 10 Ehegesetz). The general current age limit is 18 years, 16 years if the person is declared 'capable of marriage' by court due to seeming mature enough and the other spouse is above 18. If a person is legally not capable of action, he or she cannot enter marriage. Marriage cannot be entered between parents and children or grandparents and children or between brothers and sisters (half-brothers and half-sisters). If a child has been adopted, marriage cannot be entered with that child or its children unless the adoption is dissolved. Marriage cannot be entered unless a former marriage has been declared void or has been dissolved by divorce.

Apart from these formal criteria in the Marriage Act, since the 2005 Residency and Domicile Act, third-country nationals' planned marriage with an Austrian national has to be

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<sup>134</sup> Based on researcher's assesment of recent media articles (Der Standard, diestandard.at)

<sup>135</sup> Independent does not mean that there has been no influence of religious law on civil law. Various civil law provisions regulating marriage and divorce, and their interpretation, have considerable similarity to provisions of the Roman Catholic Law governing marriage (Codex Iuris Canonici, Cann 1055-1165, amended in 1983). One example is the 'prevailing jurisdiction' in civil law that sexual intercourse of one spouse outside marriage (adultery) does not constitute a ground for divorce if the other spouse has forgiven this offence. Forgiveness is assumed if sexual intercourse has taken place once after the adultery. This is the exact content of Can. 1152, § 1 and 2.

<sup>136</sup> 'Ehegesetz'. The Marriage Act (Ehegesetz) was taken from National Socialist marriage regulations in 1938 and has not been renamed ever since, even though the obvious Nazi regulations were removed after 1945.

<sup>137</sup> Allgemeines Bürgerliches Gesetzbuch (ABGB).

<sup>138</sup> E.g. in countries where there is no state-provided marriage contract but only a religious contract. As a general rule, if countries do not offer a state-based marriage contract, marriages performed under religious contracts are accepted as valid under Austrian law, unless they run counter to fundamental principles inherent to the Austrian legal and moral system. This is the case for polygamic marriages, compare § 44 General Civil Code and § 192 Penal Code, § 6 IPRG (Internationales Privatrechtsgesetz. International Civil Law Act).

<sup>139</sup> § 55a Ehegesetz, dRGBL. I S 807/1938 idF. BGBl. I Nr. 92/2006.

reported to the Alien Police by the civil registrar.<sup>140</sup> The Alien Police may arrest and deport the third-country national in case there is suspicion that the marriage serves to gain Austrian nationality or access to Austrian labour market.

*Are civil partnerships/civil unions/gay marriage legal and if so, are the legal rights the same as for heterosexual marriage? Consider the following (Yes/no+year when introduced):*

No. Debates and policy plans are currently underway (2008) and a draft law on a 'Life-Partnership' for same-sex partnerships has been submitted by the Minister of Justice<sup>141</sup>, but it is unclear whether or not it will pass in Parliament, mainly due to the resistance of the Conservative Party in coalition government.

*Does it extend to:*

- *survivors' benefits in pensions?*

Unclear, the draft law (of May 2008) does not provide an extension to survivor's benefits.

- *adoption rights?*

No.

- *parental leave?*

No. For foster-parents, however, under current law same-sex partners who are foster parents<sup>142</sup> are equal to heterosexual foster parents in the sense that they can obtain parental leave if their employer agrees<sup>143</sup>.

- *assisted reproduction?*

No.

- *Family reunification – have partners the right to settle and be employed in the country where their partners live?*

Unclear, the draft law (of May 2008) does not provide an extension to survivor's benefits. The Minister of the Interior has stated his opposition to an automatic extension of same-sex partnerships to include the right to residency.<sup>144</sup>

*Number of registered civil partnerships, annually and in total?*

None, as there is no legal form of recognition yet.

#### **4.3 Gender-based violence**

*Has there been a national survey on gender based violence? When was the most recent one carried out?*

There has been no national survey on gender based violence, despite frequent and continuous demands from women's NGOs and experts such as the Domestic Abuse Intervention Centre Vienna, and the Association of Autonomous Women's Shelters (AÖF).

*Does it include:*

- |  |    |
|--|----|
| • <i>Domestic violence and violence in partnerships?</i> | No |
| • <i>Sexual assault/violence and rape?</i>               | No |
| • <i>Sexual harassment and stalking?</i>                 | No |
| • <i>Trafficking</i>                                     | No |

<sup>140</sup> § 109 Fremdenpolizeigesetz (Alien Police Law).

<sup>141</sup> [http://www.justiz.gv.at/\\_cms\\_upload/\\_docs/Entwurf%20Lebenspartnerschaftsgesetz.pdf](http://www.justiz.gv.at/_cms_upload/_docs/Entwurf%20Lebenspartnerschaftsgesetz.pdf)

<sup>142</sup> Interview with legal expert from the Department for Adoptive and Foster Children of the City of Vienna, May 2008. So far, only the City of Vienna has accepted same-sex parents as foster parents for children and has run several highly contested advertising campaigns to attract more same-sex parents as foster parents.

<sup>143</sup> Interview with legal expert from the Department for Adoptive and Foster Children of the City of Vienna, May 2008. Compare § 15c Maternity Protection Act (Mutterschutzgesetz 1979, BGBl. 221/1979 idF BGBl Nr. I, 53/2007).

<sup>144</sup> Article in state-owned daily 'Wiener Zeitung' of April 28, 2008: <http://www.wienerzeitung.at/DesktopDefault.aspx?TabID=3858&Alias=wzo&cob=342022>

- *Prostitution?* No
- *Forced marriage?*

No, but a Report on forced marriages and arranged marriages in Austria with special consideration for Vienna was published in 2007 by the Women's Office of the City of Vienna.<sup>145</sup> In 2006, a database was established on the website of the Ministry for Health and Women for reported cases of forced marriages and FGM, but it was dissolved in February 2008 because until then only seven cases of forced marriage had been reported.<sup>146</sup>

- *Honour crimes?* No.
- *FGM?*

No. In 2006, a database was established on the website of the Ministry for Health and Women for reported cases of forced marriages and FGM, but it was dissolved in February 2008 because until then only four cases of FGM had been reported.<sup>147</sup> In 2001, the NGO 'African Women's Organisation' conducted a survey in Vienna about the extent to which migrants in Austria are affected by FGM. 3 % of all migrants from Africa in Austria were asked. According to this survey, 30,5% of migrants from Africa responded that their daughters had been subjected to FGM.<sup>148</sup> In 2006, a non-representative survey among Viennese gynaecologists, children's doctors and midwives found that 54 % of these professionals had been confronted with FGM in their practice.<sup>149</sup>

#### 4.3.1 Domestic violence

*What legal devices are available to prevent domestic violence? Do they target perpetrators and/or victims? (Yes/no +year when introduced). Devices could for instance include:*

- *restraining orders* Yes. 1997

The restraining order, in force since May 1997, prohibit the perpetrator from e.g. coming close to victim.

- *non-molestation orders* Yes. Same as above. 1997
- *occupation orders?* No information available
- *state funded perpetrator programs* Yes, only in Vienna and Graz
- *other devices?* Yes, eviction order, 1997.

Eviction order means that the perpetrator is sent away from apartment by the police and prohibited from returning for certain period of time.

As there is no national survey, there is **no data available** for the below questions:

*What is the prevalence of domestic violence against women, in one year?*

*What is the life time prevalence of domestic violence against women?*

*What is the number of incidents of domestic violence against women, in one year?*

*What is the number of incidents of domestic violence reported to the police (annual)?*

*What is the number of domestic violence convictions in the courts? (If not available say so)*  
*Not available as conviction statistics are not broken down according to sex and relationship*

*What is the attrition rate for domestic violence in the criminal justice system (convictions as % of reports to police)? (if not available say so).*

<sup>145</sup> Situationsbericht und Empfehlungskatalog Zwangsverheiratung und Arrangierte Ehen in Österreich mit besonderer Berücksichtigung Wiens, edited by MA 57 – Frauenförderung und Koordinierung von Frauenangelegenheiten. Wien. 2007.

<sup>146</sup> Source: <http://diestandard.at> of February 18, 2008. 'Datenbank zu Zwangsheirat und FGM in Österreich wird aufgelöst.'

<sup>147</sup> Source: <http://diestandard.at> of February 18, 2008. 'Datenbank zu Zwangsheirat und FGM in Österreich wird aufgelöst.'

<sup>148</sup> Source: Etenesh Hadis, 2001. Die österreichische FGM Studie, in: Female Genital Mutilation (FGM) – ein 'harmloser' Brauch oder rein tiefgehender Schaden für Frauen? ÖGF Dokumentation der Veranstaltung Weibliche Genitalverstümmelung (FGM) 8.5.2001, edited by Österreichische Gesellschaft für Familienplanung. Wien, 37-39.

<sup>149</sup> Studie zu FGM unter Wiener GynäkologInnen, KinderärztInnen und Hebammen (2006), edited by Plattform stopFGM und Wiener Programm für Frauengesundheit.

*If there is any information on the previous questions broken down by age, class, sexual orientation, race/ethnicity etc, give it here too.*

#### **4.3.2 Rape & Sexual assault**

Preliminary remark: the Austrian Penal Code generally distinguishes between 'rape' and 'sexual coercion'. 'Rape' is defined as sexual intercourse or an act that is considered equal to sexual intercourse. 'Sexual coercion' is all other acts against sexual self-determination. Sexual coercion is sanctioned with considerably less punishment (up to five years imprisonment, no minimum, whereas if someone is convicted of rape, the minimum sentence is 6 months, the maximum 10 years imprisonment). In each case, a higher punishment is possible if the crime results in grave bodily injury, pregnancy of the victim or if the victim has been degraded or suffered greatly for a longer period of time, or if the crime results in the death of the victim. Higher punishment is also possible for underage victims.

*When was marital rape criminalized?*

Marital rape was criminalized in the Penal Code Reform 1989. It was legally equalised to rape outside marriage by the Penal Code Reform 2006.

*What is the number of annually reported incidents to the police?*

No data available as crime statistics are not broken down to sex or relationship

*What is the attrition rate for rape in the criminal justice system (convictions as % of reports to police)? (if not available say so)*

No information available

*What is required for an act to be considered to be rape, e.g.:*

- *lack of consent (since when)*

Yes, since rape was criminalised in Penal Code in general.

- *physical resistance? (since when)*

No, but was considered relevant until the Penal Code Reform 2004 in definition of 'grave rape' in the criteria of 'inability to resist' of the victim.<sup>150</sup>

- *Other?*

Use of force, threat or taking away personal freedom by perpetrator<sup>151</sup>

- *Is any characteristic of victim or perpetrator considered relevant (e.g. age, sex), and if so which characteristic?*

Rape of minor person (below 18) is criminalised with higher range of imprisonment.<sup>152</sup> Rape was restricted to female victims until Penal Code Reform 2004.<sup>153</sup>

#### **4.3.3 Trafficking for sexual exploitation**

*Has the government signed and ratified the EU convention on human trafficking (date)*

Yes. Austria was among the first countries to sign (May 16, 2005) and ratify the EU convention on human trafficking on October 12, 2006.<sup>154</sup>

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<sup>150</sup> Original § 201 Penal Code was replaced by Penal Code Reform 2004, where the distinction between 'grave rape' (schwere Vergewaltigung) and 'minor grave rape' (minderschwere Vergewaltigung) was abolished.

<sup>151</sup> § 202 Strafgesetzbuch (Penal Code).

<sup>152</sup> § 206 Strafgesetzbuch (Penal Code).

<sup>153</sup> Penal Code Reform 2004 introduced gender-neutral wording for crimes against sexual self-determination, e.g. § 202 Penal Code.

<sup>154</sup> <http://www.bmeia.gv.at/en/foreign-ministry/news/presseaussendungen/2006/important-signal-in-the-fight-against-human-trafficking.html>

*Is trafficking primarily seen as a problem of the sending or the receiving country?*

In parliamentary and public debate, trafficking is usually seen as a problem of illegal immigration and organised crime, and trafficked persons are seen as a problem for Austria as a receiving country, especially if they do not testify at courts.<sup>155</sup> It may be seen as a problem of sending countries also, mainly in relation to lack of information for 'naïve' persons trying to immigrate to Austria illegally.

*Are women victims of trafficking, when identified as such, given temporary/permanent residence permits? How long? (date)*

Since the 2005 Residency and Domicile Act (Niederlassungs- und Aufenthaltsgesetz, NAG), identified victims of trafficking and witnesses may receive humanitarian residency permit limited to six months in order to allow for a criminal or civil trial (there is no working permit connected to this). There is no legal claim attached to such residency permit.<sup>156</sup>

#### **4.3.4 Intersections**

*Have specialised policies and practices on gender based violence that address gender as intersecting with race/ethnicity, class, sexual orientation been developed by:*

- *Police* No information available

- *NGOs*

NGOs working in the field of domestic violence (Association of Autonomous Women's Shelters), and prostitution and trafficking (LEFÖ, LEFÖ-IBF, MAIZ), and migrant women's NGOs (Orient Express, Peregrina) have continuously pointed to the intersection of gender, class, citizenship/migration status and ethnicity as determining the vulnerability of women's (human) rights' violations. NGOs working on sexual orientation and lobbying have not addressed the issue of gender-based violence and sexual orientation.<sup>157</sup>

- *Local Authorities / government* No information available

- *Other*

Experts working in the field of domestic violence (Domestic Abuse Intervention Centres), have continuously pointed to the intersection of gender, class, citizenship/migration status and ethnicity as determining the vulnerability of women's (human) rights' violations.

#### **4.3.5 Service provision**

*Are there refuges and/or sexual assault centres? (dates)*

Yes. The first one was opened in 1978.

Vienna: 4 women's shelters (1978, 1980, 1996, 2002), Styria: Graz (1982), Kapfenberg (2003), Upper Austria: Linz (1982), Wels (1986), Steyr (1992), Innviertel (1999), Lower Austria: St. Pölten (1984), Amstetten (1991), Mistelbach (1991), Neunkirchen (1993), Wiener Neustadt (1994), Tyrol: (1982), Salzburg: (1989), Hallein (1991), Pinzgau (1998), Burgenland: Women's shelter Burgenland (2004), Carinthia: Klagenfurt (1984), Vöcklabruck (1994) Villach (1997), Lavanttal (2001), Spittal/Drau (2007), Vorarlberg: Women's emergency accommodation Dornbirn (1990)<sup>158</sup>

*How many are there?*

A total of 28 women's shelters (as of February 2008).

<sup>155</sup> See Tertinegg/Sauer, 2007. Issue Histories Report Austria, 61ff.

<sup>156</sup> § 72 para 2 Residency and Domicile Act (Niederlassungs- und Aufenthaltsgesetz).

<sup>157</sup> According to researcher's assessment based on media reports and evaluations of the information available on the NGO websites.

<sup>158</sup> Source: Association of Autonomous Austrian Women's Shelters, <http://www.aoef.at/verein/index.htm>

*When was the first set up?*

The first shelter was set up in 1978 in Vienna, see above.

*Are they state funded, to what extent?*

Most funding is provided by state, at the level of provinces. Funding for women's shelters is precarious, as it does not cover actual costs and contracts have to be made on a year-to-year basis, except for the shelters in Vienna.<sup>159</sup>

## **CIVIL SOCIETY AND ENGAGEMENT IN POLICY MAKING**

### **5. Political system**

#### **5.1 Is the state unitary or federal?**

*If federal, are key gender+ equality decisions made at national or provincial/local level?*

Austria is a federal state, although federalism may be characterised as relatively weak. Gender+ equality decisions are generally made at the national level, unless it is the competency<sup>160</sup> of the provinces or communities to make such decisions (e.g. the adoption of equal treatment laws for public servants in the various provinces). Child-care facilities are the competency of the provinces and communities, which is why decisions on child-care facilities have to have the agreement of the respective provincial and local levels.<sup>161</sup> Similarly, prostitution is regulated on the federal, provincial and local levels. While abortion is principally legal, provinces have a say in whether they offer abortions in state-funded public hospitals or not.

#### **5.2 To what extent and how are social partners (employers & trade unions/capital & labour) integrated in policy decisions?**

Preliminary note: the integration of the social partners into policy making in the form of cooperation with government and with each other ('neocorporatism') is partly formal and at the same time, it is largely informal. It goes far beyond agreeing on collective agreements, and basically covers large areas of economic and social policy.<sup>162</sup> The major 'formal' institution of the social partners is the 'Joint Commission for Wages and Price Issues' ('Paritätische Kommission für Lohn- und Preisfragen'). While this tripartite body has been rather central to policy making for decades, it has recently been assessed as having lost most of its importance.<sup>163</sup>

*Are there legally binding decision making processes similar to the EU framework agreements (e.g. as the Parental Leave Directive)?*

See preliminary note.

*Would the political system be possible to describe as corporatist or neocorporatist, where hierarchically ordered trade unions and/or employer and/or other civil society organisations are institutionally incorporated in policy making?*

The political system in Austria can be described as neocorporatist (see above). The social partners which are institutionally incorporated into policy making are the Austrian Trade

<sup>159</sup> Source: Association of Autonomous Austrian Women's Shelters, <http://www.aodef.at/verein/index.htm>, <http://www.aodef.at/dokumente/frauenhauserinoe06.pdf>

<sup>160</sup> The competencies are listed in the Constitution (Bundes-Verfassungsgesetz, B-VG, BGBl. Nr. 1/1930 (WV) idF. BGBl. I 2/2008

<sup>161</sup> See Article 14 Section 4 (b), Federal Constitution Act (Artikel 14 Abs 4 lit b Bundes-Verfassungsgesetz)

<sup>162</sup> See e.g. Emmerich Tálos, 2006. Sozialpartnerschaft. Austrokorporatismus am Ende?, in: Dachs, Herbert et al (eds): Politik in Österreich. Das Handbuch. Wien 2006. The system of the Social Partnership in Austria has been first criticised from a feminist perspective by Eva Kreisky.

<sup>163</sup> Tálos, 2006: 432



Union Association (Österreichischer Gewerkschaftsbund, ÖGB), Wirtschaftskammer Österreich (Austrian Chamber of Economy), Bundesarbeitskammer (Chamber of Labour), and Landwirtschaftskammer (Chamber of Agriculture).<sup>164</sup>

*What is the gender composition in the decision making process of agreements made by the social partners (if there are any such agreements)?*

No information available.

### **5.3 In which policy environment (ministry) is a decision on the issue predominantly made (for each area: general gender equality policies; non-employment; intimate citizenship; gender-based violence)?**

Decision making in the political process in general is not very transparent until a draft law is published for statements (statements which can be taken into account but don't necessarily have to). Formally, draft laws are made by the ministry with the formal area competence and little else is made public, such as for example who the actors involved are. In rare cases, it is made public that working groups have been formed to discuss contested issues such as e.g. the current working groups on the reform of family law, involving some kind of legal recognition of same-sex partnerships. NGOs are actively engaged in this working group, which is not the usual procedure for drafting laws in Austria. For general gender equality policies (equal treatment law), the ministry submitting a proposal would be the Ministry for Labour and Economy. For non-employment this would be the Ministry for Labour and Economy and the Ministry for Social Issues. For intimate citizenship, this would be the Ministry of Justice and the Ministry of Health (now Ministry of Social Issues). For gender-based violence, this would be the Ministry of Justice.

### **5.4 Political cleavages**

*Is the state consociational or not, i.e. are there major internal divisions (ethnic, language, religion etc) where neither of the groups form a majority while, at the same time, the political regime can be considered to be stable?*

Austria is characterised as consociational state, whereby consociationalism is of particular importance for the Conservative Party ÖVP and its various associated branches. Major historical internal political divisions regarding autochthonous groups concern the minorities of Carinthian Slovenes and Burgenland Croats and concern symbolic recognition of languages, whereas more recent political divisions have added the struggle of migrants and people with migrant backgrounds mainly from Turkey, Serbia and Croatia (see below 7.3.1).

*What are the main existing salient political cleavages within the state, and on what dimension (e.g. language, region, religion, nationality)?*

Regarding cleavages concerning language, religion and nationality (see below 7.3.1, 7.3.2 for details). Regarding cleavages concerning regions, major political struggles can be found in the issue of non-implementation of minority rights in Carinthia, mainly due to the resistance of Governor Jörg Haider (Ex-Party leader of right-wing party FPÖ, now right-wing party Association Future Austria BZÖ) to implement Constitutional Court decisions on the rights of Carinthian Slovenes. The struggle has intensified since 2000.<sup>165</sup>

### **5.5 International obligations and links**

*When, if at all, was CEDAW signed?<sup>166</sup>*

CEDAW was ratified in 1982. CEDAW articles 1-4 were incorporated as 'constitutional provisions'.<sup>167</sup> Two reservations were made: , the one on women in armed forces was completely withdrawn and the one on women in night work was partially withdrawn.

<sup>164</sup> [http://www.sozialpartner.at/sozialpartner/Sozialpartnerschaft\\_mission\\_de.pdf](http://www.sozialpartner.at/sozialpartner/Sozialpartnerschaft_mission_de.pdf)

<sup>165</sup> See Tertinegg/Sauer 2007. Issue Histories Report Austria, 20.

<sup>166</sup> See <http://www.un.org/womenwatch/daw/cedaw/states.htm>

*When did the country join the EU?*

Austria accessed the EU on January 1, 1995.

## **6. Political Representation**

### **6.1 The development of women's political representation, including:**

- *Date of female suffrage*<sup>168</sup>

Female suffrage was introduced in 1918, the first election with women's participation was held in 1919.

- *Note any caveats, e.g. age, property qualification, ethnicity, and when removed.*

Until 1907, there were gender, age and property qualifications for suffrage. Suffrage was principally restricted to men with certain property, but since 1873 also women had suffrage regarding deputies to the deputy chamber of parliament (Abgeordnetenhaus im Reichsrat) in the suffrage class of 'owners of large estate' if they were rightful owners of land and above 24. However, these rights were gradually restricted again towards the end of the 19<sup>th</sup> century.<sup>169</sup> In 1907, the right to vote was introduced for all men (general and equal suffrage). In 1918, general and equal suffrage was introduced for men and women above 21. No caveats since 1918, but 1938 – 1945 National Socialist rule.

- *Date of male suffrage*

In 1907 general and equal suffrage was introduced for men within the Austrian part of the Habsburg Empire.<sup>170</sup>

- *Use of quotas*<sup>171</sup>

- *When introduced*

1993, 1998, 2008

Despite having ratified CEDAW in 1982, women's quota (40%) was first introduced for employment in federal service in 1993. After much legal dispute, quota were generally declared as in accordance with constitutional principles in 1998 by way of an explicit amendment to the Constitution.<sup>172</sup>

Parties introduced quotas over a longer period of time, starting with the Green Party, the Social Democratic Party and the Conservative Party. The right-wing parties FPÖ (Freedom Party, Freiheitliche Partei Österreichs), and BZÖ (Bündnis Zukunft Österreich, Association Future Austria) do not have women's quota to this date (February 2008).

In April 2008, the government principally agreed on a 40 % women's quota in all university bodies in a planned amendment of the University Act, which still needs to be passed.<sup>173</sup>

- *What form e.g. party, electoral, constitutional*

There are no constitutional quotas. The 40 % quota for women in federal service is laid down in the Federal Equal Treatment Act of 1993. Quota for women on party election lists vary from party to party, with the right-wing parties (Freedom Party, Association Future Austria) not having adopted any.

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<sup>167</sup> BGBl I. Nr 442/1982.

<sup>168</sup> See Inter-Parliamentary union (IPU) website: <http://www.ipu.org/wmn-e/world.htm>

<sup>169</sup> Ursula Flossmann 2006. Frauenrechtsgeschichte. Linzer Schriften zur Frauenforschung: Linz, Trauner, 158.

<sup>170</sup> Source: Bader-Zaar, Birgitta. 1997. Bürgerrechte und Geschlecht. Zur Frage der politischen Gleichberechtigung von Frauen in Österreich, 1848-1918. In: Frauen in der Geschichte des Rechts. Von der Frühen Neuzeit bis zur Gegenwart, edited by Ute Gerhard, München: 547-562

<sup>171</sup> See IDEA: <http://www.idea.int/gender/index.cfm>. For an overview, see Monika Jarosch, 2001: Frauenquoten in Österreich. Grundlagen und Diskussion, Studienverlag.

<sup>172</sup> 'Measures for promoting the de-facto equality between women and men, especially by way of removing existing inequalities, are admissible.' Article 7 Section 2 Federal Constitution Act (Art.7 Abs 2 Bundes-Verfassungsgesetz).

<sup>173</sup> Article in daily 'Die Presse' of April 28, 2008: <http://diepresse.com/home/bildung/universitaet/375834/index.do>

- *What is the numerical representation of women in parliament? (over QUING period)*  
Federal elections 2006: 32,2 percent women in National Council (Lower or Single House according to IPU website), 27,4 percent women in Federal Council (Upper House or Senate)
- *Was the increase in women's representation a gradual increase since suffrage, or were there any key turning points? E.g. quotas, 1989.*  
On the **federal level**, women's representation in the **National Council** (most important chamber of Parliament) has gradually increased since 1945<sup>174</sup>, with the percentage almost doubling in 1990 compared to the four years before (19 percent compared to 11,5 percent). The increase may be associated with the rising number of Green Party deputies in Parliament, who introduced a strict 50 percent women's quota in all electoral lists in their statutes. The current percentage of women in the National Council is 31.15%.<sup>175</sup> The representation of women in the Federal Council (second and less important chamber of Parliament) has been higher than in the National Council for decades, but dropped below the percentage of women in the National Council in the second half of the 1990s. On the level of the **Länder**, women's representation varies greatly among the nine provinces.<sup>176</sup>
- *Other important developments*  
EU accession of Austria in January 1995. Demands by the 'Women's Referendum' in 1997 (initiated by feminist groups, see Issue History Report Austria) to expand women's policy included the demand for active elimination of disadvantages for women and to enshrine federal commitment to de-facto gender equality in the constitution.

## **6.2 Political representation for intersecting inequalities:**

- *Class (e.g. was male suffrage granted in stages with property qualifications; representation in parliament)*  
Before the introduction of the **general and equal suffrage for men** in 1907, suffrage depended on class (status of assets and property, Zensuswahlrecht), and a few privileged women could also vote due to their class status.<sup>177</sup>
- *ethnicity/religion (what exclusions and when; numerical representation in parliament)*  
Not since 1918, with the exception of the periods of Austro-Fascism in the 1930's ('Austrofaschistischer Ständestaat') and the National Socialist Regime from 1938-1945!
- *Other important intersecting inequalities, any quotas*  
Not since 1918 with the exception of the periods of Austro-Fascism in the 1930's ('Austrofaschistischer Ständestaat') and the National Socialist Regime from 1938-1945!

## **6.3 Political parties and gender**

*Does women's political representation vary by Party; if so, do these Parties tend to represent different class, ethnic, religious or other interests?*

<sup>174</sup> Monika Jarosch, 2001: Frauenquoten in Österreich. Innsbruck et al: Studienverlag 129-134.

<sup>175</sup> <http://www.parlament.gv.at/WW/NR/STAT/FRAU/ENTW/entwfrauenanteil.shtml>

<sup>176</sup> Jarosch 2001:130.

<sup>177</sup> [http://www.parlament.gv.at/PA/GESCH/FRAUEN/show.psp?P\\_TEXT=1&P\\_MEHR=J](http://www.parlament.gv.at/PA/GESCH/FRAUEN/show.psp?P_TEXT=1&P_MEHR=J)

The highest women's representation is found with the Green Party, which has a strict 50 percent quota in the statutes.<sup>178</sup> The Green Party Program refers to minorities, poverty, human rights.<sup>179</sup> The Social Democratic Party, tending to represent class, has a women's quota of 40 % for all election lists (introduced in party statutes in 1993).<sup>180</sup> The Conservative Party, tending to represent interests of the Roman-Catholic Church, has a women's quota of 33 %.<sup>181</sup> The right-wing parties FPÖ (Freedom Party, Freiheitliche Partei Österreichs), and BZÖ (Bündnis Zukunft Österreich, Association Future Austria) do not have women's quota to this date (June 2008).<sup>182</sup>

*What is the current Party / Parties in Government:*

Since January 2007, there has been a coalition government between the Social Democratic Party (SPÖ) and the Conservative Party (ÖVP).

- *With which European Parliament political group is this Party / Parties affiliated?*<sup>183</sup>

The Social Democratic Party (SPÖ) is affiliated with the **Socialist Group in the European Parliament**. The Conservative Party (ÖVP) is affiliated with the group of the **European People's Party (Christian Democrats) and European Democrats**.

*What political party / parties have held office during 1995-2007?*<sup>184</sup>

1994-March 12, 1996: Coalition Social Democratic Party SPÖ and Conservative Party ÖVP (Government Vranitzky IV)

March 12, 1996 – January 28, 1997: Coalition Social Democratic Party SPÖ and Conservative Party ÖVP (Government Vranitzky V)

January 28, 1997 – February 4, 2000: Coalition Social Democratic Party SPÖ and Conservative Party ÖVP (Government Klima I)

February 4, 2000 – February 28, 2003: Coalition Conservative Party ÖVP and right-wing Freedom Party FPÖ (Government Schüssel I)

February 2003 – January 11, 2007: Coalition Conservative Party ÖVP and right-wing Freedom Party FPÖ until October 20, 2003, after October 20, 2003 with right-wing Association Future Austria (BZÖ) (Government Schüssel II)

January 11, 2007 – currently: Coalition Social Democratic Party SPÖ and Conservative Party ÖVP (Government Gusenbauer I)

#### **6.4 Representation in government**

- *What percentage of government Ministers are female?*<sup>185</sup>  
Since January 2007: 38.46 % of Ministers are female (and further 50% of State Secretaries within Ministries are female).<sup>186</sup>
- *To which Ministries do female ministers belong?*

<sup>178</sup> <http://www.gruene.at/frauen/frauenquoten/>

<sup>179</sup> Adopted in 2001, see <http://www.gruene.at/partei/grundsatzprogramm/>

<sup>180</sup> <http://www.spo.e.at/page.php?P=100464>

<sup>181</sup> Percentage based on data by the Interparliamentary Union,

[http://www.europarl.europa.eu/workingpapers/femm/w10/4\\_de.htm](http://www.europarl.europa.eu/workingpapers/femm/w10/4_de.htm)

<sup>182</sup> Based on information on respective Party websites.

<sup>183</sup> See list Of EP political groups: [http://www.europarl.europa.eu/groups/default\\_en.htm](http://www.europarl.europa.eu/groups/default_en.htm)

<sup>184</sup> <http://www.austria.gv.at/site/3355/default.aspx>

<sup>185</sup> See IPU: <http://www.ipu.org/wmn-e/world.htm>

<sup>186</sup> [www.austria.gv.at](http://www.austria.gv.at)

Female ministers belong to the following ministries (as of June 2008):<sup>187</sup>

Minister for Women's Issues, Media and Public Service situated at the Federal Chancellery (Doris Bures, Social Democratic Party SPÖ)<sup>188</sup>

Ministry for European and International Affairs (Minister Ursula Plassnik, Conservative Party ÖVP)

Ministry of Justice (Minister Maria Berger, Social Democratic Party SPÖ)

Ministry for Health, Family and Youth (Minister Andrea Kdolsky, Conservative Party ÖVP)

Minister for Education, Arts and Culture (Minister Claudia Schmied, Social Democratic Party SPÖ)

## **7. Civil Society**

### **7.1 Gender**

*Is there one (or more than one) national organisation that coordinates feminist and women's organisations.*

Yes, there is (only) one: Österreichischer Frauenring (Austrian Frauenring).<sup>189</sup>

*If so,*

- *is this the same as the body which is affiliated to the European Women's Lobby?*  
Yes
- *when was it established?*  
1969
- *how many organisations are affiliated to the national body?*  
As of May 2008, 35 women's organisations are affiliated.
- *how many women are so coordinated?*  
Approximately one million women.
- *How many staff work for the organisation (how many paid, how many unpaid)?*  
All board members work unpaid. One person is employed on an hourly basis for secretarial tasks.
- *What is its budget?*  
The budget depends on the government. In 2008, a sum of €10.000 was granted for the first time. In the previous years, funding per year ranged from €3000 to €5000.
- *What is its range of activities (are these in an annual report)?*  
The 2008 activities are public relations work (including critical observation of gender in the media), gender pay gap and the glass ceiling for women. There is an annual report which is reported to the assembly of member's representatives, and sent to the funding institution (Federal Minister for Women, Media and Public Service), but otherwise not it is not made public.
- *Does the national body engage with all or only some of our 3 issues*  
The current focus is on non-employment/equal treatment in employment, but previous activities related to gender-based violence and intimate citizenship as well.

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<sup>187</sup> Website of the Austrian Federal Government, see <http://www.austria.gv.at>

<sup>188</sup> To be replaced by Heidrun Silhavy (Social Democratic Party) as Minister for Women and Media at the end of June 2008

<sup>189</sup> The information to the below questions stems from an interview with Christa Pözlbauer, Chair of Board of the Austrian Frauenring, on May 27, 2008. See also <http://www.frauenring.at>.

- *Are there national coordinating organisations for feminist/women's activities in: employment/non-employment; gender based violence; and intimate citizenship (if so name them)?*

A general scope of action, with a focus on **employment/non-employment**, can be found for the Network of Austrian Women's and Girls' Counselling Centres (Netzwerk Österreichischer Frauen- und Mädchenberatungsstellen<sup>190</sup>). The Vienna Chamber of Labour's Department for Women and Families (Abteilung für Frauen und Familie der Arbeiterkammer Wien) has a strong focus on women's employment/non-employment, but operates mainly as a part of the social partnership. The major coordinating organisation active in the field of **gender-based violence** is the Association of Autonomous Women's Shelters (Verein Autonome Österreichische Frauenhäuser, AÖF).<sup>191</sup> For **intimate citizenship**, lesbian demands are represented by HOSI Vienna (Homosexuelleninitiative Wien<sup>192</sup>), but the NGO's scope of action is not exclusively directed towards women's activities as it incorporates lesbian and gay concerns in general.

**List the key women's / feminist civil society organisations and their main methods / activities**

Austrian Frauenring (Österreichischer Frauenring) as coordinating organisation, see above.

Association of Autonomous Women's Shelters (AÖF)

- |   |   |
|---|---|
| • <i>Building autonomous institutions</i>                     | Yes (women's shelters)  |
| • <i>Public protest e.g. demonstrations</i>                   | Yes, current forms of protest are more oriented toward media, e.g. comments in daily newspapers |
| • <i>Campaigning</i>  | Yes   |
| • <i>lobbying state</i>                                       | Yes   |
| • <i>service provision</i>                                    | Yes   |
| • <i>research</i>   |   |
| ○ <i>Are they important or marginal to national politics?</i> | In the area of gender-based violence policies, the AÖF are an important actor. <sup>193</sup>   |
| ○ <i>Are they centralised or dispersed?</i>                   | Centralised, office in Vienna   |

Intervention Centres against Violence in the Family (Interventionsstellen gegen Gewalt in der Familie) Preliminary note: The Intervention Centres against Violence in the Family are not NGOs, but are state-funded victim information and support institutions based on the 1997 Federal Act on Protection from Violence (Gewaltschutzgesetz). The experts working in Intervention Centres frequently and originally came from the autonomous women's shelter movement. Experts such as Rosa Logar from the Viennese intervention Centre against Violence in the Family have significantly influenced policies on gender-based violence, e.g. by being part of the policy process that resulted in the first law against domestic violence in 1997<sup>194</sup>, by bringing two complaints before the CEDAW Committee under the Optional Protocol<sup>195</sup> and thus initiating improvements in Austrian Penal Law regarding violence among

<sup>190</sup> <http://www.netzwerk-frauenberatung.at/nfb/index.htm>

<sup>191</sup> <http://www.aeof.at/>

<sup>192</sup> <http://www.hosiwien.at/>

<sup>193</sup> Assessment based on researcher's evaluations of AÖF activities (such as visibility, degree of connectedness).

<sup>194</sup> See e.g. Rosa Logar, 2007. Global denken – local handeln. Die Frauenbewegung gegen Gewalt in Österreich, in: 20 Jahre Frauenhausbewegung in Europa, edited by Verein Autonome Österreichische Frauenhäuser. Wien: Milena-Verlag, 84-124.

<sup>195</sup> Two communications in 2005 regarding the murder of two women by their husbands: Şahide Goekce (deceased) v. Austria, Communication No. 5/2005 and Fatma Yildirim (deceased) v. Austria, Communication No 6/2005, both at <http://www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm>

close relatives.<sup>196</sup> The intervention centres have gained enormous expertise in the area of gender-based violence and have strong ties to EU and international levels (e.g. Council of Europe, United Nations). They have also been very active in bringing about a European-wide network on violence against women (WAVE).

- *Building autonomous institutions* Yes
- *Public protest e.g. demonstrations* Protest more media oriented
- *Campaigning* No
- *lobbying state* Yes
- *service provision* Yes, comprehensive information, counselling and support services for victims of domestic violence and stalking
  
- *research* No
  - *Are they important or marginal to national politics?* Very important actor regarding gender-based violence policies
  - *Are they centralised or dispersed?* Dispersed (one in every province), but main activities from Viennese Intervention Centre.

Austrian Catholic Women's Movement (Katholische Frauenbewegung Österreichs)<sup>197</sup>

Preliminary note: while the Roman-Catholic Church as a state-recognized denomination is neither a civil society and certainly not a feminist organisation, the Austrian Catholic Women's Movement - as stated in their guidelines - is considered as a major national organisation active in some feminist core policy fields, such as poverty of women, migrant women, rural women, single mothers, and development policy, which is why it is listed here.

- *Building autonomous institutions* No, but women's section within the Roman-catholic church
- *Public protest e.g. demonstrations* Protest more media oriented
- *Campaigning* Yes
- *lobbying state* Yes (public demands on government)
  
- *service provision* Mainly counselling service
  
- *research*
  - *Are they important or marginal to national politics?* Unclear
  - *Are they centralised or dispersed?* Policy-related activities are centralised.

LEFÖ – Counselling, Education and Support for Migrant Women (LEFÖ-Beratung, Bildung und Begleitung für Migrantinnen)<sup>198</sup>

- *Building autonomous institutions* Yes (LEFÖ-IBF)
- *Public protest e.g. demonstrations* Yes
- *Campaigning* Yes

<sup>196</sup> 2006 amendment of the Penal code, containing easier prosecution of dangerous threats against close relatives. See Tertinegg/Sauer 2007: Issue Histories Report Austria, 66

<sup>197</sup> <http://www.kfb.at/>

<sup>198</sup> <http://www.lefoe.at>

- *lobbying state* Yes
- *service provision* Yes
- *research*
  - *Are they important or marginal to national politics?*  
Important concerning prostitution policies and policies regarding trafficking.
  - *Are they centralised or dispersed?* Local, Vienna

MAIZ – Autonomous centre by and for migrant women (MAIZ-Autonomes Zentrum von und für Migrantinnen)<sup>199</sup>

- *Building autonomous institutions* Yes (MAIZ)
- *Public protest e.g. demonstrations* Yes
- *Campaigning* Yes
- *lobbying state*
- *service provision* Yes
- *research*
  - *Are they important or marginal to national politics?*  
Important regarding prostitution policies.
  - *Are they centralised or dispersed?* Local, Linz (Upper Austria)

Association of Austrian Women Lawyers (Verein Österreichischer Juristinnen)<sup>200</sup>

- *Building autonomous institutions* Yes (Association of Austrian Women Layers)
- *Public protest e.g. demonstrations* Protest is media oriented
- *Campaigning* No
- *lobbying state* Unclear
- *service provision* No
- *research*
  - *Are they important or marginal to national politics?*  
Unclear. The most important policy activity is to give statements to draft laws concerning gender equality.
  - *Are they centralised or dispersed?* Centralised (Vienna)

### **List the key anti-feminist organisations and their main methods/ activities?**

Human Life International (HLI) has been active in anti-abortion lobbying in Austria, mainly by demonstrating in front of clinics offering abortions and doing pro-life campaigns. Molestations of women by anti-abortion activists have been the reason for implementing protective zones around clinics offering abortion in Vienna. Since 2006, persons molesting women outside of abortion clinics can be sent away by the police..

In the provincial elections in Lower Austria in 2008, a new party called 'Die Christen Partei' ('The Christian Party') seeks to gain votes to get into the Lower Austria Parliament. One of the party's candidates is the President of Human Life International – Austria. According to the

<sup>199</sup> <http://www.servus.at/maiz/>

<sup>200</sup> <http://www.juristinnen.at/>



assessment of the country context researcher, the HLI is an important actor in the abortion debate and in local abortion policies..

- *Building autonomous institutions* Yes
- *Public protest e.g. demonstrations* Yes
- *Campaigning* Yes
- *lobbying state* Unclear
- *service provision* Yes
- *research*
  - *Are they important or marginal to national politics?*  
Important actor in abortion policies, so far the influence has been the most in regional policies (protective zoning around abortion clinics).
  - *Are they centralised or dispersed?* Centralised

The Roman-Catholic Church (Römisch-Katholische Kirche Österreichs) as the biggest state-recognized denomination<sup>201</sup> is not a civil society organisation, but it is listed here due to its influence on public discourse<sup>202</sup>, especially in family policy, and the issues of same-sex partnership and abortion.

- *Building autonomous institutions* Yes
- *Public protest e.g. demonstrations* Yes
- *Campaigning* Yes
- *lobbying state* Yes
- *service provision* Yes
- *research*
  - *Are they important or marginal to national politics?*  
Important actor in family policy, sexual orientation discrimination policy, abortion policy.
  - *Are they centralised or dispersed?* Centralised

***Are there any men’s groups / organisations that are supportive of women’s / feminist organisations?***

White Ribbon Campaign Austria (White Ribbon Kampagne Österreich) has been active in campaigning and awareness raising in the area of changing male roles regarding violence against women in relationships. There was increased cooperation with the Association of Autonomous Women’s Shelters during the 2007/2008 Campaign of the Council of Europe to Stop Domestic Violence Against Women.<sup>203</sup>

Working Group of Austrian Men’s Counselling Centres and Men’s Offices (Arbeitsgemeinschaft der Männerberatungsstellen und Männerbüros Österreichs) have been active in counselling men in all provinces (Länder), except for in Carinthia, with a focus on prevention of violence (against women) and changing men’s roles.<sup>204</sup>

<sup>201</sup> The basis of state recognition of religious denominations is the 1874 Recognition Act (Anerkennungsgesetz, RGBI 1874/68). The status of a ‘recognised religious denomination’ is connected to legal capacity and to additional legal provisions concerning tax law, education law, and law of civil status. For the Roman-Catholic Church, the 1933 Concordat (including additional contracts after 1955) forms the basis of legal relations to the Republic of Austria. See Franz Horner and Paul M. Zulehner, 1997: Kirchen und Politik, in: Handbuch des politischen Systems Österreichs. Die Zweite Republik, edited by Dachs/Gerlich/Gottweis/Horner/Kramer/Lauber/Müller/Tálos. Wien, 491-505.

<sup>202</sup> See Barbara Prainsack, 2006: Religion und Politik, in: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 538-549.

<sup>203</sup> Annual Activities Report (2007): <http://www.whiteribbon.at/documents/192958086.pdf>

<sup>204</sup> <http://www.maennerwelten.at/>

## **Women's / feminist organisations in civil society**

- *What are the major distinctions in civil society between different types of organisations/projects e.g. feminist, pro-family etc.?*

According to the researcher's impression, the major distinction is between family-related organisations on the one hand and women's organisations on the other hand (whether or not they can be labelled 'feminist' is another issue).

- *Do women's organisations actively engage with other intersecting inequalities (in each area?)*

Women's organisations active in the area of gender-based violence actively engage with class and ethnicity/religion/citizenship status (migrant women).

- *Do they have good alliances with those representing other inequalities or not? (in each area)*

Women's organisations active in the field of gender-based violence (domestic violence, trafficking) seem to be well connected with migrant women's organisations and with organisations dealing with class/poverty issues. The researcher's impression is that sexual orientation, religion or belief, age and disability are dealt with by separate organisations and are rarely intersected with gender. An exception here is the Catholic Women's Organisation (Katholische Frauenbewegung, see above), which tends to include some inequality axes such as age, class and disability, but not sexual orientation.

- *Are there alliances between women's / feminist organisations and men's groups (if these exist in your country)?*

There is an alliance between women's organisations active in the field of domestic violence (Association of Autonomous Women's Shelters, Intervention Centres) and between White Ribbon Austria and Men's Counselling Centres, see above.

- *Are there many organisations of minoritised women? (in each area)*

There are some organisations for migrant women, most of which are based in Vienna.<sup>205</sup> There are two organisations for Roma and Sinti<sup>206</sup>, but they are not women-specific.

- *What links are there with international? / EU level / bilateral bodies? (in each area)*

Women's organisations active in the field of domestic violence (Intervention Centres, Association of Autonomous Women's Shelters) have strong links to the EU, the Council of Europe and to UN bodies. The umbrella organisation Austrian Frauenring is represented within the European Women's Lobby. LEFÖ (migrant women's organisation, focus on sex work and trafficking) is involved in the European TAMPEP network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers<sup>207</sup>.

- *Is organised feminism engaged with the state, or does it follow an autonomous or separatist agenda building its own institutions? For example, is it invited to report to consultations; does it take money from the state; is it commissioned by the state to undertake specific tasks?*

This question seems difficult to answer, as there are some feminist organisations that seem to follow a more autonomous agenda, while according to the researcher's judgement many feminist organisations seem to, in some way, be engaged with the state, also because of reasons of funding. However, there is no formal legal procedure for consultation with NGOs. Sometimes feminist organisations - mainly those working in the field of violence against

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<sup>205</sup> <http://www.netzwerk-frauenberatung.at/nfb/index.htm>

<sup>206</sup> <http://www.sinti-roma.at/>, <http://www.kv-roma.at/>

<sup>207</sup> <http://www.tampep.com>

women and trafficking - seem to be invited to consultations with state bodies or representatives, at least on an ad-hoc basis.

- *Does this vary between issue areas?*

Mainly feminist organisations working in the field of gender-based violence seem to be invited to consultations, at least on an ad-hoc basis.

- *Has this changed over time?*

No information available.

- *When engaging with the state is a coalition form of organising common or not?*

No information available.

- *Does it make sense to talk of a 'women's movement' or not?*

Yes

- *Briefly explain your answer.*

The second wave of the 'women's movement', in the form of 'state feminism' combined with some influence of autonomous women's organisations in Austria is recognised in literature as having been rather important for bringing about gender equality policies since the mid 1970's.<sup>208</sup>

- *Is there a tendency towards one of the three major visions of gender equality (sameness, equal valuation of difference, transformation)?*

The question is very difficult to answer. According to the researcher's judgement, all three aspects have been raised at different times by the women's movement in Austria (see below).

- *Is there a preferred model of care work: support for a domestic regime or support for a public (state or market provision) regime?*

The domestic care work model has been very strong in Austria and the state provision model has only very recently gained more importance in public discourse. Some women's organisations, especially the ones affiliated with the Catholic Church, have strongly supported the family care work model in the past, while women's organisations affiliated with the Social Democratic Party and the Green Party have been demanding publically provided care models.

- *How closely aligned is feminism with social democracy?*

There is close historic alignment between the two<sup>209</sup> but the researcher's impression is that since the mid 1990's, feminism related to the Green Party on the one hand, and feminism not related to any party on the other hand have become more visible in public debate and to some extent in policy making as well. One example would be the Independent Women's Forum initiative for a referendum on women's issues in 1997 and the subsequent changing of the constitution in 1998.<sup>210</sup> Another example would be the Shadow Reporting under CEDAW by independent women experts in 2000 and 2006.<sup>211</sup>

- *Notes on the history of the development of gendered or feminist civil society organisations:*

- *Is there a history of divisions as to where on a continuum between autonomous or close to state is most appropriate?*

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<sup>208</sup> See e.g. Birgit Sauer 2007, What happened to the model student? Austrian state feminism in the 1990s, in: Outshoorn, Joyce/Kantola, Johanna (eds): State feminism, Palgrave; Johanna Gehmacher and Maria Mesner, 2007: Land der Söhne. Geschlechterverhältnisse in der Zweiten Republik. Innsbruck et al: Studienverlag.

<sup>209</sup> See Tertinegg/Sauer 2007, Issue Histories Report Austria, 5ff.

<sup>210</sup> See Tertinegg/Sauer 2007, Issue Histories Report Austria, 16.

<sup>211</sup> <http://www.aeof.at/dokumente/index.htm>

Since the beginning of a first 'women's movement' in Austria, during the post 1848-years<sup>212</sup>, women's organisations in Austria developed closely to three separate ideological movements: Social Democracy, Catholicism and Christian-Social Parties; and a more state independent branch of liberal women's organisations<sup>213</sup>. During the 1970s and the second wave of the women's movement, autonomous feminist organisations developed mainly in urban areas such as Vienna, Salzburg and Innsbruck.<sup>214</sup> 'Autonomous' here refers to the historic dimension that women's groups organised outside the strongly rooted party women's organisations or women's organisations formed by the Catholic Church, but it does not mean that these 'autonomous' women's organisations and institutions such as women's shelters are financially autonomous, as most of them are to some extent funded by the state.

- *Does this vary by 4 areas (general, employment, intimate citizenship, gender based violence)?*

Autonomous women's organisations became especially visible in the fields of gender based violence and intimate citizenship: with the establishment of autonomous women's shelters in the late 1970's<sup>215</sup>, the protests and policy initiatives lead to the decriminalisation of abortion in 1974<sup>216</sup> and to a more equality-oriented model of family law in 1974<sup>217</sup>. During the mid 1990's, experts from the autonomous women's movement were actively engaged in bringing about the 1997 Law against Domestic Violence (see above). In the late 1990's, the Independent Women's Forum initiated a Referendum on Women, which finally resulted in a constitutional change regarding equality between women and men and temporary special measures (see above 1.1). More recently, experts from organisations in the field of gender-based violence were also involved in policies regarding trafficking in women (such as the NAP on trafficking, see below).

- *Is there a history of divisions as to: socialist, radical, liberal?*

Yes, since the beginning of the first women's movement there has been a prominent division regarding socialist, bourgeois-liberal, and catholic women's organisations. On the other hand, during the 1970's, autonomous women's organisations started to develop.<sup>218</sup>

- *Does this vary by 4 areas?*

Since the beginning of women's movement in Austria, the issues of women's right to vote and the living conditions of women have been prominent in the struggle for legal changes, most pronounced in the socialist women's movement and the bourgeois-liberal movement during the early 19<sup>th</sup> century's struggles.. The bourgeois-liberal movement focused on women's equal access to education and jobs<sup>219</sup>, the socialist movement on fair wages, social security, working conditions and the realisation of a socialist society, whereas the catholic women's movement was not concerned with emancipatory aims, but with securing women's 'natural' occupation as mothers and housewives.<sup>220</sup> While the issue of intimate citizenship had been raised by the socialist women's movement during the first wave (demands for a less patriarchal family law together with the bourgeois-liberal movement in the early 1900's and decriminalisation of abortion in the 1920's), it was not until the mid 1970's that major legal reforms in family law and decriminalisation of abortion in principle were brought about.

<sup>212</sup> Ursula Flossmann 2006. Frauenrechtsgeschichte. Linzer Schriften zur Frauenforschung: Linz, Trauner, 107.

<sup>213</sup> Flossmann 2006:133ff.

<sup>214</sup> Gehmacher/Mesner, 2007, 22ff.

<sup>215</sup> Gehmacher/Mesner, 2007, 25.

<sup>216</sup> Such as AUF (Aktion Unabhängiger Frauen-Action of Independent Women), Flossmann 2006:243

<sup>217</sup> Flossmann 2006:244ff

<sup>218</sup> Flossmann 2006: 133ff, 238ff. Also Gehmacher/Mesner, 2007, 78ff.

<sup>219</sup> Flossmann 2006: 133

<sup>220</sup> Flossmann 2006: 133, 140

- *Is there a history of changing engagement with class, ethnic and religious forces?*
  - *Does this vary by 4 areas?*

Regarding class, two major feminist organisations dealing with class are the Social Democratic Women and the Green Women's organisations. Major civil society (umbrella) organisations dealing with class such as the Armutskonferenz (Anti-Poverty Network)<sup>221</sup> are not exclusively feminist or gendered, but have a broad range of member organisations. Engagement with class by civil society organisations has become more pronounced, particularly since the reforms of the welfare state model during the mid 1990's. Regarding religious forces, the Catholic Women's Organisation has been engaged with Roman Catholicism and feminism in a fairly constant way. For the other two big religious groups, Protestants and Muslims, there is no information available. Regarding ethnic forces, there is no information available.

- *Is feminist research organised in Universities and research institutes?*

- Are there named centres? Yes.<sup>222</sup>

Eg. Department for Gender Research of the University of Vienna (Referat für Genderforschung der Universität Wien)<sup>223</sup>, the Center for Advanced Gender Studies (Gender Kolleg) at the University of Vienna<sup>224</sup>, the Rosa-Mayreder-College – Open University for Women in Vienna<sup>225</sup>, the Coordination Centre for Women's Studies, Gender Research, and Affirmative Action at Graz University<sup>226</sup>, the Peripherie-Institute for Practice-Oriented Gender Research in Graz<sup>227</sup>, the Institute for Women's and Gender Studies at Linz University<sup>228</sup>, the Interfaculty Platform for Gender Research at Innsbruck University<sup>229</sup>, Gendup – Centre for Gender Studies and Promotion of Women at Salzburg University<sup>230</sup>, the Centre for Women's and Gender Studies at Klagenfurt University<sup>231</sup>, and the Coordination Centre for Women's Promotion and Gender Studies at Danube University Krems<sup>232</sup>, as well as centres at medical, technical and other Universities.

- *If yes, are they important?* Yes, they are important
- *If not, is important feminist research primarily dispersed or mainstreamed?*

- *Are there specific positions, funds or journals within the country (or region e.g. Nordic)?*

There is one major national feminist monthly journal (an.schläge).<sup>233</sup> There are three quarterly feminist journals (AEP-Informationen - Feministische Zeitschrift für Politik und Gesellschaft<sup>234</sup>, AUF<sup>235</sup>, Frauensolidarität<sup>236</sup> and a few more journals published less than four times per year.

- *Is there a national association for women's studies/gender studies?* No,  
but it is currently discussed.

- *Are there feminist lawyers' organisations?*

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<sup>221</sup> Anti-poverty Network, <http://www.armutskonferenz.at>  
<sup>222</sup> For a complete list, see <http://www.genderplattform.at/index.html>  
<sup>223</sup> <http://www.univie.ac.at/gender/>  
<sup>224</sup> <http://www.univie.ac.at/gender-kolleg/about/info-english.htm>  
<sup>225</sup> [http://www.rmc.ac.at/cms/front\\_content.php](http://www.rmc.ac.at/cms/front_content.php)  
<sup>226</sup> <http://www.kfunigraz.ac.at/kffwww/>  
<sup>227</sup> <http://www.peripherie.ac.at>  
<sup>228</sup> <http://genderstudies.jku.at/content/view/32/160/>  
<sup>229</sup> <http://www.geschlechterforschung.at/>  
<sup>230</sup> <http://www.uni-salzburg.at/gendup>  
<sup>231</sup> <http://www.uni-klu.ac.at/gender>  
<sup>232</sup> <http://www.donau-uni.ac.at/gender>  
<sup>233</sup> <http://www.anschlaege.at>  
<sup>234</sup> <http://www.aep.at/heft.htm>  
<sup>235</sup> <http://auf-einefrauenzeitschrift.at/auffrauenzeitung.php>  
<sup>236</sup> <http://www.frauensolidaritaet.org/>

There is the Association of Austrian Women's Lawyers (Vereinigung Österreichischer Juristinnen). Its focus is on statements to draft laws from a gender equality perspective, anti-discrimination and equal treatment, and gender-based violence. The guidelines of the Association further refer to democracy, human rights, and rule of law.

- *Are there radical lawyers' organisations that support justice claims for one or more of the inequalities?*

The above-mentioned Association of Austrian Women's Lawyers (Vereinigung Österreichischer Juristinnen) set activities in relation to multiple forms of discrimination, to discrimination on grounds of sexual orientation, to development policy, and consequences of neoliberal globalisation on women.<sup>237</sup>

## 7.2 Class

- *A short history of the development of organisations representing class interests.*  
Since 1945, class interests have been represented within the system of social partnership by the Association of Trade Unions (Österreichischer Gewerkschaftsbund, ÖGB) and the Chamber of Labour (Arbeiterkammer), both representing employees.<sup>238</sup> Employers' interests have been represented by the Austrian Chamber of Economy (Wirtschaftskammer Österreich) and the Association of Industries (Industriellenvereinigung), see below.
- *How strong are trade unions? Use the following four measures of trade union strength (Data: European Industrial Relations Observatory Online, national sources)*
  - *density (proportion of workers that are organised),*  
33 % Trade Union Density<sup>239</sup>
  - *coverage (what proportion of workers are covered by collective bargaining agreements),*  
98% Collective Bargaining Coverage<sup>240</sup>
  - *centralisation of collective bargaining,*
    - *is there a national body of trade unions;*  
Yes, the Association of Trade Unions (ÖGB)
    - *what proportion of TU members and unions are affiliated?*  
Practically all, the ÖGB has a de-facto monopoly for representation and has far-reaching competencies regarding individual trade unions<sup>241</sup>
  - *coordination of collective bargaining.*
    - *Does the national body of trade unions negotiate on behalf of trade unions*  
Yes, see question above.
    - *Can it coerce or discipline member unions to enforce agreement?*  
Yes.
  - *Women and trade unions:*
    - *What percentage of total trade union membership (i.e. including unions not affiliated with national body and those that are affiliated) is female?*

<sup>237</sup> <http://www.juristinnen.at/veranstaltungen.html>

<sup>238</sup> See Ferdinand Karlhofer, 2006. Arbeitnehmerorganisationen, in: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 462-479.

<sup>239</sup> [http://www.eurofound.europa.eu/eiro/country/austria\\_1.htm](http://www.eurofound.europa.eu/eiro/country/austria_1.htm)

<sup>240</sup> [http://www.eurofound.europa.eu/eiro/country/austria\\_1.htm](http://www.eurofound.europa.eu/eiro/country/austria_1.htm)

<sup>241</sup> Karlhofer (2006:463)

*(Use national Labour Force Survey. Website providing links to country LFS available from International Labour Organisation: <http://www.ilo.org/dyn/lfsurvey/lfsurvey.home> )*

The above link could not be accessed. According to the Annual Report of the Women's Department of the Association of Austrian Trade Unions<sup>242</sup>, in 2005 33,3% of members of the Association of Austrian Trade Unions are female.

▪ *How are women organised in trade unions and the central trade union body (e.g. caucuses, separate branches, fully integrated)?*

Women are organised in a separate branch (ÖGB-Frauen).

▪ *What proportion of women are in the executive of (major) trade unions?*

No information available.

▪ *Is gender equality high or low on the bargaining agenda?*

No information available, but historically, gender equality has been very low on trade unions bargaining agenda, partly due to the masculine character of the social partners..

▪ *Is it seen as an issue for women, or for all trade unionists?*

According to the researcher's judgement, trade unions mainly see gender equality as a women's issue.

○ *How well organised are employers?*

○ *Do they have a single (or more) national organisation?*

There are several national employers' organisations. Employers' organisations are characteristically divided into either several free employers' associations or chambers with compulsory membership.. The most important free employers' organisation is the Association of Industries (Industriellenvereinigung, IV), but there are several other free associations which are not organised under a national umbrella organisation.

The biggest and most important chamber with compulsory membership is the Austrian Chamber of Economy (Wirtschaftskammer Österreich, WKÖ).<sup>243</sup>

▪ *Is it powerful or not? E.g. can it control its members?*

The Austrian Chamber of Economy (Wirtschaftskammer Österreich, WKÖ), as a corporation under public law,<sup>244</sup> has a complex system of various organs and entities<sup>245</sup> and a high degree of concentration and centralisation; competition between different branches is low.<sup>246</sup> Its Steering Committee is entitled to decide on basic strategies and to steer all entities, while at the same time it must consider territorial subsidiary and self-organisation.<sup>247</sup> Thus, the answer to the question according to the researcher is ambivalent: the WKÖ is certainly a powerful actor in the policy process, but the extent to which its entities are controlled is not clear. The Association of Industries (Industriellenvereinigung, IV) is an association based on voluntary membership and seems to have less 'control' over its members.

○ *Are they indifferent or hostile to gender equality in the workplace?*

<sup>242</sup> ÖGB-Frauen, 2006. Frauenbericht 2006, download at <http://www.oegb.at>

<sup>243</sup> Marcel Fink, 2006: Unternehmerverbände, in: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 443-461.

<sup>244</sup> Körperschaft öffentlichen Rechts

<sup>245</sup> Structured along regions (Chambers of Economy of the Länder) and functions (such as: banking, trade), Fink 2006: 446

<sup>246</sup> Fink, 2006: 444.

<sup>247</sup> Fink, 2006: 448

As for the Chamber of Economy (WKO), the researcher's impression is that there is support for moderate measures aiming at reconciliation of work and family in the workplace and for closing the gender pay gap, but not for other issues. The introduction of a compulsory one month leave for fathers (daddy month) at birth is currently rejected with the argument that already existing measures are sufficient and that such a measure would be too costly.<sup>248</sup>

In the last two years, the Association of Industries (Industriellenvereinigung, IV) has focused on demanding more child-care facilities, especially for small children, in order to enable reconciliation, fight the demographic decline, and strengthen economic success by optimal use of young women's rising qualifications.<sup>249</sup> The gender pay gap does not seem to be an issue of concern.

- *Do they oppose the development of gender machinery, gender equality policies and gender equality laws?*

This question is very difficult to answer. In general, the impression of the researcher is that gender equality policies do not have a high priority on the agenda of employers' organisations, and are mostly expressed in terms of reconciliation and the gender pay gap. They are usually opposed to (binding) sanctions for breaches of equal treatment provisions and opposed to giving more competencies to of the gender machinery to deal with breaches. The assessment is based on the following research:

The Chamber of Economy (WKO) currently opposes plans to introduce a compulsory one-month leave for fathers at the birth of a child (see above). In 2003, it opposed several parts of the amendment of the Federal Equal Treatment Act (which incorporated EU-anti-discrimination directives into Austrian law for employment in general) and explicitly argued that higher anti-discrimination standards than the ones prescribed by the EU-directives should not be set.<sup>250</sup> In 2003, it also opposed the new gender+ machinery responsible for equal treatment in the federal service, arguing that it would be too costly to institutionalise such a body.<sup>251</sup> In 2005, it opposed the introduction of the Anti-Stalking law as being too far reaching and creating legal uncertainty.<sup>252</sup>

The Association of Industries (Industriellenvereinigung, IV) has supported a more flexible version of receiving childcare benefits. In 2003, it opposed several parts of the amendment of the Federal Equal Treatment Act (which incorporated EU-anti-discrimination directives into Austrian law for employment in general). The Association explicitly argued that the gender+ machinery responsible for equal treatment (based on gender) should not be given more competencies; that sanctions for breaching equal treatment provisions should not be punished with a fine; and that compensation for personal damage (due to discrimination) should not be introduced.<sup>253</sup>

- *Do they support 'diversity management'? (e.g. policies that emphasise the gains associated with the promotion of diversity in the organisation, in contrast to an emphasis on equality / equal opportunities).*

Both the Chamber of Economy<sup>254</sup> And the Association of Industries (Industriellenvereinigung, IV) promote diversity management.<sup>255</sup>

- *Did they lobby for a merged rather than separate equalities bodies?*

There is no information available on this question.

<sup>248</sup> [http://portal.wko.at/wk/format\\_detail.wk?AngID=1&StID=389823&DstID=686](http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=389823&DstID=686)

<sup>249</sup> <http://www.industriellenvereinigung.at/blm120>

<sup>250</sup> [http://www.parlament.gv.at/PG/DE/XXII/ME/ME\\_00070\\_41/imfname\\_000000.pdf](http://www.parlament.gv.at/PG/DE/XXII/ME/ME_00070_41/imfname_000000.pdf)

<sup>251</sup> [http://www.parlament.gv.at/PG/DE/XXII/ME/ME\\_00075\\_11/fname\\_000000.pdf](http://www.parlament.gv.at/PG/DE/XXII/ME/ME_00075_11/fname_000000.pdf)

<sup>252</sup> [http://www.parlament.gv.at/PG/DE/XXII/ME/ME\\_00349\\_32/fnameorig\\_055003.html](http://www.parlament.gv.at/PG/DE/XXII/ME/ME_00349_32/fnameorig_055003.html)

<sup>253</sup> [http://www.parlament.gv.at/PG/DE/XXII/ME/ME\\_00070\\_42/fname\\_000000.pdf](http://www.parlament.gv.at/PG/DE/XXII/ME/ME_00070_42/fname_000000.pdf)

<sup>254</sup> <http://www.bmwa.gv.at/NR/rdonlyres/AB3125BD-CD35-40A9-8A22-DA16101447F4/0/diversitykompetenz.pdf>

<sup>255</sup> <http://www.zara.or.at/diversity/fileadmin/docs/PraxistagDiversity.pdf>



- *Are there tri-partite or corporatist bodies including employers, trade unions and government that make important national decisions?*

The ‚At Par Commission for Wages and Prices‘ (Paritätische Kommission für Lohn- und Preisfragen), one of the (formerly) central institutions of the Social Partnership, makes decisions on prices and collective agreements. It is entirely based on the principles of voluntary participation, exclusion of the public, unanimity and far reaching informality of decision making, and not legally regulated.<sup>256</sup> It is composed on equal terms by the presidents and vice-presidents of the four associations forming the social partnership<sup>257</sup>, the chancellor and ministers responsible for the issues of labour, economy and agriculture. Due to increasing Europeanisation and Internationalisation this body is characterised as having lost most of its previous importance.<sup>258</sup>

- *Are women represented in such bodies?*

In general it can be stated that the system of social partnership has been hostile towards women.<sup>259</sup> According to the researcher’s knowledge, it was only between 1997 and 2000 that a woman held the function of Minister for Labour, Health and Social Issues and thus was part of the At Par Commission. Women are only represented if they are the president or the vice president of one of the four associations forming the social partners, or if a woman holds the post of chancellor or minister responsible for labour, economy and agriculture.

- *Are there EU, bilateral or other international level links for either trade union or employer organisations?*

The Association of Trade Unions (ÖGB) is a member of the European Trade Union Confederation (ETUC).<sup>260</sup> As for international links of employers’ organisations, the Association of Industries (Industriellenvereinigung, IV) is a member of ‘BUSINESSEUROPE, The Confederation of European Business’ lobbying a Europe-wide competitive industrial policy.<sup>261</sup> The Chamber of Economy (WKO) is represented in a vast number of lobbying associations at the EU level. Two major examples of large horizontal associations are EUROCHAMBRES<sup>262</sup> and UEAPME<sup>263</sup>. The WKO is also represented vertically in a vast number of associations, meaning associations specialised on branches or particular problems.<sup>264</sup>

- *Are these links important (e.g. in lobbying government at national level)*

According to the WKO representative responsible for EU-coordination, the WKO membership in various associations at the EU level is not relevant for lobbying at the national level.<sup>265</sup>

<sup>256</sup> Emmerich Tálos, 2006. Sozialpartnerschaft. Austrokorporatismus am Ende? In: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien. 423.

<sup>257</sup> Chamber of Labour (Arbeiterkammer), Chamber of Economy (Wirtschaftskammer), Association of Trade Unions (Österreichischer Gewerkschaftsbund), Chamber of Agriculture (Landwirtschaftskammer).

<sup>258</sup> Tálos 2006: 431.

<sup>259</sup> See e.g. Erna Appelt. 1995. Frauen und Fraueninteressen im korporatistischen System, In: Bericht über die Situation von Frauen in Österreich. Frauenbericht 1995, edited by Bundesministerin für Frauenangelegenheiten, 610-618. Wien

<sup>260</sup> <http://www.etuc.org/a/82>

<sup>261</sup> <http://www.buinesseurope.eu/content/Default.asp?PageID=415>

<sup>262</sup> <http://www.eurochambres.be>

<sup>263</sup> <http://www.ueapme.com>

<sup>264</sup> The list of associations to which the Chamber of Economy (WKO) is a member can be accessed under [http://portal.wko.at/wk/pub\\_detail\\_file.wk?AngID=1&DocID=722355&ConID=274446](http://portal.wko.at/wk/pub_detail_file.wk?AngID=1&DocID=722355&ConID=274446)

<sup>265</sup> Email by WKO representative responsible for EU-coordination, Edda Knittel, of June 3, 2008.

### 7.3 Other intersecting social inequalities

#### 7.3.1 Ethnicised / racialised groupings

- *What is the composition of the national population by ethnicity?*

Ethnic groups recognised by the 1976 Ethnic Groups Act (Volksgruppengesetz)<sup>266</sup> are only 'autochthonous' ethnic groups, which means that they must be Austrian nationals and have lived in Austria for at least three generations. These are **Hungarians, Croats, Slovenes, Czechs and Slovaks. Roma and Sinti** were recognised as ethnic group only in 1993.<sup>267</sup> The Croat and Slovene ethnic groups are also recognised in the 'Contract of State' (Staatsvertrag) of 1955 that re-established Austrian sovereignty after the Second World War<sup>268</sup>. Hungarian, Czech, Slovak and Roma and Sinti minorities were not recognised in it.

If ethnicity is defined by the use of language<sup>269</sup> then according to the last population census in 2001, the vast majority of the population speaks German as the commonly used language (7.115.780 persons), followed by **Turkish** (183.445 persons), **Serbian** (177.320 persons) and **Croatian** (131.307 persons).<sup>270</sup> It is stressed that these minorities are predominantly composed of immigrants, as the 'autochthonous' minorities such as the Croats in Burgenland and Carinthian Slovenes are only a small percentage (17.200 persons in 2001) of all persons speaking Croatian and Slovene.<sup>271</sup>

- *What are considered to be the most important ethnicised, racialised, and linguistic divisions politically (e.g. Roma/non-Roma, Black/White, citizen/migrant, language communities)?*

Regarding **autochthonous ethnic groups**, the most relevant political division is around the symbolic recognition of **Carinthian Slovenes** by language rights.<sup>272</sup> The debate has involved various decisions of the Constitutional Court in favour of the rights of Carinthian Slovenes to use signposts in German and Slovene. Because of the open resistance by the Governor of Carinthia, Jörg Haider (former leader of the Freedom Party FPÖ, currently right-wing party Association Future Austria), the decisions have not been implemented. .

Regarding **political divisions with non-autochthonous groups**, the most important one, especially in public debates about 'integration' since 2000, seems to be the division between citizens and **migrants or people with migrant background**.<sup>273</sup> This division is connected to ethnicity and religion: most non-German speaking migrants living in Austria have Turkish, Serbian and Croatian backgrounds and are intersected with Islam (see above). However, the division may sometimes be visible despite a formal citizenship status of the people concerned.

- *Is ethnicity considered to be intersected by religion (e.g. Islamic/non-Islamic)?*

Yes, ethnic origin and migrant status intersect with (Islamic) religion, see above. Two phases of migration: 1) labour market migration from Turkey and former Yugoslavia starting in the 1960's (so called 'guestworkers') and 2) migrants from former Yugoslavia during the Balkan war have resulted in a rapid growth of the Islamic community in

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<sup>266</sup> BGBl. Nr. 396/1976

<sup>267</sup> <http://www.bmeia.gv.at/aussenministerium/oesterreich/tatsachen-und-zahlen/land-und-leute.html>

<sup>268</sup> Staatsvertrag betreffend die Wiederherstellung eines unabhängigen und demokratischen Österreich, BGBl. Nr. 152/1955 idF BGBl. III Nr. 179/2002

163 Gerhard Baumgartner/Bernhard Perchinig, 2006: Minderheitenpolitik, In: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 686 -700.

<sup>270</sup> Baumgartner/ Perchinig, 2006: 695.

<sup>271</sup> Baumgartner/ Perchinig, 2006: 690.

<sup>272</sup> see Tertinegg/Sauer 2007, Issue Histories Report Austria, 20

<sup>273</sup> See Tertinegg/Sauer 2007, Issue Histories Report Austria, 44, 51. See also Baumgartner/Perchinig 2006: 695.

Austria: between 1991 and 2001, the number of Muslims doubled (according to the population census).<sup>274</sup>

- *Prioritise the ones that have been the most important in the development of gender+ equality policies.*

No information available.

- *What is the citizenship status of (all or part) of each of the minoritised groups (e.g. do any groups lack the right to political participation, employment, residence, social security benefits, or visit)?*

Citizenship status depends on whether or not a person has Austrian, EU, or third-country nationality or is stateless. Naturalisation procedures have been considerably tightened, especially with the latest major amendment to the Alien Law in 2005. The amendment makes it much more difficult for migrants living in Austria to formally obtain Austrian citizenship and for migrants entering Austria to receive residency and working permits or asylum.<sup>275</sup> Non-Austrian and non EU-nationals do not have the right to political participation, whereas EU-nationals have the right to passive political participation at the communal level, i.e. EU-citizens can run for a political office at the communal level. Some social benefits (such as child-care benefit, family allowance, right to subsidized housing) are tied to the citizenship status and non-Austrian nationals either do not obtain them or have to fulfil additional criteria to obtain them.<sup>276</sup>

- *In what way are ethnicised and racialised groups organised? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research)*

Self-organising seems to be a major way migrants in Austria organise, but funding for such organisations is difficult. There is little research on ethnicised groups' political organisation, and on to what extent lobbying the state, campaigning and research takes place.<sup>277</sup> Demonstrations are rare due to constitutional restrictions for Non-Austrian nationals to exercise the freedom of assembly.<sup>278</sup> Autochthonous groups such as the Carinthian Slovenes, and Roma and Sinti have established organisations lobbying for their interests.

- *In what way are women engaged in these organisations?*

No information available, but earlier literature points to structures dominated by men<sup>279</sup>.

- *Do minoritised women organise separately within or outside of such organisations?*

No information available.

- *Are there any groups organised against certain ethnic groups?*

Especially since 2000, the right-wing parties Freedom Party (FPÖ) and Association Future Austria (BZÖ) have both led federal and local election campaigns based on xenophobic, islamophobic and racist ideas and targeted especially Muslim immigrants and Roma and Sinti.<sup>280</sup>

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<sup>274</sup> Barbara Prainsack, 2006: Religion und Politik, in: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 546.

<sup>275</sup> See Tertinegg/Sauer 2007: 58.

<sup>276</sup> Tertinegg/Sauer 2007: 39, 44, 50.

<sup>277</sup> Ljubomir Bratic 2003: Soziopolitische Netzwerke der MigrantInnen aus der ehemaligen Sozialistischen Föderativen Republik Jugoslawien (SFRJ) in Österreich. In: Fassmann, Heinz / Stacher, Irene (Hg.) Österreichischer Migrations- und Integrationsbericht. Klagenfurt / Celovec, 395-409.

<sup>278</sup> § 8 Assembly Act states that a Non-Austrian may not act as organiser or leader of a public assembly discussing public issues, Versammlungsgesetz (BGBl. Nr 98/1953 idF 127/2002)

<sup>279</sup> Ljubomir Bratic, 2000: Soziopolitische Organisationen der MigrantInnen in Österreich, 10, paper download at [http://www.beigewum.at/TCgi/Images/beigewum/20050131205620\\_KW%201-00%20Bratic.pdf](http://www.beigewum.at/TCgi/Images/beigewum/20050131205620_KW%201-00%20Bratic.pdf).

<sup>280</sup> Tertinegg/Sauer 2007: 44.

### 7.3.2 Religion/belief/faith

- *What is the composition of the national population by religion / faith*  
According to the last population census (2001)<sup>281</sup>, the population is split into the officially recognised denominations Roman Catholic Church, Protestant Church, Islamic Denomination and Israelitic Denomination as follows: 5,915.421 persons or 73,6% of the population are members of the Roman Catholic Church. 376.150 persons or 4,68% of the population are members of the Protestant Churches. 338.988 persons or 4,22% of the population are members of the Islamic Denomination. 14.621 persons or 0,18 % of the population are members of the Old Catholic Church. 8140 persons or 0,10 % of the population are members of the Israelitic Denomination. 255.681 persons or 3,18 % of the population belong to other denominations. 963.263 persons or 11,99 % of the population are without denomination. Between 2001 and 2006 the number of official members of the Roman Catholic Church dropped by 279.834 or 4,37%.<sup>282</sup>
  
- *What proportion of the population are practising members of an organised religion?*  
There is no information available on 'practising members' or officially recognised churches and denominations, thus the only relevant statistic is the last population census in 2001, see above 7.3.2.
  
- *What are the main religious organisations? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research)*

The Roman-Catholic Church (Römisch-Katholische Kirche Österreichs) is the biggest state-recognized denomination<sup>283</sup> with 74% of the Austrian population being members (Census 2001).<sup>284</sup> It is an important actor due to its influence on public discourse<sup>285</sup>, especially in family policy, same-sex partnership and abortion.

- *Building autonomous institutions* Yes
- *Public protest e.g. demonstrations* Yes
- *Campaigning* Yes
- *lobbying state* Yes
- *service provision* Yes
- *research*
  - *Are they important or marginal to national politics?*  
Important actor in family policy, sexual orientation discrimination policy, abortion policy.
  
  - *Are they centralised or dispersed?* Centralised
  - *How are women represented or not within them?*

<sup>281</sup> Source: Statistik Austria, Volkszählung 2001, [http://www.statistik.at/web\\_de/static/bevoelkerung\\_nach\\_dem\\_religionsbekenntnis\\_und\\_bundeslaendern\\_1951\\_bis\\_2001\\_022885.pdf](http://www.statistik.at/web_de/static/bevoelkerung_nach_dem_religionsbekenntnis_und_bundeslaendern_1951_bis_2001_022885.pdf)

<sup>282</sup> Source: Statistics of the Roman Catholic Church <http://www.katholisch.at/content/site/kirche/index.html?SWS=7dcd66c619a91220bd924e68da97ba55>

<sup>283</sup> The basis of state recognition of religious denominations is the 1874 Recognition Act (Anerkennungsgesetz, RGBI 1874/68). The status of a 'recognised religious denomination' is connected to legal capacity and to additional legal provisions concerning tax law, education law, and law of civil status. For the Roman-Catholic Church, the 1933 Concordat (including additional contracts after 1955) forms the basis of legal relations to the Republic of Austria. See Franz Horner and Paul M. Zulehner, 1997: Kirchen und Politik, in: Handbuch des politischen Systems Österreichs. Die Zweite Republik, edited by Dachs/Gerlich/Gottweis/Horner/Kramer/Lauber/Müller/Tálos. Wien, 491-505.

<sup>284</sup> [http://www.statistik.at/web\\_de/statistiken/bevoelkerung/volkszaehlungen/bevoelkerung\\_nach\\_demographischen\\_merkmalen/index.html](http://www.statistik.at/web_de/statistiken/bevoelkerung/volkszaehlungen/bevoelkerung_nach_demographischen_merkmalen/index.html)

<sup>285</sup> See Barbara Prainsack, 2006: Religion und Politik, in: Politik in Österreich. Das Handbuch, edited by Dachs/Gerlich/Gottweis/Kramer/Lauber/Müller/Tálos. Wien, 538-549.

Women are only represented at the lowest levels of the Roman-Catholic Church hierarchy, i.e. at the level of parishes, the Parish Council (Pfarrgemeinderat). In 2007, 54% of these bodies were represented by women.<sup>286</sup> Other than that, the Roman-Catholic decision making bodies are exclusively male.

Women within the Roman-Catholic church are organised in the Austrian Catholic Women's Movement (Katholische Frauenbewegung Österreich).<sup>287</sup> The Roman-Catholic Church as is not a feminist organisation, but the Austrian Catholic Women's Movement - as stated in their guidelines - is considered a major national organisation active in some feminist core policy fields, such as poverty of women, migrant women, rural women, single mothers, and development policy.

o *Do they oppose gender equality in general and in our three issues?*

The latest guidelines regarding the Roman-Catholic Church's understanding of gender relations were issued in 2004 and are still valid in 2008.<sup>288</sup> The guidelines are based on a biologist notion of gender and a strict difference approach. They reject feminism and socially constructed notions of gender and gender relations.

In Austria, the Roman-Catholic Church opposes gender equality policies most pointedly in the field of family policy, same-sex partnership and abortion.<sup>289</sup> To some extent, the church's policy on the indissolubility of marriage is in conflict with policies against gender-based violence in relationships, as the principles of holiness and protection of marriage and family clash with the principle of protection against violence.<sup>290</sup>

o *What is their preferred model of womanhood?*

Women as caring wives and mothers based on a biological and difference-based understanding of gender.<sup>291</sup>

o *Do they support or oppose the other equalities issues?*

According to the researcher's assessment, **class** (in the form of poverty issues), **age** and **disability** as grounds of exclusion have been very high on the agenda of the Roman-Catholic Church and respective equality policies have been supported. Recently, discrimination on grounds of **nationality/citizenship status** has been taken up in public debates on the alien law. **Ethnicity** (mostly connected with class) is very prominent for some local representatives of the Roman-Catholic Church and include issues such as initiatives for Roma and Sinti beggars in some Austrian cities. Equality policies regarding **sexual orientation** have consistently been opposed, most vehemently in the last two years of debates on the legal recognition of same-sex partnership.<sup>292</sup> Regarding **religion or belief**, the issue is more complex. While the Roman-Catholic Church generally supports freedom of religion and belief, restrictions in the 2004 Equal Treatment Law for employment were made regarding employment in public organisations whose ethical principles are based on religion or belief.<sup>293</sup> In a statement rejecting a draft law on a life-partnership, in May 2008, the Synode of Austrian Bishops relies on the argument that excluding persons from employment in the Roman-Catholic due to their religion or belief is not discriminatory.

<sup>286</sup> Email by representative of Archdiocese Vienna, Christine Mitterer, of June 6, 2007.

<sup>287</sup> <http://www.kfb.at/>

<sup>288</sup> 2004 'Letter to the Bishops of the Catholic Church of the Status of Man and Women in Church and the World', [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20040731\\_collaboration\\_ge.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_ge.html)

<sup>289</sup> See timeline, Tertinegg/Sauer 2007, Issue Histories Report Austria

<sup>290</sup> Email by representative of Archdiocese Vienna, Christine Mitterer, of June 6, 2007.

<sup>291</sup> See 2004 'Letter to the Bishops of the Catholic Church of the Status of Man and Women in Church and the World'.

<sup>292</sup> See timeline, Tertinegg/Sauer 2007, Issue Histories Report Austria

<sup>293</sup> See Tertinegg/Sauer 2008, Series of LARG Country reports: Austria, 1. General Gender+ Equality Policies, 66. Different treatment on grounds of religion or belief in employment within public organisations whose ethical principles are based on religious or belief principles is not discrimination if the religion or belief of the person is a essential, legitimate and justified precondition for the job because of ethical principles of the organisation.

- *Are they in alliance with any other inequalities or not?*

There is a strong alliance with NGOs working against poverty (**class**) and some alliances with NGOs working against inequalities based on **nationality/citizenship status**.<sup>294</sup>

- *Are there any groups organised against certain religious groups?*

No information available.

The Islamic Religious Community is the third biggest state-recognized denomination with 4.2 percent of the population as members (Census 2001).<sup>295</sup>

- *Building autonomous institutions* Yes
- *Public protest e.g. demonstrations* Protest more media oriented
- *Campaigning* No information available
- *lobbying state* No information available
- *service provision* Yes
- *research*

- *Are they important or marginal to national politics?*

Certainly a less important actor than the Roman Catholic Church due to its much smaller community. Important actor in immigration policies and in issues of 'integration'.

- *Are they centralised or dispersed?* Centralised

- *How are women represented or not within them?*

No information available.

- *Do they oppose gender equality in general and in our three issues?*

According to the website of the Islamic Community, marriage and family are highly prioritised within the Islamic Community. Equality of women and men is stressed, as is women's and girls' right to education..<sup>296</sup> Gender-based violence in the form of domestic violence against women<sup>297</sup> and FGM<sup>298</sup> are strongly rejected. Regarding abortion, women's rights to terminate pregnancy are in principle seen as restricted to health reasons. From the perspective of the Islamic Community, economic reasons do not constitute a legitimate ground for abortion..<sup>299</sup>

- *What is their preferred model of womanhood?*

See above. According to the website of the Islamic Community, marriage and family are prioritised within the Islamic Community. Equality of women and men is stressed, as is women's and girls' right to education..<sup>300</sup>

- *Do they support or oppose the other equalities issues?*

Equality regardless of sexual orientation is opposed.<sup>301</sup> In May 2008, the draft law on the recognition of same-sex partnerships was rejected by the (female) Speaker of the

<sup>294</sup> Based on the researcher's media analysis in 2007/2008.

<sup>295</sup> [http://www.statistik.at/web\\_de/statistiken/bevoelkerung/volkszaehlungen/bevoelkerung\\_nach\\_demographischen\\_merkmalen/index.html](http://www.statistik.at/web_de/statistiken/bevoelkerung/volkszaehlungen/bevoelkerung_nach_demographischen_merkmalen/index.html), also Kroissenbrunner, Sabine (2003): Islam, Migration und Integration: soziopolitische Netzwerke und 'Muslim leadership'. In: Fassmann, Heinz/Stacher, Irene (Hg.): *Österreichischer Migrations- und Integrationsbericht. Klagenfurt/Celovec. 375-395.*

<sup>296</sup> <http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=176>

<sup>297</sup> <http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=217>

<sup>298</sup> <http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=171>

<sup>299</sup> <http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=179>

<sup>300</sup> <http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=176>

Islamic Community who referred to the position of the Catholic Church in Austria.<sup>302</sup>  
No information available for other inequalities.

- *Are they in alliance with any other inequalities or not?*

No information available.

- *Are there any groups organised against certain religious groups?*

Right-wing political parties such as the Freedom Party (FPÖ) and the Association Future Austria (BZÖ) have used anti-islamic statements in their election campaigns for the federal elections in Austria in 2006.<sup>303</sup>

The NGO 'Freidenker' ('Freethinkers') understands itself as an interest association for people without denomination, people who left any kind of church or denomination, and atheists.<sup>304</sup> However, they are not publically visible actors.

The Jewish Community with 0,1 percent of the population as members (Census 2001) is an important actor in restitution policies only.

### 7.3.3 Sexual orientation

- *Are there gay/lesbian/trans/bisexual/queer organisations? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research)*

Gay and lesbian demands are mainly represented by HOSI Vienna (Homosexuelleninitiative Wien<sup>305</sup>) and other regional HOSI branches, but there is no national organisation. HOSI Vienna is however the most active NGO. Their main strategies are demonstrations, campaigning, lobbying state, and service provision. The other gay and lesbian NGO with a focus on legal issues is Rechtskomitee Lambda<sup>306</sup>.

- *Do they have a national organisation?*

No

- *In what way are women engaged in and represented in these organisations?*

HOSI was originally founded in 1979 as an NGO for gay men and only later included lesbians. According to the information on the website, since the 1990s, both a man and a woman were elected as chairs. Currently however, there is one male chair.

- *Do they work in alliance with other inequalities or not?*

No information available

- *Are there any groups organised against gay / lesbian / trans-people?*

The Roman-Catholic Church is openly opposed to gay/lesbian/trans-people's demands, as stated in the statement to the draft law on same-sex partnerships of May 2008.

### 7.3.4 Disability

- *Are there disability organisations? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research)*

<sup>301</sup> Interview with Elsayed Elshahed, the Head of the Islamic Religious-Pedagogical Academy in Austria, in the daily 'Die Presse', 25 September 2007, <http://diepresse.com/home/panorama/oesterreich/332505/index.do?parentid=86192&act=0&isanonym=0>

<sup>302</sup> Interview with Carla-Amina Baghajati in Ö1 (Austrian Broadcasting)

<sup>303</sup> See Tertinegg/Sauer 2007. Issue Histories Report Austria, 44.

<sup>304</sup> <http://www.atheisten.at/>

<sup>305</sup> <http://www.hosiwien.at/>

<sup>306</sup> <http://www.rklambda.at>

There are several disability NGOs with different focuses. The biggest umbrella association for disability NGOs is Lebenshilfe Österreich, founded in 1967.<sup>307</sup> Its main strategies are campaigning, lobbying the state, research and service provision.

- *In what way are women engaged in and represented in these organisations?*

According to the information on their website, international links of Lebenshilfe Österreich are Inclusion Europe, Inclusion International, and European Disability Forum<sup>308</sup>.

### 7.3.5 Age

- *Are there organisations of / for older people? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research. In each case, are there EU, bilateral or other international links.*

The biggest umbrella NGO for elderly people is the Seniorenrat (Council of Retired Persons).<sup>309</sup> The biggest NGO for elderly people is the Pensionistenverband Österreich (Association of Retired People Austria).<sup>310</sup> According to the information on its website, its main strategies are lobbying the state and service provision. This NGO is also a member of the Europäische Seniorenorganisation ESO (European Senior Organisation)<sup>311</sup>.

- *How are women engaged in and represented in these organisations?*  
No information available.

## 7.4 Hotspots and Alliances

*Is there a history of controversies or 'hotspots' between certain of the intersecting inequalities, rather than others (if so, which)? For example is gender/religion or sexuality/religion a regular source of controversy? Is this hostility best described as endemic or constant, or as occasional and issue based?*

Preliminary note: The following assessment is based on the researcher's media analysis and the Issue History Report Austria: **Sexuality/religion** (roman-catholic) has been a regular source of controversy in public discourse. The controversy has become more intense in recent years in the issue of legal recognition of same-sex partnerships. The Roman-Catholic Church's hostility toward homosexuality can be described as fairly constant. **Gender/Sexuality/religion** (roman-catholic) has increased in controversy over the issue of abortion. High-level representatives of the Roman-Catholic Church have picked up the issue of protection of life with the aim of limiting the current legal framework which allows abortion up until the 12<sup>th</sup> week of pregnancy, and up until birth if the embryo is expected to be seriously disabled. Hostility towards abortion has been constant, but has increased markedly in visibility in the last 2-3 years. **Gender/religion** (Islam) has been a source of controversy in public discourse, especially regarding Muslim women's headscarves in recent years, and most decidedly in the election campaign 2006. **Ethnicity/Class** has been a source of controversy in public discourse in the issue of begging Roma and Sinti, most prominently in the local election campaign in Graz in 2008.

*Do some organisations representing inequalities often form alliances with each other (if so, which)? For example, feminism and trade unions, or feminism and gay/lesbian groups? Are such alliances best characterised as routine and institutionalised, or as ad hoc and issue based?*

No information available. According to the researcher's impression, if alliances do occur, they are highly ad-hoc and issue based.

<sup>307</sup> <http://www.lebenshilfe.at/kontakt/index.html>, see Tertinegg/Sauer 2007: Issue Histories Report Austria, 29.

<sup>308</sup> <http://www.edf-feph.org/>

<sup>309</sup> <http://www.seniorenrat.at/mitglieder>

<sup>310</sup> <http://www.pvoe.at/>

<sup>311</sup> [http://www.eu-senior.org/en\\_us](http://www.eu-senior.org/en_us)



## WIDER SOCIAL INSTITUTIONS

### 8. Wider Social Environment

The wider social environment may be important in explaining the resources, whether economic, organisational or discursive, which are available to the political groups and institutions identified above.

#### Population, economic development, economic inequality and state welfare

	Country	EU
<b>GDP per capita PPP (Purchasing Power Parity) 2005<sup>312</sup></b>	28700	23400 <sup>313</sup>
<b>Population size 2005 (Eurostat 2007)<sup>314</sup></b>	8,2	459,5 <sup>315</sup>
<b>% of workforce in agriculture 2005 (Eurostat 2007)</b>	5,5	3,7 <sup>316</sup>
<b>Longevity 2005 (Eurostat 2007)</b>	79,4	79,7 <sup>317</sup>
<b>Gini (measure of economic inequality) 2005 (Eurostat 2007)<sup>318</sup></b>	26	30
<b>% GDP/gov. expenditure on social expenditure 2005 (Eurostat 2007)<sup>319</sup></b>	28,8	27,4 <sup>320</sup>
<b>% GDP/gov. expenditure on active labour market policies 2003 (Eurostat 2007)<sup>321</sup></b>	0,62	-
<b>% GDP/government expenditure on childcare 2003 (Eurostat 2007)<sup>322</sup></b>	0,2	-
<b>% GDP/Government expenditure on military 2005 (Eurostat 2007)<sup>323</sup></b>	0,735	1,7 <sup>324</sup>

#### Gender Regime

	AT total	Female	Male
<b>Employment rate (2005, Eurostat)<sup>325</sup></b>	68,6	62,0	75,4
<b>Unemployment rate (2005, Eurostat)<sup>326</sup></b>	5,2	5,5	4,9

<sup>312</sup> Source Eurostat (2007),

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.45323734&\\_dad=portal&\\_schema=PORTAL&screen=welcomeref&open=/&product=STRIND\\_ECOBAC&depth=2](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.45323734&_dad=portal&_schema=PORTAL&screen=welcomeref&open=/&product=STRIND_ECOBAC&depth=2)

<sup>313</sup> EU-25

<sup>314</sup> Source Eurostat (2007)

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.45323734&\\_dad=portal&\\_schema=PORTAL&screen=welcomeref&open=/&product=Yearlies\\_new\\_population&depth=2](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.45323734&_dad=portal&_schema=PORTAL&screen=welcomeref&open=/&product=Yearlies_new_population&depth=2)

<sup>315</sup> EU-25

<sup>316</sup> EU-15

<sup>317</sup> EU-15

<sup>318</sup>

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=Yearlies\\_new\\_population&root=Yearlies\\_new\\_population/C/C5/C54/dae10000](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=Yearlies_new_population&root=Yearlies_new_population/C/C5/C54/dae10000)

<sup>319</sup>

<sup>320</sup> EU-25

<sup>321</sup> As provided in Chart 2.2.1. Government Expenditure in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies.

<sup>322</sup> Ibid.

<sup>323</sup> Ibid.

<sup>324</sup> EU-15

<sup>325</sup> As provided in Chart 2.2.3. Employment, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Employment rates:

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=STRIND\\_EMPLOI&root=STRIND\\_EMPLOI/emploi/em012](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em012)

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=STRIND\\_EMPLOI&root=STRIND\\_EMPLOI/emploi/em013](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em013)

<sup>326</sup> As provided in Chart 2.2.3. Employment, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Unemployment rates:

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=STRIND\\_EMPLOI&root=STRIND\\_EMPLOI/emploi/em072](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em072)

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996.39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=STRIND\\_EMPLOI&root=STRIND\\_EMPLOI/emploi/em073](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em073)

<b>Share of women in adult labour force % (2004, UN)<sup>327</sup></b>	-	45	-
<b>Women's share of part-time employment % (2004, UN)<sup>328</sup></b>	-	87	-
<b>Gender pay gap, unadjusted (gap= difference between average gross hourly earnings of male and female employees given as % of average gross hourly earnings of male paid employees, unadjusted form 2005 Eurostat)<sup>329</sup></b>	18(p)	-	-
<b>School enrolment tertiary % gross (2004, World Development Indicators)<sup>330</sup></b>	49,8	54,1	45,6
<b>Women in Parliament % of parliamentary seats in single or lower chamber occupied by women (UN 2007)<sup>331</sup></b>	-	32,2	-
<b>Women's share of legislators and managers % (UN 2005)<sup>332</sup></b>	-	27	-
<b>% one parent families (dependent children)</b>	No data		
<b>Mean age at first marriage (Eurostat, 2003)<sup>333</sup></b>	-	28	30,5
<b>Marriage rate (2003, UN)<sup>334</sup></b>	4,6		
<b>Divorce rate (2003, UN)<sup>335</sup></b>	2,4		
<b>Fertility rate (2004 , World Development Indicators)<sup>336</sup></b>	Austria	1,4 <sup>337</sup>	

## 9. SUMMARY

### 9.1 'Deficiencies, deviations and inconsistencies in EU and MS's gender+ equality laws'

	<b>Fully transposed</b>	<b>Before/ after EU</b>	<b>Year</b>	<b>Less, equal to EU, or beyond</b>	<b>ECJ for CEC/Country</b>	<b>EU references</b>
<b>Issues</b>						
<b>1 Equal pay/equal treatment</b>	Unclear (see 1.2)	After	1979	Unclear (see 1.2)		
<b>2 Sexual harassment and discrimination</b>	Unclear (see 1.2)	before	1992	Unclear (see 1.2)		Yes in original law 1992

<sup>327</sup> As provided in Chart 2.2.5. Employment II, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Share of women in adult labour force: percentage of the economically active who are women:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5a.htm>

<sup>328</sup> Women's share part-time employment:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5b.htm>

<sup>329</sup> As provided in Chart 2.2.5. Employment II, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Gender pay gap:

[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=1996\\_39140985&\\_dad=portal&\\_schema=PORTAL&screen=detailref&language=en&product=STRIND\\_EMPLOI&root=STRIND\\_EMPLOI/emploi/em030](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996_39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em030)

<sup>330</sup> As provided in Chart 2.2.6. Education in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. World Development Indicators, World Bank (September 2006)

<sup>331</sup> As provided in Chart 2.2.7. Representation & Influence, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Women in parliament:

<http://unstats.un.org/unsd/demographic/products/indwm/tab6a.htm>

<sup>332</sup> As provided in Chart 2.2.7. Representation & Influence, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Women's share legislators and managers:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5d.htm>

<sup>333</sup> As provided in Chart 2.2.8. Family & reproduction, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. Mean age at first marriage: <http://unstats.un.org/unsd/demographic/products/indwm/tab5d.htm>

<sup>334</sup> Ibid. Marriage rate, table 23: <http://unstats.un.org/unsd/demographic/products/dyb/dybsets/2003%20DYB.pdf>

<sup>335</sup> Ibid. Divorce rate:

<http://unstats.un.org/unsd/demographic/products/dyb/DYB2003/Table25.pdf>

<sup>336</sup> World Development Indicators, World Bank (September 2006)

<sup>337</sup> As provided in Chart 2.2.9. Family & Reproduction II, in: Statistics and Sources for Deliverable No 41: Series of WHY country context studies. World Health Report 2006, WHO

<b>3 Equality bodies</b>	Unclear (see 1.2)	After	2004	Seemingly less (see 1.2)	<a href="#">ECJ Decision C335/04</a> on non-transposition of Race-Directive (2000/43/EC) in Austria	Yes, 2004 amendments
<b>4 NGO/civil society dialogue</b>	No, no legally binding regulation as of June 2008			less		
<b>5 Parental leave</b>	Unclear (see 1.2) but surpass in length	Before (1979) for mothers, before (1990) for fathers in principle, after (2000) for fathers independently and equal to mother's right	1979 (for mothers) 1990 (for father) 2000 (for fathers, see 1.2)	Beyond in length		Yes in amendment 2004
<b>6 Organisation of working time</b>	Unclear		2004 (see 1.2)	Unclear		
<b>Gender Machinery</b>	See above equality bodies					

## 9.2 Plans and programmes

<b>National general gender equality plan (current)</b>	Yes				No
<i>Reference to Lisbon targets</i>					X
<i>Reference to Barcelona targets</i>					
<i>Targets and indicators</i>	None X	Weak	Moderate	Strong	

<b>National plan: Gender-based violence (current)</b>	Yes				No
<i>Targets and indicators</i>	None X	Weak	Moderate	Strong	

<b>Focus on gender</b>	<b>No</b>	<b>Yes</b>	<b>Weak</b>	<b>Moderate</b>	<b>Strong</b>
<b>Employment plan</b> (general assessment)			X		
<b>Social protection and social inclusion plan</b> (general assessment)			X		
Reference to gender based violence	X				

### 9.3 Gender machineries

<b>National gender machineries</b>	Yes (specify date)		No	Notes
	Gender specific	General equality		
Central government gender equality body with senior minister	Yes	Not for other inequalities		
Independent equality body (research, monitoring, and enforcement)	Yes/partly (Equal Treatment Commission, Federal Equal Treatment Commission, Equal Treatment Lawyer/Ombudsperson)	Equal Treatment Commission, Federal Equal Treatment Commission, Equal Treatment Lawyer/Ombudsperson		Independence is not so clear, monitoring mechanism is weak, enforcement is weak
National consultative / representative body linking state and women's NGOs				Unclear: Austrian Frauenring as biggest umbrella organisation of women's organisations, but there is no institutional link between the state and NGOs as such.
Any other body / bodies (e.g. parliamentary committees)	Parliamentary Committee on Equal Treatment (since 1996 at least)			

### 9.4 Policy

	<b>No -Not at all</b>	<b>Yes / Low</b>	<b>Yes / Moderate</b>	<b>Yes / High</b>
<b>General</b> <b>To what extent is gender mainstreamed throughout policies?</b>				
<b>Non-employment (4.1)</b>				
Extent to which mothers can be legitimately non-employed				X

<b>Intimate citizenship (4.2)</b>				
<i>Extent to which women have access to abortion (in country of residence)</i>			X	
<i>Extent to which state policies are highly heteronormative</i>				X
<b>Gender-based violence (4.3)</b>				
<i>Extent to which policies on GBV go beyond domestic violence</i>		X		
<i>Strength, resources and co-ordination of GBV policies</i>				X

### 9.5 Civil society and state interface

	<b>Not at all</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
<i>Strength of national co-ordinating gender equality body (centralisation, co-ordination, representativeness, resources)</i>			X	
<i>Extent to which the women's NGOs participate in policy making</i>		X		
<i>Extent to which women's NGOs are close to state</i>			X	
<i>Extent to which women's NGOs engage with intersecting inequalities</i>			X	
<i>Extent to which women's NGOs are state funded</i>		X		
<i>Extent of influence of trade union body on policy making</i>				X
<i>Extent of power of women within trade union body</i>		X		