

United Nations
Human Rights Committee Secretariat

8-14 Avenue de la Paix
1211 Geneva 10
Switzerland

Vienna, 23 December 2014

Consideration of the report submitted by Austria under Article 40 of the International Covenant on civil and political rights (CCPR/C/AUT/5)

Proposal for the list of issues submitted by Homosexual Initiative (HOSI) Vienna

We would like to put forward the following proposal to be included in the list of issues to be transmitted to the State party.

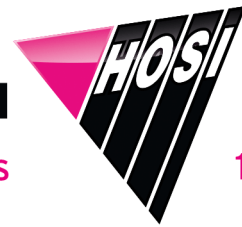
Article 26: discrimination in the protection from discrimination

Austria implemented the two European Union anti-discrimination directives into the federal Equal Treatment legislation only in a minimal fashion, thus transposing, into Austrian legislation, the hierarchy in the protection from discrimination created at EU level. While protection from discrimination on the grounds of age, religion and belief, and sexual orientation is limited to employment and occupation, protection from discrimination on the grounds of sex, disability, race or ethnic origin is also granted in areas such as social protection, social benefits, education, access to and provision of goods and services, including housing.

To up-date the information given by Austria in the above-mentioned report (para. 253), we have to point out that draft bills to amend the federal legislation in order to increase the level of protection and to unify its scope across grounds and areas, have failed in Parliament on two occasions. The members of the conservative party (ÖVP), which is one of the two partners in the ruling coalition government, rejected the relevant amendments presented by the federal government.

HOMOSEXUELLE INITIATIVE WIEN

1. Lesben- und Schwulenverband Österreichs



seit
1979

This unequal level of protection is not only unconstitutional but also a violation of Article 26 of the Covenant which reads as follows: *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons **equal** and **effective protection against discrimination...***

It is obvious that the current legislation does not treat “all persons” as equal before the law as they are not entitled “to the equal protection of the law”, and that the law does not prohibit any discrimination and does not guarantee to all persons equal protection against discrimination.

While this hierarchy in the protection from discrimination was created by the two EU directives, they do not prevent any member state from implementing an equal standard and level of protection at the national level.

We would like to point out that the State party failed to act in accordance with recommendation # 8 in the Committee’s Concluding Observations in the 4th Periodic Cycle (Document CCPR/C/AUT/CO/4).

Mitgliedsorganisation der International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), der International Lesbian, Gay, Bisexual, Transgender, Queer Youth and Student Organization (IGLYO) und der European Pride Organisers Association (EPOA)

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