



# Racism Report 2008

Case Report on Racist Incidents and Structures in Austria

**ZNRA**  
ZIVILCOURAGE UND ANTI-RASSISMUS-ARBEIT

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Even the conservative right now accepts that free markets are not self-correcting

## The Triumphant Return of Keynes

by Joseph E. Stiglitz

We are all Keynesians now. Even the right in the United States has joined the Keynesian camp with unbridled enthusiasm and on a scale that at one time would have been truly unimaginable.

For those of us who claimed some connection to the Keynesian tradition, this is a moment of triumph, after having been left in the wilderness, almost chastised, for more than three decades. At one level, what is happening now is a triumph of reason and evidence over ideology and interest.

Economic theory explained why tax cuts were not self-correcting, why regulation was why there was a role for government in the economy, especially people in the financial market, a type of "market failure." The model was not perfect, but it was better than the alternative, and it was the only one that could explain the US Presidency Obama's economic

policy indicated enormous costs on developing countries. The moment of enlightenment came only when those policies also began inflicting costs on the US and other advanced industrial countries.

Keynes argued not only that markets are not self-correcting, but that in a severe downturn, monetary policy was likely to be ineffective. Fiscal policy was required. But not all fiscal policies are equivalent. In America today, such an emphasis on household



Young Obama supporters rally during inauguration party at Badeschiff

Photo: Karlo Rieger

Obama's inauguration parties throughout Vienna; at Badeschiff, Marriot Hotel, Tunnel Bar, and the American Embassy

A bank fails and a retiree has no where else to turn

## Monika & Meinl

by Stefan Apfel

Monika Kersch effortlessly sketches out a plan. This for Meinl European Land, that for Frau Kersch. Below the line, a fat plus for both. Up to a 12% yield with virtually no risk! A wonder jackpot, won by a simple guessing game.

This is how it was explained to the 60-year old pensioner, Monika Kersch. It took a long time to convince herself it wasn't too good to be true, and now the truth has caught up with her. As Kersch still remembers, an understanding of what she agreed to, happiness, and only old money.

Monika Kersch was forced to leave her house. Construction call this a loss, but for Kersch, tragedy.

Thanks to the house, Kersch's new home. Only a clock of flowers hanging from the ceiling. Family photos are on the wall, but no one there. Kersch is alone. It won't be long before the teacher for

two years since

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Swiss Skier Daniel Albrecht is air-lifted from Kitzbühel after accident  
Austria's most renowned ski slopes are also the most dangerous

## Theater of Nightmares

by Christian Cuenin

"It's every skier's dream to win in Kitzbühel," exclaimed the delighted Swiss skier Didier Defago, 31, who, in the autumn of his career, had just won the most prestigious race on the World Cup calendar – the "Hahnenkamm"

downhill.

For a skier, a victory on the ferocious and tradition-steeped Streif downhill course in Kitzbühel has a similar emotional significance to a final victory on Wimbledon's Centre Court for a tennis professional. This is the big

one – 3.5 kilometers of ice, bumps, turns, and jumps, a crowd of up to 80,000 people cheering you in the finishing arena and, if you win, a slice of skiing immortality. One-off wonders have won

Continued on page 28

at its best: The case for public diplomacy

## Reading America

"The library is not only a glory of the human race, but marks an act of faith in the civility of humanity."

– Varian Copeland, former Director, NY Public Library

"Literature is the spiritual home of a nation."

– Hugo von Hofmannsthal, Austrian poet and essayist

by David McNamara

Ten years ago last November, the Amerika Haus Library in Vienna closed its doors – with Amerika Haus Berlin, the last of an extraordinary 60-year old network in public diplomacy.

Founded in the first years after World War II, Amerika Haus Libraries were set up in every major city in Germany and Austria, to bring American intellectual openness to nations recovering from a decade of tyranny, violence and war.

The libraries were an inspiration in "Soft Power" – an open door policy of leading libraries filled with American literature and ideas, of art, science, politics and history, books rarely available in translation and long forbidden under the Nazis. Open shelves, open doors, open arms.

In Vienna, the first Amerika Haus took up residence of the block on the Ring across from the State Opera, a massive space on two floors that quickly became the meeting place of students and scholars, and an ad hoc museum of just about everything.

Herbert Cernak began going there two to three times a week in the mid 50s, while still in high school. He would light up a Pall Mall – passing to look at the slogan: "Wherever Particular People Congregate", that appears beneath the coat of arms – and flip through the pages of Life Magazine and large photo albums like Arizona Highways. His "like everyone else" was fascinated with pictures of American icons like novelist Ernest Hemingway or marquee player Louis

Continued on page 4



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## Acknowledgments

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Thank you to the team of the ZARA counselling center for victims and witnesses of discrimination for its consistent and well-grounded anti-racism work.

Thank you to Patrick Zesar, who helped again this year to edit the cases documented by the counselling center for our readers.

## Editorial

Owner and publisher: ZARA – Zivilcourage und Anti-Rassismus-Arbeit, Luftbadgasse 14-16, 1060 Wien, ZVR: 236017119, <http://www.zara.or.at>

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Philosophy: The Racism Report is published annually and is delivered free of charge. The report contains a selection of cases of racist assaults reported to ZARA during the year 2008. Thus the Racism Report gives clear and open insight into the work of the ZARA counselling center for victims and witnesses. The Racism Report provides information regarding racist structures in Austria and is supplemented by relevant background-information and interviews.

The ZARA counselling center for victims and witnesses of racism is available for appointments:

Mon. through Wed. from 10 a.m. to 6 p.m., Thu 11 a.m. to 7 p.m.


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# Preface

Two big events dominated 2008 in Austria: the Euro 2008 football championship, and the national elections. The daily work of the ZARA counselling centre for victims and witnesses of racism, however, was characterised by a much plainer every day issue, namely racism in relation to housing. What created a particular challenge was that the majority of this discrimination did not occur in the distribution of flats, where ZARA has entirely concrete lines of actions at their disposal. Rather, ZARA counsellors had to deal with countless cases of neighbourhood conflict.

In such cases, legal instruments have been found not to be the most appropriate means for solving conflicts. There were several cases where the persons concerned had already consulted the local District Service Centre (Gebietsbetreuung) before turning to ZARA with their discrimination experience. The District Service provided by the City of Vienna offers counselling related to living together in a local area, and offers possibilities for solving conflicts in a specific neighbourhood.

## No conflict solution without mediation

Many of the clients approaching the ZARA counselling centre did so because the District Service Centre was not in a position to provide help due to the fact that the other party to the conflict did not consent to a mediation procedure. In many cases, no solution is possible without mediation. In some cases, an “end to the conflict” was achieved by threatening the ZARA clients with a termination of their lease. It is right in middle of this most private and sensitive area of housing, that it becomes evident how the law alone is not a sufficient means to protect people from discrimination.

It takes more general measures and the involvement of a great variety of actors from governmental and non-governmental organisations and the social partners, to be able to succeed in the fight against the phenomenon of racism – and this is true not only of the housing area, but of all areas in society. The individual measures regarding integration so far taken by the Austrian federal government are neither sufficient for creating awareness for discrimination based on ethnic belonging or religion, nor for countering this discrimination in sustainable ways. The approaches chosen by political decision makers so far disregard the fact that integration is a topic that cuts across all

policy fields and can only work on the basis of genuine equal opportunities. The measures to be adopted in the area of integration need to be properly coordinated with each other, they need a long-term strategic perspective, and they must include the topic of non-discrimination. They should focus on solutions rather than problems and cover all people living in Austria. Such measures would counter recurring constructions of “us and them”.

## Youth and diversity

The year 2008 for ZARA was furthermore characterised by sensitisation workshops at schools. ZARA has been giving workshops at schools of all types for many years. Last year, the Federal Ministry of Education, Art and Culture for the first time supported trainings at 30 schools across Austria as well as a teacher-training course for increased competence in tackling diversity and discrimination in the context of schools. Above that, ZARA implemented a project called “Courage for diversity! – anti-discrimination in vocational schools” in co-operation with the youth organisation of the Union of Salaried Private Sector Employees (GPA Jugend) and the City of Vienna. In this project, vocational school pupils were trained as “peer”-trainers, who subsequently carried out peer trainings for their fellow pupils. On this occasion, ZARA elaborated on the experience made in these workshops further down in the present Racism Report, thus also making a contribution to the current debate on integration. After all, young people are the ones in the position to learn positive ways of dealing with cultural diversity most easily.

These measures funded by public administration, are an important support for individual highly active teachers in their daily work in heterogeneous classrooms as well as for teachers striving to counter all sorts of discrimination by displaying moral courage. Still, it shall not deceive anyone into overlooking that we still have a long way to go towards reaching the aims of a firm structural basis for equal opportunities, diversity and non-discrimination in the education system and in teacher training.

## Challenges for society

<sup>1</sup>Regarding the issue of monitoring, see the editorial by ZARA-CEO Barbara Liegl in the Racism Report 2007, titled „How much racism would you like?“

The challenges that diversity and heterogeneity constitute for society become clearly discernible in the framework of workshops carried out by ZARA. Actively paying attention to differences and the variety of group affiliations that are present is a first step. In the next step, one should realize how differences may lead to people having different needs, which, however, does not require thinking in terms of categories like “Muslim women” or “Turks”. ZARA’s expertise in the area of youth and diversity has built up across many years of experience, which we want to share with the general public as well as political decision makers by means of contributions to the Racism Report.

Another topic the Racism Report addresses, next to the school workshop experience, is what has been discussed as “youth at the far right” after the general elections. ZARA trainings clearly show how wrong it would be to draw an overly simplistic picture and hold only the youngsters responsible. Political decision makers have been confronted with the consequences of lowering the age for the right to vote to 16 years without effective accompanying measures furthering the young peoples’ civic education.

## clean politics

Civic education should include human rights, thus creating awareness for the fact that it is not a legitimate election strategy in a democratic society to gather votes at the expense of marginalised groups. The weblog maintained by youths in the framework of the campaign “clean politics. my vote against racism” is a positive example of young people carefully and attentively keeping an eye on election campaigns, being highly sensitive to the abuse of resentment.

## Structure of the Racism Report 2008

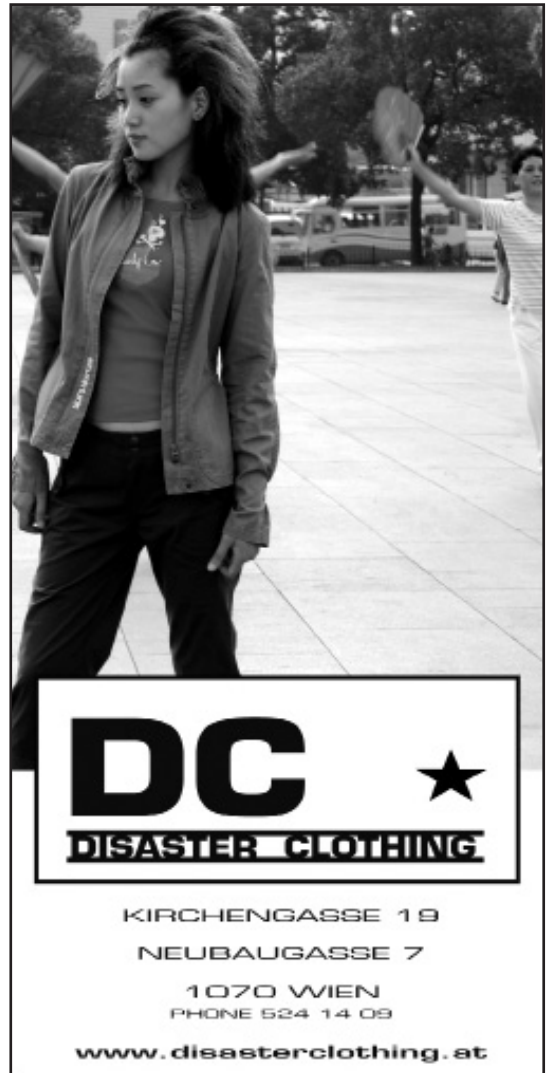
Some more words on the structure of the present Racism Report 08: Updates on further developments in cases from the past years, previously united in a separate chapter “What has become of ...?” are now included under the same title in the respective thematic chapters. You can find explanations of relevant terms or institutions mentioned in the Report in the Glossary, whenever an arrow in the text points you to such a term. The statistics section has a new feature: this time, separate numbers are given for cases documented by members of the ZARA team in the course of specific monitoring activities carried out at irregular intervals. So far, these numbers had been included under witness reports.

Finally, we wish you an interesting reading experience – hoping that our reports contribute to increasing awareness of racism in Austria, and that this year’s report will also be understood as a call for the fight against the causes and structures of racist discrimination.

Sonja Fercher & Barbara Liegl

**Sonja Fercher** is editor in chief of the Racism Report 2008, head of ZARA’s public relations unit and a freelance journalist focussing on (anti-)racism, migration/integration, France and Cyprus. From 2001 to 2008 she was a journalist with *derStandard.at*.

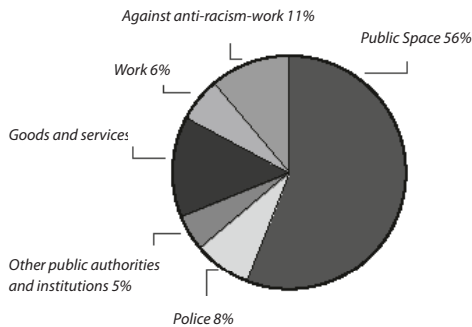
**Barbara Liegl** is ZARA-CEO, director of the RAXEN Focal Point for Austria at the Ludwig Boltzmann Institute of Human Rights (BIM) (<http://www.univie.ac.at/bim/focalpoint/>), head of the anti-discrimination and asylum team at BIM, vice-chairperson of the Network Social Responsibility (<http://www.sozialeverantwortung.at/>) and a political scientist focussing on (anti-) racism/discrimination, monitoring and migration.





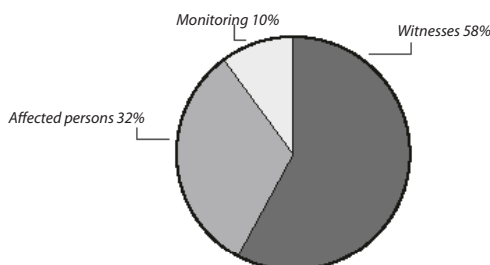
# Statistics 2008

In 2008, the ZARA-team documented a total of 704 racist incidents.

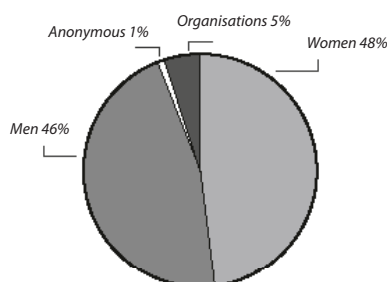


\* Among the 394 cases counted in this area, there were 64 racist smearings.

In 2008, the proportion of witnesses among the people reporting to ZARA was 58 %. 32 % of ZARA's clients were directly affected, 10 % of the cases were documented by members of the ZARA team in the framework of monitoring carried out at irregular intervals.



48 % of ZARA's clients were women, 46 % men, 1 % of the cases were reported anonymously, and 5 % were reports from organisations.



## Information regarding the individual categories and their definitions

- **Public space** refers to all incidents which occur in places open to the general public without restriction to a clearly defined group of people. For example, this includes streets, public transport, shops, bars and restaurants, the media, and the political arena. Racist smearings are also included in this category.

- **Police** encompasses all reports which are in any way related to the administration of public security and its officials.

- **Other public authorities and institutions** refers to all incidents taking place between private individuals and public authorities or institutions or their representatives (with the exception of the police). For example, this includes government offices, prisons, schools, etc.

- **Goods and services** refers, on the one hand, to incidents in the field of housing – from flat hunting to neighbourhood conflicts. On the other hand, this category includes all events regarding the access to bars and restaurants, shops and service providers (unless they fall into the category "Work").

- **Work** includes reports on incidents that are "work"-related in a broad sense, i.e. the labour market, looking for a job, colleagues at work, job adverts, etc.

- **Racism as a reaction to anti-racism work** refers to letters, e-mails, phone calls and threats directed against ZARA or other organisations speaking out against racism.

## Remarks

The tasks of ZARA counsellors include checking the truth of statements of fact given to them as well as coming in for the perspective of the "opponent" or a third party. However, counsellors cannot guarantee that all information they receive - from various sides - corresponds to "the truth". The interests of the individuals turning to the Counselling Centre have top priority. Therefore, their statements are met with trust and understanding and taken seriously. However, this does not imply that their position should be adopted uncritically.

Furthermore, ZARA is aware of the fact that one reproduces racism by depicting racist acts, racisms, racist slurs and prejudice, as well as by basically needless emphasis on ethnic or religious origin and other features of persons which led to discrimination. ZARA strives for linguistic sensibility. The forms of racism that are reproduced stand in a clear context with the

<sup>2</sup> Cf. Opinion of the Equal Treatment Commission, Senate III: <http://www.frauen.bka.gv.at/DocView.axd?CobId=21410>

aim of making racism in Austria visible. If ZARA abstained from this in order to avoid the reproduction of racism, this would work in the hands of further denial of the existence of racism.

In order to avoid reproducing racisms, the N-word is not spelled out in full. ZARA's respective interventions in quotations are signalled by [\*]. Furthermore, ZARA wants to point out that the term „Zigeuner“/“gipsy“ is spelled out in order to make racism visible, but still qualifies as discriminatory<sup>2</sup>.

For more on anti-racist language use, see Racism Report 2006: <http://www.zara.or.at/materialien/rassismus-report/rassismus-report-2006.pdf>

Foto: Kuchera/Österreich



Alex Karun, Menschenrechtssprecherin



Tenja Windbüchler-Souschill, Jugendsprecherin

**Die Menschenwürde ist unteilbar.  
Für eine Welt ohne Rassismus!**



# Public Space

When you read through this chapter, you will realize: The atmosphere is not good. It is not good on the streets; it is not good on public transportation, on the Internet, in the media and on city walls. Everywhere muffled hostility is discharged, severely affecting those not born in this country. They are assaulted verbally and physically; they are defamed, humiliated and excluded. The prevailing message is: "You are not welcome".

The social climate for migrants or simply for people perceived as "different", has become harsher, even under the new grand coalition. The documented cases evidence the severe repercussions on migrants and people with migrational history, caused by the fact that the notion of Austria as an immigration country is still far from being a political consensus. While various parties are still brooding over whether and how to acknowledge this fact, blunt forms of racism, kindled again and again, are openly exhibited in other corners. Moreover, the two parties in government have adopted populist positions themselves and have played a vital part in allowing anti-foreign discourse to become an accepted standard, by not - or not with sufficient vigour - raising their voice against racist jargon.

The racist, segregating and dehumanising slogans deliberately placed during the city council elections in Graz and the national parliamentary elections have contributed to this general mood of resentment. Politicians redline people living in Austria who are still perceived as foreign, make them into scapegoats and try to gain votes on their backs.

Against this backdrop it becomes sadly clear why migrants and their children are often viewed with fear and distrust. Often they have to hear, "Go home, if you don't like it here!", but to most of them Austria has long become - or has always been - home.

Hence it is little wonder that migrants begin to fight back and sometimes resort to questionable means themselves to assert their position in society and in public space - a phenomenon that of course cannot be justified merely by explaining it.

During the past decades negative clichés have been established, which have now come to fully unleash their destructive potential of segregation and dehumanisation. It takes moral courage to reverse these trends and to create a society of equal footing.

But there is good news as well: Last year saw the first case of an internet-user in Austria sentenced to prison for voicing racist sentiments. In September, a 53 year-old man was given a nine months prison term for incitement to hatred - two of which unconditionally, as there had been prior convictions. He had dispatched e-mails to ZARA containing ghastly verbal assaults. It is crucial to the Austrian constitutional state that a clear statement be made that such opinions are not to be tolerated and will in fact be prosecuted.

---

## *Show moral courage!*

The successful film-maker Jochen Graf has produced three short spots for ZARA, entitled *"3 times 45 Seconds of Moral Courage"*. These films have been widely praised for encouraging people to stand up against everyday racism - without raising their finger to give a moral lecture!

See under: <http://filmproduktion.org/zaraspots/>

## Streets, public transport etc.

**1** In January, Mr E. informs ZARA that at the turn of the year skewered pigs' heads were placed on the construction site of the new Muslim cultural center in Linz. Proudly the "Initiative against the Linz Mosque", referring to the right-wing media network Altermedia, reports on its website about the "brave citizens" who have "decided to voice their displeasure over the project of the mosque by means of an unusual New Year's greeting". Photographs of the crime scene are displayed on the Internet site of the National People's Party (NVP). ZARA has documented the incident.

**2** Mr M. is of Turkish origin. In January he goes shopping in the Vienna Donauzentrum together with his family. On the escalator a male individual brutally hits Mrs M. on the back. Mr M. instantly steps in and pushes the man away. Upon this, the stranger abuses the family as "shitty foreigners". There is no further escalation. Mr M. wants the incident documented by ZARA.

**3** Over the course of an irregular media monitoring, ZARA documents the following case: On February 6 ORF Styria reports on the desecration of 45 Jewish graves in the central cemetery in Graz. Simultaneously, there appear flame letters adorned with runes, originating from a "Pressure Group for a Muslim-free Graz", reading as follows: "Your mosque will burn, in your Islamic cemetery we will bury pigs' entrails, and Soleiman Ali will soon find himself in paradise." Said Soleiman Ali is the chairman of the Egyptian community in Graz and this letter is not the first act of aggression directed towards his person: Only recently the wheel nuts on his neighbour's car were loosened - an assault which Ali assumes was actually aimed at himself.

The Graz police initially dismiss a link between the letter and the desecration, since no racist or Neonazi smearings were found at the cemetery. Eventually the case is referred to the Federal Office for the Protection of the Constitution and the Suppression of Terrorism for further investigation.

**4** In March, Mr G. complains to ZARA via telephone. He is upset because he was abused as "pig eater" and "filthy lard-swallower" by a young Muslim in a tram after prompting him to leave his seat to an elderly gentleman. Mr G. inquires if this verbal assault is going to be recorded by the counselling service, or if ZARA was "only there for foreigners". A counsellor informs Mr G. that ZARA will document the incident. He also points out to him the possibility of pressing charges, stressing however, that this attempt is likely to be unsuccessful, due to the unknown identity of the perpetrator. Mr G. is content with the information

given and his statement taken down.

**5** In March Mr Ö. notifies ZARA about the following incident: When parking his car in the parking lot of a home-improvement store in Vienna, he is insulted by a "foreigner" as a "shitty Austrian". According to Mr Ö., this abuse was triggered by his having "snatched away" a parking space from the foreigner. ZARA fills Mr Ö. in on his legal options, yet he is not heard from again.

A similar event is reported by Mr P.: In September he is abused as "shitty Austrian" by two individuals, who he supposes to be of Turkish origin. He too, attributes the insults to the fact that he had stolen a free parking space from them. Mr P. requests ZARA to record this racist insult.

**6** In March Ms R. reports the following observation made in a tram in Linz: A man of Austrian origin verbally assails another man as a "Turkish underclass pig" and accuses him of beating his wife and sexually abusing his children. Ms R. wishes to bear testimony to this incident and have it documented.

**7** Mr A. is a Gambian citizen residing and working in Vienna. One evening in April, he boards a car of tramline 38 in Grinzing on his way home. Three elderly gentlemen and two ladies of roughly the same age are seated close to the door. When one of the gentlemen notices Mr A., he says to his neighbour, "Look, here comes a black!" The latter responds, "Just shoot him and throw him off the train". The company roars with laughter, until one of them realizes that Mr A. is looking at him with consternation. Upon this the first gentleman warns the second, "Be careful, I think he can understand us!" Mr A. wants the occurrence on ZARA's records.

**8** Ms L. witnesses the following incident while waiting in line in a Vienna supermarket in April: An elderly female customer starts abusing a woman, seemingly of non-Austrian ethnicity, who is waiting in front of her: "Have you bought this space? You have no right to stand in front of me! This is MY country! I'm in my home country! No, shut up! You don't have the right to speak! Go away!" The affronted woman is shocked and does not respond. Ms L. protests against the torrent of racist hatred and tells the assailant to "shut up" herself. Ms L. wants the event recorded by ZARA.

**9** Ms E. has a sixteen year old foster son from Gambia. She informs ZARA about an incident in March: Her son A. is cycling through the 6th district of Vienna, when an approaching motorist throws heavy racist curses at him. The teenager follows the motorist

and confronts him a short time later. The man gets out of his car, claims to be a policeman and continues the abuse. He pushes A. away from him, which causes him to stumble, leaving a scratch on the car as he falls. This further arouses the stranger's fury, he calls the police, who arrive soon afterwards.

A. waits for the officers, since he does not feel guilty in any way. The policemen take the evidence correctly. During a second interrogation of her son Ms E. is informed that on the grounds of the motorist's statement, who accuses him of willful damage of property, the case will be referred to the prosecution. ZARA provides legal counselling for Ms E. and offers to assist her foster son in further contact with legal authorities, which as of yet has not been necessary.

**10** In June Ms Y. reports to ZARA an experience her husband - of Nigerian origin - had in Vienna: Mr Y. misses the last subway train and has to take the night-bus leaving a short time later. On board the bus he is rudely accosted by a woman of about 40 years, who abuses him as "Bimbo" and "N...[\*]". Among other utterances there is also: "What Hitler did was good after all". Another woman joins in the racist tirade. Other passengers intervene in Mr Y's favour. A man calls the police, who arrive shortly but do not take evidence.

ZARA outlines the relevant penal regulations to Ms Y. and offers to refer the matter to the prosecution, yet Ms Y. does not make use of this offer.

**11** ZARA documents the following observation made in October by a female witness: A young woman wearing a headscarf is pushing a perambulator with twins through the Volkstheater subway station in Vienna. Two other toddlers are walking next to her. An elderly lady approaches them on the platform and says, "Well, how many more kids are you going to have?" The young Muslim woman retorts that this is certainly none of her business, upon which the old lady nags, "You people come over here and all you do is make children", illustrating her statement with dirty gestures. The young mother continues straight ahead without turning around.

**12** In October Ms I. notifies ZARA about this occurrence: Two male individuals aged around 50 are walking swiftly towards Reumannplatz subway station, loudly chanting "Jew-ish pigs, Jew-ish pigs!". ZARA documents the incident and refers it to the Documentation Center of Austrian Resistance.

**13** Mr S. is riding tramway line number 5 from Franz-Joseph train station heading to Westbahnhof around midday in December. A group of men get on, one of whom yells, "Shitty immigrant scum! Shitty foreign bastards!" and "Thrashing foreign bastards is cool!" Mr S. gets off three stops later. He wants to see the incident recorded by ZARA.

**14** Ms A., a French-Canadian woman, is on holiday in Vienna in December. She goes shopping in a supermarket in the 3rd district of Vienna. While she is waiting in line, another woman attempts to enter the line in front of her. Ms A. admonishes her that it is not her turn and tells her to go back to the end of the line. The woman protests against this rebuke and answers that Ms A., because of her French accent, is probably not an Austrian, and should have the decency to learn "how things work here in Austria." Ms A. wants the incident documented by ZARA.

**15** Ms R. resides and studies in Graz, her father is an Indian, her mother is from Styria. One night in December she goes to a bar in the town of Bad Gastein in the province of Salzburg together with her boyfriend and an acquaintance. At closing time, about 2 a.m., they leave the bar and walk past a group of about seven males, who Ms R. estimates are between 20 and 25 years of age. One of the adolescents inquires where Ms R. and her companion are heading. When Ms R. answers that they are about to drive to Bad Hofgastein, he asks her for a lift. Ms R. and her companions are continuing in the direction of their car, when she hears the group shouting homophobic verses behind them. She turns around to challenge the conduct of the young men, upon which they start throwing snowballs at her and yell at her that she as a foreigner had better shut up and "beat off" to where she came from. The "leader" of the gang points to his red cap, which is adorned by the emblem of Austria, and informs her that she has no business being here in Austria.

When Ms R's friend demands that they refrain from such racist talk, he is suddenly attacked by one member of the group and thrown to the ground. Together with her companion, Ms R. attempts to thwart the attack, but she too ends up being knocked over. Her companion manages to check the assailant. Seemingly amused by the scuffle, the other adolescents make sexist comments at Ms R. struggling to assist her friend. From this point onwards the conflict mainly involves Ms R. and the young man with the red cap. She points out to the youth that he had better think over his racist utterances and stop this kind of talk. Yet further discriminating curses of the worst kind ensue, all revolving around Ms R's skin colour, culminating in a loud roar of "Sieg Heil!" with an arm raised to a Hitler salute. To the judgement of the young man, Ms R. would not have had the right to life in 1939. "Mulattos and other half-breeds" did not have the right to even speak to him, and Ms R. should actually kneel down before him; he then goes on to challenge Ms R's boyfriend whether he was not ashamed of committing "Blutschande" (expression used during the Nazi period, denoting "defilement of one's own race") with her.

While Ms R., already crying from fear and dismay, still retains enough composure to point out to the assailant that in using this Nazi lingo he is committing a



criminal offence, violating the Prohibition Statute, her friend is thrown down yet another time. Again Ms R's acquaintance, who has meanwhile alarmed the police, intervenes. Ms R. also manages to call the police and reports the instance of Nazi re-engagement and the physical attacks. In the meantime, most of the young men get into a van-size cab parked opposite the station. Having piled into the cab, they are about to drive away, yet Ms R. is able to convince the driver to await the arrival of the police. Ms R. also demands of the gang leader that he repeat his rightwing extremist statements in front of the police, which only causes the young man to sneer. He makes it understood to her that she could not prove her accusations anyway and the other aggressors would deny everything.

At about 2:30 two police officers arrive, who make inquiries as to the events and take down the particulars of all persons involved. As she has already done via phone, Ms R. describes the initial provocation, the discriminating statements, the insults, the threats, the chanting of National Socialist verses, and the two physical attacks. The young men deny having voiced Nazi slogans. The "leader" of the group stresses to the policeman that he is proud of his country.

On arriving home after the evidence has been taken, Ms R's friend detects several injuries, such as grazed knees and back, as well as strangulation marks on his neck, all resulting from the attack. Ms R. too, has suffered injuries on her right knee and her buttocks during her fall. The injuries are confirmed by a doctor the following day.

Ms R., who for the first time has encountered such a brutal and hateful crime, requests documentation through ZARA and the Documentation Center of Austrian Resistance. ZARA advises Ms R. to immediately seek assistance from the Weisser Ring (literally "White Ring"). ZARA will document further proceedings in this case.

**16** In July, Ms U. becomes a witness, as a man is caught shoplifting in a clothing store in the 16th district of Vienna by a saleswoman probably of Latin American origin. In reaction to his being detained he remarks in her face, "I'm sure she wouldn't have a problem if her dirty immigrant friends steal". Ms U. requests ZARA to record the incident.

**17** Mr Ü. is Austrian, his father is of Turkish descent. In June he reports to ZARA several attacks on himself and other persons in his hometown in the county of Baden in Lower Austria and in the Baden light railway. He and his Austrian friends are abused as "shitty Austrians", "sons of bitches" and "pig eaters" by individuals of Turkish origin. Acquaintances of Mr Ü. have also suffered injuries during physical altercations, resulting in their having to be hospitalized. He complains that the police do not do anything against these racist assaults. He wants to know from ZARA what he can do apart from avoiding the aggressors.

ZARA informs Mr Ü. of the legal situation and asks him to describe in greater detail the instances in which the police have failed to act - e.g. failure to take evidence - in order to give advice on further steps to take. Mr Ü. however, does not report to ZARA again.

**18** Ms L. is Afro-Austrian. In January she is riding tramway number 43 in Vienna, together with her one-year-old daughter. An elderly man, who is obviously drunk, gets on. He immediately starts ranting against "the foreigners". The girl smiles at him again. "You little N...[\*]", the man says. Ms L. rises in anger and charges him, "Just you be quiet!" He keeps muttering. "You've understood perfectly", Ms L. repeats, "Just keep your mouth shut!" The man veers away from her, still ranting: "All those foreigners, there are no more Viennese in this city!" Nobody except for Ms L. confronts the man's racist talk. She adds that she has encountered such incidents "all too often", but has remained silent to this day, as she had already become accustomed to them.

**19** Mr B. is a Nigerian citizen living in the 10th district of Vienna together with his wife. One evening in March around 8 p.m. he leaves his flat to buy cigarettes from a nearby vending machine. Reaching the entry of his apartment block on his way home, he notices two young men of about 25 years of age, loitering in front of the building. When walking past them, he is accosted with, "Hi, N...[\*]!" Mr B. ignores the racist slur and walks on. Suddenly the other of the two says, "Shitty N..., what are you doing in Austria? We are Skinheads and we kill N...s[\*]!" When Mr B. turns around, one of the men delivers a blow right into his face with a wine-bottle, inflicting an open wound on his lip and broaching three teeth. Mr B. momentarily loses consciousness and falls to the ground, the men kick at him. Passers-by witnessing the assault and hearing Mr B's calls for help, do not come to his assistance. Suddenly one of the assailants pulls out a switchblade knife. With all his remaining strength Mr B. jumps up and runs away. He tries to call the police on his cell phone while running. The two men run after him, one of them yells, "Take the mobile away from him!" Mr B. manages to stop an approaching vehicle and asks the driver for help. Seeing this, the attackers hide in a residential complex. Mr B. is able to call the police and his wife. A police car arrives within a short time. The officers take Mr B. along, in order to search the surroundings for the perpetrators. Yet the search is unsuccessful and the officers call an ambulance to take Mr B. and his wife to hospital, where his injuries are treated. Mr B. has to stay overnight for observation. Still in hospital Mr B. realizes that his bank card, his keys and over 300 € are missing from the pockets of his pants. All items except for the money are found by the concierge the next morning and are handed over to Mrs B.

A few days later Mr B. goes outside to empty the

trash. He notices two girls and two young men sitting on a bench facing the entrance. On second glance he recognizes the two men as his attackers. They recognize Mr B. as well and run away. Mr B. tries to pursue them and sees them take shelter in a nearby cafe. He takes position in front of the entrance and calls the police. Two officers arrive within a matter of minutes, search the cafe but do not find the men. An ensuing search for the two girls remains fruitless as well.

The next day Mr B. and his friend are sitting in a car parked in front of his apartment building, engaged in conversation. Suddenly Mr B. again sees one of the attackers passing by with some girls. Mr B. gets out of the car and walks towards the group. One of the girls turns around, sees him, and alerts the young man to Mr B, prompting the attacker to flee. The other girls are also about to leave the scene, but Mr B. can retain them until the arrival of the police, which he has summoned. The girls throw racist abuse at him: "N...[\*], go back to Africa!". Later two of the girls are recorded stating that they know the two men who assaulted Mr B. and give their names.

Mr B. asks ZARA for documentation of the events. He fears further harm to his person, should the police not hasten to seize the culprits. ZARA arranges for Mr B. to be assisted throughout the lawsuit by the Weisser Ring (literally "White Ring").

Mr B. is dissatisfied with the further investigation by the police. It takes a long time until they actually contact the suspects. The police cannot reach one of them, whose phone number appears on police records. Alternative ways of establishing contact are seemingly not considered. Mr B. is deeply troubled by the fact that his attackers live unharmed in close vicinity, and he might experience further harassment at any time. In July, Mr B. calls ZARA in a state of great agitation. He has received a letter informing him that the charges against the two suspects have been dropped by the prosecution department under warranty of a probation period. In spite of representation through the Weisse Ring, Mr B. cannot do anything against the abandonment of the prosecution. The bodily injury, aggravated by the racist motive, as well as the - as yet unsubstantiated - element of theft, are not considered by the public prosecutor. Mr B's faith in the legal system is shattered, and he is uncertain who will guarantee safety for him and his family. He appeals to ZARA for the documentation and publication of his case in the "Racism Report" and in the media.

**20** Ms P and her sister are riding the Vienna rapid transit in October. During the ride they have a conversation switching between German and their Arabic mother tongue. This irritates two other passengers, who start abusing the women as "Arabic whores". More than that, they threaten that the two of them "ought to be gassed and burned", igniting their lighters to lend emphasis to their words. The hassle and abuse lasts for about five minutes, throughout

which Ms P. and her sister keep calm, in order for the situation not to escalate. Deplorably, they are not aided by the other passengers. Ms P. only wants to see the incident documented.

**21** Mr A. takes part in a barbecue party at a Vienna asylum for homeless people in July. Among other festivities there is a group of female dancers, singers and drummers from Cape Verde. They do an open-air performance in an internal courtyard during the afternoon. A woman living in an adjacent building feels greatly disturbed by the performance. When the artists start the music, she appears on her balcony and yells, "Shitty N...[\*]-music! Are you crazy, you shit-heads? Go home!" etc. When she is met with resentment on the part of the visitors of the party, she disappears into her flat, muttering, "Just you wait!" only to return a few minutes later with a bucket full of water, which she empties into the courtyard. This she repeats three times. Luckily none of the guests gets wet, the audience acknowledge her provocation with ironic applause. The music group answers the racist attack by rendering a song called "water" in translation. Mr A. wants the incident on the ZARA record.

**22** Ms A. reports to ZARA an event which occurred during a flight on a German airline, strongly reminiscent of one of the ZARA-produced spots promoting moral courage (<http://www.filmproduktion.org/zaraspots/>).

Ms A. and her husband, a native of Togo, are on a flight from Düsseldorf to Vienna. An elderly passenger seated behind them with his wife throws racist insults at Mr A., abusing him as "little N...[\*]". Unwilling to let these racist verbal assaults go unanswered, Mr and Ms A. start an argument, in which the flight attendants also become involved. When all efforts at reconciliation remain unsuccessful, the couple are offered seats in the business class. The crew explicitly apologizes to Mr A. for the incident and makes it unmistakably clear that such racist demeanour is not tolerated. Ms A. requests ZARA to document the matter and the positive way in which it was settled.

**23** In October, a short time after Jörg Haider's death, Mr G. overhears the following conversation in a Vienna postal office. First, he only perceives the mumble of one of the two conversational partners. Eventually he hears him say, "We'll need a strong leader again!" The other one replies, "Well, he has just been buried!", upon which the first one says, "No, far stronger than that, someone who'll really make a clean sweep, so that we can get rid of all the dirty scum." Mr G. asks ZARA to document these statements.

**24** In September, Mr K. reports to ZARA several instances of being abused because of his Austrian ethnicity, among others the following two:  
When Mr K., presenting his handicapped ID, de-

mands a parking space reserved for disabled persons in the Shopping City Süd in Vösendorf near Vienna, he is abused in Serbian by a man unduly occupying the space and is dubbed as a "shitty Austrian".

On another occasion, Mr K. is riding the subway and asks some adolescents, probably of Turkish origin, to leave him their seat. He is abused as "shitty Nazi", and the seat is refused to him.

**25** Mr E is an Austrian. At the end of May he is on his way home from the Vienna Donauinsel together with his girlfriend. They are entering the "Neue Donau" subway station, when they happen to meet some acquaintances, with whom they board the subway train. After some stops they hear loud racist remarks issuing from a group of men aged between 25 and 30. Their verbal assaults are aimed at a man of black skin-color, among other things, "You shitty N... [\*], you fuck our women!" Making soothing hand-gestures the targeted man tries to pacify the aggressors, finally he gets up from his seat to move away from the three men. But they continue the abuse and start punching him, eventually driving their victim to the front part of the train. Mr E. is worried about the man, as the attackers appear extremely aggressive. He follows at the heels of the victim, and then takes position right behind him between two grab-poles, he holds the poles tightly, thus blocking the assailants' passage. The face of the dark-skinned man is bloodstained; Mr E. can discern a cracked lip. To Mr E. he seems shocked and in panic. At first the three attackers yell at Mr E, "Let us get at the N...[\*]! You shitty leftie, let us get at him!" They try to push Mr E. aside, but he remains steady and tries to calm down the aggressors. When the three men start beating Mr E, his girlfriend and two of the acquaintances run to his aid in order to shield him from the attacks. They also receive blows. Another passenger pulls the emergency break, bringing the train to a halt in a station. Mr E and another passenger, who has also intervened, are spat at by the aggressors. Some moments later the three men deem it best to get out of the train, one of them dragging Mr E. outside by his hair. Mr E. lets himself fall down and is dragged along the platform a few meters, the young men still battering him. Eventually a young man not involved in the scuffle up to this point stuns one of the attackers with a pepper-spray device, causing him to let go of Mr E. The three men leave the station.

Since several witnesses have alarmed the police, the officers soon arrive and manage to arrest the three aggressors right on the spot. The passenger who was spat at, the actual victim of the attack, as well as the passenger who ended the assaults with his pepper-spray are no longer available, when the police start questioning the witnesses. The three men are charged with bodily injury. In the course of the proceedings at the nearby police station Mr E is told that the three assailants have a criminal record of drug-related offences. Having made his statement, Mr E. goes to the

Vienna "Allgemeines Krankenhaus" hospital, where a contusion of the skull, as well as bruises on his head and shoulder are diagnosed. Since the occurrence Mr E. has been suffering from pain in his jaw and has been unable to open his mouth to full extent.

Mr E. asks ZARA for documentation of the incident. ZARA refers his case to the Weisser Ring (literally "White Ring"), by which Mr E. will be supported throughout the ensuing trial of the attackers. The trial has not yet commenced at the time of this publication.

**26** In July the international anti-racism network FARE – "Football Against Racism in Europe" publishes a report on instances of racism during the 2008 European Cup (<http://fairplay.vidc.org/startseite/aktuelle-news/news/article/132/87>). The following occurrences are documented by the FARE observers:

During the match of Austria against Poland, a small group of Austrians in the UEFA fan-zone in Vienna chants, "Shitty Poles" and "Gipsy scum!".

After the quarter final between Spain and Italy, members of the Real Madrid fan group "Ultras Sur" are observed raising their arms to a Hitler salute.

In the wake of the game between Germany and Poland, German fans march through the streets of Klagenfurt provoking Poles with slogans such as "All Poles must wear a yellow star!" and "Germans, fight back! Don't buy from Poles!" Observers from FARE also registered Poles wearing scarves with Celtic crosses and slogans such as "Poland to the Polish, Europe to the whites."

**27** In September, the Graz migrant organisation refers to ZARA the following first-hand report from an Austrian woman, who has converted to Islam. Ms P. wears a headscarf. At the beginning of September she goes shopping in a mall in Graz. She is in a clothing store, looking for the right size, when she suddenly hears a voice next to her, hissing at her, "In our beautiful country, they dare to run around looking like THIS, those ugly women". Raising her head to face the person who has so addressed her, Ms P. sees a woman with her about 17 year old daughter.

Ms P. at first does not react, but goes to the second floor of the store to browse. After a short interval, she again encounters the two women and hears the mother say to her daughter, "These pants are all produced in Turkey. They might as well keep that crap to themselves!" At this moment she notices Ms P. again and in passing says, "Here she is again, the ugly woman." Ms P. retorts that she thinks it a sign of cowardice to talk about people like this behind their backs. The mother does not react, only the daughter remarks, "She sure thinks she is quite smart."

On the next day around early midday, Ms P. goes to another clothing store in the mall of a smaller town in Styria with her three year old daughter. She is standing at the counter, when the woman and her daugh-



ter appear yet again and instantly catch sight of Ms P. "Here she is again", the woman whispers. Ms P. inquires if she has any more nice things to say to her. Upon this the woman stops and says to her with a tone of disgust, "Don't hassle me with your alien breath!". Ms P. retorts, "I'm not hassling anyone, you're the one who abused me!"

Hereupon the following dialogue unfolds between the two adult women: "Just go home to your Allah, if fucking with every mufti is what you want!" – "I'm Austrian, this is my home country, I can't go anywhere unfortunately." – "That's even worse. Then I feel ashamed of this country!" – "No, I feel ashamed of my country if there are people like you here. And it's not my problem if you are a racist." – "I'm not a racist, I am only pro-Austrian." – "That's what I am, too." – "It's a disgrace that women run around here, looking like THIS", the mother remarks, indicating Ms P's headscarf. Finally Ms P. asks the stranger to mind her tone of voice in the presence of her little daughter, upon which the woman simply says that Ms P. and "the likes of her" were traitors to their country, fouling their own nest. The stranger's daughter calls her a "low class bitch", a "compliment" which Ms P. returns. Eventually the woman tells Ms P. to stop hassling her and walks on. Ms P. is surrounded by two shop-assistants and three other customers who do not comment on the events. When Ms P. visits the shop again later that day to apologize to the manager – an acquaintance of hers – for the commotion, she learns from a salesgirl that on her way out the woman had declared that she would not visit the shop again, if it was open to such "foreign scum" as well.

**28** Ms H. is married to an African (exact origin unknown), with whom she has a daughter. In November she is riding the Vienna subway with her daughter at around 7.30 p.m. Four adolescents, two boys and two girls, get on and take seats facing Ms H. One of them wants to know if the girl is her daughter, which Ms H. nods to. The young people start cracking jokes about her daughter's skin colour. Ms H. hears expressions such as "Chocolate ice-cream", "been in the tanning booth too long" and "looks like diarrhea". Ms H. feels insulted but remains calm. She returns that she could only feel sorry for the youngsters, if they were so racist. At last the four of them all get out and knock at the train window from outside. Ms H. cannot believe that at that relatively young age people could be so obnoxious to a little child. She is glad that her daughter is still too young to grasp the racist insults, and entreats ZARA with the documentation of the events.

**29** Ms G. is married to a Nigerian. In April she is out for a stroll with her children. Suddenly a car stops next to her and the driver abuses her as "n... [\*]-whore" and says that to his judgement what Ms

G did was *Rassenschande* ("defilement of one's own race"). Terrified by the unexpected assault, Ms G. forgets to take down the license number of the car. In the event of similar occurrences in the future, ZARA fills in Ms G. on the option to file charges of deliberate insult and violation of the prohibition statute.

**30** Ms C. is an Afro-Austrian living in Vienna. One evening in January she is riding the subway. At about 9 p.m. two males get on and accost her with, "Stand up, n...[\*]!", to which Ms C. does not react. When she wants to get out a short time afterwards, one of the men tugs her hair and even slaps her. She calls for help, alerting passengers to the goings-on so eventually the two men retreat. Ms C. requests documentation through ZARA and asks for guidelines on how to act in similar situations in the future. ZARA advises Ms C. to immediately call the police in such cases and to stay in the vicinity of other passers-by.

**31** In the course of an irregular media monitoring ZARA documents a case covered by an article of the *Online-Standard* (<http://derstandard.at/?url=/?id=3181996>): In the middle of January a former district councillor appointed by the FPÖ (Austrian Freedom Party) was sentenced to a prison term of four years for national socialist re-engagement, this being his third sentence under the Prohibition Statute.

In 2007, the former politician made an effort to initiate a referendum for the abolition of the Prohibition Statute. He dispatched several letters to members of parliament, governors of provinces and to the Conference of Catholic Bishops, in the latter ranting against the "satanic lie of the mass murder". He referred to the Holocaust as "feigned, surreal atrocity". "The Jews" had planted the rumour of the supposed existence of gas-chambers in order to "rake in undue payments" after the end of the war.

During the trial some sympathizers of the accused make comments on the jury members, such as, "They didn't even understand the questions!" and "They are all foreigners!" The court's proclamation of the degree of penalisation prompts utterances deemed "in part too offensive to cite" by the newspaper.

**32** At the end of January, Mr U. receives a short message of racist content, the exact wording of which he relates to ZARA for documentation:

"In Vienna a Turkish woman was soaked with gasoline and burned! We are now raising funds for her relatives. We already have 90 liters! Add your name and make your contribution to a 'Turk-free' Austria!"

Written below this message there are the names of 90 people who have signed up. Mr U. sends an answer to the sender making it clear that he cannot laugh about such an inhuman and repulsive thing, bearing in mind that his ancestors had come to Austria from the Czech Republic themselves. The sender messages back to Mr U. that he has sent him the message

by mistake, though not commenting on its content. ZARA offers to forward the short message to the authorities as containing elements of incitement to hatred. Yet Mr U. does not report to ZARA again.

**33** Ms E. is on her way home with her Peruvian friend a short time before Christmas. Since it is quite late, the two of them have to take the night-bus. While Ms E. is studying the bus-schedule, her friend sits down in the bus shelter. There he is addressed by a young man with a bald head wearing a bomber jacket. Not yet familiar enough with the German language, he turns to Ms E. for assistance. Ms E. asks the stranger to repeat to her what he has just said to her friend. He retorts that here in Austria German is the language spoken. Apart from that he threatens to summon some 20 friends of his to “give Ms E’s friend a thrashing”. Ms E. is scared and persuades her friend, who actually wants to defend himself against the provocation, to quickly back off from the aggressor and get in the night-bus, which has just arrived. On Ms E’s request ZARA records the incident.

**34** Mr T. is riding the tram in Vienna at about 10 p.m. in September. A man of black skin-colour is sitting opposite him. Mr T. becomes a witness as the man is out of the blue accosted with “n...[\*]” and “drug-dealer” by two male strangers. The man calmly remains in his seat, ignoring the insults. The two aggressors continue the abuse and threaten to beat up the man, as soon as he gets out with them.

At the next stop all three of them are ordered to leave the tram by the driver. The two aggressors also challenge the target of their assaults to get out with them. Only after strong protest on the part of Mr T. and another passenger, does the driver let him stay on. Mr T. complains to the Wiener Linien (Vienna transport authority) that the driver has initially wanted to expel the victim of the assault along with the aggressors. The Wiener Linien apologizes for the incident stating that the tram driver had probably assumed that the targeted person had played an equal part in stirring up the commotion. Since he had only wanted to order all parties of the conflict out of the tram, he could not be reproached with racist conduct. Moreover, by delivering his view of the actual events, Mr T. had been able to persuade him to alter his decision.

ZARA thanks Mr T. for having the courage to step in and adds the occurrence to its records.

### **Know Your Rights**

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*Ms R., an Austrian citizen of Turkish origin, is abused in the street as “Turks sow” by two men who tell her in rude words to “go home”; otherwise they will “slap her face”, or so they tell her while laughing out loud. Several other passers-by notice this verbal assault but do not react. Ms R. is*

*shocked and walks to the nearest police station in order to report the incident to the police. At the police station an officer tells her that the police are not equipped to deal with insults among private parties and that she should turn to the local district court.*

Regarding insult in public space, sec 115 Criminal Code provides that someone who publicly (meaning in the presence of at least three people, victims and perpetrators not included) “verbally abuses, ridicules, physically abuses or threatens with physical abuse” another person, shall be punished with imprisonment of up to three months or with a fine of up to 180 daily rates (calculated on the basis of income).

Essentially the meaning of sec 115 Criminal Code is an insult, because it treats insults in public space as an offence for private prosecution (Privatanklagdelikt). This means the perpetrator is only prosecuted upon demand from the victim. The private charges must be filed with the corresponding district court within six weeks. Filing private charges has the disadvantage that the private prosecutor has to cover the costs of the proceedings in case the defendant is acquitted. However, if the insult has racist motives, for example if it makes reference to the insulted person’s ethnic belonging or religion beliefs, the offence is no longer subject to private prosecution but becomes an offence for public prosecution with entitlement on behalf of the victim (Ermächtigungsdelikt, sec 117 para 3 Criminal Code). This means that the public prosecutor must – with the consent of the insulted person – start prosecution ex officio and open criminal proceedings against the insulter. In this type of proceedings the victim does not run the risk of legal costs.

In the case of Ms R., the police would have been obligated to record the report of the incident and to forward the information to the public prosecutor. The public prosecutor would then have been obligated to seek the entitlement from Ms R.’s for the public prosecutor to proceed against the alleged perpetrator of racist insult. A law enforcement officer refusing to record an offence subject to public prosecution violates her/his public duties and might therefore be brought before the Independent Administrative Tribunal (see “Glossary”). One of the men threatening Ms R. with “slapping her face” might also be regarded as uttering a “serious threat” under sec 107 Criminal Code, which is penalized with up to one year of imprisonment. For this provision to apply, it would be necessary for Ms R. to have experienced serious fears and worries concerning her physical wellbeing. As the man insulting her laughed when this statement was made, it would presumably have to be considered a “statement of resentment made due to social milieu” which is included under the offence of insult under sec 115 Criminal Code.

### **What can Ms R. do?**

If the police refuse to record a report, Ms R. can send a statement of fact to the public prosecutor. If Ms R. turns to ZARA, ZARA would take this step for her and accompany her through criminal proceedings. Usually the problem with such assaults in public space is that the perpetrators remain anonymous. In cases of insults the police are generally not informed and the particulars of the persons involved are not taken. Therefore, filing a report against anonymous perpetrators with the public prosecutor serves only a statistical purpose.

*Some days later Ms R. accidentally encounters the two men who insulted her again. It is the middle of the night, and the two are obviously drunk. One of them recognizes Ms R. and says: "Didn't we tell you to get lost?" The two men attack Ms R, hitting and kicking her and causing bruises on her upper body and in her face. A passer-by informs the police and calls for an ambulance. The officers arrive quickly and are able to arrest the two perpetrators. Ms R. has to undergo hospital treatment.*

The bruises inflicted on Ms R. by the two men con-

stitute the criminal offence of bodily harm under sec 83 Criminal Code, which is an offence for public prosecution (Offizialdelikt). The police are obligated to forward the facts to the office of the public prosecutor. The office of the public prosecutor is obligated to initiate criminal proceedings or to induce the perpetrators to make reparations for their deeds by some means outside of court (in German: "Diversion", see "Glossary"). In case of criminal procedures, Ms R. has no influence whatsoever on the sentence passed and the fine imposed. Ms R. has the opportunity to join the criminal proceedings as a private party. As the victim of a violent deed she can also seek assistance from the Weisser Ring ("White Ring"). The Weisse Ring can provide a lawyer for Ms R., who represents her claims of damages as private party.

Sec 33 no 5 Criminal Code foresees that in the case of a conviction of the perpetrators that the court, in deciding the extent of the fine (within the legally defined limits, which means up to one year imprisonment or up to 360 daily rates determined on the basis of the perpetrator's usual income), can impose an increased fine for the perpetrators having acted based on "racist and xenophobic" motives, which constitutes an aggravating circumstance.

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# Internet

**35** On the comment section of the online edition of “Der Standard” the following post appears in reaction to an article on racism published in July, on the one hand condemning discrimination on the basis of skin-colour, yet advocating discrimination on the basis of (Islamic) religion:

„It’s a complete mystery to me, how people can shape their hiring policy based on skin pigment. My best employee is an Indian woman, and I would also have zero problems with a dark-skinned person. On the contrary, I would gladly point my claws at those who dare to bully these people. No law in the world could however bring me to hire a headscarf-woman – and if that makes me a discriminator, I’m proud of it.“

ZARA documents the post in the course of an irregular monitoring.

**36** At the end of November an article appears on the Online-Standard (<http://derstandard.at?url=/?id=2958037>) on the laws against racist admission policy of public venues. As part of an irregular media-monitoring program, ZARA records a meanwhile deleted comment in which a reader voices his opinion:

„It’s not enough that smoking is still permitted in pubs and bars! Now you have to accept every Jumbo and Dumbo as well. But no way, in my place it’s still me who decides who comes walking in and who doesn’t. No racist motives here, of course not, I don’t park my car illegally right before the eyes of parking attendants either. When I refuse someone, it’s because I have the distinct feeling that the other guests won’t like them, and it’s the ones who pay that have the final say, isn’t it?“

**37** At the end of June Mr N., a committed and outspoken social scientist, informs ZARA of several racist postings on an internet platform based in the province of Vorarlberg. An article on this platform deals with the celebrations of Turkish football-fans following the victory of their national team over Croatia during the EURO 2008. A fan is reported to have been injured by a shot from an air-gun. Comments on the article support the “extinction” of the “Turks” or “Muslims”, who ought to be sent to Mauthausen (site of a concentration camp during the Nazi period). Someone darkly predicts that “what the Jews have already gone through” is still in store for them. Another user suggests, “Let’s go through the vermin full throttle without taking prisoners!” Others voice their regret at the gunman not having used a “proper” gun and advise him to exchange his air-gun for an assault-rifle the next time. Mr N. simultaneously consults with ZARA and files a report against the posters and the online platform. The authorities manage

to track down five of the posters. They will be summoned before the regional court of Feldkirch facing charges of incitement to hatred. Since all five of them have a clean criminal record, the court refrains from sentencing and offers the perpetrators out-of-court settlement. By paying the sum of €200 to €400 they can remain without conviction.

At the time of this publication it is still unknown whether the accused have accepted the offer and whether the prosecution agrees with the judge’s proposal. Regarding the owner of the platform, the prosecution drops the charges, arguing that since there has not been any deliberate involvement in the circulation of the racist postings, there is no element of complicity.

**38** In reaction to an article in the online edition of the Presse newspaper covering the declaration of an Austrian referee that he didn’t like “n...[\*]-music” (see case 49, chapter “Politics and the Media”), users leave, among others, the following comments, which ZARA has documented:

„I’m stunned by this inconsiderate statement.... some drug-dealers will righteously feel discriminated against and will abstain from Frankfurters, Wieners and BERLINER MIT SCHUSS!! (literally ‘Berliners with shot’)“

„the term ‘n...[\*]’ is derived from the Negroid race. Even the politically correct won’t call into question a scientific classification.“

„wouldn’t ape-music have been more appropriate? As a n...[\*] has nothing in common with an ape, nobody would suspect discrimination. The moves on these video clips – no matter who is performing – are reminiscent of apes. The fact that blacks and apes come from the same continent is of course pure coincidence. Would the Indians feel insulted, if one calls their music snake-music? Certainly not. Freedom of opinion in our democracy denotes the license to shut up others at the slightest occasion.“

„Muzzles to all whites! It’s not ‘drug-n...s[\*]’, but ‘African travelling pharmacists’. But MIND YOU: ‘Afro’ is to be pronounced like ‘avro’, or else it sounds double-effish (sounding like German “affe”, ape) and that means off to prison!“

**39** As early as in March 2007 ZARA is alerted by Mr X. to homophobic and racist comments on his web-log. A poster named “Landsknecht” calls Mr X. a “pest harmful to the people” and “genetic toxic waste” deserving “10 years in penal camp”. He and the likes of him are “products of an utterly degenerated system”, “a cancerous ulcer poisoning what is left of the intact body of the people”, if they were not “radically and mercilessly excised”. “Landsknecht” speaks of

the “national resistance” of his “movement” and deems Mr X. worthless to “our German nation”. The “Tausend-jährige Reich” (the Nazi empire) also still exists in the perception of the poster. After Mr X. notes in his web-log that he will forward the postings to ZARA, ZARA itself is defamed as “a bunch of child molesters”. At the same time ZARA receives an e-mail from “Landsknecht”, in which he stresses the urgent need to radically deport “the racially inferior flotsam and jetsam”. He refers to Muslims as a “threat to the people and the nation”. The “Muslim scum” was an “enemy to be defeated once again on national territory”. He ends the e-mail with the words, “See you in combat, Zionist traitors!”.

On grounds of the racist postings and the hate-mail ZARA files charges of incitement to hatred and violation of the Prohibition Statute in May 2007.

The Vienna Regional Office for the Protection of the Constitution and the Suppression of Terrorism manages to track down the perpetrator. On September 9, 2008 a 53 year-old software engineer faces trial before the regional court on charges of incitement to hatred. Over the course of the lawsuit, it surfaces that the culprit has already been sentenced to a conditional prison term on similar charges. Throughout the procedure the accused remains incorrigible. He pleads not guilty and tries to convince the judge that his statements meant no harm and his “patriotic ambitions” were honourable. Among other things he claims that the racist, dehumanising slur “n...[\*]-bastard” was not

present during the trial, reports in detail on the outstanding verdict.

**40** On the day of the press conference held on the occasion of the Racism Report, a ZARA volunteer puts a “Zeit im Bild”-feature of the presentation of the report on YouTube (<http://www.youtube.com/watch?v=hzPvBmiJA44>). Shortly afterwards the following comment by YouTube-user “CoolYorkxxx” appears below the video: “I’d like to report 100,000 assaults on Austrians by foreigners, but nobody cares anyway, because the 800 assaults on drug-n...[\*]s are so much more important, I hope someone will go to the ZARA house and just shoot everybody there.”

ZARA refers the comment to the Federal Office for the Protection of the Constitution and the Suppression of Terrorism, who forward it to the prosecution department. At the time of this publication there is no information available on the outcome of the investigation, and the comment alongside a consenting post are still online.

## What has become of...?

### Case 33, Racism Report 2007

Several witnesses inform ZARA in 2008 about a chain mail which was already circulating the year before. The mail upholds the claim that pupils of schools in Linz are taught that the traditional greeting “Grüß Gott” is a discrimination against residents with Muslim background and is therefore to be avoided. The mail exhorts not to exercise “undue tolerance”.

Beginning in 2007, ZARA inquires whether or not such a regulation exists within the regional school authorities. ZARA is notified that no regulation to that effect has in fact been decreed and that the mail has to be a hoax. Exhortations to issue a counterstatement on its website in order to act against the e-mail, which is still circulating, unfortunately remain unanswered by the regional school board. ZARA will make efforts to confront such chain-mails through information on its website [www.zara.or.at](http://www.zara.or.at), which was adapted in December 2009, under “Facts against agitation”. If you receive such e-mails, please contact ZARA, we will document them and deal with their content within our capacity.

### Know Your Rights

*Mr P. regularly participates in discussions on different topics at an Austrian, publicly accessible, website. On one such forum, registered users give their opinion on Austrian aliens’ law. One of them, a certain “Adolf 88”, closes his postings with the words “Heil Hitler” and is of the opinion that “Turkish and Balkan scum needs to be driven out of Austria”. Mr P. immediately turns to*



to be interpreted as an insult, as it only represented a neutral “classification”.

On the grounds that this is his second conviction of incitement to hatred the judge sentences the engineer to nine months in prison, two of which are unconditional, meaning that the culprit actually has to serve a two-month term. After a short time of consideration “Landsknecht” accepts the verdict. Due to some statements made during the trial, bordering on national socialist propaganda, the prosecution announces further investigation into instances of violation of the Prohibition statute.

A journalist from the Kurier newspaper, who was



*the provider of the forum and asks for the posting to be deleted and the user "Adolf 88" to be barred from the forum. He receives the reply that no deletions or exclusions are carried out on the ground of the freedom of opinion.*

As the website is located on an Austrian server and the user "Adolf 88" is launching his postings from a computer located in Austria, too, the legal assessment of these facts is based on Austrian law. In cases where websites are located on a server outside of Austria, and the users are not creating their postings on computers located in Austria, the situation is more complicated and penalization under Austrian law is not possible.

In contrast to the website providers' opinion, the utterances of user "Adolf 88" fall under Austrian criminal law, which foresees exceptions from the principle of the freedom of opinion in case of the statement in question not constituting a statement of opinion but rather incitement to hatred (sec 283 Criminal Code) or violations of the Prohibition Statute.

The Supreme Court (Oberster Gerichtshof) has ruled several times that chanted slogans like "Heil Hitler" or "Sieg Heil" and also the gesture of the so-called Hitler salute, are characteristic symbols of National-Socialism. Thus, making demonstrative use of these slogans and gestures in public is tied to intentional National-Socialist activity and therefore falls under the Prohibition Statute. It is thus indeed

a criminal offence. See the decision of the Supreme Court of 13.09.2000 available (in German) at: <http://ris2.bka.gv.at>, numbers of the decisions: 13 OS 45/00 and 13 OS 47/00

The providers are obligated to delete a posting after being informed that it is in conflict with criminal law. If the texts constituting incitements of hatred or violations against the Prohibition Statute remain online in the forum, the forum providers can be charged with a criminal offence.

For further detail on the Prohibition Statute and the criminal offence "incitement to hatred" under sec 283 Criminal Code, see the extensive discussion in the section "Know Your Rights", chapter "Public Space / Racist Smearings".

### ***What can Mr P. do?***

Mr P. can turn to the contact point for reporting revitalisation of National Socialism (Meldestelle für NS-Wiederbetätigung) of the Federal Ministry of the Interior. It is located within the Federal Office for the Protection of the Constitution and the Fight against Terrorism (also see "Glossary") and accepts reports on websites and postings with neo-Nazi, racist and antisemitic content at [ns-wiederbetaetigung@mail.bmi.gv.at](mailto:ns-wiederbetaetigung@mail.bmi.gv.at). ZARA can file the report on behalf of Mr P. and forward the facts to the Forum against Antisemitism and the Documentation Centre of Austrian Resistance (for both institutions, see "Glossary").

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## Politics and the Media

**41** In a commentary in the daily newspaper *Österreich* the editor Wolfgang Fellner implores the government to finally separate “the genuine cases of application for asylum from the frauds”. Particularly with Chechen asylum-seekers, for only a fraction of these refugees were actually persecuted in their home country. According to Fellner, “in reality” entire clans of Chechens were gathering in Austria, importing an undesired culture of violence, misogyny and mafia. “Babies are hurled out of windows, women are beaten and drugs are sold”, Fellner writes - probably on the basis of articles published in his own newspaper. A reader of the paper turns to ZARA for documentation.

**42** Prompted by a witness, ZARA documents a news-bulletin from April 4, 2008, issued by the Austria Press Agency, referring to an interview published earlier in the *Presse* newspaper. It featured the Minister of Scientific affairs, Johannes Hahn, announcing that he would work for a ban on headscarves in public office. The wearing of the headscarf, the minister explained, degrades women. Moreover, he demanded that the Burka be prohibited in public places, in order to ensure unobstructed video monitoring. And apart from that, he saw the potential for “cultural problems” arising, as facial expressions were an essential part of communication “in our culture”.

A ban on headscarves goes against regulations governing the rights of civil servants and contract workers in public office, disallowing ethnic or religious discrimination in the working environment, and consequently in public office as well. The SPÖ (Austrian Social Democrat Party), the Green Party and the Community of Islamic Faith have challenged the minister to rethink his opinion, since occupational bans only serve to impede integration and exclude Muslim women from the public sphere. ZARA documents the news-agency bulletin.

**43** In the beginning of the year, there are various media reports to the following effect: As ordered by the - meanwhile deceased - governor of Carinthia Jörg Haider of the BZÖ (Future Alliance Austria), 18 applicants for asylum from Chechnya, among them children and an infant of five months, are - by force and without legal justification - transferred from the town of Villach to the Federal Refugee Center in Traiskirchen in January. Three underage juveniles are alleged to have been involved in a brawl on New Year's Eve. They are deported together with their families, whom Haider has seen himself “unable to tear apart”.

Governor Haider subsequently demands that provinces be independently authorized to deport asylum-seekers suspected of criminal offence back to their home country without having to await final con-

viction. Should they be acquitted by the court, they were to be granted passage back to Carinthia, according to Haider.

On January 18, 2008 Haider declares, via a press release, that he has called on the residents of Villach by direct mail to immediately report to him “acts of violence committed by asylum seekers”, in order for them to be “instantaneously deported”. Haider also tells the people of Villach, “Unlike some media people and dogooders trying to shield the Chechen perpetrators and forgetting about the victims among Villach denizens, I say that there can be no mercy for foreigners committing violent deeds.”

An article of the daily newspaper *“Österreich”* from January 12, 2008 has Haider announcing that he would generally withhold the right to asylum from “Chechens”. Furthermore he diagnoses in them an “increased potential for violence”.

Virtually at the same time, it is revealed that two of the young Chechens initially blamed for the brawl had in fact nothing to do with it (<http://derstandard.at/?url=/?id=3193684>). In an interview with ORF Carinthia from January 24, 2008 (<http://kaernten.orf.at/stories/251806>) Haider however rules out the return of the families to Carinthia, the asylum-seekers having already been replaced by 18 other refugees. Haider also insinuates that Villach police have dissuaded Villach residents affected by violence from pressing charges against Chechens, as they might encounter “inconvenience” from the asylum-seekers. The Villach police repudiate these allegations in the strongest possible terms.

On April 29, 2008 the third of the young Chechens ordered out of the province by Haider is proved not guilty of personal injury. Investigations of malpractice on the part of Haider are announced, yet do not materialise into an actual procedure. ZARA documents the goings-on, as well as statements made on the issue, by means of first-hand reports and sporadic media monitoring.

**44** In the ongoing discussion pertaining to the 18 asylum-seekers expelled from Carinthia, the governor of the province of Upper Austria, Josef Pühringer (of the Austrian People's Party), also contributed his opinion to this matter. On January 12, 2008, a report in the *“Österreich”* newspaper (<http://www.oe24.at/zeitung/oesterreich/politik/article205997.ece>) quotes him as also demanding the authority to instantly withdraw refugee status from - and subsequently deport - asylum-seekers strongly suspected of criminal offence, without trial. The course of action followed by Governor Haider, i.e. transferring asylum-seekers to Traiskirchen, seems insufficient to Pühringer.

**45** On January 1, 2008 the parliamentary faction of the BZÖ (Future Alliance Austria) publishes a bulletin from the APA-OST press agency (OTS0038 5 II 0758 BZC0003 So) which quotes Haider's greeting on the occasion of the annual New Year's gathering of the BZÖ held in Graz, in which the governor quips, "This government actually makes no progress at all. The blacks and the reds fight over a different issue every day, like gypsies". This racist statement remains largely uncommented.

**46** In March the Styria branch of the FPÖ (Austrian Freedom Party) publishes an article entitled "ORF- Objective news coverage?", in which Susanne Winter, head of the Graz branch of the FPÖ and front-runner for the Graz city council elections, voices her displeasure over the ORF broadcasting of the tragicomedy "Der Schwarze Löwe" ("Black Lion") by Wolfgang Murnberger. The film, which is based on actual events, tells the story of three applicants for asylum, who become members of a local Austrian football team and help bring about a chain of victories. In the face of their impending deportation, the whole village stands up for "its" footballers.

The FPÖ bulletin quotes Winter as saying, among other things, "It is really a disgrace that the ORF has aired the film 'Der Schwarze Löwe' – a piece of propaganda for foreign infiltration, in which three n... [\*]-asylum-seekers are stylised into local heroes – as official contribution to the EURO 2008. It goes without saying that the tax-payer has to finance the film through licence fees"

Winter also adds, "When asylum-seekers become engaged in street brawls or stabbings or when they are caught drug-mongering, the ORF, tightly chained by the requirements of political correctness, does not report at all". ZARA documents this statement, after having been prompted by a witness.

**47** January 13, 2008 brings with it the traditional New Year's rally of the FPÖ (Austrian Freedom Party), this time being held in Unterprämstetten near Graz. On the occasion of the impending city council elections in Graz, one of the speakers scheduled is FPÖ front-runner Susanne Winter. In her speech she mentions a "Tsunami of Muslim immigration" to the capital of Styria and a "sneaking Islamization". With particular contempt she dwells on the Prophet Mohammed, who had married a six-year-old girl, which would make him a child-molester by today's standards. She also refers to Mohammed as a "warlord", who had written the Koran during fits of epilepsy. Islam was a "totalitarian system of government" and ought to be thrown back across the Mediterranean, where it had come from. In the wake of her state-

ments, Winter receives death-threats through e-mails sent to various media.

All other parties represented in parliament criticize Winter's attacks on Islam. Her statements are qualified as "danger to religious peace" and "unprecedented malicious agitation among different faiths". For the Documentation Center against Islamophobia her words amount to "pure racist populism". The Islam Community in Austria and the diocese of Lutheran Protestants file charges of incitement to hatred and vilification of religious teachings.

Due to the intense media coverage, the public prosecution department in Graz launches an investigation of the abovementioned charges against Winter, including an agitating statement during a discussion with students, where she reiterated her son's idea of establishing "animal brothels" for Graz Muslims to forestall rape (see "What has become of" case 37, Report on Racism 2007).

Parliamentary elections in the fall of 2008 yield strong results for the FPÖ, enabling Winter to become a member of Parliament thus attaining immunity, which temporarily makes a lawsuit seem impossible. Yet the entrusted Committee of Parliament withdraws the privilege. Winter welcomes this suspension of immunity, desiring that the matter be settled in court. She perceives herself as a victim of a "Political Crusade by deranged self-appointed guardians of public morals".

On January 22, 2009, Winter faces the penal court of Graz for incitement to hatred and vilification of religious teachings. She is sentenced to a €24,000 penalty and a prison term of three months under condition. At the time of this publication, the sentence is not yet legally binding, as Winter's lawyer has filed an appeal against the decision.

**48** On the evening following the US presidential elections on November 4, the ORF covers the event and during a live panel discussion, has several experts deliver their assessment of the outcome. Among them is the former US correspondent of the ORF, Klaus Emmerich. The election of the first Afro-American into the office of President induces him to make the following statements: "I still think the Americans are racists and they must be doing pretty badly if they send a black [...] into the White House with such an overwhelming majority. [...] It is the same as if a Turk was suddenly to become the Chancellor of Austria". Emmerich did not want "to be ruled by a black in the Western world. [...]" and then added, "If you say this is a racist remark, then right you are!"

The statements go uncontested by the other experts on the panel, the political scientist Fritz Plasser and the journalist of the weekly magazine "Profil",

Georg Hoffmann-Ostenhof. The discussion triggers a storm of complaints, prompting ORF spokesperson Pius Strobl to address the public in an interview in the *Presse* newspaper on the same day, in which he admits that Emmerich's words have been "ambivalent", but that the ORF will nonetheless abstain from inviting Emmerich in the future. In subsequent releases the ORF distances itself from Emmerich's statements.

In an open letter to Alexander Wrabetz, director-general of the ORF, the US ambassador to Austria, David F. Girard-diCarlo points out the negative impression created by Emmerich's utterances in the USA and on an international scale. It was also a disgrace that no Austrian politician (with the exception of the Greens) had publicly denounced Emmerich's racist analysis. The US ambassador condemns the statements most vehemently, expecting of ORF officials that they do likewise. ORF spokesperson, Pius Strobl, reiterates that the station has hastened to distance itself.

Emmerich himself, who had initially stood by his statements in interviews immediately following the panel discussion, has a letter published in the *"Presse"* on November 11, 2008, in which he unequivocally apologizes for the racist statements.

See: <http://diepresse.com/home/kultur/medien/428354/index.do> and linked-to articles. A transcription of Klaus Emmerich's exact wording can be found under [http://www.oe24.at/media/Konsequenzen\\_fuer\\_peinliche\\_Emmerich-Sager\\_gefordert\\_389182.ece](http://www.oe24.at/media/Konsequenzen_fuer_peinliche_Emmerich-Sager_gefordert_389182.ece).

**49** In July, a FIFA referee is interviewed by the ORF Tirol, saying that he does not like "n...-music". After public protest on the part of the anti-racist initiative, FairPlay, the referee explains that what he had meant was loud techno music ("oohm-pa"). Apart from that he was opposed to any kind of discrimination and had once even reprimanded a player for racist conduct. He does not however explicitly distance himself from the racist slur "n...[\*]". Also see [http://www.ballesterer.at/?art\\_id=1016](http://www.ballesterer.at/?art_id=1016).

**50** In March 2008, several witnesses bring to ZARA's attention a crossword-puzzle, which has appeared in various regional newspapers in Lower Austria containing the cue "N...s[\*]" are jokingly referred to as... – with "bimbo" as the correct answer.

ZARA asks the editors of the Lower Austria papers for a comment. They inform ZARA that the "discriminatory expressions" used in the puzzle had no place in their medium. The publishing house had already made it perfectly clear to the firm designing the riddles that this was absolutely unwanted. They apologized to all the readers who had been hurt by the racist terms and asked them to be appreciative of the fact that the editorial staff had not been able to devote enough attention to the content of the puzzle.

## What has become of...?

### Case 37 Racism Report 2007

In the periodical of the Association of Young Freedom Party Members (RFJ), "Tangente", the Styrian chairman of the RFJ, Michael Winter, ascribes to Turks and Muslims a tendency to zoophilia and proposes as "short-term measure" against rape to let a herd of sheep graze in the Graz municipal park.

### What happened in 2008...

On October 6, 2008 Michael Winter stands before a penal court for charges brought against him in reference to his article. The statements made therein are malicious agitation, the public prosecutor argues. Winter pleads guilty. Through this article he had wanted to "awaken" the Graz city authorities. The judges consider Winter's statements a "call to hatred and contempt". He sentences the young RFJ chairman to three months imprisonment under condition. The verdict is final.

In January 2009, it is made public that Michael Winter has resigned as head of the Styrian branch of the RFJ. The reason for his demission was the cessation of state funding which would have impended, had the Styrian RFJ remained under a chairman with prior conviction.

### Know Your Rights

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*Ms L. has a subscription with a major Austrian daily newspaper. She values information in a compact format. However, she is often upset about drug related crime being almost exclusively discussed in connection with the mention of "black African criminal gangs" and "Nigerian pseudo asylum seekers". One day, she is shocked to read in the daily's narrow politics section about a campaign by a party counted in the right-wing camp directed against a Muslim prayer house under the title of "With pork loin against the mosque".*

One sided, racist reporting in the media can hardly be stopped by law. Newspapers are free to decide for themselves which news items and which (licit) opinions they publish. As long as the coverage does not infringe upon the rights of individuals (as for example in case of libel or violation of the presumption of innocence), or unless opinions are reproduced which violate the Prohibition Statute or the section on incitement to hatred of the Criminal Code (sec 283 Criminal Code), all that is left for private parties to do is to protest against racist reporting with the



media proprietor, and to boycott the media in question. It would be desirable for the Austrian media to organise once again in an institution like the Austrian Press Council, which was dissolved in 2001. A “press code of honour” might provide for at least a minimum amount of self-control and admonish media that use racist reporting.

Racist slogans in an election campaign transgressing the boundaries of “good taste” have become a regular phenomenon all over Austria, from the Graz City Council elections to those of the National Council. With deep concern, many people turn to ZARA and ask that measures against these “hate campaigns” be taken, if possible, in the form of a report filed with the office of the public prosecutor. However, the strategic campaigners working for the political parties are very well aware of the limits imposed on party programs, beer tent speeches, and campaign slogans, by Austrian criminal law. The two provisions that are relevant in this context are, sec 283 Criminal Code (incitement to hatred) and, in the case of incitement to hatred directed against Islam – the offence of decrying religious teachings under sec 188 Criminal Code.

Because of the restrictive interpretation of the offence of incitement to hatred by the Austrian criminal courts (see more extensive discussion in the section “Know Your Rights” in the chapter “Public Space/Racist Smearings”), it is improbable that a politician will be sentenced for a racist election speech

or a slogan that is hostile towards Islam. The above mentioned slogan is directed against an institution of a protected “religious society”, however, not in such a way that it can be unequivocally interpreted as a “call for a hostile act” against Islam or an “incitement to hatred.

Sec 188 of the Criminal Code reads as follows: *„Whoever publicly decries or derides a person or an object, which is an object of worship of a church or religious society established in the country, or a religious teaching, a legally permissible custom or a legally permissible institution of such a church or religious society, under circumstances under which her/his behaviour is liable to cause justified outrage, is to be punished with up to six months arrest or a fine amounting to up to 360 daily rates.“* The wording of the campaign slogan against the Muslim prayer house, contrasted to pork, which counts as impure, although unequivocally Islamophobic, is not covered by the wording of this criminal offence.

### ***What can Ms L. do?***

As the reporting by the newspaper remains within the limits of what is legally permitted, ZARA can only write a letter of complaint to the daily paper on behalf of Ms L. In the case of the Islamophobic, but presumably not punishable Islamophobic party slogan, Ms L. is left with no other possibility than protest.

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# Racist Smearings

ZARA has kept records on racist smearings in public space for years and is committed to cleansing walls of them. Both the initiative of the builder Ing. Alexander Baumann (<http://www.beschmierungsambulanz.at>) and ZARA's cooperation with the "Rassismus streichen" ("erase racism") campaign launched by "SOS-Mitmensch" (<http://www.rassismusstreichen.at>) have created a higher level of awareness of racist smearings in 2006.

But as early as 2007 the ZARA counselling center recorded a decrease in the number of reports, a tendency which held into the year 2008: While in 2006, 793 smearings were reported, the number fell to 251 in 2007, and in 2008 the reports totalled at a mere 64. ZARA however does not see any reason to believe that this decrease in reports actually correlates to a decreasing number of smearings. It is rather the case that the success of the abovementioned initiatives is evidence of the impact of media-fuelled campaigns on a large scale – and also proves that they lose momentum once they recede from public awareness.

For this reason ZARA is planning a monitoring project for the year 2009, so as to better assess the intensity of racism displayed on walls. We will at the same time emphasize again that smearings are not to be confused with the manifold artistic expressions of graffiti-sprayers, that racist slogans in public places are an actual danger to safety and society. The destructive symbolic force of racist smearings pervades the minds. Prejudice is reinforced and hostility is generated. Failure to act legitimizes racism.

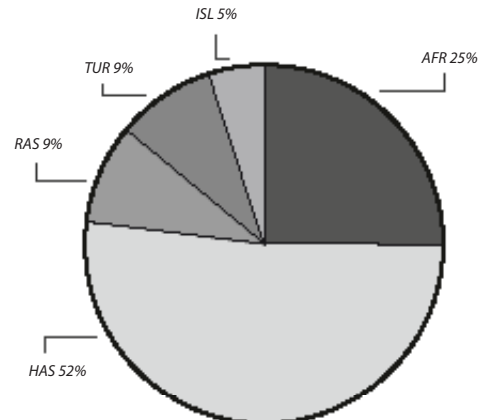
**We still need thoughtful individuals who report racist smearings to ZARA, or in case their own walls are affected, make use of the service offered by the Beschmierungsambulanz ("smearings ambulance"). Details available at <http://www.beschmierungsambulanz.at>**

**If you wish to participate in the monitoring project, please contact ZARA by phone or by e-mail.**



## Statistics

In 2008, a total of 64 racist smearings were reported to ZARA. Of these, 17 were found on means of public transportation. Only seven were recorded outside of Vienna.



AFR	„Anti-African“
HAS	„Swastikas and Anti-Semitism“
RAS	„Racism in General“
TUR	„Anti-Turkish“
ISL	„Anti-Islamic“

## Know Your Rights

*Ms Z is greatly disturbed by the racist smearings in the streets of Vienna. Every day she has to walk past dozens of graffiti saying "n...s out", "kill n...s" [English in the original], "shit Turks", and other such remarks.*

### What is the legal situation with such smearings?

According to sec 125 Criminal Code, damage to property is committed by someone who destroys, damages or disfigures an object that is not his/her own, or makes it impossible to use. Smearings usually constitute a disfiguration, meaning a considerable change in the outward appearance of an object. This change has to have an extent that makes a certain effort necessary in order to undo it. If the limit of "minor" change is not surpassed, like in case of a small scale drawing on a glass surface with non-permanent, water soluble ink, this does not amount to damage to property.

For a simple case of damage to property, fines

range up to six months of imprisonment or a payment of up to 360 daily rates (based on the income of the perpetrator).

In case the damage exceeds the amount of 3,000 Euro, or if the smearing disfigures e.g. a church, a grave, or an object under monument protection, the fine can range from up to two years imprisonment or 360 daily rates. If the damage exceeds 50,000 Euro, it is penalised with imprisonment between 5 months and 6 years.

In addition to damage to property, a racist smearing may also violate the Prohibition Statute (prohibiting the re-vitalisation of National-Socialist ideology, NS-Verbotsgesetz), article IX para 1 no 4 of the Introductory Act to the Administrative Procedure Acts (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen, EGVG), or it may violate sec 283 of the Criminal Code, constituting incitement to hatred. Smearings that call for killing, like “kill n...s”, may also be punishable under sec 282 Criminal Code (calling for punishable acts or approving of a punishable act).

#### • **Prohibition Statute**

**Sec 3g. Whoever is active in a National-Socialist sense, shall, unless the act is not subject to higher punishment under another provision, be punished with imprisonment between one and ten years, in case of the perpetrator or the committed act being particularly dangerous, up to 20 years.**

**Sec 3h. ...Whoever denies, seriously downplays, approves of or seeks to justify the National-Socialist genocide or other National-Socialist crimes, in a printed work, in public broadcasting, or in other media or in any other public manner such that it will be accessible to many people, will also be punished under Sec 3g.**

#### • **Article IX para 1 no 4 of the Introductory Act to the Administrative Procedure Acts**

Placing swastikas, SS-runes or similar signs may fall under this penal provision if the person responsible for the smearing creates such a smearing with National-Socialist intentions or as an act of approval of National-Socialist crimes. Lacking such an intention, the perpetrator may still be punished under article IX para 1 no 4 of the Introductory Act to the Administrative Procedure Acts, which foresees an administrative fine of up to 2,180 Euro for persons “spreading National-Socialist thought in the sense of the Prohibition Statute.”

#### • **Incitement to hatred (Sec 283 Criminal Code)**

**Sec 283 (1) Whoever publicly in a manner liable to endanger public order calls for or incites the commission of a hostile act against a church or religious**

**community existing inside the country or against a group defined by their belonging to such a church or religious community, a race, a people, an ethnic group or a state, shall be punished with up to two years imprisonment.**

**(2) Similar punishment shall be imposed on whoever publicly stirs up hatred against one of the groups defined in para 1 or in a manner violating human dignity abuses them or seeks to decry them.**

According to the wording of this provision, a broad application of this law to racist smearings should be expected. A smearing like “kill n...s” or “N...s out” should, without a doubt, fall under para 1, as such a slogan clearly calls for a “hostile act” against one of the groups defined in this paragraph. The “public” required by the provision is certainly given for any smearing that can be widely seen. Yet, para 1 does not protect the affected groups in the first line, but rather protects public order, which must be endangered by such appeals to violence. This argument does not always hold for an individual smearing. More general hateful slogans like “foreigners out” do not fall under sec 283, as the generalizing term “foreigners” does not correspond to a protected group. Courts applying the provision interpret it very narrowly; therefore convictions under para 1 are very rare.

The area of application for para 2 should be sufficient to pursue written racist abuse like “shit Turks” or “fuck n...s”. However, only such smearings are covered where certain groups are denied “a general right to life as such” or are depicted as “inferior beings”. Case law is very restrictive in considering this provision, as well.

#### • **Incitement (Sec 282 Criminal Code)**

Whoever incites a broad public to a punishable act or approves of such an act, is punishable under Sec 282 Criminal Code. All appeals to kill directed against a certain group or individuals fall under this penal provision. However, it has to be investigated in every case whether the “broad public” is actually reached by the smearing.

#### **What can Ms Z. do against the smearings?**

Smearings, no matter whether they additionally violate the Prohibition Statute or secs 282, 283 of the Criminal Code, constitute offences for public prosecution (Offizialdelikte). This implies that members of the police force have to report them once they have become aware of them. As this rarely happens, it is also possible for members of the general public to send a statement of facts to the office of the public prosecutor. As the perpetrators are unknown in most cases, such a report will often only serve statistical purposes. Ms Z. can inform ZARA about the smearing, giving as accurate a description as

possible of the content and place (address, public transport line and number of the car, ...). ZARA volunteers Monika Muhr and Johanna Katzinger go to great lengths to get the smearings removed. They document the content, place and characteristics of the smearing, and whenever possible, organise photographic documentation. Depending on where the smearing was placed, they get in touch with the property management, local offices of the City of Vienna competent in the area (Gebietsbetreuung), or Vienna public transport.

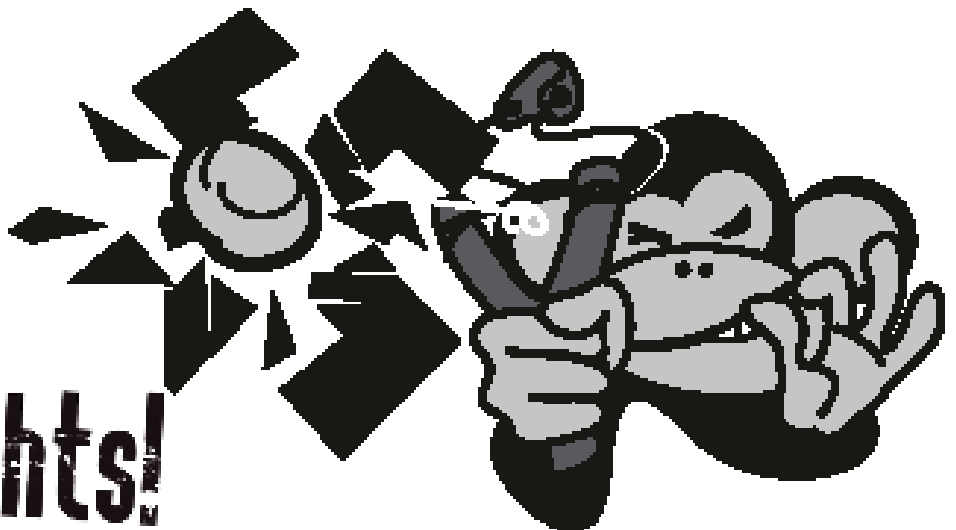
*One day, Ms Z. decides to paint over a smearing on a house that is not her own. She strikes out the words "kill n...s" with a piece of chalk. A policeman observes her doing this. He addresses her, notes her particulars and says that she is going to be reported for damage to property.*

If an existing smearing is painted over and additional damage is done, e.g. if it becomes more difficult to remove a smearing made with chalk that is sprayed over with permanent lacquer, the one painting it over also commits damage to property. If, for example, the original smearing constituted a case of incitement to hatred, one may argue that the person painting it over thus rendered a forbidden slogan or sign illegible and therefore restored a legal situation, providing a licit justification. Yet, it is uncertain that a court would share this view. The owner of the property can consent to the disfiguring and thus save the damaging person from persecution. This concerns only simple damage to property, like painting over a racist slogan, but not the criminal offences like incitement to hatred. Everyone can permit the damage to an object in his/her property in advance or after the act. This would in turn constitute a justification and exclude punishment of the perpetrator.



Sozialistische Jugend Wien  
[www.sj-wien.at](http://www.sj-wien.at)

mit links  
gegen rechts!





# Police

Police officers like to consider themselves targets of hate campaigns. Particularly the reports from NGOs concerning police infringements or the Racism Report by ZARA are viewed as unqualified utterances bordering on defamation. "Do-gooders" lack insight and do not have full knowledge or understanding of the "harsh reality out there", so they say.

Seemingly more well-meaning officers like to argue that naive NGO members, their sense of reality blurred by a "helper's complex", fall victim to criminals or suspicious individuals exploiting them to discredit the police across the board and remove all obstacles to broaden the scope of their criminal activities.

It is in fact very difficult to give a fair and sensible account on instances of police encroachments. This is mainly because all involved parties' positions automatically become entrenched when it comes to dealing with complaints. As soon as someone claims that they have been treated unjustly, a machinery of legal procedures is started off, which regrettably does very little to actually uncover the facts. The role of the officers involved in an incident is indeed paradoxical: During the most relevant types of procedure – the guidelines complaint (Richtlinienbeschwerde) and the measures complaint (Maßnahmenbeschwerde) – they are heard as witnesses, even though they could incriminate themselves through their testimony. Almost all unlawful acts committed by police officers also fall under penal law or disciplinary regulations. They consequently do not want to run the risk of having such a procedure brought upon themselves or their colleagues. This circumstance alone will render it virtually impossible to have officers avowing any transgression on their part. If taken at face value, this attitude would somewhat eerily suggest that 30,000 police officers all over Austria make virtually no mistakes in millions of official acts. Considering the difficulty and diversity of their task, this is rather hard to believe.

This implausible standpoint turns out to be problematic in overall communication: When people claim that they themselves never make mistakes, this may well be indicative of a complete refusal to reflect on one's own behaviour – which may in turn give rise to the suspicion that there are actually so many misdeeds that nobody dares face them.

ZARA has always been careful not to jump to this reverse conclusion. We know as a fact that the overwhelming majority of official acts are carried out in an impeccable and non-discriminating manner. However, the Austrian police force could more duly pride itself on this fact, if only it found ways of dealing with

cases of real encroachments – at least as far as the Viennese police are concerned, some effort has in fact been made in this direction. Meanwhile ZARA will continue providing assistance for those who claim to have been unjustly treated.

**51** Ms I., a native of Poland, tells ZARA about an event that occurred in Vienna in August. Ms I. is about to leave a subway station, when she is caught without a ticket by ticket inspectors on a random control. She accepts the fine and wants to pay it by money order. Since she does not have an ID with her, the inspectors summon two officers in uniform. One of them right from the start addresses Ms I. in a very rude fashion. The policemen propose that they escort Ms I. to her nearby apartment, where she can prove her identity. On leaving the subway station, the aforementioned officer starts abusing Ms I. without cue as "stupid bitch" and "shitty foreigner". Ms I. is frightened by the aggressive demeanour of the officer and tries to dial the emergency number of the police, upon which the officer grabs her by her arm and in a barking voice orders her not to use her cell-phone. The other officer stands back, letting his colleague do as he pleases. When Ms I. puts her phone back in her bag, the officer releases her arm. Whenever they pass other pedestrians, the abusive officer interrupts the flow of insults, only to resume it, as soon as they are beyond earshot. At the apartment he takes down Ms I.'s particulars and is not perturbed by her announcing to file a complaint: She could feel free to do so, as it would remain without consequences. He gives her his duty-number and the two officers leave her apartment.

Ms I. files a complaint against the officer at the Vienna Office for Special Investigations and ZARA drafts a guidelines complaint on her behalf. The officer refuses an out-of-court meeting with Ms I. to settle the complaint and fend off charges, since he is not aware of any wrongdoings on his part. Since Ms I. does not have any witnesses of the event, ZARA dissuades her from dragging the case in front of the Independent Administrative Tribunal, because of financial risks.

**52** Mr M. is a man of Nigerian origin living in Salzburg. One weekend in November he drives to Vienna to meet friends. He gives one of them a lift home at about 1 a.m. and passes two traffic lights on a major shopping street blinking green just before they turn red. Mr M. notices that he is being followed by a police-car. He is beckoned to pull over. An unfriendly policewoman asks him for his car-documents,

which on inspection are found to be correct. Next she orders Mr M. to take a breathalyzer test. Mr M. tells her that he has not drunk, but does not refuse. A police-car with the necessary equipment arrives a few minutes later. The test results are negative, Mr M. is sober. Apparently unwilling to pull back from the inspection, the policewoman wants to see the first-aid kit and the breakdown-triangle, both in perfect order. Finally she charges Mr M. with having jumped two red lights, which he denies having done. The policewoman however insists on fining Mr M. and hands him two tickets amounting to 105€ each. Mr M. suspects his skin-colour to be at the core of the overly meticulous inspection, insinuating that the officer, for want of an actual transgression on his part, maliciously contrived the traffic violation.

Mr M. asks ZARA for advice on his legal options. As he has already paid the fine, it is no longer possible to legally contest the penalisation, even though there is a witness.

**53** Mr G. was born in Nigeria and lives in Austria. In May he arrives in Schwechat Vienna airport coming from Barcelona. He takes his suitcase off the conveyor-belt and heads towards the arrivals building. Suddenly a man approaches him, "Hey, n...[\*], what's inside that suitcase of yours?" Mr G. is strongly irritated by the racist address and wants to know why he has been accosted like that, upon which the stranger identifies himself as a policeman. Mr G. feels he is being hassled for his skin-colour. The altercation is getting louder, when suddenly another plain-clothes officer approaches Mr G. from the side and wrestles him to the ground. Together with a third officer they tie Mr G's arms to his back. The policemen tell a clerk working at a near-by information desk to alarm their colleagues in uniform, who arrive within short notice. Mr G. is handcuffed and taken to an interrogation room. Mr G. is suspected of smuggling drugs. His suitcase is meticulously searched, being ripped up in the process. As nothing is found in his bags, he is taken to the SMZ Ost hospital in Vienna in handcuffs. Without obtaining his prior consent an x-ray of his digestive tract is made, which turns out to disprove the suspicion of body-packing. Mr G. is released from the handcuffs and is allowed to go. The officers though tell him that he will face charges of obstructing police duty and bodily injury, since he has hit and scratched the officers during the scuffle, predicting that he will lose his job, as the charges were sure to lead to his conviction. Mr G. turns to ZARA and successfully appeals for trial assistance. His case is entrusted to a seasoned defence lawyer. ZARA documents the lawsuit at the regional court of Korneuburg. The judge correctly interrogates Mr G. about the events, yet showing little appreciation of his conduct during the stop-and-search operation. The policemen claim that it had been an operation targeting drug smugglers, whose preferred route was either via Amsterdam or the one

Mr G. had taken. The officers explain that they try to discern suspicious persons through certain features or behavioural patterns: The focus was primarily on persons travelling alone, who book their flights at short notice, only carry light hand-luggage, yet also "Africans". Though this might be read as racial profiling, a transgression for which officers were frequently blamed, experience had shown that body-packers (drug-smugglers who swallow drugs in non-digestible plastic-bags) were often of black skin-colour. The conduct of Mr G, who had physically resisted the check-up and the arrest, and the fact that he had allegedly booked the flight short-term, justified the path of action taken by the police. The racist slur mentioned by Mr G. had neither been uttered nor heard by any of the officers. Mr G's defence attorney tries in vain to obtain footage of the surveillance cameras on the site of the incident. Initially airport police deny the existence of such devices, they then however concede that the footage is destroyed within a short period, so that they can no longer serve as evidence. As Mr G. cannot disprove the largely congruent accounts of the policemen to the effect that he had used intentional force to resist arrest, he is sentenced to six months in prison under condition. His lawyer advises him to accept the verdict, which he eventually does.

**54** Mr P, an Afro-Austrian, is riding his bike in Vienna in June. Seeing a traffic-light blinking green ahead of him, he speeds up, as he is sure that he will pass the intersection before the light turns red. At the next crossing he has to wait for the green light. A police-car stops behind him. One of the policemen instantly approaches Mr P. and says, "Let me see your ID, shit-head!". Mr P. is appalled by this language and says that he is not a criminal and does not deserve to be addressed like that. The officer retorts, "We've got enough of you people in prison anyway!", at which point Mr P. realizes that he is being mistreated because of his skin-colour. Another officer joins them, also demanding identification. Mr P. is also told that he has just jumped a red light, which Mr P. instantly denies. The officer does not answer and insists on seeing an ID. As Mr P. only has his e-card on him, the officer checks up on his particulars via radio.

Eventually the officers return his e-card announcing a "juicy fine", before they leave the scene. It is not until November that Mr P. receives a €1,000 penalisation, not only pertaining to his supposed traffic violation but also on charge of several other offences. ZARA tells Mr P. that he can no longer act against the officers, the deadline for complaints having expired, but drafts an appeal against the penalisation in order for it to be suspended in part, and most importantly, the height of the fine lowered. At the time of this publication there is no data as to whether this appeal has yielded results.

**55** Mr Q. is of Arabian origin and works in an emergency overnight shelter for homeless people. In July he witnesses a stabbing between two men. He immediately calls the police. On their arrival, Mr Q. approaches them to tell them that he was the one who has called them and that he had been hit by one of the men when trying to step between them. The policeman however harshly rebuffs Mr Q. and yells at him that he does not have time for him. When a second officer wants to approach Mr Q., he is ordered by the first not to speak with him. It is not until half an hour later that Mr Q. is heard out on the event. Mr Q. assumes that the rude attitude on the part of the first officer is attributable to his nativity.

ZARA files a complaint for Mr Q addressing the undue comportment of the policeman to an officer from the division in charge, who then contacts Mr Q. and settles the matter to Mr Q's satisfaction.

**56** The O. family comes from a region of Slovakia with a Hungarian-speaking majority. They are of Romany ethnicity, a minority in Slovakia, and have a son. In October the family is in Vienna, as they are off and on, to gain modest earnings selling the "Augustin" street paper. Having fetched a stack of papers from the dispatcher of "Augustin", Mr and Ms O. together with their son take position at Karlsplatz, where they sell their papers with success. The three of them have their bags with them, as they are planning to travel back to Slovakia on the same day. Before embarking on their home-journey, Mr O. uses the toilet of an Internet café. On returning, he sees that two policemen are checking his wife and son's papers. One of them turns to him and says bluntly, "You too!" Mr O. has to lay out the entire content of his bags on a bench. He commands Mr O's son to also display his belongings before him, hitting his chest with both hands. Then the officer returns the son's ID-card and says, "Go home, get lost!" He repeats his command, and when the son still does not react, the policeman yells, "Get up, get lost!" When the son yet remains motionless, the policeman takes out his battering stick and pokes it into the son's right side. When Mr O. explains to the officer that his son does not understand the language, the officer retorts that this was none of his business, adding, "When you come to Austria, you've got to understand German." and addressing Mr O, he says, "This will be the last time that you are in Austria, I'll make sure of that." He turns around and once again orders the son to beat off and take all the baggage with him. Ms O. asks the policeman how her son is supposed to carry all this on his own. The officer replies that he does not care, all he wants him to do is get lost. Mr and Ms O. take one rucksack and one bag, their son takes the rest and leaves. He asks where they should meet up, Mr O. says at the Südbahnhof railway station. The abusive policeman barks at him, "Shut up, you jerk!" Mr and Ms O. are escorted to the police station on the Karlsplatz. They speak with each other in Hunga-

rian. "Speak German!", the first of the two policemen commands. Mr O. has to follow the two officers into a small chamber. There the first policeman orders Mr O. to kneel on the floor, to which Mr O. obeys. The officer abuses Mr O, "You are a dirty gipsy!". More than once he jabs his stick at Mr O, stopping short of actually hitting him. He asks him, "Are you afraid, you dirty gipsy?". The first officer asks his colleague to secure Mr O, the second officer obeys. The first one lifts Mr O's chin and presses his fist to his nose. He tells Mr O. that he had spoken to a Slovak colleague who had confirmed to him that the Slovak police were not averse to delivering punches either. Mr O. has to look the officer into the eyes, who says again that he is a "dirty gipsy". He laughs at Mr O, "That's the right way to beg, see?" Mr O. is made to stand up and undress completely. When Mr O. is standing naked in front of the officer, he says, "Yuk, you stink, dirty gipsy!" Mr O. is to answer "yes" to everything, including that he will not come to Austria again. Mr O. has to kneel down again. The officer asks why he has such a large belly and repeatedly hits him in the guts with his fist. In spite of all the humiliation and abuse Mr O. remains calm. At last he is allowed to dress.

Ms O. meanwhile also has to strip down and undergo search by a female police officer. The family is accused of having illegally panhandled the money, Mr O. receives several tickets totalling to €168, purportedly for offences such as violation of the non-smoking regulations, noise disturbance, unseemly behaviour etc, all of them supposed to have occurred at 12:55 p.m. Mr O. pays the fine and is allowed to leave the police station with his wife. First he turns to the editorial office of the "Augustin", where his detailed account of the events is recorded (see [http://www.augustin.or.at/?art\\_id=1123](http://www.augustin.or.at/?art_id=1123)) and later forwarded to the press department of the Vienna police. The editorial staff refers the family to ZARA, where the incident is documented and laid before the co-ordinator of human rights-issues of the Vienna police. The BBE, the Office for Special Investigations Vienna, starts investigating the case. At the time of this publication no results of this investigation are available yet

## What Has Become of...?

### Case 31 Racism Report 2005

In April 2005, Mr A. wants to take the company van of his employer, the Evangelical Refugee Service, for a tune-up. The owner of the repair shop throws racist abuse at Mr A. and chases him off the premises. The police officers who Mr A. summons, also assault him verbally, address him by the familiar "Du" and write a bogus duty number into the dust on an engine hood. Faced with a €60 penalisation for "aggressive conduct

towards members of the law enforcement”, Mr A. turns to ZARA. A ZARA staff-member appeals against the penalty and at the same time a guidelines complaint is filed with the Independent Administrative Tribunal (UVS) concerning the police officers’ conduct. An appeal is made to the Equal Treatment Commission (Gleichbehandlungskommission) regarding the discriminating acts of the mechanic. Close examination of the case however, yields negative results. The administrative charges against Mr A. for “aggressive behaviour” are dropped. In paragraph three of the guidelines complaint pertaining to the indication of false duty numbers and false departments, misconduct on the part of the officers has been admitted by the superior unit prior to the hearing.

### What Happened in 2008...

The procedure in all other charges (the use of the familiar address “du”, the discriminating utterances) is still underway at the beginning of the year. On July 17, 2008, three years after the incident, the trial of the complaint is held at the Independent Administrative Tribunal in Wiener Neustadt. After the Lower Austria police department in charge has in part confirmed the allegations, a spokesperson for the police admits that the remainder of the official act has not been carried out correctly either and that Mr A. and his witness are to be believed. The judge rules in favour of Mr A. on this matter as well as the other two items of his complaint, awarding him damages amounting to around €1,500 to cover the costs of legal proceedings, to be paid by the police. At the time of this publication Mr A is still awaiting the official copy of the Independent Administrative Tribunal ruling.

### Know Your Rights

*Nigerian citizen, Mr G. is stopped in the street by two policemen shortly after leaving his home. “ID check!” Mr G. explains that unfortunately he does not have his ID on him, but that he can quickly get it from home. One of the officers replies: “I am not interested in that. You have to come to the police station”. [He uses the familiar form of address “Du”, which is not appropriate among adults without mutual consent – remark by the translator.] Mr G. asks the officer what crime he might have committed and requests that the officer does not address him with “Du”. The officer returns: “So you are going to be impertinent, now we are taking you with us.”*

Mr G. is first searched on the spot, and then he has to follow the officers to the nearest police station. There, Mr G. is photographed. One of the officers checks his data on the computer. As it turns out that he does not have a criminal record, he is released,

but without anyone apologizing to him for the unwarranted arrest. He asks for the officials’ identification numbers, whereupon they tell him that their identification numbers are none of his business.

### On the general permissibility of identity checks and arrests

*Sec 35 Security Police Act (Sicherheitspolizeigesetz, SPG) and sec 118 of the Code of Criminal Procedure (Strafprozessordnung) in the edition valid since 1.1. 2008 define the limits for permissible identification checks. When it has to be assumed on the grounds of certain facts, that somebody is in some way connected to a criminal offence, or may be in a position to give information on such an offence, he/she is obliged to cooperate in identification. Thus both alleged/potential perpetrators and witnesses of a punishable act are obligated to cooperate in identifying perpetrators, which, under sec 118 para 4 Code of Criminal Procedure may include a search of the person. The police officers have to determine their name, date of birth and address of residence.*

A person suspected of a criminal offence may be arrested under sec 175 of the Code of Criminal Procedure, for instance if they are “caught in the act”. Under sec 172 of the same act, the suspect must be brought to the jail belonging to the competent court within 48 hours following the arrest. Within the following 48 hrs, the court must decide whether the suspect is to be detained while awaiting trial or released from custody (sec 174 Code of Criminal Procedure).

The Aliens’ Police Act 2005 (Fremdenpolizeigesetz, FPG) stipulates that non-Austrian citizens have to carry a travel document on them in order to demonstrate their legal stay in the country, or to keep the document in a place from where it can be fetched without disproportionate delay (inside an hour) (sec 32 Aliens’ Police Act). “Aliens” in the sense of the Aliens’ Police Act also have to undergo identification for example in case of a suspicion that their presence in the country might be illegal (Sec 34 Aliens’ Police Act). If an “alien” should not abide by the obligation of carrying a travel document on him/her, an arrest may be pronounced. In such a case, detention must not exceed 24 hours (sec 39 Aliens’ Police Act).

It results from sec 35 Administrative Penal Act (Verwaltungsstrafgesetz, VStG) that persons “caught in the act” of an administrative offence have to undergo identification. If the person is not immediately identifiable, an arrest can be pronounced. The detention by the authorities must not exceed 24 hours (sec 36 para 1 VStG). In any case, the detained person must be informed of the charges. The arrest must be explicitly pronounced.



Sec 29 Security Police Act defines the so-called Principle of Proportionality. The Principle of Proportionality states that the law enforcement authorities should choose the most effective means that they are entitled to use and presumably causes the least amount of harm to the person concerned. They must take into account the protection of the rights and the interests of the person concerned. The pursued aim must be justifiable in relation to the expected damage and danger.

### ***Rights and obligations of persons subjected to an act of official duty or arrest***

Any person subject to an official act (Amtshandlung) must, on demand, be informed of the reason and ultimate purpose of said action, and may involve a trusted person (sec 30 Security Police Act). However, this does not hold if this step would endanger the fulfilment of the task of the intervening law enforcement officers.

The Federal Minister of the Interior has passed a decree concerning actions of officials of the public security service under sec 31 Security Police Act (Guidelines Decree, Richtlinienverordnung – RLV). Sec 5 of the Guidelines Decree says, among other things, that law enforcement officers have to refrain from any action liable to give the impression of their being biased or that might be perceived as discrimination on the grounds of gender, national or ethnic origin, religion or sexual orientation.

Furthermore, law enforcement officers are obliged to use the polite form of address “Sie” (in contrast to the familiar second person singular you, “Du”) with all persons where this is customary or who demand to be thus addressed. The officer should then also be addressed as such.

According to sec 6 of the Guideline Decree, the persons affected by the act of official duty must be informed of their rights and regarding the aim of the act by the acting law enforcement officer, unless this is obvious or would endanger the success of the act. Sec 7 Guidelines Decree stipulates that persons entitled to informing or involving a trusted person or legal advisor must be informed of their respective rights.

Arrested persons, persons suspected of a criminal offence and possibly supposed of carrying a potentially dangerous object, may be searched under Sec 40 Security Police Act. Taking photographs is part of recording characteristics for identification. The person concerned, who is suspected of having committed a criminal offence, is entitled to be informed as to why he/she is subjected to the treatment for assessing personal characteristics, and, under

specific circumstances, is entitled to have the data deleted from the record

Any arrested person has the right to inform a trusted person or a legal advisor. However, during an interrogation for a criminal offence that is to be pursued by court, neither a trusted person nor a legal advisor may attend.

### ***The request for police ID number – a frequent cause of escalation***

Sec 9 guidelines decree stipulates that persons subjected to acts of duty are to be given the ID number of the officers upon request, preferably handed over in the form of a business card.

### ***What can Mr G. do in the first case?***

As Mr G. is not an Austrian citizen, police officers are entitled to check whether he has a legal right to stay in Austria. Although Mr G. does not carry his documents on him, the police officers would have to permit him to fetch them from his flat in the immediate vicinity of where the act of official duty was carried out. The demand to come to the police station is to be considered as an arrest which was, however, lacking the required legal basis. Thus, the subsequent personal search and the taking of photographs are unlawful. By addressing him with the informal “Du” and by refusing to give their official identification numbers, the officers violated the Guidelines Decree.

If Mr G. turns to ZARA, ZARA can file a complaint against measures taken by law enforcement officials (Maßnahmenbeschwerde) with the Independent Administrative Tribunal (Unabhängiger Verwaltungssenat, UVS – see “Glossary”) for unlawful arrest, person search and the taking of photographs, as Mr G.’s subjective rights have been violated in the course of the exercise of direct authority and coercion. In this case, ZARA can also represent Mr G. before the Independent Administrative Tribunal. Such a complaint against measures can be lodged not only against violations of provisions of the Security Police Act, but also against violations of constitutional rights (e.g., the prohibition of torture and inhuman or degrading treatment according to article 3 of the European Convention on Human Rights, the right to private life and family life according to article 8 of the European Convention on Human Rights, the Federal Constitutional Act on the Protection of Personal Freedom (Bundesverfassungsgesetz über den Schutz der persönlichen Freiheit) or other rights guaranteed in simple law provisions that have to be observed by law enforcement officials in performing their duties.

The procedure before the Independent Administrative Tribunal is similar to that before a court. Independent judges of the Independent Administrative

Tribunal decide whether the acts of the law enforcement officers were unlawful; however, awarding damages to the victim is not provided for by the law. The opponents in this procedure are the offices of public authorities superior to the law enforcement officials in question, like e.g. the Federal Police Directorate Vienna (Bundespolizeidirektion Wien, BPD Wien). The individual officers appear as informants in the procedure, but are not directly affected by the finding of the Independent Administrative Tribunal. Subsequent disciplinary measures in individual cases are possible. The complainant in the procedures before the Independent Administrative Tribunal has no influence on the disciplinary procedures that are internal to the law enforcement authorities. In case the Independent Administrative Tribunal finds that the actions taken by the law enforcement officers have not been unlawful, the complainant is liable to cover the cost of the procedures, which usually amount to about 500-700 Euro.

Furthermore, Mr G. could also turn to the Independent Administrative Tribunal with the help of ZARA because of violations against the Guidelines for Actions by Officials of Public Security (Richtlinien für das Einschreiten der Organe des öffentlichen Sicherheitsdienstes, short: Richtlinienverordnung / Guidelines Decree) under sec 89 Security Police Act within six weeks. The first step the Independent Administrative Tribunal has to take, with a so-called "guidelines complaint" (Richtlinienbeschwerde) is to forward it to the competent authority, in charge of supervising the acting officials in question. In the case of Mr G., that is the Police Directorate Vienna (BPD). After the BPD has investigated the facts on their part, by questioning the involved officials or through their reports, the BPD has to inform the complainant in writing as to whether or not the situation constitutes a violation of the Guidelines Decree.

The BPD can also arrange a meeting between the involved officials and the complainant where they can discuss the incident, with the aim of the complaint being settled and no charges being brought ("Klaglosstellungsgespräch"). If the person concerned is satisfied with the meeting and its outcome, the guidelines complaints procedure is closed with a written declaration by the complainant of no longer holding a complaint. The BPD no longer has to comment on the incident.

If however the complainant is not satisfied with the encounter and its outcome, e.g. because the officers do not recognise any wrongdoing, then the procedure continues. The BPD has to draft a written statement regarding their opinion on the alleged violation of the Guidelines Decree and to deliver it. If the statement denies a violation, or if no statement is delivered inside three months after the complaint has been filed, the complainant may demand a decision by the Independent Administrative Tribunal

within a fortnight. In procedures similar to those under a "measures complaint", the Independent Administrative Tribunal then has to determine whether the Guidelines Decree has been violated. Regarding consequences for the officers, the situation is the same as in case of the "measures complaint" described above.

In the case of Mr G., one might expect that no attempt would be made to reach a settlement with a direct encounter, as it involves three charges, the impolite form of address, racist discrimination, and of not disclosing the official identification number. If the BPD should not find a violation of the Guidelines Decree, the Independent Administrative Tribunal will treat both complaints jointly. Regarding the photographs taken by the police officers, Mr G. can apply for the deletion of this identification data under sec 74 Security Police Act in case they have not yet already been deleted ex officio as foreseen by sec 73 Security Police Act for lack of a legal basis.

*A few days later, Mr G. is involved in another ID check. This time, Mr G. has his ID on him. As this is the second time such a check is performed within a short period of time, he complains to the officers: "It is always the same. You are only checking on me because I am African!" The officers see his reaction as an assault and threaten to arrest him unless he calms down. Mr G. replies: "I have not done anything, why do you want to arrest me." One of the officers says: "You black guys are always up to something, we are sure to find something!" He steps towards Mr G. and twists his arm to his back. Mr G. is thrown to the ground and handcuffed. An officer hits him on the head, shouting: "Now you see where that leads you, you stupid nigger!" Mr G. does not resist arrest in any way. One of the officers informs his colleagues, who arrive by a police car after a short while. Two witnesses observe the incident and manage to slip Mr G. a business card in a moment of calm. When asked whether one of the witnesses might accompany Mr G. as trusted person, one of the officers declares this not to be possible. Finally, Mr G. is brought to the police station. There he is interrogated by a police lawyer. He has to sign his statement.*

*At last, he is released and it is announced that a complaint will be filed against him. Some days later, Mr G. receives an order to pay a fine for "aggressive behaviour towards a law enforcement officer" under sec 82 Security Police Act (Sicherheitspolizeigesetz) amounting to 72 Euro. One week later the Vienna office of the public prosecutor informs him that procedures for resisting state authority have been initiated against him under sec 269 of the Criminal Code.*

### ***What can Mr G. do in the second case?***

In addition in this case, the officers violated Mr G.'s subjective rights through the unjustified brutal manner of the arrest, the verbal abuse, and by handcuffing him. The officers are obviously biased and discriminated against Mr G. because of his origin, which is obvious from what they said. Furthermore, they addressed him with the informal "Du". These acts constitute clear violations of the Guidelines Decree (Richtlinienverordnung). Mr G. can lodge another complaint with the Independent Administrative Tribunal with the support of ZARA. However, in this case ZARA will represent Mr G. not only before the Independent Administrative Tribunal.

Regarding the administrative fine for "aggressive behaviour towards a law enforcement officer" it is possible to file an appeal to the Independent Administrative Tribunal that makes decisions regarding the lawfulness and appropriate measure of the fines. As Mr G. did not behave aggressively and thus did not impede the officials in carrying out their duties, which additionally is certified by two witnesses' testimony, the odds that the fine would be lifted and the procedures would be closed are good. Furthermore, sec 85 Security Police Act foresees that, persons who have to stand for trial under sec 85 may not be additionally tried or punished under sec 83 Security Police Act. Regarding the complaint against Mr G. for the criminal offence of "resistance to state authority" under sec 269 Criminal Code, Mr G. will have to appear in court. The (regional) criminal court may impose a fine of up to three years imprisonment. The allegation against Mr G. is that he "actively", meaning e.g. by targeted hitting and kicking, resisted an act of official duty (Amtshandlung) or his arrest. Simple "passive" resistance making the arrest more difficult, like e.g. stiffening one's muscles which makes handcuffing more difficult, or trying to wrangle out of the officers' grip is not sufficient for a conviction under sec 269 Criminal Code.

If Mr G. cannot afford a lawyer to represent him in court, ZARA assists in the application for free legal aid in the procedure. The lawyer will be chosen by

the Chamber of Lawyers (Rechtsanwaltskammer). If Mr G. can afford to pay for a lawyer of his choice, he will be advised to do so and will be represented by a lawyer of his confidence. In case of Mr G. being acquitted, he will receive a reimbursement for part of the costs for the lawyer.

During criminal procedures, Mr G., his two witnesses and the officers involved will be questioned by the court. It is often the case that the court does not believe the statement of the defendant to be true because of similar testimonies, which are contrary to the defendant's, made by a high number of police officers. The statements of officials are considered more reliable and more credible than that of the victim of the transgressions because of the official oath sworn by the officers. This argument often even induces court officials to gloss over inconsistencies in their statements.

However, as Mr G. can present two independent witnesses, his chances of being acquitted are good even in the criminal procedure. If he is pronounced guilty, a sentence of three to six months imprisonment on remand is likely. "On remand" means that Mr G. does not have to serve the sentence if he does not commit a similar criminal offence inside a probation period of at least three years.

Mr G. furthermore has the possibility to appeal the conviction. In this case, the Regional Court of Appeal (Oberlandesgericht, OLG) makes a final decision about whether or not Mr G. actually committed the crime or should have been acquitted. In case the public prosecutor appeals the decision of the court of first instance, the penalty may also be altered.

If it should turn out in the course of the procedure, that the statements by the law enforcement officers which led to the prosecution of Mr G. have not been true, the public prosecutor may start criminal proceedings against the officers, for giving false information certainly constitutes the criminal offence "giving false evidence in court" (sec 288 Criminal Code), that of "libel" under sec 297 Criminal Code, and possibly also that of "abuse of state authority" under sec 302 Criminal Code.

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#### **Marcus Omofuma - Informationsbroschüre**

In dieser Broschüre findest du Informationen zu Marcus Omofuma, dem rassistischen Alltag in Österreich und in der EU und zur Asylgesetzgebung.

Weiters: Eine Dokumentation der rassistischen Beschmierung des Marcus Omofuma Gedenksteins.

Die Broschüre wurde 2008 aktualisiert und ist bald kostenlos per Mail unter [gajwien@gajwien.at](mailto:gajwien@gajwien.at) zu bestellen.

#### **Suspect**

Das Suspect ist die Zeitung der GAJ Wien und erscheint mehrmals im Jahr.

Wir versuchen damit eine Alternative zum gesellschaftlichen Mainstream zu bieten, das Abo ist ebenfalls kostenlos zu bestellen per Mail oder auf unserer Homepage [www.gajwien.at](http://www.gajwien.at)

Das GAJ Wien Plenum ist offen und findet jeden Donnerstag um 19:00h in der Lindengasse 40, 1070 Wien statt.

Bürozeiten: Mo-Fr 15:00-18:00h Tel.: 01 52125242





# Other Authorities and Public Institutions

One of the essential responsibilities of the administration in a democratic constitutional state is to observe impartiality and to protect equal balance and legal security. There is to be no place for discrimination, even so much as the outward impression of prejudice is to be avoided by the authorities. It is not ZARA's intention to join in the chorus of cross-the-board scolding of bureaucracy, but rather to stress that the administration of the state is tied to high responsibility. Every racially discriminating act in this field is not only an encroachment on the rights of those directly concerned, but also unsettles the faith in the constitutional state.

In this context it is gratifying for ZARA to learn from experience that many public institutions do react to accusations of discriminatory acts and at least make an effort to refrain from similar acts in the future. Yet in 2008, the counselling center also had to deal with some cases showing that racism exists in this field as well.

**57** Ms T. works at a public counselling center for social services in Vienna and relates to ZARA via telephone the following events: One of her colleagues has lately been coming forward with anti-foreign sentiments with striking regularity. For example in an e-mail in which she applies for holiday leave she argues that she has not taken over the cases of "tschusch families" (pejorative expression denoting foreigners, mostly of Balkan or Turkish descent). During a lunch break this same colleague comments about her clients, "Those tschuschs will soon realize I don't want them."

ZARA explains to Ms T. that no action could be taken merely on the basis of anonymous complaints, as the accused party could easily refute the charges. To have any impact at all, clients immediately affected would have to stand up as witnesses themselves. Ms T. says that she will go on recording the anti-foreign statements of her colleague and communicate them to her supervisor to explore the possibilities of sensitising fellow employees in training sessions and making said colleague aware of the actual scope of her statements. Ms T. promises to keep ZARA abreast of the proceedings, yet at the time of the publication of the "Racism Report", has not reported any further incidents to ZARA.

**58** Ms P. phones a civil registry office in Vienna. She inquires if it is possible to reschedule the marriage of an acquainted couple at an earlier date. A civil servant asks for the reason for the change and wants to know if the couple is Austrian or foreign. Ms P. is curious what the question has to do with the issue of rescheduling the marriage. Without bothering to reply the civil servant insists on an answer to his question. It is actually the case that the two have the status of asylum-seekers. Now the civil servant inquires whether the rescheduling would further the case of one of them in their respective asylum procedure. Ms M. is appalled by the across-the-board suspicion voiced by the civil servant that the two applicants for asylum did not want to marry for love but out of calculation. She wants the incident on ZARA's records. ZARA offers to file a complaint against the civil servant for Ms P., but Ms P. does not return.

**59** Ms I. is an intern at an Austrian court and relates to ZARA the following occurrence dating from a day of service in May: One of her colleagues, an intern herself, is speaking with a man who has appealed against a verdict passed by the court. Apparently the two of them do not agree as to the appropriate path of action to be taken next. The intern and the man become engaged in a heated discussion. Eventually Ms I's colleague states that her opinion represents the actual state of legal affairs and if the man does not like it, he might as well go back to his home-country. The man replies that he is in fact Austrian and his daughter even works here as a professor. To this the colleague remarks that she could tell simply by his accent that he was not from "here" and reiterates her exhortation that he was free to go back to the country of his "origin", if it was not to his liking "here". The man is dismayed by the discriminatory statements and leaves. Ms I. approaches her colleague telling her that she does not want to hear her utter such xenophobic phrases again, especially bearing in mind the fact that she as a court-intern is a representative of the state. The next day Ms I. encounters the man in the court. They engage in conversation and he tells Ms I. that he is still appalled by the incident. ZARA informs Ms I. about her legal options and advises her to refer the man to its counselling center, in case he wants to file a lawsuit. At the time of this publication, Ms I. has not come to ZARA again.

## Know Your Rights

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*Mr B. was born in Austria, but his father is from Samoa. He is an Austrian citizen and the father of two children of primary school age. One day he receives a letter from the Ministry of Finance. In order to continue receiving family allowance, he is required to bring proof that his two children are living in Austria. As this way of proceeding seems strange to him, he calls the revenue office on the phone the following day. The competent official tells Mr B. that he demands the proof because "foreigners constantly perform tricks in order to receive any type of social support for all their relations". He will now carry out sample checks on persons whose names "appear strange" to him. When Mr B. points out to the official that he has held Austrian citizenship since birth, the official says, "I don't give a damn, you are still a dirty foreigner!"*

Part 3 of the Equal Treatment Act (Gleichbehandlungsgesetz, GIBG) provides that persons who are discriminated against in regard to social protection (which includes, for example, social security payments, unemployment benefits or payments under the Act for Compensating the Strain resting on Families (Familienlastenausgleichsgesetz) on the grounds of ethnic belonging can turn to the Equal Treatment Commission or claim compensation for damages before a civil court. Also harassment (see "Glossary") is a form of discrimination under the Equal Treatment Act.

With his statements, the official makes it absolutely clear to Mr B. that he is predisposed to find fault with Mr. B. as compared to a person of Austrian

origin, for whom he would not imply "social fraud", because of his name and his ethnic belonging. This clearly constitutes direct discrimination on the grounds of Mr B.'s ethnic origins within the boundaries of the Equal Treatment Act. Furthermore, the offensive racist statements of the official qualify as harassment on the grounds of ethnic belonging, as they violate Mr B.'s dignity and create an intimidating, offensive and humiliating environment.

### What can Mr B. do?

Mr B. is entitled to compensation for the actual material damage suffered, e.g., in case of family allowance being unlawfully withheld from him because of the verification. In addition, he is entitled to compensation for the personal damage suffered by the treatment. For the harassing remarks made by the official Mr B. is entitled to a minimum compensation payment of 400 Euro. Mr B. can either claim compensation at the competent civil court, which comes with a considerable financial risk, or turn to the Equal Treatment Commission (see "Glossary") first. There, a procedure may be carried out to determine whether or not the individual case is one of discrimination and a legally, non-binding recommendation for measures of compensation and the prevention of future discrimination. Mr B. can allow NGOs, like ZARA or the Ombud for Equal Treatment (see "Glossary"), to counsel and support him in filing a complaint with the Equal Treatment Commission.

As the discriminating person was an official of the tax revenue office, Mr B. can file a complaint with the superior unit and suggest disciplinary proceedings against the discriminating person. Mr B. has no legal right to initiate such procedures.

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The Austrian Equal Treatment Act stipulates that the entire sphere of work be free from racial discrimination – encompassing all stages from the advertising of a post, the hiring, professional development, right up to the termination of the work contract.

The reality in fact more often than not proves to be quite different. It still seems a matter of course for employers and fellow employees to freely use ethnicity as the focal point for redlining, condescension and harassment. The Equal Treatment Act, if known at all, is widely viewed merely as a non-binding recommendation. Equal treatment is still seen as an overly virtuous deviation from what is considered to be the norm of racial discrimination: This is just the way things work on the employment market, so people say.

It will continue to be ZARA's calling to consistently point out that non-discrimination is not an attitude deserving extra praise, one that can be adopted or abandoned at will, but a minimal standard imposed by the law; and that any form of racial discrimination in the workspace is forbidden and will not be tolerated.

**60** Mr B., an Austrian citizen born in Ethiopia, works in the security branch. When he applies to a new security firm in spring, he is asked during the interview if he had "EU citizenship at all". The ID he presents is not even acknowledged by the woman conducting the interview. She merely fills in a form for the employment office confirming that Mr B. is not going to be hired. She breaks off the interview telling Mr B. to leave, as he was only wasting her time. Mr B. assumes that he has been denied the job because of his skin-colour.

When a counsellor of another institution who Mr B. has initially contacted calls the security firm about the requirements for the job advertised, she is told that one had to be a "native". Mr B. thus sees his suspicion confirmed that his skin, or interchangeably, his Ethiopian origin was essentially the reason for his being refused.

ZARA drafts an appeal on Mr B's behalf with the Equal Treatment Commission. The proceedings are still underway at the time of the editorial deadline.

**61** Ms O. is a high-school teacher. As part of a one-week excursion she visits the Auschwitz concentration camp in Poland with 40 pupils and three fellow teachers. She entrusts ZARA with the documentation of the following utterances by her colleagues: "Shitty gypsy scum", "There are ethnical and

racial differences after all", "These people (meaning natives of Arab countries/dictatorships) you just can't govern in any other way", "The Turks don't follow Austrian laws", "The Hungarians and Czechs don't adhere to Austrian traffic regulations", "I haven't contributed a great deal to preserve humanity. I only gave birth to two children. Two children help preserve the species, three help preserve the race".

ZARA fills in Ms O. on its workshops for sensitising people to racist language and offers to file an official complaint. The client however does not report to ZARA again.

**62** Ms A. tells ZARA in December that until recently she had worked at a hospital, until she was mobbed by a fellow female employee. The colleague treated Ms A. in an overall unfriendly manner and for no reason forbade her to speak Turkish to patients, which had in fact often proved helpful before. Apparently the colleague - by speaking to their superior - effected that Ms A was transferred to another department of the hospital, where she had to write certain memoranda without prior schooling. These memoranda were therefore flawed, so that the superior advised her to resign from her job by mutual agreement. Ms A. eventually accepted this "proposal", since she did not want to be fired. Ms A. is certain that the difficulties she had with her colleague were due to her Turkish origin, for there have been no conflicts between the colleague and Ms A's successor, a woman from Carinthia.

ZARA documents the incident, yet does not take further measures, as Ms A. has already conferred with the Ombud for Equal Treatment, which will intervene for her. There have not been further developments at the time of the editorial deadline.

**63** In June Mr O. calls ZARA's attention to a job advertisement on an Austrian Internet-platform. The advertiser is looking for "service-hands at events" with German as their mother-tongue. ZARA contacts the Internet-platform and points out that applying these criteria amounts to discrimination on ethnic grounds, which is prohibited by the Equal Treatment Act. The owners of the platform are grateful for having been adverted to the violation and promise that they will alert advertisers to unlawful content if necessary.

**64** In August Ms J. reports to ZARA. She has noticed a job advertisement on an online

job-exchange looking for personnel to work in one of the booths during the “Donauinselfest” in Vienna. Applicants were to be 18 years minimum, female (miss-spelt) and “Austrian natives”. ZARA informs the job-exchange and also directly approaches the advertiser, who shows little understanding for the complaint. On the one hand he declares that he had only meant the requirements for a “work permit”, only to explain in the next paragraph that as the firm sold traditionally Austrian bakery products, it was a matter of course for them to look for an Austrian. The advertiser, moreover, believes that he was entitled to offer the job exclusively to applicants of female sex - the church was not accused of discrimination either for not ordaining women.

ZARA once again fills in the advertiser on the requirements of the Equal Treatment Act and stresses to him that his advertisement represents a violation. Upon that the advertiser rephrases the job description: “We are looking for nice salespersons, minimum age (miss-spelt) 18 years, female, Austrian work permit”. ZARA lets the case rest at that.

**65** Mr T. is a Nigerian native. He reveals to ZARA that until recently he worked as a kitchen hand in a restaurant in the tenth district of Vienna. Right from the beginning he noticed that most of his fellow workers did not want much to do with him and kept conversation with him at a minimum level. Mr T. supposed that this behaviour was related to his skin-colour. He informs his employer that he wants to be told if his presence is not desired, in which case he will quit on his own. The proprietor of the restaurant tells him that he has no problem with Mr T. and that he is free to stay. Yet Mr T’s situation does not improve, so at the end of the probation time he tells his boss that he does not want to keep the job and that he hereby discontinues the employment contract. When Mr T. demands his wage, the employer hesitates to pay the full amount, arguing that Mr T. has not worked an entire period. After a short discussion Mr T. ultimately receives full payment, but is dubbed “asshole” by the proprietor. Apart from that he tells him never to come back again declaring him banned from the premises. On receiving his payment Mr T. is about to leave the restaurant voluntarily, but is nevertheless roughly ushered out by two staff members, being hit and getting his lip cracked in the process.

Mr T. presses charges of bodily injury. ZARA accompanies him to the police hearing. The investigation is still ongoing at the time of the editorial deadline.

**66** Ms P. wants to apply for the vacant post at the cafeteria of a Vienna hospital. During the interview she is asked by Ms O, the woman conducting the interview, where her first name comes from, as it sure does not sound Austrian. Ms P. explains that the name is Persian, but her parents come from Turkey. To this Ms O. says, “I see. And what do your parents think

of you applying for this job? I mean I’m not against foreigners, but I do have misgivings about the Turks. I don’t hire them. They never finish anything!” Ms P. goes on to mention her qualifications to Ms O, who acts impressed – yet Ms P. cannot help feeling that Ms O. does not believe her. Ms P. ultimately does not get the job. Judging from the way the job interview was conducted, she is convinced that her Turkish descent was what eventually barred her from employment. She stresses to ZARA that this was in fact the first time that she has encountered something like that. She just wants the event documented.

**67** Ms O. reports to ZARA that in various Vienna branches of a chain of hair salons, employees carrying names which do “not sound Austrian” are made to use German-sounding monikers. For example one of them, whose name she knows to be “Yussuf” has to introduce himself to customers as “Josef”. Due to there being no complaints on the part of persons directly affected, ZARA cannot take legal steps against the company. Around the time of the editorial deadline, ZARA is considering whether or not to make a complaint to the company’s headquarters.

**68** Dr A. is a general practitioner. She is an Austrian citizen of Muslim faith and wears a headscarf. At the end of April she applies for a post as a rehab physician advertised in the Austrian Medical Journal. After an exploratory phone-call as to whether the position is still vacant, she is given a date for a personal interview. During this interview Dr A. hands her application documents to the senior rehab physician mentioning that she does not have a diploma as rehab physician. The senior rehab physician tells her that the diploma is not a prerequisite. The remainder of the appointment is dedicated to working hours, the exact range of duties and the modalities of settling accounts with the health insurance fund. The salary has to be negotiated with the management, who also has the final word in employing a person referred to it by the senior rehab physician. The senior rehab physician however also points out to her that the management will quite certainly have strong misgivings should Dr A. want to wear the headscarf at work. They arrange for Dr A. to inquire about the outcome of her application by telephone.

Eventually Dr A. fixes an appointment with the manager, to which she is accompanied by a person of trust. The gist of this conversation is that she has the right qualification, yet she will only be considered, if she agrees not to wear the headscarf during work. She is given eight days time for consideration by the management.

Upon this Dr A. turns to the Ombud for Equal Treatment. The attorney in charge drafts a letter of intervention to the management, stressing that the condition imposed on Dr A. represents discrimination on the grounds of religion. The management is further-



more challenged to abandon its position and to give the doctor a fair chance. In its answer, the management clarifies that it will not alter its decision. Dr A. is not hired, and the post is advertised anew.

Following ZARA's advice, Dr A. seeks representation through the Litigation Association of NGOs against Discrimination and claims damages at court. Simultaneously Dr A. makes an appeal to the Equal Treatment Commission. In both procedures, decisions are still being awaited.

### **Know Your Rights**

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*Mr P., a faithful Muslim, works at a haulage company. There is a canteen offering a selection of "choice-of-the-day" plates for lunch at a very low price. When Mr P. approached the management with the request to always include one offer without pork, his superior told him: "Where would that lead us if we always satisfy you guys?" When Mr P. spreads his prayer-rug on the ground during breaks, he has to listen to jokes from his colleagues as well as abuse like "camel driver". Finally, Mr P. is fired and the reason given is that he, as a foreigner and Muslim, just caused too many problems.*

The right not to be disadvantaged at the work place does not only include the right to equal pay, promotion etc., but also the right to equally benefit from social care (including voluntary social measures) of the company. If no special price lunch offer without pork is available in the canteen of the haulage company, Mr P. is excluded from this social benefit as a faithful Muslim who may not eat pork because of his religion. Thus he is indirectly discriminated against (see "Glossary"). The insults made by his colleagues qualify as harassment, which constitutes discrimination in the meaning of the Equal Treatment Act because they make reference both to his ethnic origin and to his religious beliefs, and because they violate his personal dignity through their intensity.

### **• Sec 21 (2) Equal Treatment Act (Gleichbehandlungsgesetz)**

*Harassment is taking place in case of unwanted conduct related to one of the [forbidden] grounds [of discrimination] that*

- 1. violates the dignity of the affected person,*
- 2. unwanted by the affected person, inappropriate or indecent,*
- 3. creates an intimidating, hostile, degrading, insulting or humiliating environment for the affected person.*

Under the provisions of the Equal Treatment Act, a superior is obliged to act as soon as he/she learns about an employee being harassed, and to take im-

mediate action to ensure the discrimination stops. Otherwise, he/she also becomes liable to pay damages for the harassment by his/her employees. The termination of employment of Mr P. in reaction to his complaint constitutes victimisation (see "Glossary"), which amounts to a clear violation of legal provisions.

### **• Sec 27 Equal Treatment Act Prohibition against adverse treatment**

An employee must not be dismissed or subjected to other adverse treatment in reaction to a complaint within the company or to initiating proceedings aimed at enforcing compliance with the principle of equal treatment. Also, other employees acting as witnesses or informants in proceedings or supporting the complaint of another employee must not be dismissed or subjected to other adverse treatment in reaction to a complaint within the company or to initiating legal proceedings aimed at enforcing compliance with the principle of equal treatment.

### ***What can Mr P. do?***

Mr P. would be well advised to turn to ZARA or the Ombud for Equal Treatment with his case and to bring it before the Equal Treatment Commission. In cases of discrimination regarding the access to voluntary social benefits, measures of vocational education and training or re-training or other working conditions, the victim has the right to be awarded the benefits in question, (training measures, equal working conditions being established, etc.), or to receive compensation payments for a pecuniary damage or possible immaterial damages. Based on a pertinent opinion of the Equal Treatment Commission, Mr P. can enforce the introduction of a daily offer without pork at the canteen.

In the case of harassment in the context of an employment relationship in the sense of the law, the affected individual has a right to compensation payments. In case of harassment, payments for material damage – if any financial damage has been done – and immaterial damage – serving as compensation for the personal damage suffered – are awarded. The financial amount of compensation payments must be adequate and amounts to at least 400 Euro. The claim holds in relation to the harassing person(s), be it the employer, a third party involved in an employment relationship, or a third party outside a specific employment relationship as well. In addition, there is a claim to compensation payments from the part of the employer in case he/she does not take appropriate measures in order to end the harassment. Additionally, the instruction to harass an individual makes the instructing party liable to damage claims.

Finally, dismissals that are unjustified and motivated by discrimination can also be challenged through taking legal action with the competent labour court. This also holds in cases of victimisation, adverse treatment or dismissal of an individual in reaction to a complaint or the initiation of legal proceedings aimed at enforcing compliance with the principle of equal treatment.

### ***The example of discriminatory job advertisements***

*The following job advertisement is posted by an office: "Wanted: cleaner, Austrian citizen with excellent knowledge of German." Ms R., an Austrian citizen of Turkish origin, presents herself at the office for a job interview. The human resources manager says to her: "Haven't you read our ad? We do not hire foreigners!"*

At first sight, one might assume that this constitutes a case of direct discrimination, which is, however, not covered by the Equal Treatment Act (Gleichbehandlungsgesetz), as nationality is exempted from the scope of the Equal Treatment Act. The

office is looking for a cleaner and does not want to employ a "foreigner". Yet, such an advertisement is indeed unlawful, as it discriminates against workers or employees from other EU member states and violates their right to free movement of workers.

Third country nationals (see "Glossary") are also unlawfully excluded by the advert. Simply taking a person's nationality as criteria, without also taking into account their legal position on the labour market, constitutes a prohibited form of discrimination. The so called "nationality exception" only permits the legislator to regulate labour market access for third country nationals. Once this access is granted (e.g. by a permanent permit), it is forbidden for employers to exclude potential employees on the basis of their nationality. The wording of the advert and the statement of the human resources manager, make it clear that persons of non-Austrian origin should be prevented from applying. This type of discrimination on the grounds of ethnic origin – camouflaged as being based on nationality – and obviously in use like in the "Austrians only" advertisements documented in the Racism Report, is thus subject to the Equal Treatment Act.

### ***• Sec 19 (1) Equal Treatment Act***

*Direct discrimination occurs where one person, on any of the grounds referred to in Sec 17, is treated less favourably than another is, has been or would be treated in a comparable situation.*

Ms R. is, after all, an Austrian citizen. Yet, she is not considered "sufficiently Austrian" and is not hired on the grounds of her origin, an act of direct discrimination in the sense of Sec 19 (1) Equal Treatment Act (see "Glossary").

The advertisement as such violates the requirement of non-discriminatory job advertisements. The only exception from this requirement concerns occupational activities for which a certain characteristic constitutes a genuine and determining occupational requirement. In this regard, it is not the restriction of Austrian citizenship that is relevant, but the requirement of "excellent command of German". This constitutes so-called indirect discrimination (see "Glossary"), where an apparently neutral requirement puts a certain part of the population at a disadvantage on the grounds of their origin without a justification in a specific and appropriate occupational requirement.

### ***• Sec 19 (2) Equal Treatment Act***

*Indirect discrimination occurs where an apparently neutral provision, criterion or practice can put persons belonging to an ethnic group, or persons with a certain religion or belief, having a certain age or a certain sexual orientation at a particular disadvan-*

*tage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.*

Excellent command of German as a requirement for a cleaning job is neither objectively justified nor appropriate or necessary for achieving the aim. Its sole purpose is to prevent the application of people with Non-Austrian background.

### **What can Ms R. do?**

Ms R. can turn to ZARA or the Litigation Association (see "Glossary") with her case, or directly approach the Office of the Ombud for Equal Treatment (see "Glossary"), who may then bring the case before the Equal Treatment Commission (see "Glossary"). The competent Senate II of the Equal Treatment Commission would then draft a decision for the specific case after obtaining a statement of the respondent party and hearing both parties. The decision assesses whether or not discrimination has occurred. In the framework of the proceedings, the alleviation of the burden of proof (see "Glossary") is guaranteed to the complainant. Furthermore, the Equal Treatment Commission can call on the respondent to end the discriminatory behaviour and to take appropriate measures to prevent the discriminatory behaviour, found by the Commission, from being repeated. The proceedings before the Commission cannot lead to damages being awarded; however, the opinion of the Equal Treatment Commission is a good basis for subsequent proceedings before a civil court, since the judge has to give reasons, should he rule differently.

Thus, if an employment relationship is not established on the grounds of discrimination in the sense of the Equal Treatment Act (Non-establishment of an employment relationship), the affected individual is entitled to compensation of pecuniary damages, as well as compensation payments for the personal damage suffered (compensation for material and immaterial damages). The compensation payment amounts to at least one monthly salary in case the applicant would have been chosen for the position in a non-discriminatory selection procedure, and compensation is limited to 500 Euro if the employer can demonstrate that it was "only" refused to consider the application. The position as such cannot be claimed.

Regarding the discriminatory job advertisement, Ms R. can also draft an application for punishment (Bestrafungsantrag) directed to the district administration authority (Bezirksverwaltungsbehörde, see "Glossary"). The district administration authority can issue a warning to the employer and impose a fine of up to 360 Euro in case of repetition of the offence. The main problems with complaints lodged with the district administration authority are that Ms R. is not party to the proceedings, such that she has no right to be informed of whether or not her potential employer gets fined. In case there is no penalty, she cannot appeal the decision. If however, Ms R. turns to the Office of the Ombud for Equal Treatment, the Ombud not only can lodge the application for punishment for her, but also is a party in administrative proceedings, including the right to appeal. The Ombud for Equal Treatment can also initiate such proceedings without a specific individual who is affected by the advertisement.

## **Jetzt neu!**

Die ZARA Lehlingsbroschüre: bestellen  
oder downloaden unter [www.zara.or.at/kyr](http://www.zara.or.at/kyr)



# Goods and services

Going shopping, going for a drink, going out to dance, using public transport, returning home: These are everyday activities, which are mostly fun and are a normal part of life. As you will read in this chapter, this does not apply to all people in this country: For many persons, not even these areas of life are accessible without hindrance.

On the basis of discriminating categorization, service providers refuse service, bar persons from entry or even abuse and harass potential customers. It is obvious that such conduct is highly irrational – the notion that it is actually forbidden is all too slowly becoming common sense. For persons affected by this kind of discrimination, it means deep inner pain, a degradation that is hard to come to terms with – precisely

because it only concerns everyday matters, which hold no obstacles at all for other people.

In the past year ZARA's counselling center for victims and witnesses of racism had to deal with an increasing number of reports on nerve-wrecking racist assaults from neighbours. The most difficult challenge lay in the fact that these were not clear-cut cases of discrimination, as for example an Austrians-only renting policy would be, where ZARA can follow a clearly defined path of action. It was the countless cases of neighbourhood conflicts that kept ZARA employees busy (see introduction).

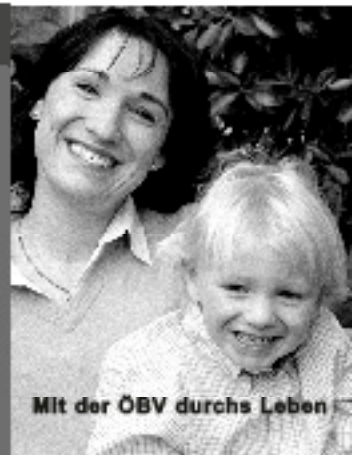
This year too, ZARA can only reiterate how strongly this situation affects many people every single day and diminishes their sense of well being in this country.



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## Soziales Gewissen als Verantwortung!

Die Österreichische Beamtenversicherung wurde vor über 110 Jahren als Selbsthilfeorganisation von Beamten gegründet. Solidarität und soziale Verantwortung sind uns bis heute die wichtigsten Werte. „Alles aus einer Hand“ – wir sind die Versicherung für öffentlich Bedienstete aber auch für alle Privaten – von Mensch zu Mensch!



Mit der ÖBV durchs Leben



# Housing

**69** The Ps are a Sudanese family living in Vienna since 2004. Ever since they have moved into their apartment there have been problems with the concierge's family. Whenever they want to use their previously allocated laundry time, they are told by the concierge that their slot has been filled by somebody else. This is why the P. family stopped using the communal laundry in late 2004. Apart from that, the family has, on several occasions, been abused by members of the concierge's family, culminating in the expression "shitty n...[\*]". Upon this Ms P. approaches ZARA. She assumes that what has prompted this insult was her leaving the door of the house open for an instant, while she was pushing the perambulator inside her apartment.

ZARA formulates a letter of complaint to the concierge asking her to comment on aforesaid charges. The concierge complies, however pointing out to ZARA that all the problems were caused by the P. family themselves and that she carried no responsibility. She would moreover gladly allocate laundry times, yet it was her impression that the P. family did not want to make use of this offer.

Mr P. assures ZARA that the concierge's view of the events did not correspond to the truth. ZARA advises the family to write a verbatim from memory in case of future incidents and to press charges of racist insults if necessary.

**70** Mr K, an Afro-Austrian, has been living in a condominium in Vienna with his wife and son for several years. In 2003, he receives a letter of complaint from his neighbour: The family were not to leave their shoes outside the apartment door; otherwise they would face charges of interference with possession. During an owners' meeting the neighbour approaches Ms K. and explains that this practice was not tolerable, as he regularly invited business partners to his home. Moreover, Mr K. was on several occasions yelled at by the neighbour without cue, when they met in the corridor. Mr K. assumes that this behaviour can be attributed to his complexion. One day, when Mr K. is visited by two friends from Nigeria, the neighbour pokes his head out of the door and snarls, "Another one!"

In January this year the animosities between the Ks and their neighbour reach a high-point with an action of trespass being filed by the neighbour at court, on grounds that Mr K. has left his son's sledge outside to dry.

ZARA advises Mr K. and his wife to call in a lawyer and to take legal action in the event of further hostilities, as long as the neighbour remains stubborn and does not show willingness to talk.

**71** Ms P. is of Turkish origin and tells ZARA in January about the difficulties she has had with her neighbour Ms Ü. Often Ms Ü. calls the police, because she wants to report Ms P. for noise disturbance without cause. Every time the police appear at Ms P's door, the officers determine that no kind of noise disturbance has actually occurred, and take leave. On several occasions when she notices Ms P. in the staircase, she opens her door and yells, "Foreigners go home!" An attempt at mediation through the local offices of the City of Vienna competent in the area remains fruitless, as Ms Ü. refuses to participate in the talks.

ZARA advises Ms P. to keep verbatim records in the event of future incidents and to press charges of defamation if necessary.

**72** Mr T, a gentleman born in Cuba, has had trouble with two of his neighbours for quite a long time. One of them lives one floor below him and frequently abuses Mr T. when they meet in the corridor. He also knocks his broom-stick against the ceiling several times during the day, a nuisance to Mr T. In February, after another altercation with the neighbour, Mr T. goes back to his apartment. A short time later the police are at his door asking why he has damaged his neighbour's door and poured raspberry syrup over it. Mr T. contests these allegations, but is nevertheless reported for damage of property. Mr T. turns to ZARA and is assisted during the hearing by a counsellor and a lawyer. The judge determines that the charges against Mr T. are completely unfounded and acquits him. ZARA recommends Mr T. to write verbatim reports from memory in the event of further confrontations with his neighbour and to confer with his attorney about a civil suit.

**73** Ms J. reports that the flat above her own in her apartment complex in Salzburg is inhabited by the D. family from Turkey. Often she and her husband witness the D. family being racially abused by members of another neighbouring family. Ms J. hears that early in 2008 the Ds were, on several occasions, reported for noise disturbance. Ms J. has since then repeatedly stated to the local police that she has never noticed any such disturbance. ZARA informs Ms J. about the legal options and the local counselling centers, that the D. family can seek advice from. Ms J. is grateful for the information and promises to impart it to the D. family.

**74** Mr S. comes from Iran and reports to ZARA the following incident: In June 2008, he and his brother are using the elevator to carry books into his apartment. They are unloading the books, when they are suddenly accosted by a neighbour with "Shit-

ty Tschusch" (racist slur mostly applied to foreigners from the Balkans or Turkey). When Mr S' brother asks the neighbour what that was supposed to be, he tells him, "Go fuck your mother" and disappears into his apartment. A few days later Mr S. again encounters the neighbour in front of the apartment building, this time accompanied by a friend. The two of them immediately launch into a series of abuse, threatening also to damage his car. When they start directing physical attacks against him, Ms S. calls the police, whereupon they take flight. Mr S. makes an effort to follow behind them, but soon has to stop due to his heart condition. When the police arrive, they have to call an ambulance for Mr S.

The least Mr S. will do is press charges of defamation against the neighbour. He will update ZARA on the outcome of the proceedings.

**75** Ms B. is married to a man who was born in Gambia. A friend of her husband, of Gambian origin himself, is searching for an apartment to rent in Vienna, in June. As Ms B. owns a computer, she helps him with the search, contacts a real estate agent and arranges a date for viewing an apartment. Ms B. tells the agent that the apartment is intended for a friend of her husband. When the agent hears her speaking English with her husband to fix the right time of day, she inquires about the nativity of the prospective tenant, as she has to tell the owner. Ms B. truthfully responds that he is from Gambia and has a settlement permit for Austria. The agent takes down this information, confirms the date with Ms B. and says goodbye. The next day the agent calls again and tells Ms B. that the owner does not want to let the apartment to "Black Africans". When Ms B. expresses her indignation that the agent would represent a client with racist bias, the agent explains that the client was a relative and could not be refused. The owner was furthermore not racist at all, she had only heard about another apartment in the same building, which had been rented to a "Black African" and had subsequently been inhabited by four persons instead of only one. She was therefore afraid that the same might happen to her. The owner had once almost let the apartment to a Nigerian, but had eventually decided against a "Black African" tenant. Ms B. is appalled by the openness of this racial discrimination and the lack of insight into their own wrongful conduct on the part of the agent and the owner.

ZARA briefs Ms B. on the legal possibilities, particularly the charge-free procedure at the Equal Treatment Commission. At present Ms B. and her husband's friend settle for the documentation of the incident.

**76** Mr T. lives in a shared apartment in Salzburg. After the laundry room is heavily soiled one day in December, the property management tries to find the responsible person. However, the only one to receive a letter of complaint about the state of the laundry room is Mr T. He sees himself as a scapegoat

because of his origin, as he is the only tenant with a different ethnic background. Right upon his showing the letter to other neighbours in the house, the laundry room is cleaned over night. The property management apologizes to him, explaining that other tenants had also been sent the letter, which is not confirmed by Mr T's findings. Apart from that Mr T. is offered person-to-person settlement of the matter.

Mr T. requests documentation of the event through ZARA and also seeks legal advice, as he does not want to be unprepared in case of future troubles in the house.

**77** Mr H. forwards to ZARA an advertisement on the apartment listings of an Austrian real estate platform on the Internet. The advertisement looks for a tenant for an apartment in the tenth district of Vienna conforming to the following specifications: No flat-sharing, apartment only rented to Christian EU citizens". ZARA calls the platform-owner's attention to the violation of the Equal Treatment Act, which prohibits discrimination on the basis of origin or sex in making living space available. The operators of the platform swiftly respond and change the advertisement with reference to the general terms and conditions, which demand that the Equal Treatment Act be adhered to in utilizing their services.

**78** Ms E. is a native Austrian married to a Nigerian. They have two children together. In November, Ms E. reports to ZARA that she is having constant troubles with a neighbour in Vienna. He often reports her for disturbance, which means that she has frequent visits from the police, who have each time refrained from pressing charges, as no undue noise could be asserted. She herself emphasizes that she takes great pains to keep the children quiet. One day, when a friend of the family comes to visit, he goes to the wrong floor by mistake and rings at the doorbell of said neighbour. He immediately apologizes. The next day the neighbour shows up at Ms E's flat and abuses her family as "shitty n...[\*]s".

ZARA documents the event and informs Ms E. of the possibility of filing charges of racial slander. Ms E. says she will choose this path if there are further incidents, but has not called again to date.

**79** In November, Ms L. tells ZARA about an acquaintance of hers, who operates a small African food store in Vienna. Right from the beginning there have been problems with the concierge, who is apparently irritated by the fact that many black people buy their groceries there. On the evening of the first day of business there is a small get-together in the store. Around 9 p.m. the concierge makes a report to the police because of noise disturbance, even though the music is played at low volume, the guests talk at conversational voice-level and the party is scheduled to end at 10 p.m., which has been announced in the

house well in advance. According to the concierge another woman had also complained because the “n...[\*]s in the house” had diminished her apartment’s value.

ZARA promises Ms L. to write a letter of complaint to the property management asking them to urge the concierge to let the store go about its business without hassle. At the time of this publication there are, as of yet, no results in the matter.

**80** Mr K, of Turkish origin, lives together with his family in an apartment in Vienna. For a couple of years, Mr K. and his wife have been having difficulties with the woman living in the flat below them. Among other things, she constantly reports them for noise disturbance. Yet Mr K. and his family stick to the house rules and try to avoid unnecessary noise. Mr K. is sure that the neighbour has a problem with his Turkish nativity, since he and his family have often been abused by her without cause. When in May, Mr K. and his family yet again face charges of noise disturbance and receive a written warning from the property management entreating them to abstain from all activities which might cause inconvenience to their neighbour, Mr K. approaches ZARA.

ZARA writes a formal description of the actual state of affairs on Mr K’s behalf to the property management and recommends him to put together a verbatim from memory, covering all the unfounded hostilities from the neighbour, also to be submitted to the property management. Mr K. has not called ZARA again at the time of this publication.

**81** Ms I. wants to change her second apartment into a studio and entrusts her husband, a Nigerian native, with the necessary redecoration and furnishing work. After a short time the caretaker, prompted by neighbours who have seen Mr I. at work, phones Ms I. and tells her that she is not allowed to sublet her apartment to “n...[\*]s”. Apart from that she threatens to report Ms I. and to terminate her rental agreement. Eventually Ms I. has to arrange for her husband to call on the landlady and present his marriage certificate, despite the fact that Ms I. has already notified her of the intended redecoration of her apartment and has assured her that her husband was not going to live with her in the studio, as the two of them already share a flat. The caretaker once again phones Ms I. telling her that some of the neighbours did not want her to sublet her flat to “n...[\*]s” either, that they did not desire a “home for asylum-seekers” and that the apartment was from now on under surveillance of the caretaker.

ZARA educates Ms I. that such conduct on the part of the landlady and the caretaker goes against the Equal Treatment Act. At the request of Ms I. the Ombud for Equal treatment is contacted to work towards settling the matter by ways of mediation. At the time of this publication, the matter is still pending.

**82** Ms L. is an Austrian woman who has taken the name of her husband, a Russian. In July, the two of them are looking for an apartment rental in Linz. Both are employed and enjoy satisfactory earnings. After a short search they find an interesting offer and make an appointment to view the apartment. They have a conversation with the previous tenant, who has been entrusted by the owner to find new tenants. Ms L. and her husband are enthusiastic about the apartment and after a short period of consideration phone the previous tenant to say that they will rent the apartment. She says that she has to confer with the owner and will fix an appointment for the evening of the same day. Shortly afterwards, Ms L. receives a phone-call from the previous tenant. She tells her that she was very embarrassed, but the owner had refused to let the apartment to people with a foreign-sounding name.

ZARA informs Ms L. about the possible legal steps to take against the owner of the flat. But Ms L. and her husband only want to see the case documented and not bother with it any longer.

**83** Mr W. is from the Czech Republic. He, as well as other residents of his apartment building, have had trouble with one of their neighbours, Mr V., who frequently abuses Mr W. as a “Slovak pig”. Mr W. steadily ignores the insults. One day Ms V’s car is awkwardly parked on the parking lot of the house blocking the passage for Mr W’s car. As soon as he appears at Mr V’s door and demands that he move his vehicle, he is met with abuse. Mr V’s companion interferes, involving herself in the altercation. She produces a pepper spray bottle from her pocket and sprays a blast into Mr W’s face without warning. Mr W. holds his hands to his face and retreats to his apartment as quickly as possible. As he wears glasses his cheeks are only slightly reddened and his eyes not affected at all. He reports Mr V’s companion to the local police for bodily injury, but does not hear of any subsequent inquiries being made in the matter.

Several weeks later Mr W. receives a letter from the Verein Neustart (“New Start Association”) inviting him to call on their office to negotiate the terms of out-of-court settlement. Mr V’s companion has filed charges of bodily injury herself, purportedly because of attacks by Mr W in the course of the fight.

ZARA accompanies Mr W. to the appointment at the Verein Neustart. In a discussion involving a counsellor from Neustart, Mr V’s companion and Mr W. mutual settlement is effected and apologies are made on both sides. As recommended by ZARA, Mr W. accepts the proposal, so that the matter can be laid at rest.

## Know Your Rights

*Mr Y. is from Brazil. He is looking for a flat and reads the following advertisement in a newspaper: "Flat, 50 sqm, for rent at 600 €/ month, only to trustworthy Austrians, inspection on 19.2. at 6 pm at the following address: (...)". Mr Y. decides to have a look at the flat. When he arrives at the place at the indicated time and tries to address the housing agent, the agent immediately says: "Haven't you read the ad? The flat is not let to foreigners, you shit n...!" Mr Y. leaves the scene in a state of shock.*

### What can Mr Y. do?

Both the discriminatory advertisement directed at "Austrians only" and the discriminatory behaviour of the housing agent open the possibility for Mr Y. to file a complaint under Art IX para 1 no 3 Introducto-

ry Act to the Administrative Procedure Acts (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen, EGVG) (see "Know Your Rights" in chapter "Bars and Restaurants, Shops and Service Providers"). In addition, Mr Y. is entitled to claims under the Equal Treatment Act, part three, which regulates discrimination regarding access to housing and the provision of goods and services. If Mr Y. turns to ZARA, the Litigation Association or the Office of the Ombud for Equal Treatment (see "Glossary"), they will support him in submitting an application to the Equal Treatment Commission (see "Glossary") in order for the Commission to pass a decision in this specific case assessing whether direct discrimination and harassment ("shit n...") on the grounds of ethnic belonging have occurred. Subsequently, Mr Y. is free to initiate a civil procedure to claim compensation (compensation for pecuniary damages and for the personal damage suffered).

## DETAILANSICHT

### SCHNÄPPCHEN! 21., hofseitig, 1 Zimmer, Küche, Fliesenbad,...

SCHNÄPPCHEN! 21., hofseitig, 1 Zimmer, Küche, Fliesenbad, WC, Vorzimmer, TOP ZUSTAND, ebenerdig, NUR 282,- Gesamtmiete; (nur Inländer). Reichimmobilien Tel. [REDACTED]

<b>Kategorie:</b>	Wohnung / Miete
<b>Online seit:</b>	[REDACTED]
<b>Gemeinde:</b>	1210 Wien 21, Floridsdorf
<b>Aufteilung:</b>	1 Zimmer
<b>Miete:</b>	282,00 €

[» Zurück](#)



## Bars and restaurants, shops and service provider

**84** In January, Ms L. reports to ZARA the following incident: Her Afro-Austrian friend wants to visit a Vienna branch of a betting-café chain together with some friends, who are also Afro-Austrians. They are not granted admission. By way of explanation one of the waiters tells them that the language of the group sounded too “foreign” and that all “blacks” had to leave the place.

ZARA points out to Ms L. that such conduct is against the law and tells her which steps her friend can take against it. Ms L. thanks ZARA and promises to report again, yet since then neither she nor her friend have called on ZARA again.

**85** Ms H. reports to ZARA that in February she wanted to visit a bar on the Vienna Gürtel together with a group of ten people of different nationalities. Two young Brazilians decide to go ahead. When Ms H. and the rest of the group arrive, they notice to their surprise that the two men are still standing outside the bar. When asked why they had not entered, they explain that they had been told there was a private party that evening, so they could not be admitted. Ms H wants to try to seek admission with the rest of the group. After a short wait they manage to get inside, but the two Brazilians are refused again, as they did not have an “invitation”. The bouncer shrugs off protests that the others had no “invitation” either. In reaction to this obviously discriminatory admission policy the entire group leaves the bar. Upon further questioning as to why admission was not granted the bouncer says that he has received “orders from above”.

ZARA enlightens Ms H. of her legal options, but she just wants the event documented.

**86** Mr Z., the father of an Iranian family, is taking his son to Kindergarten one day in January. On the way they go to a supermarket to buy chewing gum. Mr Z. is waiting in line to pay for his purchase, when suddenly an elderly woman behind them disparagingly remarks, “Well, they’re getting more and more and they breed so strongly!” The woman at the counter picks up the remark of the customer and says, “You can say that again!” Mr Z. challenges the two women and demands to speak to the manager, who is not present at the moment. When Mr Z. visits the supermarket again after a short time, he finds the manager and complains about the statements. The manager informs Mr Z. that he has talked to the employee and has made sure that such utterances will not occur again.

ZARA offers Mr Z. to draft a letter of complaint to the headquarters of the chain, but Mr Z. does not call again and the incident is documented.

**87** Mr L. is an Afro-Austrian living in Lower Austria. In July he drives his girlfriend’s car to a gas station to have it cleaned. When he inserts a coin into a coin-operated vacuum cleaner, it proves to be defective. The same thing happens to a customer right next to him. He approaches a man who introduces himself as the “proprietor of the gas station” and tells him what the problem is. The man however does not believe him and chases him off the premises saying, “Get lost, asshole!” Mr L. is shocked and leaves the gas station. In reaction to the insulting demeanour of the “proprietor”, which Mr L. is certain to be related to his colour, he writes an e-mail complaint to the headquarters of the oil company. The executives explicitly apologize for the incident and disclose that they are already looking for a new leaseholder. Mr L. approaches ZARA to document the occurrence.

**88** In December Ms R. is in a supermarket in the 16th district of Vienna to buy groceries. At the counter she sees another customer, a dark-skinned woman, wanting to pass through with her child, apparently without purchase. The man behind the counter asks the customer to present her bags. She asks him which bags she is supposed to show, which seems to irritate the cashier. He wants to view all her bags. The customer deposits her child’s trolley in front of the cashier and challenges him to go ahead and inspect it. The customer’s refusal to open it for him further infuriates the cashier. The customer shakes her head and says something that Ms R. cannot understand clearly. Upon this the cashier starts yelling, “Go learn German, black cow!” The customer leaves the store, appalled. The cashier shouts at her from behind, “Black cow, I haven’t seen a white one anyway!”

Ms R. wants the event documented and requests ZARA to write a letter of complaint to the store-management. At the time of the editorial deadline, the management has not yet come forth with a statement.

**89** In January, Mr L., who works for an Austrian trade union, wants to go to a bar in Salzburg together with three fellow-workers. From one of Mr L’s colleagues, who comes from the Middle East, the bouncer expressly demands two different proofs of identity. The colleague can in fact present two different identification cards, but is denied admission in spite of that; the bouncer explains that he does not know him. When asked by Mr L. why his colleague has not been granted admission despite having shown two ID cards, the doorman replies that he is executing his bosses’ orders, but Mr L. and the other two men are free to come in.

ZARA educates Mr L. and his colleagues on the le-

gal possibilities. The fellow-worker who was the victim of the discrimination presses administrative charges according to the Introductory Act to the Administrative Procedure Acts. A short time later the manager of the bar apologizes to Mr L. The two of them plan to keep tabs on whether immigrants are admitted inside the bar and inform ZARA of their findings.

**90** Ms O. enters a Vienna branch of a major infrastructure corporation one midday in March. She witnesses an argument developing between an employee and a customer of black skin-colour. When the altercation increases in volume, the manager of the branch intervenes, letting the customer know that he could yell around like that “in the jungle”. Ms O. is infuriated and protests. The manager replies that the statement was by no means racist, that it was in fact judicially sound. The two men then settle the matter at reduced volume. The manager refuses to further defend his statement in front of Ms O. Ms O. reports the incident to ZARA and asks ZARA to inform the headquarters of the company and try to extract a statement – yet to be issued at the time of the editorial deadline.

**91** Mr A., whose parents are of Egyptian origin, is discriminated against when trying to access a club in St Pölten. The first incident of the kind already occurred in 2007: Mr A., 17 years old at that time, is about to enter the discotheque. The bouncer wants to check his ID. Mr A. hesitates to present his ID card, as he is still underage and fears that this will ruin his chances of admittance. But the doorman abruptly loses interest in his age and denies entry telling him, “You don’t fit in here anyway!”

Following his 18th birthday Mr A. again visits the discotheque and is admitted on several occasions. A few weeks later Mr A. is stopped at the entry by one of the bouncers, who asks him for identification. Mr A. hands the doorman his driver’s licence. The doorman checks it and refuses to let Mr A. inside, explaining, “Tonight is only for regulars!” An Austrian friend of Mr A. indeed gains admission to the club without being asked for ID by the bouncer. Together with this friend, who meets up with him in front of the club entry right afterwards, Mr A. walks up to the doormen and points out that his friend was visiting the club only for the second time, that he was therefore not a regular, but had still been granted entry without hesitation. The bouncers remain adamant and still refuse admission to Mr A.

On another evening in December 2008, Mr A. once again tries to attend the club, unable to believe that his nativity could be the actual reason for barring him. Mr A. is asked for identification yet again. One of the doormen glances at his ID and, returning it he says, “Not today!” Mr A. tries in vain to receive an explanation why he is refused. An Austrian-looking friend of his enters the club smoothly after Mr A.

Assisted by his family Mr A. turns to ZARA. As it is not the first time that the club has been noted for racist admission policy, Mr A., after being filled in on the legal options available, decides to entrust the Litigation Association of NGOs against Discrimination to assert claims of damages for ethnic discrimination. ZARA will see Mr A. through a possible trial and will document it.

**92** In October Ms E. is visiting Vienna with a group of pupils from Stuttgart. One evening the pupils go to a newly opened discotheque in Vienna. One pupil, who was born in Eritrea, is the only pupil to be asked if he is a “VIP”. Upon his denial he is refused entry. Ms E. protests that even though some pupils had also been refused - because they were dressed too casually - none of them had been rejected for the same reason as the pupil of black skin-colour had been. ZARA is entrusted with the documentation of the incident.

**93** Mr U. is a citizen of Bosnia, who has been living in Austria since he was ten years old. In his spare time he regularly plays football near the town of St Pölten. One weekend he wants to go for a drink in St Pölten after a game with his teammates at about 10 p.m. The company arrange to meet in a bar. When Mr U. is about to enter the bar, he is asked for identification. When the doorman reads his name, he denies Mr U. access, explaining that it was a night for VIPs only. Mr U. remains near the entry and observes several other guests being ushered in without having to present an ID. Mr U. suspects that his rejection is related to his ethnic background. He phones his friends, who had entered without hindrance, to meet outside the doors, and the group move on to another bar.

ZARA records the incident. Mr U. has already consulted the Ombud for Equal Treatment. The outcome of the intervention on the part of the Ombud is still unknown at the time of this publication.

**94** Ms G. wants to shop at a Vienna clothing retailer together with her companion from Senegal. While her friend is busy talking to a saleswoman about a garment, a man suddenly storms out of the office and yells at him for no apparent reason to leave the store. Ms G. and her friend leave the premises. They contact ZARA believing that the expulsion was related to the skin-color of Ms G’s companion.

ZARA outlines to Ms G. the legal steps to take against this refusal of service. A short time later Ms G. reports to ZARA that she went to the store again a few days later and talked to the manager, who had been present during the incident. The manager offered her sincere apologies to Ms G. and her friend explaining that the man – an acquaintance of hers, who happened to be visiting the store at that time - was an alcoholic. The whole thing was a huge embarrassment. Mr G. and her companion are content with the apology

and see no need for further action.

**95** Mr Q. wants to access a bar on the Donauinsel in Vienna together with six fellow students from the US, among them one Afro-American. At the door the Afro-American student is denied admission by three bouncers with reference to his black colour. The other men are told that they are welcome. Since the three security men strike Mr Q. as very aggressive, he decides to go to another place with his colleagues, where they are admitted without formalities.

Mr Q. stresses to ZARA the measure of shame that the incident brought upon him as an Austrian in the face of his fellow-students. ZARA briefs Mr Q. on the legal paths available to challenge such racist door-policy. Mr Q. does not want to take further action, deterred by the tedious prospect of pressing charges.

## What has become of...?

### Case 82 Racism Report 2007

In January 2007, Ms P. wants to go to the birthday party of an acquaintance in a pub in Vienna together with her African-born friend. When her friend is refused entry, the manager tells her to notify him in advance the next time she wanted to take a black along. Upon this the company proceeds to a nearby restaurant, but there the manager also says that he does not want blacks. ZARA files a report against the proprietors of both businesses under the Introductory Act to the Administrative Procedure Acts and the cases are brought before the Equal Treatment Commission.

### What happened in 2008...

In March 2008 Ms P's friend, Mr L., is questioned regarding the events by the Equal Treatment Commission. In November 2008, more than 21 months after the application was filed, decisions are reached in both cases of refused admission. In reference to both the Irish Pub, as well as the restaurants it is decreed that the denial of entry and respectively, the refusal of service constitutes immediate discrimination against Mr L. on the basis of ethnicity in the sense of the Equal Treatment Act.

In its findings concerning the Irish Pub the Senate III makes concrete recommendations to the management and the doorman. Among other things, both should acquaint themselves with the legal situation, particularly the Equal Treatment Act. Moreover, the management should create business structures disallowing such discrimination to occur in the future. A clearly visible notice should be inserted on the webpage of the pub explicitly stating that discrimination on grounds of ethnicity will not be tolerated.

In the findings concerning the restaurant the se-



**Republikanischer Club – Neues Österreich**  
**Rockhgasse 1**  
**1010 Wien**  
**www.repclub.at**

Der Republikanische Club – Neues Österreich existiert seit über 30 Jahren. Das drängende Bewusstsein, mit der Vergangenheit aufrichtig und gewissenhaft umzugehen, machte die Gründung des RC notwendig. Im Zuge der Auseinandersetzung um Waldheims Vergangenheit entstanden, beschäftigt sich der RC seither mit den gesellschaftlichen Phänomenen: Antisemitismus, Rassismus und Fremdenfeindlichkeit aber auch mit der kritischen Auseinandersetzung mit sozialen Verhältnissen.

Der Republikanische Club – Neues Österreich organisiert regelmäßig Diskussionsveranstaltungen in den eigenen Räumlichkeiten in der Rockhgasse 1, 1010, Eingang Carla Habsburg. Das Programm steht auf der Homepage: [www.repclub.at](http://www.repclub.at). Falls Sie/Du regelmäßige Programmzusendungen erhalten wollen, bitte ein Email an [repclub@urfau.at](mailto:repclub@urfau.at) senden.

nate III merely confirms that discrimination has occurred, as the business had meanwhile been taken over by a new proprietor.

Both decisions are available under <http://www.frauen.bka.gv.at/site/6613/default.aspx>.

ZARA is currently trying to assert claims of damages for Mr L. against both businesses, as provided for by the Equal Treatment Act.

## Case 96 Racism Report 2007

Ms B. is from Eisenstadt and is married to an Egyptian. A few years ago she converted to Islam out of her own conviction. She has worn a headscarf since then. When she registers her two year-old daughter for day-care in 2007, there initially seems to be no problem and she is accepted. Shortly before the start of the academic year in September, she visits the day-care center together with her daughter. The next day she receives a call from the head of the day-care center to the effect that her daughter could not be admitted, since Ms B. had been seen by other parents during her visit and they did not want their children to be in day-care together with a Muslim child. She says that Ms B. had to understand this, as the other mothers would otherwise pull their children out of the group. Apart from that, Ms B. could enter her daughter in another day-care center in Eisenstadt, which had an entire group exclusively for Muslim children. When Ms B. complains to the association governing the day-care center, she has to hear that she would not have encountered any problems, if she had appeared in the center in "normal" dress, meaning without the headscarf. On Ms B's request ZARA has filed an application with the Equal Treatment Commission to determine whether discrimination in providing services has occurred on the part of the day-care staff and the association.

## What happened in 2008...

Ms B is questioned by the Equal Treatment Commission in April 2008. In November 2008, the assessment of the case is delivered to Ms B. In it the Senate III asserts that discrimination because of ethnicity has taken place against Ms B as well as her daughter on the part of the day-care staff. Moreover, the daughter has been discriminated against by the association as well. Why discrimination has not been determined to have occurred against Ms B. on the part of the association as well is not explained by the Equal Treatment Commission. In the assessment it is deliberately emphasized that economical interests of a service provider cannot serve as justification for discriminatory behaviour. In the assessment, the Senate III makes concrete recommendations to the management of the association and the day-care center. Both should familiarize themselves with the legal situation, particularly with the Equal Treatment Act. Furthermore internal structures should be established within the association to

help forestall such discriminatory acts in the future. Moreover, a clearly visible reminder of the Equal Treatment Act should be placed on the website of the association alongside a statement that nobody is to be refused on grounds of ethnicity and that counselling is provided by the Ombud for Equal Treatment.

The decision is available at <http://www.frauen.bka.gv.at/site/6613/default.aspx>.

Ms B. is currently trying to effect an official apology from the association and the day-care staff.

## Know Your Rights

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*Mr D. is a Nigerian asylum seeker. One evening, he wants to go to a discotheque together with his girlfriend. The doorman refuses him entry with the following remark: "You cannot come in today, but we will let in your girlfriend." When asked for the reason why, the doorman replies: "Tonight, only regulars with a club membership card can come in." Mr D. sees that no such card is demanded from other guests who look like they are of Austrian origin, whereas another man of darker skin colour is also denied entry for lack of a club membership card. He and Mr D. exchange phone numbers. Then Mr D. calls the police. Two police officers arrive a little later but declare themselves not to be competent in case of such a denial of access. The following day Mr. D. wants to buy a suit in a shop. The shop owner says that he does not sell to "shit drug n...s" and expels him from the shop. When Mr D. says to him that he cannot be serious, the shop owner pushes him out of the shop and gives him a kick, resulting in a visible bruise on Mr D.'s thigh, which he also has diagnosed in hospital.*

## What can Mr D. do?

In both cases, he can proceed against the doorman, the person running the discotheque, and the shop owner under Art IX para 1 no 3 Introductory Act to the Administrative Procedure Acts (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen, EGVG) and under the third part of the Equal Treatment Act. Article IX para 1 no 3 Introductory Act to the Administrative Procedure Acts is an administrative provision ruling that persons who subject persons to unjustified discrimination for example because of their skin colour, their ethnic origin or their religious denomination or prevent them from entering premises or from obtaining services commit an administrative offence punishable by a fine of up to 1,090 Euro.

The district administration authorities (in Vienna: municipal district offices / Magistratische Bezirksämter) are responsible for dealing with these complaints. ZARA can file a written complaint with the authority on behalf of Mr D. These procedures are free of charge for the complainant, but have the



disadvantage that the complainant is not party to the proceedings and thus cannot influence the proceedings and also has no right to information about their outcome. Similarly, no payments for the person discriminated against are foreseen. The trade licence authority can withdraw the trade licence from a person repeatedly violating Art IX para 1 no 3 EGVG. ZARA is not aware of any case demonstrating that this has ever happened.

Part 3 of the Equal Treatment Act foresees that persons who are discriminated against in access to goods and services on the grounds of their ethnic belonging can turn to the Equal Treatment Commission for an assessment of discrimination or claim compensation payments before the civil courts. In both cases, Mr D. is entitled to compensation for the pecuniary damage suffered and in addition to compensation for the personal damage suffered by the refusal of entry and the refusal to sell him a suit.

In the case of the discotheque, Mr D. was not explicitly told that he was not let in because of his origin, yet the law foresees that Mr D. is only obliged to render it plausible that there was such a discriminatory reason for the refusal of access. He should succeed in this with the support of a statement by the African man who also was not admitted, with whom he exchanged telephone numbers. It is up to

the operator of the discotheque to prove that other grounds were behind the refusal of access. In the case of the aggressive shop owner, we are dealing with a case of harassment in addition to the discrimination in access to the shop.

By abusing Mr D. as “shit drug nigger”, and by physically attacking, Mr D.’s dignity is additionally violated and an intimidating, offensive and humiliating environment is created for him. In addition to compensation for pain, to which he is entitled for the bodily harm, Mr D. can therefore claim compensation for the personal damage he suffered because of the harassment. The law foresees a minimum amount of 400 Euro in such cases.

### ***How is the behaviour of the police to be evaluated?***

Art IX para 1 no 3 EGVG constitutes an offence for public prosecution. This means that the police officers must record an incident that they become aware of and that might fall under this provision. They must then forward it to the competent public authority (the district administration authority, in Vienna to the municipal district office). Or, if such an incident is reported to them, they must record the complaint and forward it in the same way.

# Racism as Reaction to Anti-racism Work

Not only individuals are targeted by racist abuse, but also associations or media devoted to anti-racism work. One might assume that people grow accustomed to it. The workers of the ZARA counselling center for victims and witnesses have meanwhile grown particularly thick-skinned: Abuse is documented, deeds that fall under the penal code, and especially threats, are reported.

Nonetheless our co-workers are deeply affected – especially when abuse or threats not only issue from rightists (see case 109 Racism Report 2007), but even “perfectly normal human beings” disparage our work and insult us. The ZARA office was gripped by anxiety when the “Kurier” extensively covered the sentence passed to a man who had also made ZARA the target of his attacks (see case 39): This meant we had to be watchful, for example we avoided staying in the office during the evening hours, especially during weekends. Luckily nothing happened – which is not to say that ZARA has not been the target of racism in reaction to anti-racism work in the past year as well.

To select from the relevant “material” instances to be included in the Racism Report is a delicate task year after year. On the one hand, we do not want to provide a forum for stupid hate-mongers. It is a tedious process to reproduce and copy these utterance drenched in hatred, envy and ignorance. Yet it cannot be ZARA’s duty to hide or obscure precisely this slice of reality. The readers of the Racism Report shall be given the chance to assess for themselves what deeply rooted racism can induce some people to do. These outpourings from a maliciously agitated segment of the population make it evident that racism does not only undermine the dignity of those targeted, but also that the perpetrators deprive themselves of a tremendous part of their dignity, and even their humanity.

**96** On January 16, 2008, ZARA receives an e-mail, containing the following extract: “As an Austrian I consider YOUR stupidity in tackling the issue of foreigners as precarious. The more organisations such as YOURS fuel the hatred between the races, the stronger the longing for a strong man will turn out to be.

**97** In 2008, the platform no-racism.net receives several threats and racist messages by e-mail, which ZARA has documented and which are printed here in unmodified wording:  
„Dialogue of the day: no-racism, plaintively: ‘Deportation is murder!’; racist, emphatically: ‘Let’s hope so!’“

„INTO THE MEAT GRINDER WITH YOU CRIMINAL COMMUNISTS!!!“

“THROUGH THE CHIMNEY WITH YOU CRIMINAL LEFTIST- EXTREMISTS!!“

“YOU MISERABLE RATS OUGHT TO BE GASSED AND BURNED RIGHT NOW!!“

“Communism is not an ideology but a crime – COMMUNISTS AND LEFTIST-EXTREMISTS SHOULD therefore, just as in 1941-1945, BE GASSED AND BURNED!!“  
“UNFORTUNATELY THEY FORGOT TO GAS YOUR PARENTS, MISERABLE COMMUNIST SONS-OF-BITCHES!!“

“

**98** In September, ZARA receives the following message in the website’s inbox:

„Your activities are directed against the main body of the Austrian population. If there is to be deportation, then the members of your association should go first. I am proud of being a racist.“

**99** In reaction to the “clean politics” campaign initiated by ZARA during the national parliamentary elections, which was aimed against discriminating policies and racist campaigning, ZARA receives the following e-mail from Ms D.:

„Does your appeal mean that we “native Austrians” should spend our lives crawling in the dirt alongside the immigrant scum? Don’t you know anything about reality? It’s not that we segregate, we are the ones segregated by them in our own country?

Pre-school kids of Turkish, Chechen or African origin shout behind little Austrian girls, ‘Austria-bitch’ or worse. These people move into flats, ruin them in no time, move out, and a new circle begins in another apartment. The others are the ones who have to pay - the Austrians, who have been living in these flats for decades. We are forced to turn to private doctors’ practices and private hospitals if we want to seek medical advice without inconvenience.

I hope that people will be reasonable enough to vote exclusively for Dr Haider or HC Strache in these elections. These are people who care about us and don’t degrade themselves stooping in front of immigrants.

Aren’t you ashamed of your campaign, which is totally anti-Austrian?”

**100** In the October following the national parliamentary elections the following message is sent to ZARA under the pseudonym “Adolf the Terrible”:

„Just wonderful, the way you whine about the out-

come of the elections. Haider may have gone from us, but the struggle goes on - with a vengeance.

The struggle against

- n...[\*]ization and islamification
- infiltration by foreigners
- racial subversion and intermingling."

**101** Mr O. forwards two e-mails to ZARA for documentary purposes, which were received by the initiators of the anti-racism campaign "blackaustria" in April:

„and what about all those n...[\*]s peddling the stuff to the kids in Vienna? Probably German Language

students....you haven't understood a thing...poor Austria."

„This page is a complete disgrace, I can (sic!) many marriages of Africans with Austrians, all of them aiming to gain citizenship and sell drugs, you should write the truth on your page for once who do you think you are, coming to us and thinking you can take control here and move into parliament as well, you have no business staying in our country you dirty pigs, you are the lowest animals on this planet, I'd rather feed a gorilla than give a dirty n...[\*] anything to eat, you have no business here, you'll soon see what's in store for you, we'll certainly not put up with this impudence!"

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# Youth and diversity

## Experience made during ZARA-trainings at schools

<sup>3</sup> For extensive information on trainings offered by ZARA, see <http://www.zara.or.at/trainings>.

<sup>4</sup> For this article, René Rusch interviewed ZARA-trainers Susanne Bali, Karin Bischof, Volker Frey, and Katrin Wladasch. Information on the trainers can be found at <http://www.zara.or.at/index.php/trainings/trainee-rinnenpool>.

<sup>5</sup> Strohmeier, Dagmar/ Fricker, Anita (2007). „Interkulturelles Lernen: Unbekanntes Unterrichtsprinzip oder gelebte schulische Praxis?“ In: *Erziehung und Unterricht*, 157 (1-2), S. 115-128. Also see articles on the ZARA:TALK unter <http://www.zara.or.at/index.php/archiv/1498> sowie <http://derstandard.at/?id=3357013>.

“Youth at the far right”: This headline adorned the title page of the news magazine *profil* after the 2008 elections to the National Council. Not only did the Freedom Party (FPÖ) and the Future Alliance Austria (BZÖ) jointly gain the majority of 16 to 19 year old voters. It also was the so called “foreigner topic” that had been decisive for casting their votes for the “third camp”. “How could that happen?” was the question asked not only by “profil”. And: Are Austrian youths really politically “so right”?

It is hard to find answers to these questions without making undue generalisations, as there is no one “youth”, there are many different life-worlds of young people. ZARA regularly gets in touch with these, because our trainers have been holding large numbers of school workshops for many years<sup>3</sup> – in cities, on the countryside, and in different types of schools. What they experience there, contributes to a better understanding of the issues addressed above. However, in ZARA’s opinion, it is not only the success of right wing parties, among youths and in general, that is a reason for concern. As you may have concluded from the previous chapters, social discourse on the whole has led to ever more deeply entrenched differences between “locals” and “foreigners”. This has negative consequences for people perceived as “strangers”. As the experience of trainers shows, this has had its impact on youths, as well. Furthermore, the experience hints at shortcomings in the education system. It also makes evident what chances there are for working with pupils on the issues of prejudice, discrimination and moral courage – chances that unfortunately are not taken<sup>4</sup>.

### Weaknesses and deficits in schools

One major shortcoming is most obvious at the trainings: Far too little work is done at schools on the topics of prejudice and discrimination. Although there are dedicated teachers that constitute the positive exception, long-term activities approaching the issue of prejudice are missing. This shortcoming is also noted by the pupils themselves (see the interview with vocational school pupils Angela S. and Romina R.).

These deficits exist for many reasons besides the often lacking interest of teachers. One such reason certainly lies in the far too little importance given too civic education in general and human rights education in particular in the Austrian education system. Although human rights education, civic education, as well as intercultural education, is integrated into

curricula as general principles of education, a study by educational psychologist Dagmar Strohmeier has shown that too many teachers are ignorant of these facts<sup>5</sup>. The introduction of political education as an independent subject into the curricula of higher general secondary schools (AHS) in the year 2003 had the consequence that in some cases “such issues” were then entirely delegated to the history teachers responsible for this subject.

However, there exists a readiness and a desire within schools to work on issues in relation to social diversity, which exhibits itself not only in the countless inquiries regarding workshops that reach ZARA every year, but also in the attendance of special projects offered by ZARA. In 2008, ZARA carried out two projects funded by the Federal Ministry for Education, Art and Culture. The project titled “Diversity and Moral Courage” encompassed 30 workshops conducted by ZARA in schools across Austria. Also, a teacher training course “Building up Competence in Dealing with Diversity and Discrimination” was offered. ZARA was completely overwhelmed by the vast interest: More than 300 school classes applied for the workshops. Unfortunately, only 10 per cent of the demand could be met. The situation regarding the teacher-training course was similar: about 100 teachers applied for the 25 places. The countless inquiries of schools for workshops which ZARA constantly receives independently of those special projects confirm the readiness to work on prejudice and discrimination. On top of that, trainers report that teachers regularly approach them on the occasion of workshops and ask about teaching materials in order to be able to continue the work begun at the workshops in regular classes.

It is self-evident that it is advantageous to involve external experts in such issues: A high level of self-reflecting introspection is a necessary component of dealing with prejudice and discrimination. Therefore, trainers from outside the schools have an easier stance than teachers working together with the pupils on an every day basis. What is a problem, however, is that schools simply lack the funds to hire external experts to deal with the issues of prejudice, discrimination and moral courage. Most schools can only afford four-hour trainings. The trainings funded by the Federal Ministry for Education, Art and Culture also only lasted half a day. Of course, this is already quite something for ZARA, however, far greater efforts are needed, as trainers can make little more than a beginning in the framework of a morning’s workshop. Nevertheless, some teachers have overly high expecta-



tions regarding these workshops and hope that racist prejudice will be but a faint memory after a four-hour workshop. Others delegate the responsibility completely to the trainers.

There are many structural problems ZARA-trainers are confronted with in schools, which teachers also are struggling with. For example, in many cases it is the infrastructure that makes working with a class difficult. ZARA trainer Karin Bischof describes the situation as such: "Sometimes, schools have a great team of teachers, but the building is a nightmare: There is no court yard to spend breaks outside, pupils are not allowed on the corridors during breaks, so they have no space for moving and can no longer concentrate after two hours because they literally step on each others feet. Or you see classrooms that are simply too small for 28 pupils.

Thus, it comes as no surprise that ZARA trainers regularly get into situations where they have to patch up holes, not just regarding the positive approach to social diversity. In many cases, workshops are the first occasion for pupils to be engaged in a discussion that is conducted in a democratic way. And in some workshops, this often remains the only advantage the trainers are able to provide for the pupils. "Often, more than that is not possible, because they are used to teacher-centred 'talk and chalk' teaching only, and our approach – very open, very interactive, with a strong focus on the exchange of opinions and shifting perspectives – is not what they are used to", Bischof reports.

The predominance of teacher-centred instruction is also grounded in the existing deficits in teacher-training regarding interactive methods and human rights education. This is a problem in particular with teachers in higher general secondary education. The existing opportunities for compulsory-school teachers are not sufficiently continuous but concentrate on only selected points in time. Although many teachers feel an urgent need to tackle these issues, they are lacking the necessary methods for treating the topic of diversity in society with their young students in an adequate way. In this respect, it comes as no surprise when some of them tell ZARA trainers about not feeling sufficiently competent to address problems arising in this context.

The trainers identify this as one of the reasons why teachers resort to morality when dealing with their

pupils: "For example, when pupils say things like, 'Turks must be beaten up' or 'Turks stink', the teachers react with dismay and tell them 'One must not say that, that is racist'", Bali reports. Such statements, however, are hardly effective in working with youths, as it neither convinces pupils, nor does it make them think. Here, another advantage of external workshops becomes evident. In every day school life, there is usually no time to approach such talk or conflict. "In the framework of a workshop, if someone says, 'Kill N...[\*]', I can sit down and use half an hour to discuss what it means to call for someone to be killed", ZARA trainer Susi Bali says. "The youngsters check out how far they can go, in particular with us. We try to question and discuss that behaviour with them. It also is exciting to let them discuss that themselves, then you get four or five opinions that all have something for them. This is more valuable than 15 minutes of input in the form of a lecture."

### Consequences of social discourse

In the light of the success of right wing parties at the national elections of 2008, it seems almost negligent that young people are not given the opportunity to tackle the issue of social diversity more at schools. The result was hardly surprising for trainers, who hold the view that the discourse on migrants and people with a background in migration has gone grosser during previous years. "Even youngsters you would generally describe as 'alternative' (for instance because of their dreadlocks hair style), take xenophobic or racist positions. So to say, what comes first is the claim 'cannabis must be legalized!' and the second sentence already goes: 'There are too many foreigners in Vienna already'", Frey describes the differences he encounters.

Trainers find violations of taboos among youths similar to those criticized by ZARA of society in general. A strongly one-dimensional discussion is taking up more and more space, where many simple answers are offered – and resonate: "The 'foreigners out'-discussion and fear mongering work very well on youths", Bischof states. However, the trainers doubt that young people are more liable to fall for right wing slogans than adults, as some of the pupils are faced with very real fears: "In particular in polytechnical or vocational schools, pupils are to some extent afraid

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that they are on the losing track of society, thus they are faced with the question 'Is there a place for me in society, or have I already lost that anyway?'", Bischof describes what she perceives. In addition, it is first of all FPÖ-leader Heinz-Christian Strache who took up youth issues. "I think that the right wing turn is first of all a call for taking care of this group. Which means first and foremost, to talk with the young people", the ZARA-trainer says.

What is significant is not just that right wing parties offer easy concepts, but rather that they offer any answers at all, however one-dimensional they may be. "There is a lack of role-models and opinion-leaders that approach the issue of diversity in a less fearful manner, who communicate the advantages of diversity, and so on. Many young people would be just as likely to 'fall' for that, I believe young people 'fall' for answers, because they have so many questions – and there are so few answers", Bischof criticizes.

Simple answers are provided by society, too, for instance in reducing debates on integration to a conflict between native Austrians and foreigners. Meanwhile, this polarisation has become a reality among youths, too. Among other things, it leads to even young people born in Austria, who hold Austrian citizenship to be perceived as "foreigners" – and them also defining themselves as "different". "Recently, it actually happened to me that the youngsters, when I asked them about their names – what they meant, who chose them, whether there were nicknames, etc. – not just gave me the names but subsequently – and without being prompted – told me about their national origin – and they were twelve years old! Why that is so very important, however, the group could not explain to me", Bischof reports.

Many presumed "foreigners" relate experiences of every day racism at the trainings. In addition to that, there are fears and a lot of insecurity, which more often than not, turns into racism, for example, with one group going on about "the foreigners" and the other one about "the Shwabos" (an epithet for "Austrians" or "Germans").


## The headscarf: A new issue

The prejudice and stereotypes voiced during the trainings have changed across time. Just a couple of years ago, there was widespread prejudice about all black guys being drug dealers. This discussion has receded into the background. It has been replaced by prejudice about women with headscarves. To summarize, the topics are more or less the following: "They all come from special needs schools, they speak no or hardly any German, have at least five children, experience domestic violence and are suppressed." "We work a lot on the basis of mental images we all have in our minds, try to explore them together with the participants, find out where they come from and what we do with them. A couple of years ago, a woman with a headscarf would not have given rise to so many images", Bischof states (see interview with political scientist Leila Hadj-Abdou).

Furthermore, the young participants of trainings often address very concrete conflicts. "This is very often about public space, like parks, football fields, etc, and who can use it. Partly, what takes place there are 'expulsion struggles' and that is a very big playing field for prejudice", Bali tells us. Another issue is language, as illustrated by her colleague Katrin Wladasch: "The 'Austrian kids' regularly say that they are annoyed when the others talk in their mother tongue and they do not understand them, because that makes them feel excluded." These issues, too, must be addressed, in order to prevent conflict from being prolonged rather than solved.

## Sensitisation and moral courage

The two forms of workshops ZARA mostly employs when working with youths centre on either sensitisation or moral courage. In the framework of sensitisation workshops, pupils intensely tackle issues like prejudice, being different, and discrimination. This involves questions like: What kind of prejudice do I hold myself and how do I deal with it? What constitutes my identity? What effect does discrimination have



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on individuals? The workshop is about perceiving and recognizing diversity, dealing with the origins of prejudice and making the effects of discrimination and systemic racism visible. The workshops include reflection about prejudice and elaborating strategies for dealing with diversity.

In the framework of moral courage workshops, on the other hand, pupils have the opportunity to practice their competences for dealing with discriminatory situations. The workshops are about the individuals' courage to interfere with "uneasy" situations in public. Intense discussion of the concept of moral courage forms the basis for the participants to learn how one can handle attacks, powerlessness, aggression and fear. We work out what actions one can take and where everyone has his or her own limits. The workshop is also about strengthening self-value and about self assertion. "In this context it is important to widen the perspectives and to transmit the message that there is always some possibility to do something", trainer Susanne Bali explains.

## Voicing prejudice

Many youths quickly find access to topics like prejudice as most of them know mechanisms of exclusion from experience: „Almost all of them already have been in a situation that they experienced as unfair or insulting and that may even have involved verbal or physical assault“, Bischof reports. Looks in particular are a topic that is highly suitable for explaining mechanisms of exclusion to young people and thus liable to sharpen their sense of wrong: "The youngsters soon realize that they do not like it when they are mocked or abused – whether they be 'fat' or 'Serbian'", Bischof states. "Then all of us together go about finding ways of interfering with the situation in a way that shows moral courage when such a thing happens to a friend or acquaintance in the school yard."

The concept behind ZARA-trainings starts from the conviction that it is an important precondition for dealing with prejudice that youths are permitted to speak out about their own prejudice, because it is only then that the prejudice can be addressed: "Instead of telling them 'You must not say that!' it is meaningful to call on them to let out all their prejudice for once. Then you can discuss with them why they believe that 'that's what they are like'", Wladasch explains. This is another constellation where trainers have an advantage over teachers. They have the chance to create a special room for pronouncing such things in the framework of workshops where the youngsters do not need to fear consequences.

It is an important goal of the trainers to transgress the polarisation into "us" and "them". To that end, they ask questions like for example "what is typically Austrian?" "Usually, it turns out in the discussion of this question that there is no agreement on that", Volker Frey describes, adding: "What this is about is question-

ing what is taken for granted – like what is 'normal' or 'foreign', to shatter the belief that 'what is mine is what is normal and good'".

In order to get past dividing lines, the trainers focus on commonalities and confront one "group" with their commonalities with the "others". "Suddenly, their picture falls apart, and they realise that in the other groups they do not pay so much attention to, there are people with interests pretty similar to their own: For example, that also among them, someone is into football, finds hip hop great, and on top of that speaks three languages, which is not so bad after all. Some are really wowed by the competencies these 'strange' people have", Bischof tells us<sup>6</sup>.

Another goal we endorse is to widen participants' perspectives, i.e., to get pupils to assume someone else's position and consider what that would change for them. "It is only by taking a closer look that they realize that everything would be different or more difficult. That way, they are able to subsequently live through new experiences, which is good", Bali explains.

Trainers cannot always tell immediately whether their efforts will be fruitful. In spite of the many problems they perceive, the experience from the workshops they describe is encouraging. Furthermore, it shows what a wasted opportunity it is that youths do not spend more time dealing with society's diversity.

Before the background of the trainings, ZARA strongly pursues the aim that schools should be in a position where they can afford to book all-day workshops. In order to achieve sustainable changes, it would furthermore be important for trainers to be able to work with the students across an extended period of time. In this context, the peer-education pilot project "Courage for Diversity" is highly informative, because ZARA has been in touch with pupils for an extended amount of time now and the advantages of this type of continuous education shows (see chapter "Peer education: pupils in vocational schools show courage for diversity").

Beyond that, ZARA takes the experience as corroborating the point of view that a turn in public debate on integration is urgently needed. Leaving behind the polarisation between.

"locals" and "foreigners" is a prerequisite for fruitful discussion on integration. ZARA advocates a proactive approach. Not just in education policies, but in general, it is necessary to choose a new starting point: Not problems ascribed to migrants or people with a background in migration, but the question, how equal opportunities for all can be achieved<sup>7</sup>.

Many problems are not so much related to some background in migration or other, but to social aspects. Reducing conflicts to their national and cultural aspects prolongs conflicts in a society instead of solving them. Worse, it creates the prerequisites for playing groups of people against each other – ultimately furthering racism.

<sup>6</sup>Strohmeier, Dagmar (2007). „Soziale Beziehungen in multikulturellen Schulklassen: Wo liegen die Chancen, wo die Risiken?“ In: Erziehung und Unterricht, 157 (9-10), S. 796-809.

<sup>7</sup> For the ZARA-approach to the issue of integration, see the ZARA discussion paper on the „Integrations Report“ of the then Minister of the Interior, Günther Platter, by ZARA chairman Dieter Schindlauer in Racism Report 07, and at [http://www.zara.or.at/\\_doc/2008/Integrationsplattform.pdf](http://www.zara.or.at/_doc/2008/Integrationsplattform.pdf)

### Further material on the issues of racism, discrimination and moral courage:

On pages 73 and 74 of Racism Report 07, one can find suggestions for using the Racism Report as teaching material (you can order copies from ZARA or download the pdf version from <http://www.zara.or.at/racismusreport>). Ideally, this is done in the framework of a comprehensive confrontation with the issues of racism/discrimination and moral courage. We offer supportive workshops to be included in the framework of a teaching focus or class projects. You can find information on ZARA training offers at: <http://www.zara.or.at/trainings>.

ZARA offers an e-learning-tool in anti-discrimination that lets you gain an initial experience with the contents of our trainings: <http://www.zara.or.at/materialien/gleiche-chancen/elearning/>

You can find the ZARA-promotion video-clips “3x45 seconds moral courage” at <http://www.filmproduktion.org/zaraspots/>. At a higher quality, the spots can also be purchased at our web shop at the price of 10 Euro (7 Euro for supporting members) at <http://www.zara.or.at/index.php/unterstuetzen/shop> (the proceeds go to the ZARA counselling centre for victims and witnesses of racism. Because of our tight financial situation,

we ask for your understanding in being forced to charge for the postage).

At [http://www.zara.or.at/\\_doc/2008/Literaturliste\\_RR07.pdf](http://www.zara.or.at/_doc/2008/Literaturliste_RR07.pdf) you can find a list of literature and materials for to support your efforts with respect to methods as well as contents.

Sonja Fercher



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## ZARA – Zivilcourage und Anti-Rassismus-Arbeit

bietet Workshops und Trainings für Kinder, Jugendliche und Erwachsene. Die Trainings für Gruppen werden nach Absprache speziell für die Bedürfnisse der TeilnehmerInnen konzipiert. Für Einzelpersonen empfiehlt sich der jährlich stattfindende Lehrgang „Kompetenzvermehrung Anti-Rassismus und Zivilcourage.“

Alle Informationen unter [www.zara.or.at/trainings](http://www.zara.or.at/trainings)



# The headscarf is...

## Political scientist Leila Hadj-Abdou on a much-debated issue at ZARA-training at school

*The headscarf is...*

*..."identification mark of political Islam and of the suppression of women"*

*..."the flag of Islamist crusaders" (Schwarzer)*

*..."a mechanism of suppression?" (Dohnal)*

*What is your position on such statements implying a political function of the headscarf?*

One cannot make a general statement on "the function" of the headscarf. It has many different, often even conflicting, meanings: The headscarf may stand for suppression, but it need not. It can be a sign of emancipation or a strategy for gaining access to spaces of freedom. It is always necessary to consider who makes such a statement, and what the motives behind it are. Each statement must be analysed in its respective context. The question is: Why is one meaning foregrounded, and not another? This is already very telling.

Regarding the gender argument often voiced in this context: This way, strong binary oppositions are created. Often sounding something like this: there is, on the one hand, the emancipated Austrian or European woman, and, on the other hand, the non-emancipated migrant woman. This yields a strong hierarchisation of claims to equality: the claim to equality of the sexes is depicted as more important than the claim to equality of immigrant persons or the right to cultural difference. I consider this highly problematic, because, in my opinion, both are important.

*The debate often leaves the impression of being about women's rights vs. religious rights. Isn't it possible to have both?*

I do not believe that this issue can be dealt with entirely without conflict. Liberal democracies, which lay down various liberal rights, already bear a number of contradictions issuing from their design. So it is all the more important to give some thought to how these conflicts can be solved in manner that is both participatory and emancipatory.

*Take the comparison to the veil of a nun: It is generally accepted that a nun wears the habit of her order for religious reasons, that it is a sign of her piety. Why are some so reluctant to accept that Muslim women simply wear the headscarf as an expression of their belief?*

This is so because with nuns, it is the "own" religion, or what is stylised as such. With Muslim women, in contrast, it is about the "others", who are being construed

as "strangers". The frequent ascription of a political, culturally "alien" message is also related to this. This generates an image of the nun's habit as a purely religious practice, whereas the other also has political, and cultural connotations. But these things cannot be separated like that. Every religious practice also is a social practice.

*As for those who claim that women wearing a headscarf are mostly coerced into doing so: Where do they get this "knowledge"? Are there empirical findings on women's motivations for wearing headscarves?*

There have been no representative surveys conducted specifically in Austria on that issue, but there are indicative studies from other countries, showing that there are a variety of different reasons why women wear headscarves. These discussions often blot out what Muslim women have to say for themselves. In that way, one is in a position to maintain this "knowledge" about a supposed general suppression.

*Isn't this the same type of oppression/discrimination: forcing a woman to wear a headscarf against her will – or forcing a woman to take off a headscarf against her will?*

I consider both problematic, because of the element of coercion present in both. Of course, it is especially problem laden to forbid the headscarf in immigration societies, where Islam is a minority religion and the issue concerns a minority.

From my point of view, such prohibitions can never be supported, for reasons of principle, although the question is to be asked differently in societies with Muslim majorities. However, in general, whenever norms are forced upon people, be it by law or by society, they must be questioned.

*What would be the consequences of a state prohibiting headscarves? Wouldn't that imply further and deeper inequalities for women from the minority group?*

Yes, certainly. It would mean further corroboration of structures of inequality, and it would probably also have effects on other areas. For example, anti-discrimination offices in Germany find that the partly existing prohibition against the headscarf in public service has an impact on the private labour market. When it is legitimate to forbid the headscarf in the public sector, private employers are more likely to believe that it is all right and legal not to hire women who wear headscarves.

A prohibition against the headscarf would be a handicap for exactly those who try to take the road of emancipation by striving for gainful employment. In

<sup>8</sup>You can find more information on the project and an information folder at <http://www.zara.or.at/peereducation>

fact, this is what is treacherous about the whole debate: Right when women migrants place claims for social climbing, the claims for prohibitions are voiced.

*What is the true situation of women with headscarves in Austria? For example, on the labour market, in search for an apprenticeship, etc.?*

It is difficult to answer this question, because there is no specific data. However, what is known from individual studies – for instance, the Labour Market Service commissioned a study on youths on the labour market – is that the headscarf is perceived as problematic, namely in the sense that it constitutes a barrier in job finding.

The difficult position of women with headscarves on the labour market is also evident from the observation that, in the “visible” part of employment, you still hardly ever find women wearing headscarves. Now, there, for the first time, a female tram driver with a headscarf working in Vienna public transport – which is positive, but the fact that this has news value also shows that it is still the exception rather than the rule. So you can “see” quite clearly from this lack of visible presence, that the situation of women with headscarves on the labour market is difficult.

*Apparently, the headscarf sets off disgrunt/aggression/fear with many Austrians (see internet-fora, postings etc.). Can you understand why the headscarf generates such strong resentment?*

Media discourse conveys exactly those fears. What is also often underestimated, in my opinion, is the role of popular culture (movies, etc.). Images are spread that way, too. Also academic work contributes to firmly establishing such ways of thinking.

It is indeed a problem that the debate on integration starts from the assumption of differences: Like: migrant group A has to integrate in majority society B. This reasoning alone condones thinking in different categories, and it cuts out the fact that the majority society is equally diverse, poor, rich, socially excluded,

a network, etc., as the so called minority society.

When you look at the measures employed in research, but also in every day discourse, it becomes understandable why some images become established as they are: It is often claimed about the second generation immigrants, that they do not integrate, have no contact with Austrians, etc. If the same measures were applied to so-called Austrians, like some good studies have already done, it turns out, for example, that also the “Austrians” interact more with “Austrians”. By this measure, “the” Austrians would not be considered integrated at all, because they remain among themselves. However, it is only in regard to migrants that integration is talked about.

The “other” is reproduced in every day culture like in movies, the media, but also in academic discourse; thereby, what as such would not be “the other” is stylised as “the other”. This process ultimately produces fears.

*Interview: René Rusch*

**Leila Hadj-Abdou** studied political sciences, history, and tourism management in Vienna and Budapest. She is working on her dissertation on the political mobilisation of Muslim women. She has been a researcher at the Department of Political Sciences since 2003 and a lecturer since 2004.

Among other activities, she is a collaborator in the EU-project VEIL (“Values, Equality and Differences in Liberal Democracies. Debates about Muslim Headscarves in Europe”), where researchers from Austria, Denmark, France, Germany, Greece, the Netherlands, Turkey and Great Britain investigate differences in legislation pertaining to the headscarf as well as its various meanings in political debate.

**René Rusch** is a political scientist and graphic artist working with the Vienna office of the Austrian Broadcasting Corporation. Furthermore, he is a volunteer with ZARA.

## peer education: Vocational school pupils show courage for diversity

While the media was trying to answer the question of “how far right political orientation” of youths is, and the increasing aggressiveness and xenophobia among youths was making headlines, a selected group of eleven pupils from the Vienna Vocational school for the Administrative Professions at Castelligasse, were engaged in intensive discussions of the issues of living together under the framework conditions of social diversity. Under the motto “courage for diversity”, a so-called “peer-education” training started for the first time in the spring of 2008. Youths were trained to be trainers themselves, in order to discuss prejudice, discrimination, racism and moral courage with other pupils at their vocational schools.

The project was initiated by ZARA and the youth organisation of the Union of Salaried Private Sector Employees. In the previous year, they their aim to work on the issues of anti-discrimination, equal treatment and diversity together with youths in vocational schools had already been established. Vocational school pupils are already involved in working life and are therefore confronted with exclusion mechanisms in the workplace very early on. A positive approach to diversity strengthens the youths’ social competences, enriching social coexistence, which has a motivating and productive impact in the area of employment, in particular.

The framework of the project offers them the opportunity to develop their awareness of discrimination, the workings of discriminatory mechanisms, and what they can do against that themselves, vic. how they can contribute to a positive approach to diversity.

### Selection seminars

Those wanting to become peer-trainers had to take part in a selection seminar facilitated by ZARA. They subsequently had to participate in a three-day training and then lead a workshop designed by themselves. The selection seminars took place in three first year classes of the Vocational school for the Administrative Professions at Castelligasse. We made it clear from the beginning that one of the aims of the workshops was to find future peer-trainers.

The workshops lasted for four hours each and included various sensitisation exercises, which were partly adapted specifically for youths. It was important to us to carry out a lot of interactive exercises, which permitted us to ascertain as much of the youths’ dedication and expressive abilities as possible, so that we could judge which of them were suited for further training.

At the end of a meeting, we held a short discussion among ourselves and then asked some pupils, who had caught our attention by their dedication, interest,

and/or their security in presenting, to stay on. Other pupils, who had not been selected, and who also wanted to participate, had the possibility to do so. The most important selection criterion was the youths’ interest in participating in the training. Four to six pupils from each class were chosen for peer-education.

On the whole, the setting was rather difficult, because of the large number of pupils in each class and there was always a lot of agitation and noise. This was, at the same time, very exciting, as the peer education showed that it is possible to achieve a change of thought despite difficult circumstances.

### The peer education training

The train-the-trainers course for the peers lasted three whole days. The first day was held before the summer vacation on the premises of the Union of Salaried Employees in the Private Sector (GPA).

The challenge of the first day was to bring the group together. In September, the second and third days of the training went very well. The peers had high levels motivation and concentration. It was highly interesting to see the same young people who had been very guarded or inattentive in the seminar setting with 30 other pupils, contribute intensely and display a lot of initiative. Together with the group, we went through the various exercises the future peer-trainers would be able to use in their own trainings. The participants formed teams of trainers, each of which developed an agenda for the first training. A large part of the training consisted of letting the participants try guiding a group through exercises. At the end of the training, the incipient peer-trainers were given an extended manuscript with exercise descriptions and texts for training and moderation.

### The peer-trainers’ first workshops

Being experienced ZARA trainers, we were no less nervous when the time had arrived for the first peer-trainers to hold independent workshops on the issues of prejudice, discrimination and moral courage. Five trainer teams had formed, each group had worked out a workshop-agenda, and now they “marched” into class, well equipped with moderation cards, pens, flip-charts and video- and training materials.

“How are the colleagues going to react? Will they join in, or will they be as inattentive, provocative or destructive as some of us partly were during the selection seminars? Do I remember everything, will I be able to react appropriately to questions, and will I have a black-out and fall silent in front of the class?” That is a summary of the pupils’ concerns before their first deployment as trainers.

Once again it is unclear who was more surprised by



the result: We, as their trainers, or the youths themselves. The feedback was extremely positive – the youths listened, they participated, they discussed, and, most importantly, the issues were taken seriously and considered extremely important. The feedback-sheets of the peer-workshops contain statements like: "Discussions about current issues like these should be more frequent", "Continue this way!" or "Cool to learn from other young people..."

Besides the reflection processes triggered for the youths by the trainings, we found confirmation for the advantages brought about by peer-education. The young trainers are not taken apart by their own age group, on the contrary: They were wholly accepted in their role as trainers. As ZARA-trainers, who have held countless workshops in school classes ourselves, we primarily see the advantages of peer-education in the increase of credibility and acceptance of the issues discussed in workshop held by youths for youths.

**Karin Bischof** is a ZARA-trainer for awareness-raising, anti-discrimination and moral courage and a certified argumentation coach (ÖGpB). She was editor in chief of the Racism Report 2007. From 2005 until 2007 she was head of ZARA public relations and of the training module. She is working on her Master's thesis in cultural and social anthropology.

**Susanne Bali** is a psychologist and trainer in the area of self-assertion. In the ZARA project „Gleiche Chancen im Betrieb“ she was co-responsible for evaluation and monitoring. She is also responsible for long-term theoretical and practical involvement in issues of discrimination and empowerment.



**Workshops**

Angie (18)  
„Wir werden in Workshops selbst zu Trainern ausgebildet. Danach stellen wir das Projekt anderen SchülerInnen vor.“

**Gegen Vorurteile**

Romina (16)  
„Bei dem Projekt geht es darum, gegen Vorurteile zu kämpfen und sich für die, die ausgegrenzt werden, stark zu machen.“

**Gute Freunde**

Stephan (16)  
„Auch in der Schule, in der Arbeit oder beim Weggehen – mit Diskriminierung ist man überall konfrontiert.“

# Genug Platz für alle

**Gegen Vorurteile ankämpfen und anderen Mut machen, es ebenfalls zu tun. City & Life hat die engagierten BerufsschülerInnen Angie, Romina und David getroffen. Sie machen bei einem Antidiskriminierungsprojekt mit.**  
Piefke. Das Wort hört David oft. Deswegen sagt er meistens gar nichts mehr, dass er auch ein „halber“ Deutscher ist. Wenn es ihm doch herausfutscht und die übliche blöde Aussage folgt, geht er meistens: „Ich ärgere mich, aber ich weiß nicht, was ich darauf sagen soll“, erzählt David. Seine eigenen Erfahrungen mit Vorurteilen sind ein Grund, dass er bei „Mut zur Vielfalt“ mitmacht. Das ist ein Projekt, dass die GPA (Gewerkschaft für Privatangestellte) und der Verein ZARA (Zivilcourage und Anti-Rassismus-Arbeit – siehe rechts) entwickelt haben. Dabei werden 12 SchülerInnen der Berufsschule für Verwaltungsbereufe zu TrainerInnen ausgebildet. Das geschieht während eines dreitägigen Workshops.

Dabei erfahren die Jugendlichen einerseits, was Diskriminierung bedeutet, wie sie sich auswirkt und was man dagegen tun kann. Andererseits üben sie zu präsentieren und zu moderieren. Denn ihre Erkenntnisse geben sie am Ende ihrer Ausbildung an BerufsschülerInnen der ersten Klassen weiter.  
Vorurteile, Diskriminierung und Rassismus: Themen, die alle etwas angehen.  
„Es ist ein Thema, das alle angeht“, findet Angie. Auch sie hat sich für das Projekt gemeldet. „Außerdem ist es gut, um Präsentationstechniken zu üben und das Selbstvertrauen zu stärken.“ Schließlich trägt man nicht jeden Tag vor 16 anderen Jugendlichen vor. Das Ziel: Ihr Interesse zu wecken und zu motivieren, selbst aktiv gegen Diskriminierung aufzutreten – kein leichtes Unterfangen. Und falls eine BerufsschülerIn

persönlich betroffen ist, sind die 12 Jung-TraineeInnen auch ihre Ansprech- und Vertrauenspersonen. Die Lehrlinge wollen aber nicht nur vermitteln, wie man Diskriminierung erkennt. „Sondern auch, dass man den Mut aufbringt und sich für andere einsetzt“, meint Romina. Das versteht man unter dem Begriff „Zivilcourage“.  
Selbst Mut aufbringen, um anderen, die ungerecht behandelt werden, zu helfen.  
Ein Beispiel: Der Arbeitgeber behandelt eine Jugendliche, die ein Kopftuch trägt, anders als die anderen Lehrlinge. Er weist sie öfter zurecht, macht Scherze auf ihre Kosten, gibt ihr die schwierigeren Aufträge usw. Im Normalfall halten sich die KollegInnen zurück, tun, als wäre alles in Ordnung, nur um selbst keine Schwierigkeiten zu bekommen. „Dabei ist sowohl in der Ausbildung, als auch am Arbeitsplatz Diskrimi-

nierung gesetzlich verboten“, weiß Christoph Pieschek von der Gewerkschaft. Er hofft, dass durch das Projekt „Mut zur Vielfalt“ solche Vorfälle zumindest zum Thema werden – und nicht einfach ignoriert. „Seit dem Workshop hinterfrage ich mich selbst. Warum ich zum Beispiel gleich eine bestimmte Meinung über Leute habe, die anders aussehen“, so David. Er hofft, dass er auch selbst profitiert. Und sich dann nicht einfach umdreht, sondern etwas sagen kann, sobald ihn jemand „Piefke“ nennt. ●  
**ZARA hat nichts mit Mode zu tun!**  
ZARA ist ein Verein, der es sich zum Ziel gesetzt hat, Rassismus zu bekämpfen und Zivilcourage zu fördern. Hier finden Menschen, die wegen ihrer Herkunft, Sprache, Hautfarbe oder Religion ausgegrenzt werden, Unterstützung. Falls du selbst betroffen bist oder jemanden kennst, der in der Schule, an Arbeitsplatz oder in einem Lokal unfair behandelt wird, melde dich. Das Gespräch bleibt vertraulich. Zum Thema kannst du bei ZARA auch eine Broschüre bestellen. Tel. 01/929 13 90, [www.zara.or.at](http://www.zara.or.at)



## „Give people more chances“

The two vocational school pupils Romina R. (16) and Angela S. (18) have been trained to be peer-trainers in the framework of the project “Courage for Diversity”. In this interview, they talk about their experience with the first workshop they held themselves and what the peer-education training triggered for them.

*What do you think about the fact that there is such a thing as peer-education?*

**Angela S.:** I think it is good, because this issue has been dealt with too little by far, and it is not talked about enough. In such a workshop you are made aware of how you really react, what you might do differently, and what prejudice you hold yourself. You are not really aware of these things unless you are confronted with them.

*Why did you participate?*

**Angela S.:** I think it is good, because this issue has been dealt with too little by far, and it is not talked about enough. In such a workshop you are made aware of how you really react, what you might do differently, and what prejudice you hold yourself. You are not really aware of these things unless you are confronted with them.

*Regarding the trainings: How did you do in your first training as peer-trainers?*

**Angela S.:** In the beginning, I was really very nervous, but after a while it all became a lot easier and I could be myself more.

*Did your colleagues respect you as trainers?*

**Romina R.:** I think they took a more relaxed approach with us as compared to adults trying the same thing. They see us more like buddies and show us more consideration.

*It is certainly not easy to stand in front of a class of pupils that are your own age. Were you afraid of how it was going to be?*

**Romina R.:** Yes, because I thought, what if that class is as chaotic as my own ... When Susi and Karin [ZARA-trainers] were there, nobody paid any attention, especially not the boys. So I thought what if the class is going to be like that. I was afraid of that. But they were very nice people.

*Was it fun for you to work with other pupils?*

**Angela S.:** Yes, because we had a friendly relationship with the pupils, and they still listened to us and took part in everything. I think that is cool, because they really could have given us an extremely hard time, for

example by not participating in what we did. Then everything becomes chaotic and you just become more nervous.

**Romina R.:** It was fun for sure. I would have liked to go on for another hour, but we ran out of material. But I think that it depends on the class, if they are chaotic, I don't know if that would still be so much fun.

*Did you get across to your “pupils” what you wanted to say?*

**Romina R.:** Karin [ZARA-trainer] left it up to us whether we wanted to work on several topics or just one. Angi and I were most interested in prejudice, so we specialised on just that, and it worked well.

*Was there an exercise that was particularly difficult?*

**Angela S.:** The most difficult exercise was the one at the beginning, when we set-up rules for dealing with each other.

*Why do you think that was so?*

**Angela S.:** I think that they [the participants in the training, editor's remark] do not know at that time what they can say in that situation. For example, voicing one's own opinion, or listening to the others – such things are clear and everybody knows that's how we should behave, but still nobody really says that.

*Have you been confronted with prejudice yourselves yet?*

**Romina R.:** Yes, I live at Rennbahnweg in the 22nd district [a large housing development in Vienna, translator's remark], and people often say “with the scum” or “yes, that is what the Rennbahnweg folks are all like” or “that one lives at Rennbahnweg and we do not want to have anything to do with her”.

*Have you perceived prejudice with yourselves?*

**Angela S.:** I knew already that I held lots of prejudices.

*Did the training yield any change in your perception of your own prejudice?*

**Angela S.:** Yes, I think I have become a lot more thoughtful. Today, I no longer say right away “Oh, that guy looks such and such, and I'd rather not have anything to do with him, because he looks snooty, or something”. Now, I give them a chance, and then I can still say, “This is not going to develop into a friendship, we are not on the same wavelength”. But this way, there is at least a chance to get to know each other, and previously, that was not always so.

**Romina R.:** Previously, I, for example would have thought to myself on the underground “No, I am not going to sit there, because that one looks so and so.” Now I take my time thinking about why I judge a person to be like that, and whether I feel afraid of that person. Or whether there is another reason why I do not want to sit next to them. I think a lot more about whether it is really clever to judge people like that.

*Do you like that change?*

**Romina R.:** Yes, I think it is better. You somehow have a different way of dealing with other people. I am more open to other people and give them more chances, instead of placing them without knowing them.

In the past, when someone talked me up, I always thought, “No, that one looks somewhat strange”, and

I would ignore him and walk away. But now I think to myself “Give him a chance.” You can just get to know someone and have a look – and then you can still say “No”. Because someone can be a really nice person, even when he is homeless.

When I walk through the Karlsplatz station at night and three or four people address me, I still do not stop, however. But that is something different, as, when I am out at night alone, I am usually a little bit afraid.

*Has the project also been a topic at your workplace?*

**Angela S.:** My boss thinks it's really cool that there is such an offer, and he totally supports it. He says: “You're going to be someone”.

*Interview: Sonja Fercher*

**AK-Wahl 2009**

## DARUM GEHT 'S: Mehr Gerechtigkeit im Börsel

Gleiche Arbeit, gleiches Geld,  
gleiches Recht.  
Die Vollzeit, Teilzeit oder „atypisch“:  
Gleichwertige Arbeit bringt für  
Frauen noch immer nicht gleiche  
Einkommen, für „Atypische“ und  
Migrantinnen nicht einmal gleiche Rechte.  
Das ist nichts anderes als Lohn- und Sozial-  
dumping! Deshalb: Hier ist Chancen-  
gerechtigkeit, aber gesetzlicher  
Mindestlohn und gleichen sozialen Rechten.



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# clean politics – my vote against racism

## Campaign for politics without discrimination and exclusion

When the new elections to the National Council were called in the middle of the summer, it was clear that ZARA had to become active and speak out against the abuse, and resentment in the election campaign. To that purpose, we once again took up the clean-politics campaign that was first carried out over the course of the 2006 National Council elections. Within record time, ZARA, the Association of Vienna Youth Centres and wienXtra set-up a new campaign.

Clean politics means making it clear that racism and exclusion in the competition for votes must be contradicted. The aim is to mobilise the alert civil so-

ciety and lend it a voice. All in all, we succeeded in gaining the support of 20 independent associations. Furthermore, a group of young people monitored the election campaign and described their observations regarding the issues of racism and discrimination in the campaign on the clean-politics weblog, as well as positive examples of anti-racist policies from the campaign. Two of the participants, Stefanie Ambros and Markus Grammel, describe their experience.



Memories are still fresh: at the end of August, we learned about the clean-politics project through the wienXtra association. We quickly decided to volunteer for the clean-politics election-campaign monitoring team and to try our abilities as critical political journalists. We participated in a brief introductory workshop, where we also met the other contributors to the campaign. At that time, we could not really tell whether we would be able to fulfil our task well, but we were deeply convinced that participation would be better than to just watch the goings on of politicians, doing nothing ourselves!

In Austria, people are still wrongly denigrated, accused, put at a disadvantage and held responsible for mistakes they never committed because of their origin, religion, etc. Unfortunately, this happens even more frequently in times of upcoming elections, as the most complex topics are often depicted in black-and-white.

By participating in the “clean politics” project, we wanted to make a contribution to fighting this wrong. It was our objective to point to racist statements made during the election campaign – on TV, radio, in newspapers, on billboards, etc. – and to appeal to politicians to lead their election campaigns without racism. We wanted to open the eyes of undecided (young) voters and to point out and explain to them critical points in the election programmes of the po-

litical parties. Things got “serious” for us with a press conference at the Afro-Asian Institute AAI, on September 1st, held by the CEOs of wienXtra, the association of Vienna youth centres, and ZARA. We were very happy about the vivid interest of the journalists, and highly motivated by this good start for our work. All of September, we ran a web-blog together with other youths, where we documented our personal experiences and discoveries.

A lot has been written on this blog regarding the Freedom Party (FPÖ) and the Future Alliance Austria (BZÖ), because these two parties were the source of the largest share of racist election campaigning. Everything was discussed – from BZÖ-advertisements in newspapers to the large billboard posters of H.C. Strache. We also took a close look at the parties’ websites. Of course, our texts also mentioned positive examples, for example the multilingual advertising of the Greens, or the proposals on integration made by the Social Democrats (SPÖ). Furthermore, we analysed the TV debates of the leading candidates and the radio- and TV-interviews, we quoted politicians on our blog, and we formulated our own opinion on the issues.

What was sobering were the statements by young voters who considered “foreigners out” the solution to all problems. On the other hand, what we found particularly well done was the initiative by the magazi-

## Two voices against racism!

ne "biber", which is founded and edited by migrants. There are already 1.3 million people with a migration background living in Austria. However, not a single representative from that group sat on the National Council at that time. In order to draw attention to that fact, the editors of "biber" founded a (fictitious) political party for one day – the Immigrant Alliance Austria (ZBÖ). In "election campaign" conversations, the ZBÖ-followers initiated an exchange with passerbys. In this creative way, they sharpened the mutual understanding between "genuine" and "neo"- Viennese and made a constructive contribution to peaceful co-

existence and togetherness. Alev Korun gaining a seat in Parliament proves that such activities are more than just symbolic.

On the whole, it was an exciting month with many sobering, but also a lot of positive experiences. Working for clean politics has once again made it clear to us that one should not turn a blind eye to racism!

**Stefanie Ambros und Markus Grammel** are members of the youth editors inFORMout and authors of the clean politics-Weblog <http://cleanpolitics.wienextra.at/wordpress/index.php>.





# Glossary

In alphabetical order

## **Alleviation of the burden of proof / Reversal of the burden of proof**

As in any other proceeding, ultimately it is a question of evidence and credibility which party will be pronounced to be in the right by a court or public authority. Yet, especially in the area of employment and all the more in the area of discrimination, the situation is often characterised by an uneven distribution of power. Typically, the employee is in a weaker position regarding economic strength as well as in the "closeness to the evidence". This circumstance is taken into account in labour law as well as in the framework of equal treatment legislation. According to European guidelines there should be a clear shift in the burden of proof into the direction of the respondent/defendant, who should have to bring proof in order to free him-/herself from plausible reproaches raised against him/her. In Austria, this requirement has not been completely and fully met in every respect, such that a very complicated and not very practical solution is in place. Thus, procedures have to be instigated if the complainant/claimant plausibly presents the case for discrimination, procedures have to be closed if the defendant proves that "it is probable, considering all the circumstances, that it was another motif – made plausible by the defendant – that was decisive for the differential treatment".

## **Direct discrimination**

Direct discrimination is taken to occur where a person, on the grounds of a specific characteristic (e.g., skin colour, ethnic origin, a disability, or gender, etc.) is treated less favourably than another person is, has been or would be treated in a comparable situation.

## **District administration authority** (Bezirksverwaltungsbehörde)

In general, the district administration authority is instantiated by the district commissions (Bezirkshauptmannschaften), or, the "Magistrat". In statutory towns like Vienna, the individual municipal district offices (Magistratische Bezirksämter) carry out that task. Some functions of the district administration authorities are also exercised by the Federal Police Directorates (Bundespolizeidirektionen), insofar as the situation in question is within their regional scope. Generally, the district administration authorities are competent for pursuing administrative offences in the first instance.

## **Documentation Centre of Austrian Resistance**

The Documentation Centre of Austrian Resistance (Dokumentationsarchiv des österreichischen Widerstandes, DÖW – <http://www.doew.at>) is a foundation of the Republic of Austria, the City of Vienna and the Association Verein Dokumentationsarchiv. It is an aca-

demic research institution concerned with, among others, the issues of resistance during the time of National-Socialism, NS-crime, the Holocaust, restitution and right-wing extremism after 1945. The staff of the DÖW collect current cases of right-wing extremist assault, analyse them and inform about the developments regarding right-wing extremist activities in Austria via various media and own publications.

## **Documentation Centre against Islamophobia**

The Documentation Centre against Islamophobia (Dokumentationsarchiv Islamophobie DAI – <http://www.dai.or.at>) is a student initiative based on volunteering that was founded in the spring, 2006. DAI's aims are: to monitor Islamophobia, to make it an issue, to inform society about and sensitize society to Islamophobia. For this purpose, individual experiences of discrimination experienced by Muslims as well as socio-political developments are documented. Victims and witnesses of discrimination based on religious belonging are provided with due support in cooperation with ZARA. These observations, as well as a scientific approach to issues surrounding Islam permit a drawing of conclusions, which support meeting the aims of DAI.

## **Equal Treatment Commission** (Gleichbehandlungskommission)

The Equal Treatment Commission is composed of three Senates with members representing Ministries and social partner organisations. They work on an honorary basis. The Commission is attached to the Federal Chancellery. The Senates of the Equal Treatment Commission have to deal with all questions related to discrimination within their area of competence. In particular, they are responsible for drafting opinions on general questions relating to discriminations, and they have to assess potential violations of the provision of equal treatment in specific cases upon demand by the Office of the Ombud for Equal Treatment or by interest groups. Both the Ombud for Equal Treatment and the victim are party to these procedures, which are free of charge. Victims can also choose to be represented by a trusted person, like for example representatives of non-governmental organisations like ZARA. The result of such proceedings before the Equal Treatment Commission is an opinion, which, in contrast to the judgement of a court, is not legally binding.

## **Federal Office for the Protection of the Constitution and the Fight Against Terrorism**

The Federal Office for the Protection of the Constitution and the Fight Against Terrorism (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT) is a security authority located within the Fede-

ral Ministry of the Interior. Among other things, it is tasked with the fight against extremist and terrorist phenomena. The federal office, as well as the corresponding offices in the federal provinces under its authority, therefore monitor the activities of right-wing extremists in Austria and investigate violations of the Prohibition Statute through activities amounting to revitalisation of National-Socialist ideology.

#### **Forum Against Antisemitism**

The Forum Against Antisemitism (Forum gegen Antisemitismus, <http://www.fga-wien.at>) is an association based in Vienna. It documents antisemitic assault, offers counselling to victims of such assault, and informs about antisemitism in Austria.

#### **Guidelines complaint**

The guidelines complaint (Richtlinienbeschwerde) is one possibility for having the Independent Administrative Tribunal (see "Glossary") assess police conduct. The assessment is guided by the regulations laid down in the Guidelines Decree (Richtlinienverordnung), which, among other things, oblige officers to carry out their duties in a manner free of discrimination, to disclose their official ID number, and to address people using the polite form of address, „Sie“ (plural you). For details regarding this type of complaint and the Guidelines Decree, see the section "Know your rights" in the chapter "Police".

#### **Harassment**

Harassment constitutes a form of discrimination whenever a person is harassed on the grounds of one or several specific characteristics of that person (like skin colour, religion, gender, or sexual orientation) and the harassment as such violates his/her dignity.

#### **Independent Administrative Tribunal**

The Independent Administrative Tribunals (Unabhängiger Verwaltungssenat UVS) of the federal provinces, are competent, among other things, for appeals against penal findings in case of violations of administrative law and for complaints against acts of immediate powers of coercion (UVS complaints against police officers). The UVS are public authorities that are not bound by instructions from higher levels of public administration. The decisions are made by independent UVS judges. Their decisions are final and binding. However, extra-ordinary legal remedies permit appeals to the highest courts (Administrative Court and Constitutional Courts).

#### **Indirect discrimination**

Indirect discrimination occurs where an apparently neutral provision, criterion or practice can put persons with specific characteristics (like e.g. skin colour, disabilities, ethnic or national origin, belief etc.) at a particular disadvantage compared with other persons unless that provision, criterion or practice is objec-

tively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

#### **Joining criminal proceedings as a private party**

Enforcing damage claims is in principle a matter for civil law proceedings, with the claimant carrying the risk of having to cover the legal costs. A person suffering damages through a criminal act may already claim compensation for damages (e.g., for the pain suffered in a case of bodily harm) from the perpetrator during the criminal proceedings without incurring that financial risk. The judge has the option (although not the obligation) to award the victim all or a part of the claimed amount in damages upon convicting the perpetrator. Thus, the victim ideally can be saved from the trouble of the cost- and time intensive civil procedures and quickly receive financial compensation.

#### **Litigation Association (Klagsverband)**

The Litigation Association of NGOs Against Discrimination (Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern, KLaV – <http://www.klagsverband.at>) was founded in 2004 as an umbrella organisation of NGOs already active in the fight against discrimination and in counselling victims of discrimination. Today, the Litigation Association has a number of members concerned with various areas of discrimination (like, e.g., ZARA, Bizeps, Helping Hands Graz, inter alia). The Litigation Association chiefly acts as a counselling body for its member-NGOs and their clients, and participate in procedures before the Equal Treatment Commission acting as an expert with an advisory vote. Sec 62 Equal Treatment Act gives the Litigation Association the right to participate in court proceedings as an intervener next to the plaintiff. Thus the Litigation Association accompanies victims of direct and indirect discrimination in court procedures.

#### **Measures complaint**

The measures complaint (Maßnahmenbeschwerde) is a legal remedy against unlawful police conduct. The complaint may be filed with the Independent Administrative Tribunal (see "Glossary") inside of six weeks following the event. The Tribunal holds a public procedure and decides whether or not the purported unlawfulness is given. See also: "Know your rights" in the chapter "Police".

#### **Office for Special Investigations Vienna**

The Office for Special Investigations (Büro für besondere Ermittlungen, BBE) is a unit within the Vienna police directly under the authority of the President of the Vienna Police. It is competent for investigating allegations of police ill treatment. It must examine suspected cases inside 24 hours and forward them to the Public Prosecution.

**Office of the Ombud for Equal Treatment** (Gleichbehandlungsanwaltschaft)

Since January 2005, the Office of the Ombud for Equal Treatment includes not only the Ombud for Equal Treatment of Men and Women in Employment, but also one for equal treatment of the other protected groups in employment and one for racist discrimination in other areas. The three ombudswomen acting in these areas are appointed by the Federal Minister for Women, the Media and Public Service. The Office of the Ombud for Equal Treatment is responsible for counselling people affected by discrimination, and in addition, studies into the situation in Austria regarding discrimination can be commissioned or carried out by the Office. Cases brought to the Office of the Ombud for Equal Treatment can be brought before the Equal Treatment Commission by the Ombud for assessment.

**Offices of the federal provinces for the protection of the constitution and the fight against terrorism**

See „Federal office for the protection of the constitution and the fight against terrorism“

**Out of court settlement** (Diversion und Außergerichtlicher Tatausgleich)

In German, “Diversion” describes the possibility to waive formal criminal court proceedings. After measures “of diversion” have been completed, which can only be done with the consent of the suspect(s), criminal procedures are closed for good and the person in question continues with the status of having no criminal record. “Diversion” involves out-of-court compensation for the act (Außergerichtlicher Tatausgleich), defining a time of probation, carrying out community service or the payment of a certain amount of money by the suspect. The out-of-court compensation (ATA) is carried out by the association Neustart, where social workers have the task of reaching a settlement between victim and perpetrator by mediating between them. This can also include making up for the damage that has been done and a written agreement on future relations (between victim and perpetrator). The person who suffered the damage also has to agree in writing to the out-of-court compensation.

**Racist profiling**

Racist profiling refers to specific consideration of skin colour, language, assumed or actual ethnic belonging, or nationality, by police officers deciding on which official acts to carry out, and in which way. This may e.g. apply in targeted stops of persons of dark skin without a concrete reason for suspicion.

**Third country nationals**

The term “third country nationals” refers to citizens of states not party to the Agreement creating the European Economic Area (EEA). The EEA includes all EU member states plus Iceland, Liechtenstein and Norway.

**Victimisation**

Victimisation refers to adverse treatment of persons involved in a case of discrimination, as victim or witness, insofar as they disclosed the case, filed a complaint, or spoke out in support of the victim.

**Weißer Ring** (literally: white ring)

The Weiße Ring (<http://www.weisser-ring.at>) a private non-partisan and non-profit organisation offering support to crime victims free of charge. This support primarily consists of legal support in court proceedings (in particular the representation of private parties in criminal proceedings against the perpetrator) and in psychosocial care for crime victims.



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