



Rasism Report 2006

Case Report on Racist
Incidents and Structures in Austria

ZNRA
ZIVILCOURAGE UND ANTI-RASSISMUS-ARBEIT

For free distribution. Not for sale.



Die Wiener
Volkshochschulen

www.vhs.at | Wir wissen weiter.

© Getty Images

[ENGER HORIZONT ODER GROSSE LEUCHE?]

Für Ihre berufliche und geistige Fitness!

Ob Sie sich beruflich fortbilden oder persönlich entfalten möchten, die 18 Wiener Volkshochschulen sind dabei Ihr idealer Partner. Die Palette an Kursen, Vorträgen und Lehrgängen der Wiener Volkshochschulen orientiert sich an den Wünschen und Bedürfnissen der Menschen, für die wir arbeiten.

Allgemeinbildung, Business Skills, 2. Bildungsweg, EDV, Musik, Körper & Geist, Kunst & Kultur, Lifestyle, Sport, Sprachen, University Meets Public ...



www.vhs.at

 01/893 00 83

WER HÖREN WILL MUSS FÜHLEN



FM4.ORF.AT

WIEN 103.8
ST. PÖLTEN 98.8
LINZ 104.0
SALZBURG 104.6
INNSBRUCK 101.4
BREMEN 102.1
GRAZ 101.7
KLAGENFURT 102.9
EISENSTADT 97.4

radio
FM4

: you're at home baby

Was ist Ihnen Anti-Rassismus wert?

0,21 € pro Tag? 6,25 € pro Monat? 75,00 € pro Jahr?

Jetzt förderndes ZARA-Mitglied werden!

- Damit Opfer & ZeugInnen von Rassismus mit dem Unrecht und der Demütigung nicht alleine gelassen werden.
- Damit rassistische Benachteiligungen & Strukturen nicht unwidersprochene Normalität bleiben.
- Damit Rassismus nicht das Problem der Opfer ist, sondern die Aufmerksamkeit der gesamten Gesellschaft bekommt.
- Damit in einem Land, in dem sich der Staat nicht für die Bekämpfung von Rassismus zuständig fühlt, die Zivilgesellschaft aktiv werden kann.
- Damit Opfer & ZeugInnen von Rassismus weiterhin eine Beratungs- und Betreuungsstelle haben.
- Damit es auch im nächsten Jahr einen Rassismus Report gibt.

Bitte werden Sie förderndes Mitglied von ZARA

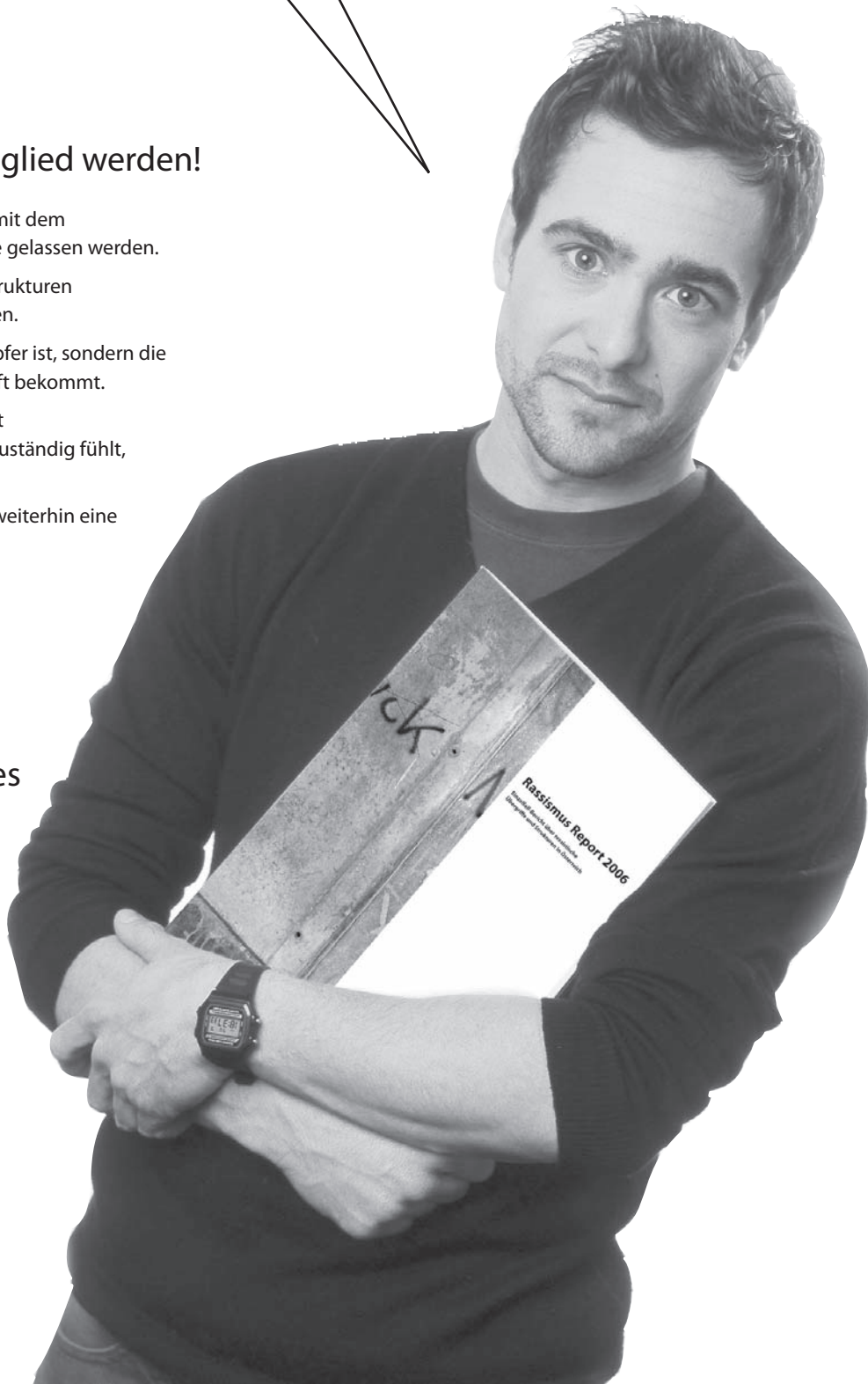
oder spenden Sie, damit sich auch
das nächste Opfer von Rassismus
an ZARA wenden kann.



Info: (01) 929 13 99-15

www.zara.or.at

BA-CA, Kto. 05211362800



Contents

4	Issued by
5	Introduction
6	Statistics
7	Public Space
8	Streets, Public Transport etc.
9	Know your rights
16	Internet
18	Politics and the Media
22	Racist Graffiti
23	Know your rights
25	The Police
29	Know your rights
34	Other Authorities and Public Institutions
36	Work
37	Know your rights
42	Housing
43	Know your rights
45	Refusal of Service in Locales and Shops
45	Know your rights
52	Racism as a Reaction to Anti-Racism Work
57	What Happened to ...?
62	Glossary

Thank you

Thank you to Barbara Liegl, Christine Lohwasser, Patrick Zesar and Markus Hildenbrand, who were prepared, to proof-read this report without payment.

Thank you the ZARA voluntary staff members: Caroline Manahl, Johanna Katzinger, Dominik Krejsa, Monika Muhr, Romina Rabl, Stefan Radinger, Oliver Schuster.

Issued by

Media proprietor and publisher: Verein ZARA – Zivilcourage und Anti-Rassismus-Arbeit,
Editorial policy: the Racism Report appears annually and is distributed free of charge. It contains information about racism in Austria and developments in the European Union. The focus is on reports of individual incidents with a racist background and expert commentaries.
Luftbadgasse 14 – 16, 1060 Wien, www.zara.or.at
ZARA is a non-profit association with its headquarters in Vienna.
DVR-Nummer: 2110769 und ZVR-Nummer: 236017119

Editor in chief: Xiane Kängela
Editorial team: Xiane Kängela, Dieter Schindlauer, Katrin Wladasch, Verena Krausneker, Karin Bischof, Hikmet Kayahan, Marta Hodasz, Eva Matt and Wolfgang Zimmer
Advertising management: Jamal Hachem

Graphic design and layout: schultz+schultz / Alva Unger
Printing: Manz Crossmedia, 1050 Vienna

Editorial policy: the Racism Report appears annually and is distributed free of charge. It contains information about racism in Austria and developments in the European Union. The focus is on reports of individual incidents with a racist background and expert commentaries.

The team of the ZARA Counselling Centre for Victims and witnesses of Racism can be reached at the following times to make appointments:

Mon – Wed 10:00 -14:00, Thurs 17:00 - 19:00
T: (01) 929 13 99, F: (01) 929 13 99-99
Email: office@zara.or.at
Internet: www.zara.or.at

publicly sponsored by:



With the friendly support of:



Introduction

The Racism Report is appearing this year for the seventh time. It has become a fixed part of civil courage and anti-racism work. In 2006 the ZARA Counselling Centre worked on and documented 1,504 racist incidents. Here I would like to express my thanks that this stressful work is carried on in such a conscientious and well-grounded manner, all the more so since staff are continually faced with the threat of funds drying up.

The report is, as always, a qualitative compilation of racist incidents from 2006 which have been reported to ZARA. The report makes no statement about the actual number of racist incidents in Austria. Unfortunately, besides the Racism Report, there are only few official statistics which enable statements to be made about racist discrimination in Austria. Official housing and employment market statistics do register the differences between Austrian and non-Austrian citizens, however, the migration background of Austrian citizens is not sufficiently highlighted. Racist discrimination is not directly visible in these statistics. It would be important to carry out studies enquiring about violations motivated by racism.

Information surrounding the Equal Treatment Act form the focus of this Racism Report. With this law and the new institutions, the „Equal Treatment Office“ and the „Equal Treatment Commission“, the legal opportunities for defence against racism have been considerably extended. With inserts about the legal position under the title „Know your rights“ and with a glossary at the end, this report attempts to make the complex field of the law with regard to racist discrimination more comprehensible for readers. The lawyer Wolfgang Zimmer from the ZARA Counselling Centre and the lawyer Katrin Wladasch from the ZARA board have attempted to explain this sometimes dense material on the basis of case examples.

The section „What Happened to ...?“ is new. Because legal proceedings are long and drawn out, after a year has passed only an interim report can be given about some cases. Some cases which were reported in the Racism Report 2005 could be brought to a conclusion in 2006, others will be found again in next year's report.

It is sad that an increase in racist aggression against anti-racism work is to be registered. A selection of these hostile attacks can be found in this report.

ZARA Chairperson Dieter Schindlauer comments on interesting developments in the field of combating discrimination in his „Review of 2006“.

The ZARA demands have been included again. They have been reformulated and adapted but have not basically changed since the first Racism Report in 2001.

The problem remains that the description of racist discrimination in racism reports often unavoidably leads to reproducing the language and logic of racist thinking and that the origin of those affected must be described from the perspective of resentment. Therefore this Racism Report poses the question as to what extent quoting racist graffiti, for example, contributes to the reproduction of racism. To avoid reproduction the graffiti is not individually identified but cumulative statistics are published about it. But also in the section „Racism as a Reaction to Anti-Racist Work“ the question arises as to whether the agitation is given still another forum. However, these possible disadvantages are countered by the advantage that the Racism Report represents a significant means for raising awareness against racism; especially for people who do not have to experience racist discrimination in their daily lives.

However, the report is not only intended to contribute to awareness raising. The legal explanations and examples show opportunities to defend oneself against racism, and that irrespective of whether one is the victim of an incident oneself or has been a witness to a racist incident. In addition, the Racism Report serves to reinforce arguments against those who believe that racism is a trifling offence or the problem of only a few people.

During the course of the year ZARA's precarious financial situation remained unchanged, and despite its great commitment in the realm of civil society it has not yet fundamentally improved. Therefore, as every year, I would like to ask you: if you find that ZARA's work is important please become a supporting member or make a donation. Your contribution makes it possible to support and care for the victims of racism, give information to witnesses and interested people and also to prevent discrimination and aggression through workshops and training.

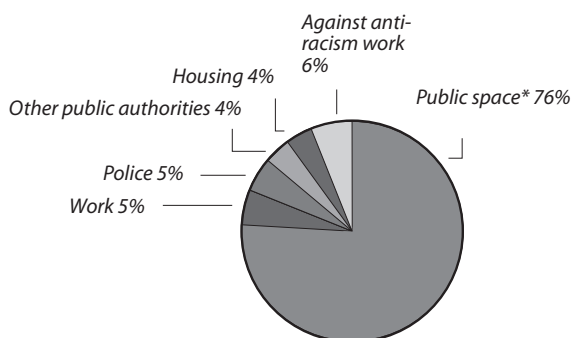
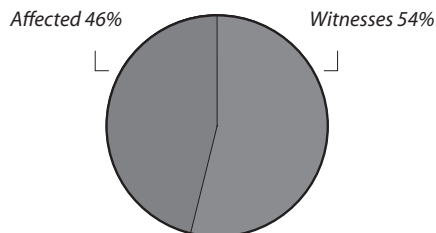
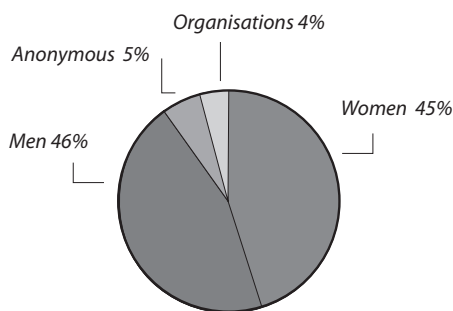
Thank you very much!

Xiane Kängela
Editor and ZARA Board Member

Statistics

In 2006 the ZARA team documented a total of 1,504 racist incidents. 45% of clients were women, 46% men, 5% of cases were reported anonymously and 4% by organisations.

The proportion of witness among ZARA clients in 2006 was 54%. Those directly affected made up 46%.



* From the 1,148 cases recorded in this category 793 were racist graffiti.

Information on the individual fields and their definitions

• **Public space** refers to all incidents which occur in places which are open to a not clearly defined circle of people such as the streets, public transport, in the media and in politics etc. Of the 1,148 cases in this area 793 were racist graffiti.

• **Police** contains all reports which in any form have to do with the administration of law and order and the agency of public security, the police.

• **Other Authorities and Public Institutions** refers to all incidents taking place between private individuals and public institutions and authorities (with the exception of the police) or their representatives, such as in government offices, courts and prisons, schools etc.

• **Housing** is devoted to reports of incidents in the field of housing – >from flat hunting to conflicts between neighbours.

• **Work** contains reports on incidents that have to do with „work“ in the widest sense, the labour market, job seeking, colleagues, conditions, job advertisements etc.

• **Racism as a Reaction to Anti-Racism Work** defines those letters, emails and calls directed against ZARA, against anti-racism work or against individual staff members.

Remarks

It is part of the job of ZARA counsellors to check the truth of incidents reported to them on the one hand, and on the other also to see the situation from the viewpoint of the 'opposing party' or a third party. Counsellors cannot guarantee that all information which they receive – from various sources – corresponds to 'the truth'. The interests of the individual who approaches the counselling centre take priority; their reports are therefore met with trust and understanding. Their statements are taken seriously but may not therefore be accepted uncritically.

Public Space

Public space is generally understood as a space which is accessible to all people in equal measure. However, this ideal of public space does not exist in reality. Public space neither belongs to everybody nor can everybody participate in its shaping or be present there in the same way. Public space in this Racism Report is a political, media, virtual, symbolic but also very concrete urban space.

In this Racism report the political space addressed is less that of legislation and far more that of the symbolic political level. Politics is very closely linked to the media and often uses the media to get across its messages. Cases appear in this Racism Report of agitation against the building of a mosque or where use of the word „Nigger“ is advocated. This year in politics itself during the election campaign, under the slogan „Daham statt Islam“ („Home instead of Islam“), was set out who may stay in Austria and who may not. In addition the subject of integration is repeatedly misused to explain who in this country is foreign and who is a „real Austrian“. In May 2006 the Minister of Internal Affairs referred to a so-called integration study, which it turned out she quoted falsely, to claim that 45% of Muslims living in Austria were not „willing to integrate“.

The internet is an independent medium of public space and so this comprehensive field which is accessible to a worldwide audience is examined separately. People can proclaim their opinions anonymously in numerous internet forums. This anonymity means that people do not mince their words and allow themselves to get carried away with statements which do not shrink from denunciation, defamation, lies and agitation. Pronouncements beyond honest and (self) critical thinking are promoted and reinforced. In addition, the reader is given the impression that these statements are often allowed to stand completely unchecked by the operators of the forums.

In concrete urban space, for example on the streets or on public transport, the aggression which repeatedly befalls the victims and witnesses of racism is shocking. These attacks endanger the basic safety of people affected by discrimination in their everyday lives. They can only be in public space to a limited extent. Reading this report, solely the use of public transport seems to be dangerous for some people living in Vienna.

The graffiti on numerous walls also shows who the space belongs to and who should rather disappear or fear for their lives.

It is good that uncountable witnesses have such incidents documented by ZARA and the number of people who courageously intervene on behalf of others is growing. Master builder Alexander Baumann, who approached ZARA on his own initiative with the idea of the Graffiti Ambulance, inspires strength and courage (see the section „Racist Graffiti“).

It is also good that ZARA has contacts such as Wiener Linien (Vienna public transport authority) and the Wiener Bürgerdienst (Vienna Citizens' Advice Bureau) who react quickly and make efforts to find solutions.

A great variety of forms of racism are brought together in the section „Public Space“. The numerous places where racist discrimination takes place are an expression of the omnipresence of racist discrimination in the lives of many people.



WUK

Das WUK ist ein einzigartiger Freiraum für KünstlerInnen, MigrantInnen, Kinder, TänzerInnen, SeniorInnen, HandwerkerInnen, sozial und gesellschaftspolitisch Engagierte, SchauspielerInnen, KlientInnen der Psychopannenhilfe, MusikerInnen, Körperbehinderte und Nichtbehinderte, KulturvermittlerInnen, SchülerInnen, RadiomacherInnen, PerformerInnen, Fahrradfans, Weiße und Schwarze, Große und Kleine, Alte und Junge.

Werkstätten- und Kulturhaus
Währinger Straße 59
1090 Wien

www.wuk.at

Streets, Public Transport etc.

1 Mr A., born in Ghana, lives and works in Austria. In October at around 15.00 on his way back from work in Schwechat he is walking past an apartment house in the 16th district of Vienna. A man runs out of the house towards him and takes several photographs of him. On Mr A.'s request to stop taking photos, the man shouts at him, „You're all drug dealers, I'll get you!“ Mr A. asks that the photos the man has made should be erased. The man refuses and becomes still more aggressive. Mr A. therefore tries to grab the camera. In the following moment the wife of the aggressive man appears and sprays Mr A. in the eyes with a pepper spray. He collapses in pain. Her husband runs into the ground-floor flat and comes back with a baseball bat. Now two passers-by intervene, call the police and hold onto the attacker. However, on arriving the policemen first want to see Mr A.'s papers and pay little attention to the violent couple. The passers-by, who are taking care of Mr A., are turned away by the police. Mr A. must be taken to hospital in an ambulance.

ZARA accompanies Mr A. through the criminal proceedings. At the time of going to print these are not yet completed.

Know your rights

Pepper spray

Buying or carrying pepper spray is neither prohibited nor does it require a licence in Austria. In numerous cases described in the Racism Report, pepper spray is put to use. In this regard, one must consider the fact that pepper spray is considered a weapon of minor danger. Pepper spray belongs to the so called irritant substances. In general, using pepper spray induces bodily harm. This bodily harm is punishable if it is not covered by the justification of necessary defence.

§ Sec 3 Criminal Code (Strafgesetzbuch)

“A person who only uses defence that is necessary in order to avert a present or imminent unlawful assault against the life, health, physical integrity, freedom or property of her-/himself or another does not act unlawfully.”

Yet, the proportionality between the chosen means of defence and the good to be protected must be given in any case. Interfering with the physical integrity of the other by using pepper spray thus is only justified in case of a threat to one's life or physical integrity – not in case of a mere danger to belongings.

In this regard, there are special provisions for the members of the federal police force local law enforcement authorities. They are entitled to use official wea-

pons in carrying out their duties (sec 3 Act on the Use of Weapons / Waffengebrauchsgesetz)

- *in case of justified necessary defence;*
- *in order to overcome resistance aiming at thwarting obstructing the course of duties in a lawful official act;*
- *in order to enforce a lawful arrest;*
- *in order to prohibit the escape of a lawfully detained person;*
- *in order to avert danger coming from an object.*

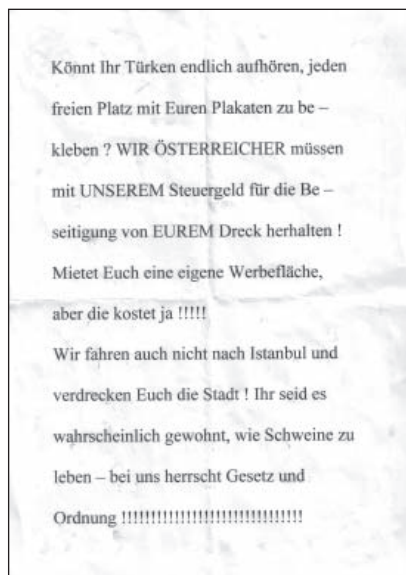
Pepper spray is part of the basic equipment of every law enforcement officer..

Yet, also the use of pepper spray is subject to the requirement of proportionality. “More lenient measures” are to be preferred whenever possible anyhow!

2 Ms O. lives in Eisenstadt, where there is a flea-market each Sunday. There she sees that nazi devotional objects such as portraits of Hitler, swastikas and anti-Semitic slogans on sheet metal boards are on sale. Ms O. thinks that when the men began to sell these things it still took place concealed. However, over the course of time the vendors became more and more free and easy until they were finally openly discussing the value and use of the „goods“ with purchasers. Again and again she sees skinheads, with swastikas on their pullovers, buying these items. Ms O. takes photos with the camera of her mobile phone. ZARA passes these on to the Federal Office for the Protection of the Constitution and Counter-Terrorism. In October the Burgenland State Office for the Protection of the Constitution and Counter-Terrorism reports that the prohibited articles have been confiscated and the vendors prosecuted under the Abzeichengesetz (the law against the wearing of National Socialist symbols).



3 Ms S. sends ZARA the following leaflet for documentation. It was hanging on an electricity distribution box in the 20th district of Vienna.



4 Ms U. sees a group of heavily drunk young Austrian women celebrating an eve-of-wedding party at one o'clock in the morning in Bruck an der Mur. They are eating and drinking at a kebab stand and bellowing loudly. They are spraying perfume bottles around. Ms U. asks what the perfume is for. One of the women answers loudly, „We need it for the Niggers so they don't stink so much!“ Ms U. wants to have the case documented.

5 A witness from Salzburg wants to have the following scene documented. Youngsters are playing football on a sports field when suddenly the groundsman appears and shouts at them without apparent reason. He abuses the youngsters with, „You bloody foreigners, now that's it, get away from here!“

Know your rights

Insult in the street

Ms R., an Austrian citizen of Turkish origin, is abused in the street as „Turks sow“ by two men who tell her to in rude words to „go home“, otherwise they would „slap her face“, as they tell her 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 competent for insults among private parties and that she should turn to the local district court.

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).

Insult in the meaning of sec 115 Criminal Code in general counts as an offence for private prosecution (Privatanklagedelikt). This means the perpetrator is only prosecuted upon demand from the part of the victim. The private charges must be lodged with the competent district court within six weeks. Bringing 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 ethnic belonging or religion of the person insulted, the offence is no longer subject to private prosecution but becomes an offence for public prosecution with entitlement from the part 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 obliged to record the report of the incident and to forward the information to the public prosecutor. The public prosecutor would then have been obliged to seek the entitlement by 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's imprisonment. For this provision to apply, it would have been required that Ms R. had experienced serious fears and worries about her physical integrity. As the men 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.

§ Regarding insult in public space, sec 115 Criminal Code provides that somebody who publicly (meaning in the

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 statistical purposes.

Some days later Ms R. accidentally once more encounters the two men who insulted her. 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 the 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 constitute the criminal offence of bodily harm under sec 83 Criminal Code, which is an offence for public prosecution (Of-fizialdelikt). The police are obliged to forward the facts to the office of the public prosecutor. The office of the public prosecutor is obliged to initiate criminal proceedings or to induce the perpetrators to take steps of compensation for their deed by out of court measures (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 possibility to join the criminal proceedings as a private party. As a private party participating in the criminal proceedings, in case of a conviction, Ms R. may be awarded damages for the injuries she suffered without having to turn to a civil court in separate proceedings. Yet, the criminal court is not obliged to do so

but may as well refer her to civil procedures in order to claim damages. In such a case, or in case the damages awarded by the criminal court should be too low, ZARA can represent Ms R. before civil court for claims amounting to a maximum of 4,000 Euro. For higher amounts, representation by an attorney at law is required. In case of damages in this range being claimed, or if the case is legally too complicated, ZARA arranges for a lawyer to represent Ms R. before court.

Sec 33 no 5 Criminal Code foresees for 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's imprisonment or up to 360 daily rates determined on the basis of the perpetrators usual income), can impose an increased fine for the perpetrator's having acted out of "racist and xenophobic" motivation, which constitutes an aggravating circumstance.

6 Ms V. takes a ride in a Fiaker (horse-drawn carriage) in August. During the trip a political discussion develops with the coachman. He introduces himself as a supporter of the Austrian Freedom Party from birth. He calls for: „Foreigners out. Exactly the same solution should be used with the foreigners as with the Jews. Back then Germany and Austria were purged and we need that now too.“ Ms V. is furious and begins an argument. The coachman says, „I'm no racist, don't get me wrong, let's discuss it fully.“ Ms V. wants to stop immediately and gets out. She reports the incident to ZARA for documentation.

7 Mr G. reports by email, that he was a witness to a street scene one Sunday in Graz. He sees how after the „Aufsteirent“ festival three well well-dressed,



MENSCH BLEIBT MENSCH

slightly drunk men and one woman verbally abuse a woman with a pram and two small children who are walking in front of them. They shout at the woman, who is wearing a headscarf, „You live at our expense, piss off home, you dirty Muslim pig.“ The abusive woman even threatens to kill the Muslim woman. When Mr G. intervenes and asks why they are abusing the woman with her children they also threaten him. Mr G. is almost paralysed by the abuse. He writes to ZARA, „During all of these tirades I didn't get a word out, just shook my head and looked around searching for help. But nobody in the fairly crowded street (the festival had just finished and everyone was going home) had anything to counter the racist abuse of these people. They passed by or even listened in amusement. I stood there in the crowded street among hundreds of people and felt completely alone..“

Mr G. wants to have the incident documented.

8 Ms B. is sitting in a café at the station with a friend who was born in Nigeria and lives in Graz. A man comes into the café and says to her, „I would be ashamed of myself with something like that! The waitress and other customers present find this amusing and agree with the man.

Ms B wants to have the incident documented.

Know your rights

What can be done against racist discrimination? "How does civil courage work?"

The bad news is: there is no patent medicine, and a certain amount of courage is probably always required.

The good news is: There is no need to stand helpless before racist talk and acts. Persons concerned as victims as well as witnesses can and should counteract racism and/or claim the right to non-discrimination. Because discrimination is against the law. Any form of racist discrimination can be reported to the ZARA counselling centre for victims and witnesses of discrimination. The counselling team supports you in taking steps against racism. Another possibility consists in participation in a training for civil courage offered by ZARA.

See: www.zara.or.at/trainings.

Here are some examples showing how one might defend oneself against racism and discrimination:

- Divert the attention of perpetrators and irritate them by talking to them about a completely different topic.
- A quick and witty or humorous rejoinder may be effective in taking tension out of the situation and making a conversation possible.
- Use first-person messages (I-messages). Do not retort with more generalisations, but rather state your own position clearly.
- Being in a group often makes you stronger. Ask others for support and ask them to act as witnesses. Witnesses

are of crucial importance especially for further legal steps. So is drafting a personal protocol of your experience from your memory soon after the incident.

- In case of racist harassment or mobbing at the workplace, one absolutely should keep a diary of what happened, when, where, and who was involved.
- Talk about what you experienced – do not remain silent. Write a letter to the editor of a newspaper, post a statement at an internet forum, turn to a counselling organisation.

9 In May Ms R. writes an email in which she describes her experience in a Viennese branch of a supermarket chain. She sees how a young woman and her companion are standing in a queue at the check-out. The woman is carrying a dog in her arms. A supermarket employee informs her that dogs are forbidden. The woman answers that the dog will certainly not pee on the floor. The employee repeats that dogs are not allowed inside for reasons of hygiene and next time she should leave the dog outside on its lead. Finally the woman with the dog turns to Ms R. and says, „Everybody complains about dogs but nobody complains about Yugos.“ Ms R. answers, „I like friendly people, and I don't actually care where they come from or what language they speak.“

ZARA thanks Ms R. for the report and hopes that more courageous people emulate her.

10 Mr B. reports the following incident which he observed. At around one o'clock in the morning at a big music festival two security men are walking through the rows of tents on the campsite. They ask the festival goers, „Are the girls alright?“ They say there are „Niggers“ around who would steal, sell drugs and rape women. Mr B. is shocked by the racist security advice.

ZARA asks the promoters for a statement but receives no answer.

11 Mr K. is an Afro-American and lives in Vienna. He goes to the Red Cross, Upper Austria, to donate blood. In America he was a regular blood donor, here he is asked from which African country he comes. Mr K. explains that he is from the USA, not from Africa. Then he is asked which African country his parents come from. He again repeats that they are also from the USA and that they all had not been in Africa for over 300 years. The Red Cross employees do not believe him and he is not allowed to donate blood. A short time later he tries again because he assumes that they were only non-uniformed employees. However, he is again rejected as a donor.

Shocked and disappointed he turns to ZARA. A Vienna Red Cross doctor informs ZARA that the USA is a risk region because of the „West Nile virus“. However, after a four-week stay in Austria there can be no further risk. Mr K. has lived in Austria for years. He wants to have the case documented.



deine gewerkschaft

vida

menschen bewegen uns • wir bewegen menschen

vida ist die neue Verkehrs- und Dienstleistungsgewerkschaft.

vida wird die Lebensbedingungen ihrer Mitglieder verbessern und damit einen entscheidenden Beitrag zu mehr Lebensfreude leisten.



OGB | vida

www.vida.at

12 In March Mr W. witnesses a man being subjected to racist abuse by two drunk youngsters. They shout at him, „So where are you from? Are you a Yugo or a Turk? Tell us!“ Mr W. intervenes and tells the youngsters they should stop the abuse, whereupon he is insulted himself. He wants to have the case documented.

13 Ms K. is travelling by train from Graz to Bruck an der Mur. A young man sits diagonally opposite her. As he takes off his jacket Ms K. sees a tattoo of a red swastika on his lower arm. The word „SKIN“ is tattooed on his knuckles.

Ms K. turns to ZARA and wants to know how she should react in such a situation. ZARA informs her that displaying swastikas – whether on clothes or on the body – is punishable under the law forbidding National Socialist activity (Verbotsgesetz). Nevertheless, in such a case she should consider the level of risk to herself before she intervenes.

14 Mr E. was born in Austria and lives in Zambia. He is on holiday in Austria with his Zambian-born wife and their three children. In September the family takes a city train from Leopoldau station to Südbahnhof in Vienna. As the train is coming into Handelskai station Mr E. sees how several young men with close-cropped hair are looking into the train compartment. As one of the men sees a black man sitting alone in the next compartment he whistles to his cronies to join him. They go into the man's compartment. Mr E. sees from their gestures that they are abusing him and threatening violence. The black man holds his hands and his shopping bag in front of his face as protection. At one station he tries to get off the train but is prevented. In the last moment before the train leaves he manages to jump off and run away. Then the men still on the train open the door by force. The train, which has already started moving, must stop, the men get off the train and run after the fleeing man. Mr E. can still see that they catch up with him. Then the train moves on and he loses sight of them. Mr E. is shocked by this incident and wonders whether he should move to Vienna as planned and send his children here to school next year.

ZARA reports the incident to the Federal Office for the Protection of the Constitution and Anti-Terrorism. The responsible officers inform ZARA that police patrol officers will in future pay more attention to perpetrators from the extreme right-wing milieu on the streets and on public transport

15 In October Mr S. gets onto a train in Wiener Neustadt with a friend to travel to Vienna. He sits in a compartment where two men are already sitting. Halfway to Vienna the conductor comes to check tickets. To one of the men, who is standing outside the compartment at this time he says in an unfriend-

ly way, „Show me your passport!“ To the other in the compartment, „I know why I don't like you lot.“ As the first man shows him his passport he asks impertinently, „Is that you?“ He gives him back his passport and goes on. Mr S. is too perplexed to respond but writes a complaint to ÖBB (Austrian Railways), which ZARA joins. The answer includes an apology and the information that a talk has taken place with the conductor in which the importance of correct and friendly behaviour has been pointed out to him.

16 Mr P. reports by email the following scene which he has witnessed. During a train journey from Linz to Vienna a drunk man accosts a woman. He demands that her husband, who does not speak German, should be quiet. The couple tell him that they are from Holland, whereupon the drunk says to them, „I'm sorry, I've got nothing against the Dutch but I do have something against foreigners (...) especially against these shit Islamists!“ With his last words he points to a group of Spanish Catholic pilgrims who are also in the carriage. Mr P. wants to have the case documented.

17 In December Mr M. reports by telephone an incident on the 11A bus in Vienna. After getting on at the Vorgartenstrasse stop he notices a visibly drunk man racially abusing a young black woman. The young woman changes seats to get away from the insults. At the next stop a boy gets on who, as Mr M. says, „doesn't look Austrian“. Immediately the drunk man turns to the boy and asks him aggressively, „Where are you from?“ The boy answers him that he is from Austria, whereupon the man shouts at him, „Kiss my arse, you idiot. You foreigners are all the same. You ought to be gassed!“ The other passengers do not behave as if they are disturbed, on the contrary, an elderly woman agrees with the drunk and also insults the boy. Eventually Mr M. has had enough and begins to put the two in their place and, with another passenger, to look after the boy. The three of them get off the bus at the next stop. Mr M. says to the boy that not everyone is like the two on the bus and he should not feel hurt.

18 One evening Mr G. is waiting for the 13A bus outside the Apollo cinema in Vienna. Mr G. is a practising Jew and wears a traditional skullcap. Three young men in the uniform of the Austrian army come around the corner, see him and begin to harass him. They make fun of his skullcap, tell him they are Muslims and that Islam is the one true religion. They say that they are sorry that the Jews weren't completely eliminated under Hitler. Mr G. stays calm and tries to ignore them but the young men begin to spit at him, push him and kick him. One hits him on the head with his bunch of keys but none of the many people standing around looking on does anything, not even

when Mr G. asks them for help. Eventually the bus arrives and the young men get on. Mr G. wants to have the incident documented.

19 Mr E. was born in Nigeria and lives in Vienna. In March he is on a city train in Vienna with two African friends. They are talking together and laughing when suddenly a man of about 50 years of age verbally attacks them: „Arseholes! You Niggers, get out of here!“ Mr E. asks the man to leave them in peace but he does not stop his insults. Instead he pulls out a pepper spray and sprays it in Mr E.'s face. Mr E. cries out in pain and now other passengers intervene to prevent further attacks by the aggressive man. Somebody pulls the emergency brake, the train is stopped and the police are called. Thirty minutes later they arrive and take statements and the particulars of all those involved.

ZARA accompanies Mr E. through the criminal proceedings. The public prosecutor chooses the so-called „diversionary way“ (see Glossary), the attacker must do community service and there is no further prosecution. ZARA initiates an additional so-called action for collection at the district court so that Mr E. receives compensation for the injuries and pain he suffered. Proceedings are still underway.

20 Ms F. is a witness as a driver on the 43 tram-line abuses a driver sitting in a car near the Lange Gasse stop in Vienna with the following words, „You shit Yugo! I'll smash you shit Yugo! I'll smash your face in! Die you Yugo!“ After some further abuse she eventually intervenes and asks the tram driver to stop his racist abuse. He then turns to her and says „Stupid dirty cow! Piss off!“ As Ms F. gets off at Schottentor, she is given the visiting card of a witness who is prepared to confirm what happened. She reports the incident to the Wiener Linien and three weeks later receives an e-mail from them saying, „Of course we do not wish to tolerate racist behaviour of our staff.

Therefore a talk was had with the driver of the 43 tram. He said that he unfortunately got carried away with this thoughtless utterance after being insulted by a lorry driver. He also said that among his circle of acquaintances and friends were very many people whose mother language is not German and that he has no kind of racist sentiments. Rather he very much regretted that he had been provoked into this venomous expression and wishes to apologise to you and all involved. We also include ourselves in this apology and assure you that we will pay more attention that nothing like this happens again.“ Ms F. sends us the case for documentation.

21 Ms C. was born in Turkey and lives in Vienna. She is on the 52 tram in Vienna with her daughter and a female Turkish friend going towards Baumgarten. The three have finished their shopping

and are on their way home. Shortly before the last stop a drunk man with a beer can in his hand comes towards them and starts insulting them: „Don't speak Turkish! Piss off back to your country! Shit Turks! You stink!“ The three women remain calm and ignore the man until he begins spitting at them and hitting them on the head and in the face with the beer can. Ms C. is physically handicapped. The attacker kicks her and tries to pull her off the tram. She calls for help, her daughter is very frightened and starts crying. Ms C.'s friend is also attacked by the man but is able to pull the emergency brake. The tram driver and a passer-by call the police. The perpetrator attempts to run away but the police manage to catch him. Even as he is already apprehended he still shouts: „Shit foreigners! I'm not gonna put up with anything from you lot!“ The officers behave correctly and ask Ms C. if they should call an ambulance. However, Ms C. prefers to go to hospital later herself. She and her friend have bruises on their faces.


ZARA accompanies the two women through the criminal proceedings against the perpetrator. It turns out that he has many previous convictions for assault and battery. The female judge has to put the accused, who even in court does not stop with racist abuse against Ms C., in his place again and again and finally even have him removed from court. The man is sentenced to five months in prison. The two women are granted compensation of 200 euros each.

22 Dr. E. is an Austrian citizen born in Algeria. One Saturday he is going to the Shopping City Süd on the Badner Bahn (a tram from Vienna to Baden) to go shopping. He gets off the tram at the Vösendorf stop and is stopped by a female ticket inspector. He shows her his annual season ticket for the Wiener Linien, which however is not valid outside the city limits. He is then given the choice of paying 60 euros in cash straightaway or paying by payment form later. Dr E. decides to pay later and gives the ticket inspector his insurance card to confirm his identity. A second ticket inspector joins them. Dr E. wants to have his insurance card back. He puts out his hand to receive it whereupon the inspector knocks it away and accuses Dr E. of taking hold of the female ticket inspector. The inspectors do not give him the card back and tell him he must wait for the police. They claim the card is a forgery. For his part Dr E. now asks for the names or service cards of the two of them. However, they ignore him. Finally he turns to the woman and offers her fifty euros which he has on him. She takes the money, writes him a receipt and gives him back the insurance card.

Dr E. goes to the Equal Treatment Office (see Glossary) and informs ZARA. The Equal Treatment Office is able to agree compensation payment for Dr E. with the Wiener Lokalbahnen AG (the tram operator).

23 One Sunday at Meidling station in Vienna Mr A. sees how a man of around 35 years-old is verbally abusing two youngsters of non-Austrian origin. He accuses them of molesting girls and says he will inform the police and H. C. Strache (translator's note: leader of the right-wing populist Austrian Freedom Party). However, Mr A. sees no girls but only the two intimidated looking youngsters. He supposes that it is an unfounded xenophobic attack. In the meantime the man forces the two to follow him from the platform into the station building. Mr A. now intervenes and offers the youngsters to call the police for them. The two are pleased to accept the offer. Mr A. is then also subjected to verbal attacks by the abusive man. Finally a Wiener Linien employee arrives and takes the particulars of the youngsters and the aggressor.

Mr A. leaves the station without waiting for the police to arrive. Nevertheless he later asks ZARA to find out what happened. The police tell ZARA that although all particulars were taken there were no charges.



DC ★
DISASTER CLOTHING

KIRCHENGASSE 19
NEUBAUGASSE 7
1070 WIEN
PHONE 524 14 09
www.disasterclothing.at

Internet

24 A witness tells ZARA by email that the following entry is in the guestbook of the official homepage of the Eschenau local authority in Lower Austria: „i just find it great to be able to enjoy the countryside here and apart from that there ain't a Yugo standing on every corner.“

Although the witness complains several times the entry is not deleted.

ZARA intervenes and is informed a short time later by the mayor that the entry has been deleted.

25 Ms P. works in an internet café in Vienna and informs ZARA of the following incident. In September a man of around 50 years old comes in, buys internet time and sits down at a terminal. As she goes past him she sees a big swastika tattoo. A short time later he begins with anti-Semitic abuse at the bar. He says, „Jews should keel over dead!“ and similar things. Ms P. is afraid of him and therefore does not dare to intervene. Eventually the man leaves the café with a nazi salute. The cameras installed in the café only serve as a deterrent and are not switched on. The internet access history is also deleted when the computers are switched off. The café owner promises not to delete the access history in future and to have the cameras ready to film in emergencies.

ZARA passes the case on to the Federal Office for the Protection of the Constitution and Anti-Terrorism.

26 Ms E. reports to ZARA the following chat in the Eisenbahn Forum Österreich (Railways Forum Austria):

User A: „Don't want to say anything negative now but it's certainly noticeable that on some lines there are / were staff who weren't so totally able to speak the Viennese dialect. But I'm not now judging the quality of the driving in itself! So no references to it please.“

User B: „Oh! You mean the Yugos and bloody foreigners who drive the trains through the tunnels? Yeah, I have actually noticed them! Are there actually also training manuals in Turkish, as package inserts with the Koran and as picture books? Do these Muslims and Talibans also know which direction they have to send their prayers when they're stuck in the tunnel? Compass and blanket as staff equipment?“

Ms E. asks for the case to be documented. Following her complaint this exchange of words has already been deleted.

27 In October numerous people report having received the following email.

„It was in 2020. The last Austrians!

I was woken up by the call of the muezzin penetrating my ears >from the loudspeakers from the neighbouring mosque. I had got used to it a long time ago. Previously it had been a church but was converted into a mosque many years ago after the old mosque became too small for the Islamic community in our district.

The few remaining Christians didn't dare to object. Our Turkish mayor, Mr Mehmezal said that it was about time to create more space for the one true religion.

The few Austrians who still live in our area all send their children to the Koran school so they can integrate more easily. In schools lessons are in Turkish, also in Yugoslavian or Arabic, depending on the majority. The few Austrian children just have to adapt themselves. Children don't have much trouble learning foreign languages. Alex, our 10 year-old, mostly speaks broken German at home, but keeps plunging into Turkish; we are ashamed because we can't speak it.

Alex is the only child in his class with Austrian parents, he tries to conform as well as he can.

I want to switch on the news on the radio but only find a German-speaking station after searching for a long time. Since the frequencies have been allocated according to the proportion of the population we just have to adapt. The newsreader says that after pressure from the fundamentalist party of the only true path, parliament has made it compulsory for all women to wear a Muslim headscarf. My wife also wears one so as not to be noticed so much; now she isn't immediately recognised as an Austrian and is treated in a more friendly way.

What is more, there has been a unanimous decision to introduce a „Day of Austrian Shame“ to remember the intolerance of the Austrians, especially xenophobia. I look out of my window onto the street. The barricades have not yet been cleared away and smoke is still rising from them; but the street cleaners are already tidying up.

Yesterday Serbian and Croat youths had a battle in our street – or were they Turkish and Kurds? This time our windows remained undamaged.

My wife has found work again. In a Turkish restaurant, as a temporary job. Because foreigners are given priority when jobs are allocated, that's a great piece of luck. I no longer have to go to the employment office. The person responsible for me, Mr Hassan Muftluft, says that as an Austrian I am no longer employable and has told me I could do a language course. Of course I agreed, you don't get such a chance every day.

My landlord, Mr Ali Yueksel, yesterday casually menti-

oned that he had promised our flat to one of his brothers and his family and we should already start looking for somewhere else. In reply to my timid protest he just said that he has very good connections to the local authorities. So now we must leave the flat but we don't find it particularly difficult to leave our neighbourhood. We will probably emigrate to the Anatolian steppes like many of our acquaintances and neighbours. The Turkish government has generously offered a piece of land there to all German speakers. It's a kind of reservation for us. We'll be together there and can maintain our language and culture. This idea has been on our minds for a long time! It is open to argument whether this mail was created because of the elections on 01 October 2006. But send it on

*if it appeals to you.
Long live Austria, still!"*

Research by ZARA discovers that this text has not only been brought into circulation via email but is also in numerous internet forums.



Weiterbildung bringt Sie weiter

Der waff fördert Sie

Mit dem **Weiterbildungskonto** fördert der waff WienerInnen bei der beruflichen Weiterbildung. **PISA Plus** unterstützt Sie beim Nachholen Ihres Lehrabschlusses. Weitere Infos unter **www.waff.at**

Und den Überblick über Weiterbildungsangebote finden Sie auf **www.weiterbildung.at**

Wiener ArbeitnehmerInnen
Förderungsfonds

waff

www.waff.at ☎ 217 48 -555

Politics and the Media

28 The local Bruck an der Mur FPÖ (Austrian Freedom Party) organisation put the following version of the national anthem in their display window:

„Land of Turks and Arabs, land of Slavs and also Niggers, land of Muslims, rich in fundamentalists, home of you with not many kids so you also need the Indians, multicultural Austria.“

Members of Sozialistische Jugend (Young Socialists) report the offence to the police and inform the Documentation Centre of Austrian Resistance (www.doew.at) and ZARA. derstandard.at also reports the incident.

29 In spring several witnesses report an email to ZARA containing a text about the 2005 election from the FPÖ magazine „Wir Wiener“ („We Viennese“). The subject line is: „Easy money – a vision of paradise. Who now gets how much from the state? Austrian families or asylum seekers? CASH HAND-OUTS FOR ASYLUM SEEKERS IN AUSTRIA.“ The Arbeitersamariterbund (Workers' Samaritans Federation) and the Arbeiterkammer (Chamber of Labour) were quoted as sources. There then follow completely incorrect calculations about how much money refugees would receive and it is claimed that Austrians would receive less assistance than asylum seekers.

Wer bekommt was vom Staat

Asylwerberfamilie: Mit drei Kindern (zwei Schulpflichtige)		Österreichische Familie: Vater arbeitslos, Mutter Hausfrau, drei Kinder	
Essensgeld x 5	€ 750,00	Durchschnittliches Arbeitslosengeld:	€ 700,00
Taschengeld x 5	€ 200,00	Familienbeihilfe x 3	€ 336,00
Freizeitaktivitäten x 5	€ 50,00	Freizeitaktivitäten x 5	€ -
dazu Bekleidungshilfe x 5	€ 750,00 pro Jahr	Pro Monat Bargeldleistung:	€ 1036,00
dazu Schulbedarf x 2	€ 400,00 pro Jahr	KEINE Bekleidungshilfe	
		KEIN Schulbedarf	
Pro Monat Bargeldleistung: € 1095,83		ZU bezahlen sind: Miete, Strom, Gas, Heizung, Fernsehgebühren, Hygieneartikel, Kleidung, Schulbedarf, Krankenscheingebühr, etc.	
NICHT ZU bezahlen sind: Miete, Strom, Gas, Heizung, Fernsehgebühren, Hygieneartikel, Krankenschein, Taggeld, ...		Mindestpension	
Aufstellung im Detail:		€ 662,99 monatlich für Alleinstehende,	
Essensgeld pro Person (auch Kinder):	€ 150,00	€ 1.030,23 monatlich für verheiratete Personen.	
Taschengeld pro Person (auch Kinder):	€ 40,00		
Freizeitaktivitäten pro Person (auch Kinder):	€ 10,00		
<small>(Quelle: Arbeitersamariterbund, Arbeiterkammer)</small>			

Im Gegensatz zum Asylwerber hat der österreichische Arbeitslose lange Jahre seine Beiträge für die Sozialversicherung und seine Steuern in Österreich bezahlt.

In den USA kommt ein Asylsuchender auf 13.697 Einwohner!
In Deutschland kommt ein Asylsuchender auf 1.700 Einwohner!
In Österreich kommt ein Asylsuchender auf 265 Einwohner!!!

In cooperation with asylkoordination Österreich (asylum coordination Austria) and Caritas Erzdiözese Wien (Archdiocese of Vienna Charity), ZARA draws up and publishes a statement under the title „Facts instead of agitation“. The statement describes how unsound

the compilation of the figures is. The statement makes clear that Austrian families receive considerably more money from the state than refugees. See also: www.zara.or.at/doc/faktenstatthetzen.pdf

Leistungen aus der Grundversorgung für eineN allein stehendeN Asylwerberin (volljährig), in privater Unterkunft	
€ 180,-	Bargeld für Lebensunterhalt
max € 110,-	Bargeld für Miete
€ 12,5	Gutscheine für Bekleidung
€ 302,5	Total

Quelle: Grundversorgungsvereinbarung (BGBl I Nr. 80/2004)

Leistungen aus der Sozialhilfe für eineN allein stehendeN österr. Staatsbürgerin (volljährig), in privater Unterkunft	
€ 420,-	Sozialhilfe
max € 252,-	Mietbeihilfe
€ 40,-	Heizbeihilfe
€ 712,-	Total

Quelle: Sozialhilfe-Geldaushilfen, Richtsätze 2006, MA 15 (ab 1.4.2006), abrufbar unter: <http://www.wien.gv.at/ma15/sozial/richtsatz.htm#richtsatz>

30 Ms H. sends ZARA the following anti-Islamic OTS press release from the Wiener Akademikerbund (Academics' Association), which sees itself as an education institution of the ÖVP (Austrian People's Party):

„Wiener Akademikerbund: Islam – Cannot be integrated! Policy position of the Wiener Akademikerbund

- Numerous problems which the world of today has with Islam are not, for example, the expression of any 'fundamentalism' but are directly founded in the Koran and the whole Islamic tradition of the last 1,400 years. ... Tyranny and despotism. Inferior position of women. Rejection of laws that are not founded on the Koran revelations...

- ... the primacy of violence anchored in the Koran a dozen times as the basic principle of practising and spreading the Islamic religion ...

- ... It can be shown that the Islamic idea of society is the direct cause of the lingering illness of the economies of these countries. Apart from the rich oil countries, who have also borrowed their luxury >from western culture, there are no Islamic states with a permanently prospering economy on a high level.

- Official Austria likes itself in the role of declaring dialogue on an equal footing with the Muslims a European export article. ... at the latest imam conference the representatives of Islam were given ample opportunity to talk about the 'tolerant and peace-loving' quality of Islam.

This platform serves for propaganda phrases ... Basic Islamic principles are suppressed.

- The problems of our country ... are the product of a completely mistaken migration (sic) policy which is hostile to our own tradition and is committed to the destructive phantasm of a 'multicultural society' ...

- The Wiener Akademikerbund therefore demands an immediate rethink by policy-makers ... Among other things we concretely demand:

- An immediate stop to the award of new citizenship or residence permits to foreigners belonging to the religion of Islam as soon as the proportion of Muslims becomes larger than 9.5% of the total population. This also applies to applications for asylum made by Muslims because the problems of their countries of origin are not ultimately political but are of a religious-cultural nature.

Further enquiries: Wiener Akademikerbund“ (www.ots.at/presseaussendung.php?schluessel=OTS_20060505_OTS0159&ch=politik).

ZARA asks the Wiener Akademikerbund for a statement but receives no answer.

31 Mr H. reports to ZARA the following article in the magazine „Tangente“, the medium of the RFJ (Ring Freiheitlicher Jugend – Freedom Party Youth Ring), No. 02/2006, p. 7: „Negerküsse“ („Nigger kisses“ note: a chocolate sweet). In this article a journalist explains why the term „Nigger“ is the only correct one. In several cases this year this usage has been legitimised by Freedom Party members with always the same arguments. It seems as if the FPÖ has prescribed a campaign for this discriminating manner of speaking. Mr H. only wants to have the article documented.

32 In March Ms Y. reports a racist article from the Upper Austrian regional free newspaper „Tips“. In the column „Between the Lines“ under the headline „Ausländerfeindlich und Ausländerfeindlich“ („Hostile and Friendly to Foreigners“) a journalist puts forward eleven reasons why integration in Austria is failing.



Including:

„... You ask yourself why foreigners are not deported even after their fifth crime, why most of them are unemployed (and so pocket unemployment benefit), why many of them are criminals, why foreigners like to provoke conflict, why they don't come alone but at least ten of them, why they demand and demand, for example, the construction of mosques or the introduction of a swimming day exclusively for Muslims...“

and

„And why do you go on holiday exactly where these foreigners come from and then also bring the rest of your money to those who are not yet here?“ (Tips, March 2006 / 12th week, p. 2)

The commentary triggers numerous protests. ZARA, the OÖ. Netzwerk gegen Rassismus und Rechtsextremismus (Upper Austrian Network against Racism and Right-Wing Extremism)“ (www.antifa.at) and other organisations and private individuals complain to the newspaper. The proprietor terminates the employment of the journalist and distances himself from her commentary. The journalist herself protests to the end that it had not been her intention to write a racist article.



33 An observant reader reports to ZARA postings which he finds on www.vienna.at, a news magazine. They are below an article with the headline „Islamic cemetery set on fire“:

„Long live Austria

i was born in Vienna but my father is Argentinian. the Islamic cemetery has no business in Austria. the shit cemetery must go like all Jews. Heil Hitler!“

and

“a Muslim cemetery on Austrian soil is a desecration of Austr. honour and a humiliation for every single Austrian. Piss off you moronic Muslim-Machos, you criminal twerps, off to Anatolia, nobody needs you here in Austria, you benefit scroungers!“

ZARA documents the postings and asks the editorial staff to prevent such hate postings. ZARA receives no answer.

34 Mr W. is outraged and reports an article in the March 2006 issue of the Bezirksjournal (local newspaper) of Wiener Neustadt/Neunkirchen. The article reports in an inflammatory way about the planned construction of a mosque in Natschbach-Loipersbach in Lower Austria. The front-page headline is, „Call of the Muezzin sounding soon?“ And somewhat smaller above it is, „Threatened break up of world in Natschbach-Loipersbach“. The article itself says that it is intended to build a mosque which will tower over the Christian house of worship. (...)“ And the mayor says: „(...) But we have a rather bad hand to prevent this project. (...)“ Residents are quoted in the article, „Nothing against this religion. But we don't want assemblies of Muslims here!“ One woman resident is quoted, „We're right next door and so we've got the

mess around our necks. If it happens I'll sell my house, but certainly only to a Turk, nobody else is gonna wanna have it!“



Die Menschenrechte im Mittelpunkt

Die SPÖ steht für die Einhaltung der Menschenrechte.

Integration muss von beiden Seiten mit Leben erfüllt werden.

Jene Menschen, die Asyl brauchen, müssen rasch Hilfe und Schutz in Österreich erhalten.



EZA – Natürlich fair

Seit 1975 setzt die EZA – Österreichs größte Fair Trade Importorganisation – den Fairen Handel in die Praxis um. Aus anonymen ProduzentInnen werden Menschen mit Gesicht und Stimme. In ihrem Angebot spiegeln sich Können und Kreativität von über 100 Partnerorganisationen in Afrika, Asien und Lateinamerika.

Genuss und Ästhetik verbinden sich mit Verantwortung gegenüber Mensch und Natur zu einem sinnvollen Ganzen.



NATÜRLICH FAIR

EZA Fairer Handel GmbH

Wenger Straße 5
A-5203 Köstendorf
T: +43/6216/20200-0, F: -999
office@eza.cc, www.eza.cc
Öffnungszeiten Schauraum:
Mo-Fr 9-12 und 13-17 Uhr



Racist Graffiti

ZARA has now been documenting racist graffiti in public space for six years. The amount of graffiti reported increases every year. However, this is not necessarily to be attributed to an overall increase but is also an indication that awareness of the problem of racism has increased and racist graffiti is not only spotted but also reported. Because the overall statistics depend on witnesses' reports, ZARA cannot measure the geographical frequency of graffiti. The ZARA statistics are in no way representative for the amount of graffiti which actually exists in Austria. Nevertheless, certain tendencies in the content can be read from the percentages (see diagram).

It is noticeable that racist graffiti against black people still make up the largest proportion. The insults are „Fuck Nigger“, „Niggers out“, but also death threats such as „Kill Nigger“ are appallingly no rarity.

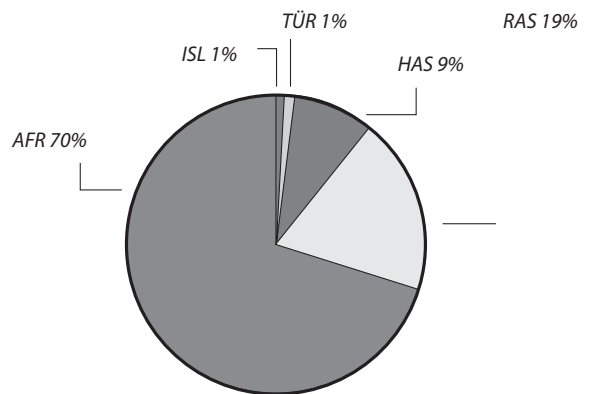
In 2006 there was a considerably higher number of reports due to our cooperation with SOS-Mitmensch in connection with the „Rassismus streichen“ („Eliminate Racism“) campaign (www.rassismusstreichen.at), which have greatly changed the ZARA statistics in comparison to last year. The constant and consistent public relations work by ZARA also explains why graffiti is more frequently reported.



Statistics

In 2006 a total of 793 cases of graffiti were reported to ZARA, of which 127 were in Wiener Linien vehicles.

99% of the reports were in Vienna.



AFR „Anti-African“
 HAS „Swastikas and anti-Semitic“
 RAS „Racist“
 TÜR „Anti-Turkish“
 ISL „Anti-Muslim“

The meaning and significance of racist graffiti

Graffiti has a strong symbolic power because the public space of a city functions as a sign and signal system. A city produces information via advertising, neon signs, posters, graffiti, street names and suchlike. Graffiti can be produced very quickly and works as the bearer of messages. It is subject to almost no control. The extreme frequency of racist graffiti and the fact that it often goes unreported for a very long time and is therefore not removed also shows that Austrian society, in its quiet acquiescence, concurs with these racist pronouncements. In addition they are often confirmations of prejudices and impress themselves on the minds of people who pass by them every day.

A critical approach to racism in public space must be still further promoted. Many people do not notice the

graffiti, others feel powerless and think that in any case they cannot change anything. However, week for week, ever more critical people report graffiti to ZARA with the request for it to be removed. The consistent documentation and removal represents the only possibility for ZARA to act against the graffiti and its toleration.

Know your rights

Ms Z. is angry about racist smearings in the streets of Vienna. Every day she passes by dozens of graffiti saying "niggers out", "kill niggers" [English in the original], "shit Turks", and the like.

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 ink soluble in water, 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).

If 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 up to two years imprisonment or 360 daily rates. If the damage exceeds 50,000 Euro, it is penalised with imprisonment between 6 years and 5 months duration.

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. Graffiti that call for killing, like "kill niggers", may also be punishable under sec 282 Criminal Code (calling for punishable acts or approving of a punishable act).

- Prohibition Statute / Article IX para 1 no 4 of the Introductory Act to the Administrative Procedure Acts §

According to the wording of this provision, a broad application of this law to racist smearings should be expected. A smearing like "kill niggers" or "Niggers out" should doubtlessly 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 is not always arguable to hold for an individual smearing. Also, 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 niggers". 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, too.

- 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 Criminal Code, constitute offences for public prosecution (Offizialdelikte). This implies that members of the police force have to report them when becoming 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 as possible a description 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. After a while, they check whether the smearing is actually removed. If this should not be the case, the described process starts anew. For ZARA, cases of reported smearings are not closed before actual removal.

Please report racist smearings to office@zara.or.at or use the documentation form at www.zara.or.at/kontakt/dokumentation

One day, Ms Z. decides to paint over a smearing on a house that is not her own. She strikes out the words "kill niggers" 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

in 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.

Graffiti Ambulance

Through cooperation between ZARA and the master builder Alexander Baumann the service is now available to have racist graffiti painted over or removed free of charge. The building company „derbaumann“ approaches property owners and property management companies and offers them to paint over or remove racist graffiti on private property free of charge. If property owners and property management companies want to make take a clear stand against racism they can make use of this service to make the walls of buildings free of racism. It is a first-aid measure against racist graffiti. Whoever wishes to make use of this service can contact „derbaumann“ via an online form. See: www.zara.or.at/_doc/Informationsblatt_Beschmierungsambulanz.pdf.

Pictures of the first successful removals of racist graffiti can be found at: www.der-bau-mann.com/index.php?id=45.

**Best
Practice**

The Police

The police are a significant interface between the state and the population. The people in the police apparatus bear especially high responsibility because they are the direct representatives of the state's monopoly on violence and are equipped with special rights. Violent infringements coming from police officers cause all the more concern. It should not be forgotten that the task of the executive is difficult. To be confronted with violence every day and to use violence oneself as the method of last resort causes stresses and strains. However, it is also imperative to bear in mind that police officers think and act in and from the context of Austrian society. Like all other people they live in a society in which very particular racist prejudices predominate. Therefore, only to see the executive powers as guilty does not go far enough. Not only the executive can be accused of the fact that migrants are constantly mentioned in connection with crime. Among other factors the previously mentioned media also play a decisive role. Day in and day out they report about migrants in criminal contexts. Police officers must rise to the challenge of drawing a clear line between the racist media reporting and the people they encounter in the course of their work. However, meeting this challenge is made more difficult by the conditions of the institutional framework, because neither the relevant policy decision-makers nor the executive as an institution itself make a clear commitment against racism. Discriminatory identity checks which are carried out solely because of supposed „ethnicity“ are rather seldom reported to the ZARA Counselling Centre. Reports mainly come to ZARA when a tolerable limit has been exceeded. When, for example, violence has broken out simply because someone asked the way. The cases reported to ZARA as often more than shocking.

The especially sad and horrific „highlight“ of this year is the case of Bakary J., an asylum seeker from Gambia. On the basis of what happened it is clear that not only the officers themselves involved pose the problem but the whole „justice apparatus“ and also the Ministry of the Interior which was not prepared to take a clear and definite stand against racism and racist violence. The case was widely reported in the media. ZARA documented it.

- On 7 April 2006 at 05.00 in the morning the asylum seeker Bakary J. >from Gambia is to be deported by three WEGA officers. On the aeroplane Mr J. informs a flight attendant that he is to be deported against his will and that he has not even been able to inform his wife and two children. The pilot refuses to transport Mr J. on the plane against his will. The WEGA officers have to leave the plane together with Mr J. Instead of bringing Mr J. back into custody awaiting

deportation, they drive with him to a deserted warehouse which is usually used by WEGA for training purposes. There Mr J. is beaten by the three police officers and seriously injured. They threaten to drive over him and subject him to racist abuse. Bakary J. is so seriously injured that he must be taken to hospital. At 08.57 at Vienna General Hospital he is diagnosed with contusions to the head, the left shoulder and both hips as well as a strain to the cervical spine. The police officers explain to the doctors that J. had fled from a police car in the eighth district and injured himself in the process. The doctors note „Resistance to law enforcement officials while attempting to escape“ on his medical record.

- On 13 April the accusation becomes public knowledge. The media report in detail and the authorities begin to check.
- In the meantime both Mr J. as well as the accused police officers have taken lawyers. However, both lawyers come from the same firm. The Rechtsanwaltskammer (Bar Association) declares this to be inadmissible.
- At the beginning of June a report is made public. The forensic doctor classifies the injuries as „serious“. Meanwhile the Public Prosecutor's Office extends preliminary judicial enquiries to a fourth police officer.
- On 21 July the Vienna Public Prosecutor's Office brings charges against the four police officers. They are accused of torturing a prisoner. In the case of being found guilty the police officers are threatened with up to three years imprisonment and with a sentence of more than one year also dismissal.
- At the beginning of the trial on 30 August all the accused police officers plead guilty. They admit letting out their „frustration“ on the Gambian.
- Already on 31 August three of the accused are each given an eight-month suspended sentence. One police officer who had unlocked the warehouse is given a six-month suspended sentence. Mr J. is awarded 3,000 euros compensation for pain and suffering.
- The Ministry of the Interior publicly refuses to apologise to Mr J. As justification they cite his conviction for a drug offence.
- Already on 16 December the sentenced WEGA officers may once again carry out police duty. The Vienna Police Disciplinary Commission imposes fines but the suspension from duty of the officers is lifted. The decision is not yet legally binding because both the Disciplinary Office, acting on the instructions of the Ministry of the Interior, as well as the officers' defence lawyers are appealing against it.
- The Disciplinary Office pleaded for the discharge of the officers. The case is going to the Disciplinary Appeals Commission. At the time of the Racism Report going to print there is not yet a final verdict.

Mr J. is living with his Austrian wife and two children in Vienna, but can still be deported at any time. He is in therapy in order to work through his traumatic experiences.

35 Mr P. is a Mexican citizen. He works as an ambulance man in Austria. In June he is at the Donauinsel Festival with friends whom he loses among the crowds. He does not know his way around Vienna well and asks two police officers the way to the nearest underground station. One of the officers replies in an extremely aggressive tone, „Piss off! Get out of here, you shit foreigner!“ Mr P. says that as someone looking for help he does not want to be treated in this way and asks for the name and service number of the officer. In response the other officer says to him, „Piss off, or we'll arrest you, you little shit!“ Mr P. points out again that the police are there to help people and says, „What's this all about? Here it says P o l i c e ! You should help me.“ Following this statement the older officer obviously takes offence and pushes Mr P. towards his younger colleague who immediately pushes him back. The two take hold of him, pull him to the ground and inflict a deep wound to his right hand, contusions to his left arm, his right hip and abrasions on both knees. One of the officers kneels on his back, the other pushes his head to the ground with his boot and he is handcuffed. They pull him up again and shout at him, „Don't move, you shit foreigner!“ They lead him to a container which obviously serves as a temporary police station at the Donauinsel Festival. On their way to the container they push his arms upwards causing him great pain. Mr P. asks them to stop and to loosen the handcuffs. They do not react. Only an officer in the container orders the two to make the handcuffs looser. Mr P. says that he has done nothing and asks what is the meaning of this treatment. He is told, „You can anyway soon go home.“ A short time later he is taken by the two police officers in a VW bus to the Donaustadt police station. The older officer drives, the younger sits in the second row and Mr P. in the third row. During the journey Mr P. is grabbed at the throat by the right hand of the younger police officer and choked. Mr P. keeps moving around so as to relieve his arms because the handcuffs have been tightened once again and he is again in great pain. For the young officer this is a reason to hit him on the head each time. Both continue to verbally abuse him with, „Shit foreigner.“ While going into the Donaustadt police station he is pushed by the two officers against the doorpost of the entrance and brought to a cell. In the presence of an older commandant Mr P. is briefly questioned but no longer beaten or verbally abused. Shortly before two o'clock he is allowed to leave the police station. The commandant gives him the service numbers of the two officers. On the following Sunday Mr P. goes to Meidling Casualty Hospital due to pain and injuries to his right knee, his hip, both wrists and

both shoulders. Several injuries are diagnosed and he is given painkilling tablets and prescribed ointments. Mr P. receives a fine order for aggressive behaviour towards the police officers and should pay a fine of 140 euros.

ZARA appeals against the fine and draws up a description of the circumstances of the case for Mr P. to send to the Public Prosecution Service. At the time of going to print proceedings are not concluded.

36 Mr Y. is an Austrian citizen of Turkish origin, army sportsman and a representative of Austria at two Olympic Games. He contacts ZARA in November 2006 and reports the following. One Sunday morning with his wife he had been unsuccessfully looking for a parking spot near his flat for around half an hour. A car had been following them at a distance of two or three metres. Suddenly a man unknown to them overtakes them and gets out of his car with a baseball bat in his hands. Mr Y. drives to a nearby police station in Margareten (Vienna). The man follows them. In front of the station Mr Y. sounds his horn and tells the police officers who come out that he is being threatened by the man. One of the police officers says to him and his wife, „Keep your mouth shut and stay in the car. You don't have to shit your pants.“

The police give the man with the baseball bat a breathalyser test and establish that he is very drunk. The police take all particulars, also those of the couple. Mr Y. asks for the reason and is then verbally abused. The police officers shout, „Shit Yugos“, „Shit Turks“ and „Piss off out of Austria!“ To the drunk man they say, „Why didn't you hit him on the head three times?“

Mr Y. also approaches the media. They report on the incident. The Special Investigations Office (Büro für besondere Ermittlungen - BBE), the internal investigators of the Vienna police quickly start investigations. After the first three questionings of the accused officers the BBE explains, „The four accused officers have been allocated to offices not dealing with the public until the clarification of the allegations. On the basis of the results of investigations so far there are suspicions of infringements against criminal law and police regulations. Discriminatory utterances by the police officers cannot be excluded.“

On 15 December the BBE sends a description of the circumstance of the case to the Vienna Public Prosecutor's Office. ZARA counsels and looks after Mr Y. On 19 December a complaint against the police officers involved is made to the Independent Administration Council (see Glossary). At the time of going to print proceedings have not been concluded.

37 Mr P. is a scientific assistant and the Technical University Graz. He is an Indian citizen and lives in Austria. One evening he is cycling home. On his way he is stopped by two police officers. He and his bicycle are checked. The light on his bicycle is not working so he must show his passport. Unfortunately

ly Mr P. does not have it on him but is very close to home and asks the police officers to accompany him there to fetch his passport. Instead of going to fetch the passport with him the police officers force him to spread out the contents of his bags on the street and examine everything. Mr P. asks whether they have a search warrant for such a check and asks for the service card of the two of them because he does not understand their conduct. In response to this question he is sprayed in the eyes with a pepper spray by one of the police officers, the other throws him to the ground and handcuffs him. Mr P. had at no time given the two police officers even the slightest cause for such brutal action. By chance, two witness see the incident and give their names and addresses to the ambulance men who are called to take Mr P. to hospital. They are prepared to testify that Mr P. was groundlessly mistreated. After his irritated eyes have been treated the police officers look through his mobile phone and finally let him go. He is subsequently charged with resistance to law enforcement officials and proceedings are started. The police officers claim that he hit them, bit them and scratched them.

ZARA passes on the case to Helping Hands Graz (<http://helpinghands.htu.tugraz.at>) in order to be able to provide better on the spot help. However, Mr P. takes a lawyer. He makes a complaint to the Independent Administration Council Styria (see Glossary). Mr P. is adjudged to be in the right and the conduct of the police officers judged to be contrary to human rights.

However, because of the charge against him Mr P. must appear before the Graz Regional Court and in the first instance is found guilty. However, his lawyer appeals. A verdict on the appeal has not yet been reached.

Mr P. also approaches the media and the case is reported in detail.

38 Mr S. and his friend are Georgian citizens. Both of them live and work in Vienna. They are stopped by two police officers on Kärntner Strasse and asked to show their identification. Without stating a reason the police officers take Mr S. and his friend to the police station. Their particulars are entered into the EKIS (Police Electronic Criminal Information System). There are no entries with indications of a criminal record for either Mr S. or his friend. The police are visibly annoyed that they have found nothing and insult the two men: „But Georgians are all criminals, arseholes, pigs and idiots.“ After that Mr S. is subjected to a body search and a penknife is found. The police officers take this as a reason to make a criminal out of him. A few weeks later during the course of a driving licence appraisal Mr S. must obtain a psychiatric report because the police officers have informed the Traffic Office that Mr S. is aggressive and is present on the drug scene. Furthermore, he is forbidden to own weapons and is given an administrative fine of 70 euros for aggressive behaviour. Mr S. engages a lawyer

who appeals against the fine. As a result proceedings are abandoned.

Mr S. and his wife approach ZARA. They want to report the case. A ZARA staff member informs them of the principle possibility of a complaint to the Independent Administration Council (see Glossary). However, this possibility can no longer be taken up because the legally prescribed time limit has already expired.

39 Mr P. was born in Nigeria and lives in Vienna. He is an Austrian citizen. He wants to fly to Nigeria with his Austrian girlfriend Ms G. They have applied for the visa but must run all kinds of errands. On the way to the doctor to get a prescription for a traveller's first-aid kit they are waiting for a bus at a bus stop and talking together. Suddenly they are approached by two police officers. Mr P. should identify himself. He explains to the police officers that his passport is at the Nigerian embassy because he has applied for a visa. Mr P. also asks why they want to see his identification. He receives no reply and his girlfriend enquires and also receives no answer. Instead of this she is shouted at, „Shut your mouth! Piss off!“ The police officers insist on seeing an ID so Mr P. wants to take his driving licence from his trouser pocket. Thereupon as quick as a flash one of the officers grabs him and pushes him against the wall. The other attempts to handcuff him. Mr P. defends himself, calls out that he is no criminal and asks why they want to handcuff him. He receives no answer. The police officers hurl him to the ground, one kneels on him while the other pulls his head back. A police vehicle arrives, Mr P. is pulled in and taken to a police station. His girlfriend is not allowed to accompany him. She follows the car on foot. On the way to the police station Mr P. is verbally abused by the police officer driving the car with „Shit Nigger“ and „Niggers stink.“ He shouts back angrily, „And you certainly drive to the Prater every night and fuck black women.“ Then the police officer sitting next to him holds his gun to his head and threatens him, „Shut your mouth, otherwise I'll shoot you.“ Mr P. then calms down. In front of the police station a third police officer says to him, „Come on Nigger!“ Inside he must allow himself to be examined by a police doctor. The doctor tells him that he is accused of assault and battery and resistance to law enforcement officials. Ten hours later he is set free. His girlfriend had waited for a long time and finally left the police station. Mr P. was photographed for identification purposes and his fingerprints were taken.

Two weeks after the incident Mr P. and Ms G. approach ZARA. Injuries to his hands and back can still be seen. ZARA draws up a complaint to the Independent Administration Council (see Glossary) for unlawful handcuffing, unlawful use of physical violence, unlawful arrest and racist discrimination. In court Mr P. is found not guilty of the charges of assault and battery and resistance to law enforcement officials.

40 One balmy summer evening Ms W. is sitting on her balcony with friends, most of them come from former Yugoslavia and live in Vienna. Their children are playing in the play area in the courtyard. As loud shouts are heard from the play area because the children are quarrelling Ms W., who sees that her nephew is being hit by other children, calls out that they should stop. Her friends run into the courtyard and try to settle the dispute. Completely unexpectedly someone shouts from a balcony, „Shut up you Yugos, if you don't be quiet I'm coming down. I'm a policeman!“ Ms W. and her friends are angry about the off-duty policeman's shouting. The children's quarrel continues and the policeman becomes more and more aggressive. He threatens, „I'll come down and lock you up! Go back to the Balkans!“ The women call back that he should rather behave himself as befits a policeman. But the man continues to insult them, „Get out of it, you Yugos. Fight in the Balkans but not in Austria.“ Finally the police arrive and take details of the incident.

Ms W. approaches ZARA and asks what she can do about the policeman. ZARA draws up a complaint to the Independent Administration Council (see Glossary). The commanding officer of the aggressive policeman phones her and apologises for the behaviour of his colleague. He says he has talked to him and warned him. Ms W. cannot accept the apology. She wants the police officer to apologise personally. Nevertheless she does not take the complaint to the Independent Administration Council any further because she cannot risk having to pay legal expenses if the case goes against her.

41 One afternoon in June, Mr B., a recognised refugee from Afghanistan, who speaks good German and Mr S., an Afghan asylum seeker, who can hardly speak German, are on the U6 underground line. The train is quite full. They have to stand. An elderly man of around 60 years old approaches Mr S. At first Mr S. thinks that the man perhaps needs help. But the man says to him and his friend, „What about my wallet? Give it to me back!“ Mr S. says that he has not stolen his money, he can search him and call the police. The elderly man replies that they have certainly already passed on the wallet to someone else. They all get off the train. The police arrive. Mr B. and Mr S. are not given a chance to say anything about the allegations. Instead of this they are handcuffed in front of all the curious onlookers and taken by the police officers to the nearest police station. There they are locked in separate cells, photographs are taken of them for identification purposes and all their clothes are taken from them. Finally they are transferred to the responsible district police station. There too, they are still not questioned about the incident but they are again searched and separated. Around 23.00 a police officer comes to Mr B. and asks him what language Mr S. speaks. He is told that the interpreter is only availa-

ble next day. Mr B. is now finally questioned about the incident. His statement is written down and he signs it. He is then again taken to the cell and must spend the night in custody at the police station. However, Mr S. receives only an information leaflet in German for people under arrest but no information about further proceedings and nothing to eat until the next morning. In the morning he is finally questioned in the presence of the interpreter. He says that it is a case of a false accusation. His statement is also taken in writing, translated by the interpreter and signed by Mr S. As the two of them are released in the morning the police officer who gives them back their clothes says to them, „You anyway only came to Austria for thievery.“ Mr B. attempts to contradict him but has no energy and no spirit for discussions. The criminal proceedings are quickly abandoned by the Public Prosecutor's Office.

ZARA applies for the deletion of the photos made during the arrest and on behalf of Mr B. makes a Regulations Complaint to the Independent Administration Council (see Glossary). At the following discussion at Federal Police Headquarters Vienna, on the part of the police it is insisted that the arrest was legally correct but nevertheless the instructions for interventions by officers of public security services, especially the instruction to be unbiased, were infringed by the police officers involved. The police officers are invited to talks with the service authorities and warned to keep to the stipulations of the instructions. Mr B. and his friend are satisfied with the result of the talk.

42 Dr S. is of Egyptian origin, has lived in Austria for more than 20 years and was a contributor to the project „Police and Africans“. In summer he is brutally beaten up by two young men at a street festival in Stammersdorf (Vienna). Afterwards the two of them run away. When Dr S. encounters them later, he calls the police. Dr S. introduces himself and wants to explain why he chose to make an emergency call. However, the police officers ask him, „Is that title bought?“ Dr S. points out the young men and describes what has happened. The police officers apprehend the two young men and take the particulars of all three. In front of the police Dr S. is subjected to racist abuse by the young men. He asks the police officers to do something about it but they look on and do nothing. They also do not react when one of the young men pushes Dr S. and he falls to the ground. One police officer only says laconically, „What are you actually still doing here? Go home at long last!“ Dr S. is upset that the police officers do nothing to help him. Even when he asks them to call an ambulance they refuse. Instead they ask him, „How long have you been in Austria? For 20 years? Then it would be better that you go back to your home country. You'll live the next 20 years better there.“ Dr S. calls an ambulance himself. It arrives and takes him to hospital. Several serious contusions to his face are diagnosed and he is

examined for a suspected broken jaw. During the following days he complains to the Vienna police president. He gives Dr S. an appointment at the Special Investigations Office. Dr S. describes the circumstances of the case to an officer and has a protocol drawn up. He is told informally there that the police officers describe the incident completely differently in their protocol. However, he may not yet be told anything concrete. His injuries are recorded by the police doctor. A few days later Dr S. receives a fine for 310 euros for offending public decency, causing a disturbance and obstructing the police. He is accused of behaving like Rumpelstiltskin – he had jumped around, had shouted, insulted the police officers, even insulted one officer as a police whore and feigned a supposed attack by letting himself fall off a park bench. With a lawyer he appeals against the accusations.

He reports the case to ZARA for observation and documentation. Proceedings are not completed at the time of going to print.

43 Mr I. reports the following case for documentation. His girlfriend is from Slovakia and in the evening parks her car with Slovakian registration plates in the 15th district of Vienna. In the morning she has an appointment for an interview and is therefore in a great hurry. When she gets to her car she sees that despite the fact that the car is legally parked, the police have clamped it and thus stopped her driving away. She cannot get to her appointment on time and must go to the nearest police station. There she complains and a policewoman accompanies her to her car. She confirms that there is no infringement of the law and says that her colleague doesn't like Slovaks. Mr I. and his girlfriend forego further legal steps.

44 Ms E. reports that she had a road accident in September because of a wild boar. As she is reporting the accident at a Vienna police station she sees how a young man is treated in a very unfriendly way because of an infringement of the law on the employment of foreigners. The police officers ask him for his address. He says that he has lived in a charity home for two years. When repeating the young man's statements the police officer says, „All of you ought to be gassed!“ Ms E. asks the police officer who is taking down her information about the behaviour of his colleague. He says that his colleague has just suffering from private stress.

Ms E. approaches the superior authority of the police officer with ZARA. Consequently he apologises to her in writing and officially states „private stress“ as the reason for his behaviour.

45 Ms A., a young social worker, passes a newspaper seller at the Landstrasse underground station in Vienna who has his papers and magazines laid out on the ground. She sees how four skinheads are urinating on the carefully arranged magazines and

messing them up and tearing them with their feet. Shocked but courageously Ms A. shouts at the four of them, „Are you crazy? What are you doing there?“ The skinheads chant, „German nationalist,“ spit at her and insult her as „foreigner fucker.“ Numerous people pass by this scene. Ms A. feels left alone, is afraid and is close to tears. Finally a police car arrives. Two police officers get out, the younger of the two speaks to Ms A. and tries to find out what is going on. She describes the incident and wants the police officers to do something about the skinheads. However, they do not take her seriously. One of the men spits at Ms A. in front of the police, the others continue insulting her. One policeman attempts to pacify the skinheads. However, their particulars are not taken. Ms A. is stunned. She is especially shocked about the conduct of the police officers but also about the fainthearted passers-by. She invites the newspaper seller, who had hidden himself the whole time because he was frightened, for a cup of tea at her flat, where the two of them recover from the incident. At 2 o'clock in the morning Ms A. goes to a police station in the 3rd district of Vienna to file charges. At first the officers do not want to open the door to her. When they finally do, they tell Ms A. that they will do nothing because she did not ask for the service numbers or notice the police car registration plates. However, Ms A. insists and the police officers register a charge against persons unknown for damage to property.

Ms A. wants to have the incident documented. The newspaper seller does not wish to take further action.

Know your rights

The police

1. *Nigerian citizen Mr G. is stopped in the street by two policemen shortly after leaving the house he lives in. "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 asks him not to address him with "Du". The officer returns: "So you also get impertinent, now we are taking you with us". Mr G. is first searched on spot, 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 soon turns out that he does not have a criminal record, he is released, but without anybody 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.*

2. On one of the following days, Mr G. is involved in another ID check. This time, Mr G. carries 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 going to find something!" He steps up 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 colleagues, who arrive by a police care 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 to him that they will file a complaint 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 are initiated against him under sec 269 Criminal Code.

On the general permissibility of identity checks and arrests

Sec 35 Security Police Act (Sicherheitspolizeigesetz, SPG) defines the limit for permissible identifications. When it has to be assumed on the grounds of certain facts that somebody is connected with a "dangerous attack" (referring to acts punishable by court), or may be in a position to give information on such an attack, or is present in a place where criminal offences are committed or where offenders are hiding, he/she is obliged to cooperate in identification. Thus both alleged/potential perpetrators and witnesses of a punishable act are under the obligation of cooperating in determining their identity. They have to disclose their name, date of birth and address of residence and, if required by the reliability imposed by the relevant occasion, substantiate the data by means of identity cards etc. A person suspected of a criminal offence may be arrested under sec 175 of the Code of Criminal Procedure (Strafprozessordnung) for instance if they are "caught in the act". The suspect must be released from custody inside 48 hours or be brought before the competent court (investigating magistrate).

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).

In any case the detainee must be told what he/she is reproached with. The arrest must be explicitly pronounced.

Sec 29 Security Police Act defines the so called principle of proportionality. Under the principle of proportionality, law enforcement authorities should choose from the means that they are entitled to use and that are effective the one that presumably least harms the person concerned and they must take into account the protection of the rights and the interests of the person concerned. The aim that is pursued must be in a justifiable relation to the damage and danger that is to be expected.

Rights and obligations of persons subjected to an act of official duty or arrested:

Any person subject to an official act (Amtshandlung) must on demand be informed about the aim of the intervention 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") vis à vis all persons where this is customary or who demand to be thus addressed.

According to sec 6 of the Guideline Decree, the persons affected by the act of official duty must be informed about their rights as well as about the aim of the act by the acting law enforcement officer, unless this is

obvious anyhow or would endanger achieving the aim of the act.

Sec 7 Guidelines Decree stipulates that persons entitled to informing or involving a trusted person or legal advisor must be informed about their respective rights.

According to sec 9 Guidelines Decree, law enforcement officers have to inform persons affected by an act carried out in official duty about their official identification numbers (Dienstnummern) upon request. Whenever possible, this number should be handed over on a small card.

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 about why he/she is subjected to the treatment for assessing personal characteristics, and, under specific circumstances, is entitled to having 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

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, also the 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 taking the 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. Awarding damages to the victim is not foreseen. 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 complaint is liable to cover the cost of the procedures, which usually amount to about 600 – 700 Euro.

Furthermore, Mr G. has the possibility to 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 inside 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 that is charged with supervising the acting officials in question. In the case of Mr G., that is the Police Directorate Vienna (BPD). After the BPD having investigated the facts on their part by questioning the involved officials or through their reports, the BPD has to inform the complainant in writing about whether or not the situation constitutes a violation of the Guidelines Decree. The BPD also has the possibility to arrange a meeting between the involved officials and the complainant where they can talk the incident over, 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's being 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 of the guidelines complaint in a direct encounter, as it involves the three reproaches of the impolite form of address, racist discrimination, and of not disclosing the official identification number, and as a "measures complaint" has been lodged simultaneously. If the BPD should not find a violation of the Guidelines Decree, both complaints would be treated jointly by the Independent Administrative Tribunal.

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.

What can Mr G. do in the second case?

Also in this case, the officers violate 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 discriminate against Mr G because of his origin, which is obvious from what they say. Furthermore, they address 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 not only represent Mr G. 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 also decides about the lawfulness and appropriate measure of the fine. As Mr G. did not behave aggressively and thus did not impede the officials in carrying out their duties, which in addition is certified in by two witnesses, the odds for the fine being lifted and the procedures being closed are good. Above that, sec 85 Security Police Act foresees that persons who also have to stand in court for the same act cannot be 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 stand 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 is well advised to do so and be represented by a lawyer of his confidence. In case of Mr G. being acquitted, he can receive a reimbursement of a 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 a high number of members of the police force make statements similar to each other. The statements of officials are considered more reliable and more credible than that of the victim of transgressions because of the official oath sworn by the officers. This argument often even is induced to gloss over inconsistencies in their statements. However, as Mr G. can present two independent witnesses, his chances of being acquitted are good also in the criminal procedure. If he is pronounced guilty, a sentence of three to six months imprisonment on probation is likely. "On probation" means that Mr G. does not have to serve the sentence if he does not commit a similar criminal offence inside a probation time 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 sentence may also be increased in the second instance.

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. had not been in line with the truth, the public prosecutor will possibly start criminal procedures against the officers, as their giving false information certainly constituted the criminal offence of "giving wrong 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.

ZARA's demands

Opfer von rassistischen Polizeiübergriffen, die sich Victims of racist police misconduct wanting to lodge a complaint with the competent Independent Administrative Tribunal carry a considerable risk of legal costs. In most cases, their statement is confronted with several contrasting statements from the involved police officers. As an outcome of the procedure, they cannot expect more than a finding on whether or not laws or

guidelines have been violated. There are only limited chances for compensation payments being awarded in separate public liability proceedings with a new risk of legal costs. Anyone taking onto him/her the inconvenience of all these procedures should be taken seriously and be given a fair chance of presenting his/her cause.

- Complaints against measures taken by law enforcement officers or complaints under the Guidelines Decree serve elementary human rights claims and therefore should be processed at no cost.
- Tying the finding of the Independent Administrative Tribunal regarding a violation of the Guidelines Decree, the Security Police Act and/or the European Convention on Human Rights to consequences in terms of legislation pertaining to claims for damages.
- Conducting proceedings before the Independent Administrative Tribunal as human rights proceedings on the issue of state responsibility for the conduct of state officials, independent from the individual responsibility of the officials. This requires and enables a reversal of the burden of proof in the proceedings.

In light of the conflicts that often arise in the context of getting information about the official identification numbers of law enforcement officials, or the impossibility of getting this information, ZARA demands that police officers carry their official identification numbers on their uniform in a clearly visible way. Visibly carrying ID numbers on the uniform is the practice for example in the USA, but also in Poland and in Slovenia.

The profession of police officer involves psychological strain. Law enforcement officers have to intervene and mediate in situations where various conflicting positions are in confrontation and other mechanisms already have failed. We demand improved training in applied and applicable conflict resolution and stepping up psychological support for police officers, in particular supervision. These measures should be taken already before the effects of the strenuous work become apparent.

Other Authorities and Public Institutions

People often face us not as independent individuals but as representatives of particular institutions or authorities. Vice versa, in many situations in our lives, we encounter institutions such as kindergarten, school, university, local council office or the employment service, in which people act as individuals. For their part, these people bear more responsibility because they self-evidently have to represent their authority. But on the other hand they can also „hide“ behind the precisely regulated fields of work and procedures. Although they act in the position of executive officers they can also communicate certain value judgements. For example, when an Vienna city councillor administrator has numerous pictograms and signs designed gender-neutral, the model character of her decision is clear. In a similar way with the police, the social background also influences the style of behaviour of administrative officials. To accuse one official alone of racist behaviour does not go far enough. The Austrian context, the legal provisions and public discourse influence the behaviour of these people. Nevertheless, the prohibition of racist discrimination also applies to administrative staff.

It is pleasing that in 2006 there was once again good cooperation with the Ombudsman, who is responsible for checking grievances in the administration, which can also refer to questions of equal treatment. More information about this can be found at www.volksanw.gv.at.

46 Ms D., who has just finished a course on „intercultural skills“, goes for advice to the Chamber of Commerce in Wels. She would like to know how she can best set herself up in self-employment. Her adviser lists several fields in which she could use her skills. He says it would be important to counsel companies about conflicts with „black people“, there are always communication difficulties with them. Furthermore he explains to her that „Nigger“ is not a word of abuse. When Ms D. contradicts him, he says that in Tyrol, where she comes from, it might be different. Ms D. does receive the information material she wanted about the legal framework of self-employment but is outraged at the views of the adviser. Ms D. draws up a letter of complaint which ZARA joins. A first written reaction from the superior of the adviser says that a dissertation could be written on the use of „Negro“ or „Nigger“. The adviser's statements were not directed against Ms D. With her complaint she would only harm herself. In addition, accusations cannot be proven here because it is one person's word against another. Ms D. is appalled how little sensitivity there is for the pro-

blem of racism and asks ZARA to intervene again. In response ZARA receives a letter from the president of the Chamber of Commerce, Dr. Christoph Leitl. He expresses his thanks for the criticism and encloses statements from the adviser and his superior in which they apologise and state that it is far from them to discriminate against people of a different origin. Ms D. is satisfied and hopes that the two officials have now developed an awareness of the theme. She finally says, „In a certain way this incident was certainly also a kind of „intercultural sensitivity training“.

47 A witness, Mr T., reports to ZARA that at his son's kindergarten and ultimately also at other City of Vienna kindergartens „Mohr im Hemd“ (note: a chocolate pudding, literally „Moor in a shirt“) was still being offered by food suppliers. He does not wish to tolerate this and firstly crosses out the dish on the meal plan displayed. Furthermore, he calls the local council and makes a complaint. A council officer tells him that he should not be so sensitive and should not feel attacked. After all, there are also Frankfurters and Vienna sausages. Mr T. answers back, „If we've managed to make 10 little ghosts' out of 10 little Niggers' shouldn't it also certainly be possible to make chocolate with a shirt' or something similar out of Mohr im Hemd? He explains to the council officer that it is especially important in pre-school age to teach children which words are racist insults and which are not. Thereupon the woman gives in and says she will try to influence the company.

ZARA joins the complaint and is assured by the City of Vienna that the food supplier will from now on be more sensitive about the names it gives to its dishes.

48 Mr L. is from Angola, lives in Vienna and in February, after passing the theoretical part of the driving test, went for his practical driving test. At the test with Mr K., the driving examiner, he fails. However, neither his driving instructor nor Mr L. can understand the reasons. Moreover, already before Mr L. gets into the car, the examiner says in front of witnesses, „I haven't yet seen a Black who can drive.“

ZARA writes a letter to the driving examiner. He replies with a letter in which he apologises for his discriminatory remark and the impression thereby caused that he was biased. However, on the basis of an enclosed test record, he could clearly demonstrate that the reasons for failing the test were objective, that is why he refused to award a driving licence. Mr L. wishes to take no further steps.

49 Mr J. is an Austrian of Kurdish origin and in summer parks his car in front of an office of the Vienna Employment Service (AMS). he touches the bumper of another car with the bumper of his car. There is no damage. However, an employment service adviser suddenly calls from a window, „You Yugo! Piss off! You’ve damaged that car there!“ and further in the room behind her, „I think he’s Tunisian, this Yugo!“ Mr J. goes to the window and sees that the woman works at the foreigners’ employment department of the AMS. Mr J. is so outraged at the woman’s behaviour that he goes to her superior to complain. He says that he is not responsible because it is a personal matter of the woman. Mr J. is sent by the head of the office to the city head office and the complaints centre there. Together with ZARA the incident is reported. A few months later there is a meeting between Mr J. and the woman from the AMS, who apologises for her behaviour.

Ich bin dabei...

...weil wir gemeinsam
mehr erreichen können.

Sie leben in Österreich und besitzen keine österreichische Staatsbürgerschaft oder haben diese erst während Ihres Aufenthaltes erworben?

Sie kommen zwar aus Österreich, leben aber derzeit in einem anderen Land? Oder Sie engagieren sich in Beratungsstellen oder Initiativen für und von MigrantInnen?

... dann sind Sie bei uns in der Interessengemeinschaft (IG) **work@migration** der GPA-DJP genau richtig.

work@migration - die Interessengemeinschaft für MigrantInnen der GPA-DJP

GPA-DJP- und IG-Mitglieder haben es besser.
Überzeugen Sie sich selbst:

www.gpa-djp.at/interesse



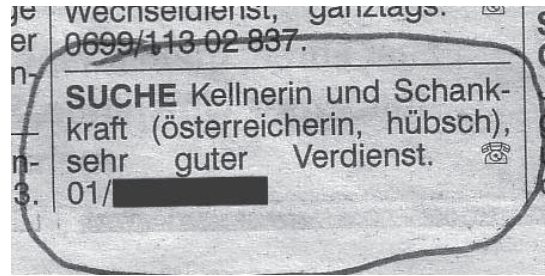
Work

Work is the basis of life for many people. Racist discrimination in the world of work has been forbidden in Austria since the Equal Treatment Act came into force in 2004. At the same time, a negative correlation is often established between the themes of the employment market and migration. In public discourse migrants are portrayed as a threat to Austrian workers and unemployed migrants as a threat to the welfare system. Repeating these supposed problems over years and ignoring the real dilemma, the lack of jobs in general, has negative effects. Apart from the restricted rights of access to the employment market due to the law on the employment of foreigners which apply to so-called third country citizens (see Glossary), and beside the fact that numerous migrants do dangerous, „dirty“, badly paid work which is subject to seasonal fluctuations irrespective of their qualifications or education, they are exposed to racist discrimination themselves when looking for work and at their workplace.

The cases of discrimination reported in the field of „work“ are far fewer in number than for the field of „public space“. This could be connected to the fears and difficulties attached to reporting such an incident. Reporting racist discrimination at work can have consequences which contribute to aggravating the situation despite the fact that the Equal Treatment Act expressly forbids victimisation (see Glossary). Work is the basis of life and thereby important for earning a living. Possible problems at work or the chance of being sacked in connection with an intervention represent an obviously intimidating scenario for many people, especially when residency in Austria is also dependent upon being in employment.

Besides the listed areas there is also an additional risk of racist aggression at the workplace for potentially concerned persons – and this is not only from superiors or colleagues but also from people from outside the company. Taxi drivers, for example, are again and again exposed to attacks by passengers or, as described in this year's report, >from passers-by.

Discriminatory wordings of job advertisements can be reported since July 2004 through a provision of the Equal Treatment Act. However, due to the lack of assertion of the provision hardly any penalties are imposed. This is the sorry balance of over 100 discriminatory job advertisements reported by ZARA (see „Review of 2006“). It remains to be hoped that the Equal Treatment Act, whose effects are not yet really noticeable, will help those affected obtain their rights and contribute to the development of an awareness among potential perpetrators that they are in the wrong.



50 Mr R., an Austrian of African origin, is looking for a job in the hotel and restaurant industry. From a tip from his circle of friends he finds out that a the position of chef de rang is being advertised by a renowned city-centre restaurant. Mr R. introduces himself to the owner and the two agree that Mr R. should work a trial day at an hourly rate of 11 euros. At the end of the day the owner is satisfied with Mr R.'s performance. It is decided that the work contract should be fixed. However, at the arranged appointment, instead of the promised work contract, Mr R. is offered another trial day. The owner is suddenly no longer sure whether he was satisfied with Mr R.'s work. He accepts the trial day and tries to convince his boss that he can provide the service demanded. However, at the end of the trial period he is only offered the position as a commis de rang. This is unacceptable for Mr R. He simply asks to be paid the remaining part of his agreed wage. When he appears for the calculation of the still unpaid hours the owner is in a bad mood and asks him what he wants in the restaurant at this time. Mr R. points out that he has simply come at the agreed time and asks to be paid his wages. The restaurant owner goes into his office, fetches money and gives it to Mr R. with the remark that he is only paying him 7 euros and not the agreed 11 euros per hour for his work. Mr R. is stunned and tells his problem to the ex-wife of the boss, who is present, and other employees. Thereupon he receives 210 euros with the assurance that in no case will he get more. Mr R. takes the money but once again points out that it is unfair. The restaurant owner then becomes so furious that he threatens to hit Mr R., hustles him out of the restaurant and pushes him onto the street with words like „Nigger pig“.

Mr R. first approaches the Chamber of Labour, which results in the payment of the rest of the agreed wages.

On Mr R.'s behalf ZARA files a petition to the Equal Treatment Commission (see Glossary) to establish discrimination on the grounds of ethnicity as well as harassment. At the beginning of September is the hearing in front of Senate II. The verdict on the petition is still pending.

51 Mr S. was born in Turkey and is an Austrian citizen. He lives and works in Vienna. In July his taxi is called to an address in the 2nd district of Vienna. His passengers have already got into the taxi when he notices that a cyclist rides past and scratches his car. Mr S. takes the cyclist to task whereupon he shouts at him, „You foreigners, you pigs! You always do that! You Yugo, you shit! We'll drive you out of Austria! Give me your particulars, I'll destroy you!“ Mr S. tells the man several times that he should calm down but because the cyclist does not stop, he calls the police. Suddenly the cyclist raises his arm in a nazi salute and shouts „Heil!“

The police officers who arrive do not feel themselves responsible because there is no physical injury and they refuse to take down a report.

Mr S. insists that at least the nazi salute should be recorded, but the police officers also refuse this and say he should go to a court. Mr S. must then fill out the accident report alone with the aggressive cyclist. While doing so the cyclist tells him the whole time how „horrible“ foreigners are for him. Mr S. does not react to this.

On behalf of Mr S. ZARA files a petition for harassment to the Equal Treatment Commission (see Glossary), Senate II. Proceedings are currently not concluded. In addition ZARA reports the violation of the Verbotsgesetz (the law prohibiting nazi activity) to the Public Prosecutor's Office Vienna. The date set for proceedings is the beginning of 2007.

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://ris.bka.gv.at>, numbers of the decisions: 13 OS 45/00 and 13 OS 47/00.

52 Mr and Mrs O. come to the ZARA Counselling Centre and report the following incident. Mr O. reads an advertisement in a newspaper that a kitchen help is wanted. He telephones the potential employer, who immediately asks him where he comes from. Mr O. says that he was born in Nigeria. Thereupon the man retorts impolitely that he would not employ him and hangs up. Mrs O. phones the potential employer and tells him that she finds the unfriendly treatment of her husband out of order. The man on the telephone explains to her that she must leave it to him who he employs. In addition, in his kitchen are mainly working „Yugoslavians“ and these two „groups“ would not get on together. With the words, „Forget me!“ he hangs up.

ZARA informs Mr and Mrs O. about possible legal

steps. However, the two of them do not wish to take further action.

Know your rights

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 sacked and the reason given is that he as a foreigner and Muslim just caused too much 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 by the 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 belonging 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. is 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 care of the discrimination being stopped. 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 a right to being awarded the benefits in question, the training measures, a right to 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 a financial damage has been done - and immaterial damage – serving the 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, be it the employer, a third party involved in an employment relationship, or a third party outside a specific employment relationship. 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. Also the instruction to harass an individual makes the instructing party liable to damage claims.

Finally, also dismissals that are unjustified and motivated by discrimination can be challenged by taking legal action with the competent labour court. This also holds in case 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.

53 Ms R. reports to ZARA that her young friend S. works for a big Austrian supermarket chain. After studying she had worked her way up in the administration and can now engage another employee to support her. She decides for a black female applicant. Her line manager says, „Don't you know that we don't employ Niggers?“

Ms R. and her friend find this awful, wish to remain anonymous, but at least have the incident documented.

54 Ms Ö. was born in Turkey, lives in Carinthia and had just completed her medical studies. A friend tells her about a post with a general practitioner. She goes to an interview with the doctor and his wife, who is also a doctor. Dr T. leaves the room for a short time and his wife looks through Ms Ö's job application, sees that she was born in Turkey and asks about her religion. Ms Ö. answers that she is a Muslim. Dr T. now joins them and would like to discuss working hours and salary but his wife interrupts him. She could not accept Ms Ö. as a Muslim. Ms Ö. is stunned and asks what her religion has to do with the job. Dr T. (wife) says that she cannot tolerate Muslim women in Austria because Islam oppresses women. Ms Ö. attempts to argue against this but Dr T. (husband) backs up the statements of his wife. Next day Dr T. leaves a message on her answering machine that he cannot promise her the job because there are two other applicants.

Ms Ö. asks ZARA for advice. ZARA draws up a complaint on her behalf to the Equal Treatment Commission (see Glossary). At the time of going to print, pro-



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

Der Republikanische Club – Neues Österreich existiert seit 20 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 Cafe Hebenstreit. Das Programm steht auf der Homepage: www.repclub.at. Falls Sie/Du regelmäßige Programmzusendungen erhalten wollen, bitte ein Email an repclub@repclub.at senden.

ceedings are not concluded. Derstandard.at publishes an article „No job because Muslim“ („Kein Job weil Muslimin“), at:
<http://derstandard.at/?url=/?id=2716426>.

55 An employee of an employment agency reports to ZARA that one of her clients applied for a job at a hairdressing salon. When the young woman phones there, she is firstly asked about her origin and then about her religious affiliation. She says that she comes from Afghanistan and is a Muslim. She is then told that she cannot be employed there because of her religion. The employment agency employee then phones herself and she is also told that only people of the Roman-Catholic faith are employed. ZARA informs her and her client about possible legal steps. However, the young woman does not wish to take action.

56 An observant reader again and again comes across so-called „Austrians only“ advertisements in the small ads section of the „Badner Zeitung“. Despite the fact that she and ZARA repeatedly intervene at the newspaper and ask for the omission of such advertisements, they continue to be published. ZARA finally takes the case to the Equal Treatment Office (see Glossary) asking that they too write a letter to the newspaper. At the time of going to print the Equal Treatment Office has still not received a reply. The „Austrians only“ advertisements are documented by ZARA.

57 Mr W. has a taxi firm in Graz. He reports to ZARA that colleagues of non-Austrian origin often have problems with all three Graz taxi central switchboards. One of them has a contractual provision in principle not to employ „foreigners“ as taxi drivers. At the request of customers the others send only „Austrian“ taxis. Mr W. wants information on the legal situation. ZARA informs him about the Equal Treatment Act and the EGVG (Introductory Provisions to the Code of Administrative Procedure).

Know your rights

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. Citizens of the new EU member states that still are subject to transitional arrangements restricting access to the Austrian labour market, and third country nationals (see „Glossary“), may still be excluded under certain conditions. This exclusion is based on provisions in aliens' employment legislation that make employment of the two before mentioned groups difficult.

Nationality

Unequal treatment on the grounds of nationality expressly is not covered by the prohibition against discrimination. Still, under an interpretation that is faithful to the law, this exception clause can only be interpreted to hold for those circumstances where non-Austrian citizenship entails the application of certain special legal regulations, like provisions of the Aliens' Employment Act or from aliens' and asylum law. It may however not be interpreted to mean that discrimination on the grounds of ethnic origin can be camouflaged as being based on nationality and thus not falling under the scope of the Equal Treatment Act. This strategy is obvious in the „Austrians only“ advertisements documented in the Racism Report.

Ms R. after all is an Austrian citizen, so these provisions do not concern her case. 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“).

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.

(Unless otherwise indicated, references to sections refer to the Federal Act enacting the Federal Act on Equal Treatment [Equal Treatment Act, Gleichbehandlungsgesetz – GIBG] and amending the Federal Act on the Equal Treatment of Man and Woman in Employment)

§

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.

Also in this regard, it is not the restriction to Austrian citizenship which 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 po-

pulation 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 disadvantage 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.

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") that may bring the case before the Equal Treatment Commission (see "Glossary"). The competent Senate II of the Equal Treatment Commission drafts 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, an alleviation of the burden of proof is in place in favour of the applicant. 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 which the Commission has found from being repeated. The proceedings before the Commission cannot lead to damages being awarded. Yet, the opinion of the Equal Treatment Commission is a good basis for subsequent proceedings before a civil court. Yet, also in court there is no possibility for Ms R. to claim employment on the job in question. In the case under discussion, she only would be entitled to a compensation payment amounting to a minimum of one monthly wage – unless the respondent can demonstrate only having refused to consider the application (i.e. that Ms R. had been excluded from the further application process on the grounds of ethnic belonging, but would not have been eligible for the job anyway because of lack of qualifications). In this case, Ms R. would be entitled to a maximum amount of 500 Euro in compensation payment.

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 to 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.

In case of a compensation claim under civil law, the issue of bringing proof is essential. In a specific case it will be difficult to proof for the job applicant, that she/he would have been the best candidate for the position, similarly it will be difficult for the employer to proof that the application was not excluded from consideration on the grounds of a specific characteristic.

Regarding the 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 is that Ms R. is not party to the proceedings, such that she has no right to being informed about 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.

ZARA's demand

The pertinent sec 24 Equal Treatment Act should be established as an offence for public prosecution (Ofizialdelikt) in order to provide an effective means for eliminating such advertisements being posted. As so far it has not been clarified which public authority should keep a register of sentences under Sec 24 Equal Treatment Act, and it is therefore not possible to assure that fines are actually imposed for repeat offenders, the possibility of issuing warnings should be abandoned and fines should be imposed also for first time offenders. In order to keep also larger companies from posting this type of discriminatory advertisements, the upper limit for fines should be significantly increased, and in particular in repeat cases, the fines for such companies should have noticeable financial consequences. Otherwise the law cannot guarantee that companies having no problem to afford the maximum fine of 360 Euro will stop their discriminatory practice.

FÜR die Betreuung unserer bestens eingeführten Druckerzeugnisse suchen wir in Niederösterreich jeweils eine(n) Haupt- und eine(n) nebenberufliche(n) **ANZEIGEN-VERKÄUFER** auf selbstständiger Basis. Wenn Sie Inländer sind, Führerschein B und einen PKW besitzen, idealerweise auch einen PC zur Verfügung haben, bieten wir Ihnen nach gründlicher Einschulung sehr gute Verdienst-Möglichkeiten und eine langfristige Zusammenarbeit. ☎
0699/ [REDACTED]

Housing

Secure and adequate housing is among the basic needs of all people. Protection against racist discrimination is therefore, besides in the sphere of work, also legally provided in the sphere of housing. However, the reality in Austria makes clear that housing is nowhere near being free of discrimination. Apart from the fact that, statistically, people with a background of migration live under far worse conditions, they also, on average, pay more for their flats. Even the preconditions for finding a flat are not equal. The various conditions are often already a result of the respective legal status of people affected by racist discrimination and sometimes prevent access to social housing for migrants. It should also be borne in mind that for some people having their own flat means more than a place of protection and security. In order to be granted an extension of their right of residence third country citizens (see Glossary) must provide evidence of their housing situation. At the same time, due to structural discrimination, migrants who have lived in Austria for less than five years are excluded from access to social housing and racist discrimination allows only limited access to the housing market. Their continued residence in Austria, and thereby planning their lives, depend upon whether or not they have a suitable dwelling.

Difficult access to housing is caused on the one hand by state structural provisions and on the other by private persons. When the hurdle of flat-seeking has been overcome, there are not rarely conflicts with neighbours which make life difficult for those affected. It is noticeable that the children of migrants are repeatedly the trigger for outbreaks of violence or reports to the police. The questions, „What is noise and what is a noise nuisance?“ seem to be seen very differently. The numerous outbreaks of aggression which are documented in this section, as well as the frequency of attacks are horrifying and show how important it is to find solutions here.

ZARA is pleased about good cooperation with the Area Renewal Offices which continually support clients with offers of mediation. Nevertheless it sometimes seems difficult to continue living next door after too many nasty insults or even physical attacks have taken place. Moving flat is often the only possible solution.

58 Mr and Mrs M. live in Laxenburger Strasse in Vienna. Mr M. comes >from Africa, his wife is Austrian and pregnant. There is a café very close to their flat. During the night drunken customers from the café again and again ring on their bell. Mr M. is sometimes subjected to racist abuse or asked for drugs.

Also on one night in May. Mr M. goes down to see if everything is in order and notices three men standing in front of the door of the apartment building. He asks what they want. They shout at him, „We want to fuck the Nigger up the arse!“ And harangue him with more racist insults. Two of the men take their belts out to hit Mr M. with them. A fight starts. Mr M. is injured. One of the attackers accidentally is hit by a punch from one of his cronies because Mr M. has dodged out of the way. Finally Mr M. manages to call the police, who record the incidents as „an affray“.

ZARA accompanies Mr M. to the criminal proceedings against all those involved. Proceedings against the attackers are abandoned. However, Mr M. must defend himself because he is accused of the man's injury. Mr M. is only found not guilty because the testimony of the three men is contradictory.

59 While looking for a flat Ms G. finds an advertisement on the internet which states that the flat will only be rented to „Austrians“. She reports the website to ZARA.

ZARA draws up a letter of complaint to the operators of the website and receives a pleasing reply: „Thank you for the information, the relevant advertisement has been deleted. Furthermore I have added the terms „only Austrians“ and „no foreigners“ to my word filter, which means that advert texts containing these words can no longer be published.“

The screenshot shows a real estate advertisement form. On the left, there is a sidebar with a search bar and a list of filters. The main content area displays the details of a property for rent. The form includes fields for the date, location, and contact information. The property is described as a 2-bedroom apartment in a quiet location, suitable for a family. The form also includes a section for the user's contact details and a button to submit the inquiry.

Know your rights

Mr Y. is from Brasil. 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 nigger!" 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 Introductory Act to the Administrative Procedure Acts (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen, EGVG) (see Chapter "Denial of service", "Know your rights").

In addition, Mr Y. is entitled to claims under the Equal Treatment Act, which regulates discrimination in access to and the provision of goods and services including housing in its third part. 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 nigger") on the grounds of ethnic belonging have occurred. Subsequently, Mr Y is free to initiate civil procedures to claim compensation (compensation for pecuniary damages and for the personal damage suffered).

60 Several tenants of an apartment house in the Vienna city centre report to ZARA a notice on the noticeboard. „Perhaps we can once again manage to motivate all the residents in the house to keep it tidy so that the house lives up to the standard of a city-centre house and when opening the door to the room where the rubbish bins are kept one does not have to assume that one is in a foreigners' district.“

ZARA intervenes in writing to the property management company, requests the removal of the notice and furthermore that in future they should keep their messages free of discrimination. The company apologises and distances itself from any kind of intention of racist discrimination.

61 Ms V. is of African origin. She comes to the ZARA Counselling Centre and reports that she has had problems with her neighbours for several years. She is accused of being loud, not separating her rubbish, „making too much dirt“ and leaving the communal laundry untidy. Her neighbours insult her with „shit Nigger“ and have even notified the Youth

Welfare Office because they accuse her of neglecting her child.

ZARA organises an appointment for Ms V. at the Area Renewal Office Favoriten, whose staff support her and help her to find a new flat.

62 Mr O. was born in Turkey and is an Austrian citizen. While looking for a flat he finds one offered to rent on the internet and calls the phone number. The man who answers asks Mr O. who he is calling for and then says, „Some Austrians call on behalf of foreigners. I don't want to rent the flat to foreigners and refugees because they don't pay the rent.“ Mr O. is perplexed but asks for more details about the flat. The landlord says that he has reduced the rent. „I've already told you that I've reduced the rent. Haven't I already told you that I've reduced the rent?“ And then he hangs up. Mr O. speaks with a clearly noticeable accent, which is certainly why the landlord was so unfriendly.

With the support of ZARA Mr O. decides to make an application to the Equal Treatment Commission (see Glossary) to have them check whether this is a case of discrimination. At the time of going to print proceedings at the Equal Treatment Commission are still pending.

63 Ms N. was born in Innsbruck and grew up there. However, her parents are from Turkey. She is looking for a flat with her boyfriend. He finds a possible flat and they go together to view it. They are both enthusiastic and want to sign the tenancy agreement immediately. The owners of the flat insist on getting to know the two of them. During the conversation they are told that the owners would not want tenants who have parties the whole time. Ms N. assures them that she would not do that. Thereupon the landlady says to her, „Where do you come from, if you don't mind me asking? Ms N. explains that she was born and grew up in Austria and that her parents were from Turkey. The flat owner reacts to this with a visibly disappointed „Aha.“ However, the conversation continues and it is agreed that the tenancy agreement should be drawn up next day. Still on the same day the couple receive a phone call from the estate agent who must inform them that they will not get the flat because Ms N.'s parents come from Turkey. He himself is shocked and says he would testify as a witness for them if they wanted to take legal steps.

ZARA explains the legal situation to Ms N. and offers to accompany her in legal proceedings. She discusses this with her boyfriend but then decides to take no steps against the flat owners.

64 Ms K. comes from Turkey and lives in Vienna. She comes to ZARA because of a conflict with her neighbour, Ms S. who makes life difficult for her and her family with repeated reports to the police about noise. Ms S. is the only person in the apart-

ment house who complains and she insults Ms K. as „shit Turk“ or „shit foreigner“. Once there was even spit over her letter box.

ZARA supports Ms K. in administrative criminal proceedings, which go against her. Ms S. accuses her of causing a noise nuisance through children crying during the night. Ms K.'s small nephew once spent the night at her flat, otherwise he only visits during the day. At the time of going to print proceedings have not been concluded.

65 Ms T. comes from Russia and lives with her two children on a council housing estate in Vienna. Ms A. has a dog and also lives on this estate. Ms A. regularly takes her dog for a walk in the courtyard and allows it to defecate on the grass near a children's playground. Dogs are not allowed on the grass, which is also made clear by a sign prohibiting dogs. Ms T. repeatedly points out to Ms A. that it is forbidden to take dogs for a walk on this grass. One day in September the dog does its business on the grass again. Ms T. again points out the sign to Ms A. She answers her, „You Yugo, you can German speak?“ Ms A. replies, „I can't only speak German, but in contrast to you I can also read what's written on that sign.“ Some time later Ms T. sees Ms A. and her dog on the grass from her window. Ms T. asks her again to get off the grass and is again abused with the words, „Yugo, anti-social foreign bitch, go to work instead of always sitting at your window,“ and is shown the middle finger. Ms T. approaches Wiener Wohnen (housing company) who speak to Ms A. and the situation improves for a few months until she again begins letting her dog go on the grass. Ms T. contacts Wiener Wohnen again. The client service centre writes a letter to Ms A. A few days later Ms T. pops out of her flat to do some shopping. When she comes back her children are completely hysterical and are frightened. Ms A. had wildly battered against the door and threatened to call the police if the children did not open the door immediately. Ms T. takes her children and goes to Ms A. to take her to task. A young couple, who are neighbours, accompany her. Ms A. opens the door and shouts at them, „What's up? Why have you Yugos come to me?“ Ms T. answers, „That's what I wanted to ask you. Why do you come to me and threaten my children with the police?“ Ms A. points to each and every one of those present and says to them, „You Yugo, you Yugo, you Yugo.“ Ms T. asks what she wants from her and whether her rage has anything to do with the letter from Wiener Wohnen, that she does not wish to be called „Yugo“ and that she should leave her children in peace. Since Ms A. only continues with verbal abuse they want to leave. Suddenly Ms A. punches Ms T. in the face. The weight of the blow makes Ms T. falter, she almost falls against the banisters. Luckily her neighbour catches her. On the same evening Ms T. goes to the police to report the incident. Three days later Ms T. is taking the hospital report on her injuries to the face and ear to

the police station. By chance on the way she encounters Ms A. who again insults her.

Ms T. finally approaches ZARA. A ZARA staff member draws up a description of the circumstances of the case for the Public Prosecutor's Office because of racist insults. The proceedings about assault and battery on the one hand and racist abuse on the other are brought together. The ZARA staff member accompanies Ms T. to the first hearing and observes the trial. At the time of going to print criminal court proceedings are not concluded because further witnesses must be questioned.

66 Ms D. is Jewish and in April makes a report about her neighbour's 16 year-old anti-Semitic son. The young man sings radical right-wing songs from his open window and again and again chants, „Heil Hitler“ or „Jewish pigs“ with his friends who visit him. Once Ms D. observes how the young man's mother rushes into his room and shouts at him that he should at least close the window.

Ms D. approaches ZARA, asks for the case to be documented and asks about legal possibilities. ZARA informs her by letter that „Heil Hitler“ constitutes an element of revival of nazi activity (Wiederbetätigung) and is a criminal offence. The neighbour could be reported to the police. However, ZARA tells Ms D. that she should consider that in the case that charges are pressed she will have to be a witness and that the perpetrator is her neighbour. If she decides to take legal steps ZARA will stand by her. At the time of going to print Ms D. has not replied.

67 Mr G. sends an email to ZARA and reports that he has lived in an apartment house in the 12th district of Vienna with his wife of Russian origin and two children for one year. Since the family moved in they have been terrorised by their neighbours. One neighbour addresses Ms G. and says to her, „You has to clean!“ To one of their daughters she says, „Here not Russia, here Austria!“ At every opportunity she rings on the door of the flat. One time the reason is their rubbish, which is not properly separated – she regularly examines the family's rubbish – another time it is grit in the corridor. Several times in the presence of Ms G. the neighbour says that the building has always been „free of foreigners“ and that everything would be done to keep it that way. After a further confrontation with other neighbours the G. family receive a phone call from the landlady. For his part Mr G. writes a letter to the property management company and sends a copy to ZARA and the Housing City Councillor (Wohnbaustadtrat). ZARA informs Mr G. in detail about the legal possibilities. However, because no further problems have arisen since his letter, he does not wish to take action for the time being.

Refusal of Service in Locales and Shops

Although the refusal of service in locales and shops for racist motives is forbidden, as this section shows it is still commonly practised in dealing with customers, clients and consumers. However, also in this field there are new opportunities which can be taken.

Know your rights

Access to goods and services

Mr D. from Nigeria is an 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 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 with darker skin colour also is not let in for the 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 niggers" 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

§

This provision, which is rather well hidden inside the Introductory Act to the Administrative Procedure Acts, rules 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 competent for these complaints. ZARA can file a written complaint with the authority on behalf of Mr D. The 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 compensation 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 of selling 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 through 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 next to the discrimination in access to the shop. By abusing Mr D. as "shit drug nigger", and by the physical attacks, 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 a compensation payment for the personal damage he suffered by the harassment. The law foresees a minimum amount of 400 Euro for this.

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 police officers must record an incident that they become aware of and that might fall under this provision on their own device and they must 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.

ZARA's demand

It is desirable that the prohibition against discrimination be upgraded from a minor administrative penal provision to an offence in the Criminal Code. Shifting the responsibility to independent criminal courts and the public prosecutor as public prosecuting authority would mean that such incidents could also be handled by means of out of court settlements ("Diversion" in German, see "Glossary"). For example, the discriminating person might have to apologize personally to the victim or have to do community service. For repeat offenders, fines considerably higher than the current ones would be foreseen. Above that, there would be the possibility to award compensation payments to the victim in the framework of criminal procedures without the victim having to incur the risk of legal costs in a separate procedure under civil law.

68 Mr M., born in Iran, law student, Austrian citizen and his friend want to visit a dance club in the 22nd district of Vienna. The doorman does not allow them to enter and tells them that the club is full. The two ask whether it is a temporary bar on entry or whether it applies to the whole evening. The doorman repeats that the club is full. The two friends move aside to discuss what they should do. They see that other people who arrive after them are allowed to enter. They go back to the doorman and ask why they are not allowed into the club. He now explains to them that only a certain contingent is reserved each evening for other nationalities, but it is full for this evening, they should come earlier next time. Mr M. and his friend thank him for the information and leave the site. Mr M. calls the police and describes what has happened. The police advise him to go to the nearest police station and report the incident.

At the nearby police station the two describe the incident, whereupon the policewoman on duty only asks laconically whether they would wear white shoes. With the words, „But that's ridiculous, why do you come here with something like that at this time?" she refuses to make a report. Mr M. says that he was requested to make a report at this station when he called the police emergency number. The policewoman repeats that it is ridiculous and fetches a colleague. Mr M. again describes what happened but the policeman says that it is not a matter of discrimination. This kind of „selection" is „the right of the owner". Both tenants as well as customers can be chosen and if no „foreigners" are wanted they just have bad luck and have to look for another locale. In addition, „foreigner" is not a discriminatory umbrella term. It is only discriminatory when „Jews or black Africans" are not let in. Mr M. begins to discuss the matter and explains to the police officer that, „Discrimination entails a differentiation based on any unreasonable or unobjective criteria." The policeman finds this weak-minded and asks where he got it from. Mr M. answers that he has this definition from the guidelines of the European Union. He knows this from his law studies. The policeman is then ready to register a report.

Mr M. approaches ZARA. Together a letter of complaint is written to the management of the discotheque and the police officers at the station. In both cases a discussion takes place. The police officers repeatedly apologise and say that on the evening in question they had a difficult case. Mr M. even additionally receives a written apology. Also discussed was discrimination and their duty under Art IX Clause 1 Line 3 EGVG (Introductory Provisions to the Code of Administrative Procedure) (see „Know Your Rights"), according to which in such cases public security officers should pass on reports to the responsible district administration authorities.

In a discussion the management of the discotheque also apologised and handed over a written apology. As compensation Mr M. receives the promi-

se of a VIP card for the year. He is very satisfied with the outcome of both discussions and thanks ZARA for their support.

69 Mr C. is an Austrian of Senegalese origin. He lives and works in Wiener Neustadt. He wants to visit a locale in Wiener Neustadt with an Italian friend. His friend is allowed to enter the locale but he is refused entry on the grounds „only Austrians“. He tells the doorman several times that he is an Austrian and asks to see the manager, who confirms the doorman's statement.

Mr C. reports the incident to the responsible Wiener Neustadt council office (District Administration Authority see Glossary) and the trading supervision department. Together with ZARA he files a petition to the Equal Treatment Commission (see Glossary). In addition the incident is reported in the *Niederösterreichische Nachrichten* newspaper.

The fact that Mr C. is not willing to accept discriminatory treatment makes the owner of the locale so furious that for his part he brings an action against Mr C. to stop him spreading untrue statements. The claim amounts to 7,000 euros. Because above a claimed sum of 4,000 euros it is compulsory to have a lawyer, Mr C. must be represented by a lawyer in court. The preliminary hearing is to take place in January 2007.

With the support of ZARA Mr C. again files a petition to the Equal Treatment Commission for infringement of the prohibition of discrimination. (Benachteiligungsverbot). The prohibition of discrimination is regulated under the Equal Treatment Act and says that an individual may not be disadvantaged as a reaction to a complaint or the initiation of proceedings for the implementation of the equal treatment precept (Gleichbehandlungsgebot). At the time of going to print all proceedings are not completed.

70 Another case is reported to ZARA from the same locale in Wiener Neustadt (see case 69). Mr B., of African origin, wants to enter the locale with his friend who is also from Africa, with other visitors in front of them and behind them. A security man stands in their way with his legs apart, stretches out his arms and calls, „Stop!“ They stand still and see how other visitors are still being let into the locale. They decide to go to eat somewhere else.

Together with Mr B. ZARA files a petition for discrimination to be established to the Equal Treatment Commission (see Glossary). At the time of going to print proceedings are not completed.

71 A witness reports the following incident by email. With a friend of his, who was born in India and lives in Vienna, he wants to visit a discotheque which is open from four o'clock in the morning. However, the doorman refuses them entry without giving a reason. The two confer briefly and decide to ask the doorman for the reason. The moment they open the

door, the doorman punches the Indian friend in the face and closes the doors. They call the police, who also come, but only take the particulars of all present. The person who made the report only wants to have it documented.

72 Mr T. is an Austrian citizen. His mother comes from Israel. He wants to celebrate his birthday with friends in a Vienna city-centre locale. He had rented a separate room in which he can celebrate in peace from 23.00 until one o'clock in the morning. They are then asked by a waiter to pay for the consumed drinks. They do this when suddenly a man approaches Mr T. and shouts at him, „The space, we need the space there! Leave now!“ Mr T. anyway wanted to go somewhere else and so tells the man, who it later turns out is the locale owner, that he will finish his drink and then leave. Thereupon the locale owner tries to pull the glass out of his hand and in doing so spills the contents. However, Mr T. holds on to it and in doing so it hits the owner on the head. Mr T. apologises immediately but his opposite number goes ballistic and throws glasses and ashtrays around and shouts, „Piss out of the place!“ A third man intervenes and grabs one of the guests by the shirt. Mr T. and his friends want to leave the locale but he is prevented from fetching his jacket by the newly arrived man. The man also grabs his shirt and chokes him forcibly. Mr T. is able to get away by taking off his shirt. One of his friends finally manages to fetch his jacket and calls the police. Mr T. leaves the locale but the owner and two other men follow him. In front of the locale they push him into a corner, verbally abuse him with „Jewish prick“ and hit him in the face. Mr T. falls to the ground and injures himself again. Finally he manages to get away. The locale owner calls after him „Piss off. You pack of Jews! Get out of Austria! We don't need you!“ At this moment the police arrive and the aggressors try to run away but the police officers catch them up. When Mr T. goes to the police officers the locale owner shouts at him again, „There he is, the Jewish prick!“ Mr T. asks the police officers to put a stop to this but they do nothing to prevent further insults and threats. The locale owner threatens to „deal with him“ with an iron bar and „stick it up your arse.“

Mr T. approaches ZARA. Proceedings are opened under Art IX para1 line 3 EGVG (Introductory Provisions to the Code of Administrative Procedure) (see „Know Your Rights“). The locale proprietor must stand trial for defamation and causing bodily harm.

ZARA files a petition to the Equal Treatment Commission (see Glossary) for discrimination due to ethnicity in access to a service and additional harassment. Proceedings are not yet completed.

73 Mr V. comes from Nigeria, his girlfriend from Austria. Together they want to visit a dance club. They are turned away by the doorman. A little while later his girlfriend tries again on her own. She

is immediately let in. Mr V. makes enquiries about the legal situation but finally only wants to have the case documented.

74 Mr U. is Brazilian. He is living and working in Vienna for one year as an associate professor. One evening he wants to visit a discotheque but the doorman refuses him entry. Although he asks several times he is not given a reason for the refusal. He asks two other security employees who arrive for the reason and hears from them, „We don't want any drug dealers here!“ Mr U. calls the police but they refuse to come on the grounds that it is a matter of a private locale and they are not responsible in this case. Mr U. is bewildered because in Brazil the police would intervene in such a case. Brazilian locale owners would then let people in after all, because otherwise they would be threatened with an expensive legal action.

Mr U. approaches ZARA and together a petition is filed to the Equal Treatment Commission (see Glossary). Proceedings are not yet concluded at the time of going to print. Mr U. wants the public to be made aware of this case and writes an article in the magazine „Stimme“, which appears in edition No. 59/Summer 2006 and is also published on www.no-racism.net. ZARA sets up an interview with an Online-Standard journalist which can be read at derstandard.at. The ORF (Austrian Broadcasting Corporation) programme „Heimat fremde Heimat“ reports on the case and carries out a test at other locales.

75 Mr M. and his friend, who is a British citizen of African origin, want to visit a locale in the arches of the Stadtbahn on the Gürtel in Vienna. At the door the two of them are refused entry because „black-skinned people have caused problems.“ Mr M. approaches ZARA. The manager is contacted. He regrets the incident and says there must have been a misunderstanding. The staff have been told not to let in drug consumers, drug dealers or hooligans. He apologises for the doorman's conduct. Since the conversation with him, no further complaints have come to ZARA about this locale.

76 Ms H., her friend of Kurdish origin and two female Austrian friends want to go dancing at a well-known club in March. The two female friends are let in, Ms H. and her friend are not. The reason given is that the club is full and there is a private party. A short time later she attempts to enter the locale alone. She is let in.

Ms H. approaches ZARA and together it is decided to write a letter of complaint to the club. However, it remains unanswered.

77 Mr B. wants to go out with two friends. All three live in Vienna and come from Kenya. They try to go into three different locales. In front of them all they are told, „No Blacks“. Mr B. approaches

ZARA and is given information about possible legal steps. However, he only wants the incidents to be documented.

Within a short time ZARA receives eight complaints about a Vienna nightspot from witnesses and people affected. In each case people are refused entry to the locale because of their origin. ZARA and the initiative „Gast und Wirt“ (www.hausordnung.org) draw up a letter of complaint to the management asking for a statement. In the reply the management point out that the doormen certainly had no racist motive and for the management it is a question of drug dealers who are not allowed in. Furthermore they want to make clear that „all cultures are treated equally.“ ZARA and the association „Gast und Wirt“ are invited to a talk to clear up the situation. There the management are informed about the provisions of the Equal Treatment Act. During the talk the manager emphasises several times that there is a drug problem in his locale and that racist discrimination is certainly not in line with his business policy. Again and again he refers to the mixed audience. The suggestions by ZARA and „Gast und Wirt“ to work out rules of the house which conform with human rights and are non-discriminatory or the opportunity for staff to take part in ZARA workshops are not taken up by the manager. He says he has a problem with drugs and not with racism. As a result a media discussion flares up. ZARA draws up a statement to make our own position clear.

See: www.zara.or.at/materialien/stellungnahmen/stellungnahmen/2006/stellungnahme_flex.pdf.

There have been no further complaints about this locale since then.

79 Mr S., who is of Nigerian origin and lives in Vienna, wants to go into a betting locale at Praterstern. He wants to watch football and buy a betting newspaper. He is told to leave the locale by an employee on the grounds that the boss does not allow Africans in.

His wife reports this to ZARA. A letter of complaint is drawn up to the betting shop but ZARA receives no answer. Further possible legal steps are not taken up by Mr S.

80 Mr and Mrs L. want to visit a discotheque on the Donauinsel. Mr L. was born in Mexico and is an Austrian citizen. At the entrance they only want to let in Mrs L. on her own. The two talk longer with the doorman. They want to find out why they have not been allowed in. The doorman tells them that he has his criteria, that it is a private locale and he can choose his customers. Mrs L. supposes that the Mexican origin of her husband represents a problem for the locale. Friends of theirs visit the locale on the same evening without being stopped at the door.

Ms L. approaches ZARA. She wants a letter of complaint to be written to the management. In the reply

it is disputed that staff could have behaved in a discriminatory way. Many of them are „foreigners“ themselves. The letter contains no kind of apology. Despite the unsatisfactory reaction the couple neither want to file a petition to the Equal Treatment Commission (see Glossary) nor make a complaint to the District Administration Authority (see Glossary). The case is documented by ZARA.

81 Ms Y. goes with a group of friends to a dance locale in the arches of the Stadtbahn on the Gürtel in Vienna. One of her friends, a Tanzanian, leaves the locale for a short time to say goodbye to another friend. As he wants to go back into the locale, the doorman no longer lets him in, the supposed reason is that only women are being allowed in. He explains that he has just come out of the locale and is a tourist with a valid passport and visa. He says that his friends are inside and would be waiting for him. Finally he phones Ms Y. who immediately comes to the door to see what is happening. The doorman tells her that he does not let in people he does not know if they would react aggressively. Ms Y.'s friend, however, was at no time aggressive. On the other hand a customer and friend of the doorman says to him (in English), „Go to sleep. Go back to your camps!“ and wants to attack him, which Ms Y. prevents by standing between the two men. She calls the rest of her friends who are in the locale and all of them leave.

Ms Y. approaches ZARA. The management apologise for the incident and assure us that the security personnel have clear instructions „not to discriminate on the grounds of skin colour or ethnic origin.“

82 Ms P. goes to a dance locale in the arches of the Stadtbahn on the Gürtel in Vienna. There they are dancing with two Africans on the dancefloor when they are suddenly requested to leave the locale by the doormen. Asked for the reason the doormen say, „Orders from above, you'll have certainly done something or other.“ The two women tell them that they have been dancing with the two men the whole time. The two men have certainly not done anything wrong. Ms P. also says that she does not want to be in a locale where people are thrown out because of the colour of their skin. To this she receives the insolent answer, „Then just don't come here anymore!“

Ms P. reports the incident to ZARA but does not wish to make a legal complaint.

83 Ms A. was born in Venezuela and lives and works in Austria. In August she wants to visit a locale in Wiener Neustadt with her son and a group of friends. Some of her friends are Austrians, some are not. As Ms A. wants to enter the locale the doorman says to her, „No shit Niggers are allowed in here.“ Ms A. is speechless. Her son asks the security man what that is meant to mean. He replies, „That's what our boss said and we do what the boss says.“ As his son attempt-

ts to defend his mother he is forcibly pushed aside by the doorman. Two policemen in plainclothes with police identification discs, who are by chance standing alongside, grab him and twist his arm behind his back. When he says that racist discrimination is forbidden the policemen answer that they do not care and he is still not allowed in the locale. Now Ms A. intervenes and says she is also manager of a locale and knows exactly what is forbidden. This costs the doorman only a mocking sneer. One of the policemen tells the group to go to another locale.

Together with Ms A. ZARA files a petition for the determination of discrimination to the Equal Treatment Commission (see Glossary). At the time of going to print proceedings have not been concluded.

84 Mr V. is walking along Laxenburger Strasse. As he passes a pub he notices a discussion between the two doormen and an African. The two are explaining to him that they cannot let him into the pub because the other guests would complain. There are too many foreigners in the area. They cannot all be let in. Mr V. intervenes and contradicts the two. However, the doormen threaten him and say that he should vanish and he has no idea. Mr V. and the African leave because they want to avoid any further escalation. Mr V. promises him to report the incident.

Together with ZARA he draws up a letter of complaint to the pub and a petition is filed under the EGVG (Introductory Provisions to the Code of Administrative Procedure) (see „Know Your Rights“). At the time of going to print there has so far been no reaction.

85 Ms R. is a German citizen of Indian origin. She is spending a year in Vienna doing European voluntary service. In April she wants to make a cycling excursion to Neusiedlersee. Near the station in Eisenstadt they want to hire bicycles from a hire shop. As they go into the shop there are three other customers present waiting to be served, a 14 year-old youngster, his father and a man of around 30 years old. The shop owner is not in the room at the moment. When he comes back with a girl he asks who is first. The man says that Ms R. and her friend are in front of him. The father says to the shop owner, „Those two want something from you,“ and he answers derisively, „Those two have no business wanting anything from me. If they want something they should go back to their home country!“ The youngster and his father laugh. The owner adds maliciously, „I'm an avowed racist!“ Ms R. replies, „If that's the case, would it be better for us to go?“ – „Yes, go back to where you came from,“ says the owner. Ms R. says that she comes from Germany. The owner then says cynically, „Yes, I see your colour, sure I see your colour!“ Ms R. becomes furious and answers, „You would have been better off living before 1945, there were enough arseholes like you. This is going to have consequences for you!“ The man then throws them out saying, „So? See that you get away! I'm not going

to let myself be threatened by someone like you!"

The man of around 30 years old follows the two, apologises and points out that not everybody in Austria is like that. He knew nothing about the owner's attitude and would not hire any bicycles from him in future.

On behalf of Ms R. ZARA files a petition to the Equal Treatment Commission (see Glossary). At the time of going to print proceedings are not yet concluded.

86 In December Mr and Mrs K. want to make contracts with a mobile network operator. Mr K., who has a Yugoslavian-Serbian passport, should be the signatory. However, his passport is not accepted as legitimisation whereas his driving licence issued in Austria is. The couple feel this treatment to be extremely unpleasant and find another mobile network operator who accepts the Yugoslavian-Serbian passport with valid permit of residence.

On the request of the couple ZARA draws up a letter to the first mobile network operator and asks why the passport was not accepted as legitimisation. In reply the company management state that the production of a passport with a visa still valid for at least six months and details of an Austrian bank account are the preconditions for making a contract with „non-EEA citizens“ resident in Austria, and in spring 2005 the Criminal Police Headquarters East had warned about false Yugoslavian passports. Therefore Mr K.'s passport was rejected. Although this warning has been retracted, this was obviously not successfully communicated to all authorised dealers. The company management apologises to the couple and as compensation gives them a pre-paid phone card.

87 Ms L. was born in Kosovo and lives in Vienna. For some time she has been suffering from circulation problems and fainting spells. For this reason she visits her general practitioner. She tells him about her complaints and mentions that she is unemployed. At first the doctor listens to her but then asks her, „What do you actually want? Buy yourself a train ticket and go home! Go home and go into the fields and bring in the harvest! What do you all want here actually? This is not a welfare state here!“ Ms L. is speechless, she cannot retort and leaves the surgery.

ZARA intervenes for Ms L. at the Wiener Gebietskrankenkasse (Vienna Area Health Fund), the Vienna Medical Association and the Patientenadvokatur (Patients' Advocate). She was not only insulted, the doctor also refused to examine her. The client is afraid of the doctor and wishes to remain anonymous and the Patientenadvokatur can therefore not take up the case. ZARA receives no reaction from the Medical Association. Only the Gebietskrankenkasse informs us that although they regret the incident, they cannot help Ms L. any further because there were no witnesses and it is one person's word against another.

88 Ms S., of Czech origin, who has lived in Austria as a photographer for four years, goes shopping at a market near Brünnerstrasse in Vienna with her eleven year-old daughter and her three year-old son. She begins selecting what she is going to buy at around 11.30 at a stall that closes at 12.00. Ms S. needs somewhat longer because she looks for the exact amounts in a recipe book. The market stall proprietor asks her to hurry because he wants to close his stall. Ms S. answers that he will not do any business if she must hurry. As she wants to take a closer look at some nice-looking mushrooms a female sales assistant shouts at her, „Don't touch that! Go home to your own country! Can't you behave like us Austrians?“ At first Ms S. tries to stay calm but as the insults become more and more vile she begins to cry and inveighs back. She accuses the staff of racism, they threaten her with the police. Finally Ms S. gets help from the market office whose supervisor at first attempts to settle the conflict but then begins to ape Ms S.'s gestures and crying. Ms S. then leaves the market area.

Ms S. comes to ZARA. Together we apply to the Equal Treatment Commission. They decide that although it is not a case of direct discrimination, due to the insults the elements of the crime of harassment are established. For more on this see:

www.bmgf.gv.at/cms/site/attachments/9/1/3/CH0271/CMS1147954825402/gbk_iii_8.pdf

89 Mr P. buys a children's songbook with in a post office. He is shocked that he finds the song „10 Little Niggers“ in it and approaches ZARA.

ZARA writes to the Post Office and the publishers about the song's racist words. At the time of going to print no answer has yet been received.

90 Ms H. was born in Argentina and lives in Vienna. She goes with her two children, who are three and five years old, into the branch of a shop for office and school articles. Ms H. speaks Spanish with her children and tells them that they should be patient. However, because her children desperately want to leave she puts down two books and a jigsaw puzzle and goes to the cash desk with one book. A young female shop assistant follows her and barges in, „What kind of incredible mess have you left? I've been watching you the whole time, how you first pulled out the books and then put them down somewhere!“ Ms H. asks the shop assistant not to shout at her. She answers that she must shout otherwise Ms H. would not understand her. Ms H. now also puts down the last book and leaves the shop with her children. The woman at the cash desk shouts after her „You Yugo!“ On the same day Ms H. sends a complaint to the company and receives an answer shortly afterwards. The company management apologise for the behaviour of their employee and assure Ms H. that they have spoken to her and warned her.

Ms H. is satisfied with the outcome and sends the case to ZARA for documentation.

91 Ms N. wants to travel by bus in Salzburg with her friend from Poland. Her friend is on the phone and speaking Polish, whereupon the bus driver does not want to sell a ticket. A couple intervene directly and begin with racist verbal abuse. As Ms N. and her friend defend themselves verbally they are attacked with pepper spray. Ms N. manages to get out of the way, the acrid mixture hits her friend in the face. Ms N. is able to call the police. Now the perpetrators attempt to run away but the bus driver detains them. He is obliged by law to prevent aggressive behaviour and protect his passengers from attack. The police arrive and arrest the perpetrators. Ms N. reports the case for documentation.

Racism as a Reaction to Anti-Racist Work

ZARA has been carrying out consistent and constant anti-racist public relations for some time. There are sometimes vehement reactions – both positive as well as negative – to campaigns and statements, but also when ZARA brings discriminatory incidents to the attention of the media. The negative reactions are manifestations of open and massive racism, which are documented and a selection of them is published in the Racism Report. Other initiatives such as the website www.no-racism.net, which documents racist everyday life as well as racist politics and its consequences in Austria and Europe and www.ehe-ohne-grenzen.at, which campaigns for binational spouses to be treated in accordance with human rights, are also the targets of racist attacks.

This went so far this year that surveillance measures had to be taken to protect ZARA staff from possible attacks.

ZARA would like to emphasise that this hate should not be given a platform but finds that it is necessary to depict this reality here.

Note: all the texts reproduced here have been printed unchanged without corrections or additions.

92 ZARA receives the following email as a reaction to a campaign against racially discriminatory advertisements in January:

„I heard about your latest witch campaign against Austrian employers and landlords today with great annoyance and abomination! What drives you to such activities, you always moan and babble about some sort of fictive „discriminations“ but it's people like you, who are the biggest haters and racists in this beautiful country. You discriminate against everything which is pro-Austria minded and also the people, who for understandable reasons, do not want to have foreigners at work or more understandable in their apartment building because of their behaviour, their completely out of place oriental „customs“ and their high liability to commit or committing of crimes. You should be ashamed of yourselves and for once worry about Austrian crime (drugs/rape etc.) victims instead of always starting these undignified witch hunts!“

93 At the beginning of October ZARA receives the following email:

„Crime that you perpetrate on us Austrians is wicked. The superfluous foreigners who come here, breaking dozens of laws, have no business in our country. And it's a crime to stick millions ? up their arses! S E N D T H E M H O M E !!!!“

94 A young man with a badly imitated Turkish accent phones ZARA and describes how skinheads demolished his kebab stall. A ZARA staff member asks whether he has already reported this to the police. He says yes but does not want to come to the ZARA office to report the incident. Instead he begins to laugh and shouts „Heil Hitler“ into the phone.

In July three youths come to the ZARA Counselling Centre. They stand around in front of the door and ask if they could have information material. The three help themselves, yell „Heil Hitler!“ and run away laughing.

A short time later there is a telephone call, someone shouts, „Shit Jews! Heil Hitler! You sons of bitches!“

A further call comes asking, „Why do you defend Niggers?“ A ZARA staff member says to the caller that he should stop making such calls. The reply is, „ZARA, we're going to bombard you!“

There follow uncountable further calls with threats of violence.

In the end, because of the continuing threats, a ZARA staff member calls the police, who arrive 45 minutes later. The incident is recorded by a policewoman and a policeman.

On the following two days there are neo-nazi messages on the answering machine. ZARA again informs the police and approaches the media. Security devices such as call tracing and video surveillance are installed. The investigations of the Federal Office for the Protection of the Constitution and Anti-Terrorism are still underway.

95 In March the following email is anonymously sent to ZARA in which, among other things, is stated, „When I someday come to Vienna it's a nightmare. The Viennese and Austrians all live in agony. They all walk blind through the old canyons of buildings full of Turks, Yugoslavs etc. Something must be done immediately about this situation. The majority of foreigners are scum, brutal, armed, ruthless riff-raff!... Hate will increase from day to day if these Muslim scum don't immediately behave civilised. There will be war. I can tell you that today in writing if nothing changes... How

nice Reumannplatz once was at Tichy. (Translator's note: a well-known Viennese ice-cream salon). Loads of Turkish riff-raff. Millions are thrown into the jaws of Turkish riff-raff and other AUSTRIANS are IMPOVERISHED!!!!!!!!!!!!!!"

96 Mr B. writes to ZARA: „You really are THE dregs. Betraying and denouncing the original native population of Austria. Where does something like that happen? Are you the remains of the Stasi? Seems so. Why don't you go away from here if you don't like it? Nobody is forcing you to stay. For the benefit of our neighbouring German-Austrian population the money over there can't run out quick enough."

97 Mr K. writes to ZARA: „Your very philanthropic activities don't in any way explain to me why I should support African drug dealers and eastern bloc criminals in any way. I neither want to discriminate against them nor treat them badly. They should just vanish back to where they come >from . Of course everyone can live out their private social utopias with these people if they finance it. For many citizens of this country many of the do-gooder activities are a heavy financial burden on our country which can never be rationally explained. Or can it ? But of course you will carry on as before. But many many others will oppose this nonsense. For that you most certainly don't have to be a racist.Or is everyone who doesn't want foreign criminals one ? Well fine, then I am also one . In any case most of what your association sends out and your opinions are real personal invitations for the above-mentioned eastern criminals and African drug dealers. And are you really so decent and good to casually expect that of your fellow-citizens ? Why actually ? Despite that . with best regards – Racist- K.K."

98 In March www.no-racism.net receives the following anonymous email: „You all actually belong in a concentration camp you shitty nits"

99 Ms S. sends an email in which is written: „you are still the biggest fascists and racists"

100 In April Mr D. sends ZARA the following by email: „When will clear words finally be found on the part of ‚ZARA‘, which condemn the high crime rate of Niggers in Austria. The Austrian laws also apply to Niggers – privileges on the grounds of skin colour is pure unadulterated racism. The overwhelming majority of Niggers in Austria earn their living from criminal activities."

101 Mr N. writes to ZARA: „AR**H*LES LIKE YOU ARE TO BLAME FOR THE DOWNFALL OF WESTERN CIVILISATIONS AND WILL HOPEFULLY PAY TO THE SAME EXTENT AS ALL THOSE WHO ARE NOT COMPLETELY BRAINWASHED"

102 In January 2006 ZARA receives an email in which is written:

„Come on please, what kind of strange association is that. WHEN I LOOK FOR AN AUSTRIAN; I ALSO WANT ONE: that is completely simple. Where can we Austrian go when we have no job. To Serbia, Romania or Turkey? They're all criminals. Going 200 metres you're harassed 3 x about drugs, go to the underground, the young and old women sit around and beg. Let your wife walk home in the dark and the Yugos approach her. The Yugos and the damned Turks. Strache's right there."

103 Ms B. sends the following text to ZARA: „who prescribes to me what i write in my advert, when i only want and can use an austrian i will make it known in the ad, i'm not going to mess around with 100 Yugos, a waste of time.

but you can do your work better and try that the so-called poor foreigners adapt themselves, if they want to wear headscarves they should go back to where they come from, the next elections will show it. my god, i didn't come into this world with such an attitude but now i'm a racist, i don't anymore have peace in my four walls, that's what you've made of us, the fpoe supporters are not on the fringes we will be still more, do you read the keine zeitung??? they are most of them foreigners the criminals, you don't even notice our riff-raff anymore, another tip, if you love these people so much then take them home with you, leave orderly AUSTRIANS in peace.

delinquents should anyway be sent home, but the government has lost an overview of how many there really are, for them it's only power that counts, it won't take too much longer before the Turks bugger us up so enjoy yourselves, because there won't be any consideration for you"

104 This email is sent anonymously: „A lying Nigger woman was removed from the Dutch parliament and territory! Is that not racist?

No. It should be done with all the Afroid asylictician scum who make false or no statements on the orders of white civil servants."

105 www.no-racism.net reports to ZARA, that they received the following email:

„a couple of idiots are meeting again because of a Nigger and a couple of emancipated women because of a black cock"

106 One morning in May Mr K. sends the following email to ZARA:

„although as an austrian i have spent approx. 20 years of my life abroad i can't share your view with regard to some migrant & asylum seeker groups. Muslims & blacks ! my wife is not austrian and because she speaks many languages she has to do with asylum seekers in her work.

she is insulted in the worst way especially by niggers and sometimes threatened. like this afternoon. because of these threats i am often forced to pick up my wife from work.

i ask you – is it right to behave in such an uncivilised way in a foreign country from which i receive social benefits?

is it right to immediately shout discrimination when contradicted?

i find tough police measures justified ! because many blacks are Muslim asylum seekers i'm even for the use of the sharia. as you see i am very open to foreign religions and cultures !"

On the same day he phones and debates for about 20 minutes with a ZARA counsellor. The counsellor endeavours to have an objective discussion but Mr K. becomes more and more abusive and racist. When only hate tirades are forthcoming, the counsellor breaks off the call. A short time later Mr K. calls again. He lets ZARA know that he will complain to our backers. The ZARA counsellor gives him the telephone number of Vienna Council Department 17. About an hour later he again calls, shouts abuse into the telephone and hangs up.

107 The following very lengthy email is sent to ZARA by Mr W.:

„Where can Austrians complain when their children are beaten half to death at school by Turkish youth mafias.

You think that our police act too hard against black Africans. The I would recommend you to go to Schweden Platz after 20.00 and there you will find about 30 black Africans offering drugs every evening next to the Bp petrol station I have been asked myself, you certainly think this should be Tolerated the poor pigs have to feed themselves after all, of course at the cost of our young people whose addiction drives them to our Nigerian friends every day. It makes me so sick that you all still come to the defence of these benefit scroungers, maybe you think I am only a stupid little old nazi, to that I can only say I have often tried to understand some foreigners even wanted to help, When I met a Nigerian >from Benin City.

Was friends with him for a short time when I noticed that he was in business with sham marriages so I speak from experience I would just like to tell you what the career of a Nigerian is who wants Austrian citizenship : arrival in Austria accommodation in Wgls up to 120 m2 for 10 Getting to know the groupings in Vienna Meeting with a so-called distributor (large-scale distributor of drugs) Appearance at one of the dealing places (learning phase)- learning to deal Drug dealing until you've got together at least 8000 € then meeting a go-between naturally also a black African who earns ridiculous sums of money. When ideal drug addicted Austrian is found who urgently needs money he gets married voala recipe for citizenship

I would also like to say not the headscarves are the

problem but what is underneath them, because the plan for a Turkish family is as follows:

The more children we concoct the more money we get land of milk and honey Austria. Telephone conversation I could hear while sitting in a cafe:

Says Yusuf to Ugur :

hey ugur how go,

yeah i'm here again

Hey also you come Astri good stuff all boom go not even work just office aaah shit

what called yeah called employment office

go there ses „nothin unnerstand" then get

money and supa flat too

ok talk later

And I had to listen to that. When I was 18 and went as an Austrian to the council office with my certificate that I was on the list for council housing they say to me: „Yes Mr W. we can offer you the following flat, 32m2 toilet in the corridor category 3 In the cubicle next to me a Turk family with four children and not on the list: „Yes, Mr Ü. we can offer you 90 m2 category 1' (toilet in the flat with bathtub!) WHERE is the justice !!! You probably call people like me ‚neo nazi' but I'm not I am in the picture as far as history is concerned and I detest Adolf Hitler. I acquired all my views myself and they also weren't passed on to me. I expressly distance myself from any kind of national socialist background.

I'm just tired of waiting for my girlfriend in the evening (she a waitress) and always have to be afraid that some Turk gets out of a Mercedes again and threatens her with rape because they restrict themselves in their faith.

16th district of Vienna.

You're welcome to delete that now I feel easier !"

108 In July the Vienna association kultimport receives this email sent from a Vienna city terminal:

„ From: A.H Subject: Multicultural crime

Text: You blasted Turk pigs !! Out of Austria! Now the end time is beginning! We will creat Turk-free zones. like in east Germany!!"

109 The initiative www.ehe-ohne-grenzen.at receives an anonymous email:

„Can something to fuck also be ordered from you. If so a freshly washed Nigger woman, aids free of course – I pay 50 EURO per hour."

110 In September the editorial office of www.afrikanet.info receives the following email from Mr F.:

„I'm neither going to let you convince me that Bakary J. was beaten up ‚just so' out of the blue –because in your article (from the time when the incident happened), ‚purely by chance' the description how the

„gentleman’ behaved at the time of his deportation – nor let you convince me that words like Nigger or Moor or Indian or Eskimo insult anyone.

These words have a long tradition in Europe. If an immigrant African feels obliged to want to be „insulted” because of the use of such words, as far as I’m concerned he can of course do it.

But I think to myself how he could know what is an insult here in Europe and what not. Because I assume for a moment that he would certainly hardly be able to speak good German from the day of his arrival and I also assume would also not have the ‚urbane education’ of the staff of afrikanet, who presume to decide for responsible citizens which words are an ‚insult’ and which not.”

111 In September www.no-racism.net receives the following email:

„you dirty pigs all deserve to be hung up by your balls! you shits aren’t worth being called members of the human race!”

112 In November Mr S. writes to ZARA and abuses the director of the Counselling Centre:

„Subject: Yugo

Good morning,

Ok, just one question:

How often will this programme with the Yugo, who gets worked up about the police, still be broadcast. The is really awful.

Just by the way: the word Tschusch (translator’s note: derogatory term mostly translated here as ‚Yugo’) is used in Austria, not just now but for decades already, not as an insult. But as people who from Spielfeld to as far as the Orient and further are called. Wasn’t there once advertising with posters? But from a ministry. ‚my name is Kolaritsch; your name is Kolaritsch, why do they say Yugo to me’

So the poor Yugo shouldn’t get upset about our police, should think about how it is for foreigners in his country.”

113 In December a call comes in to the ZARA Counselling Centre. A man claims he has just been attacked by „skins” and needs a counselling appointment. The ZARA counsellor is telling him when an appointment would be possible when the caller suddenly shouts into the telephone, „Heil Hitler! We’re going to blow you up!” and hangs up. ZARA immediately informs the Federal Office for the Protection of the Constitution and Anti-Terrorism. They send a police car. The police officers take down a report. At the time of going to press investigations have not yet been completed.

114 In December Ms K. organises and anti-racism information event in Vienna. In the run up to the event she receives two murder threats

on the telephone. The voice says, „Hey, you are the one organising the event, I tell you one thing, we are gonna knock you off or come to the event and tell you what racism is.” Ms K. reports this to the police who begin investigations. Shortly before the event two men waylay her on the street. They run away as she notifies the police. Shortly after the event her flat is broken into but apart from several books on the theme of racism nothing is missing from her ransacked flat.

115 Mr G. is Regional Chairman of the Ring Freiheitlicher Jugend Salzburg (Freedom Party Youth Ring). At Christmas time he writes the following long email to ZARA.

„Ladies and Gentlemen,

I would like to know to what extent you concern yourselves with racism against native-born Austrians. I myself have been the victim of racially motivated violence several times, because I am a (quote),shit Austrian’.

I would like to note here that I am blond and blue-eyed and would certainly pass for a ‚parade-Aryan’ and that is why, among other reasons, I was beaten up by a Turkish gang some months ago. A friend of mine who wanted to help me was also attacked and we both had to go to hospital. I had an injury to the eye and several contusions and bruises and the back of my friend’s head hit the street so hard that he only spoke confusedly for minutes on end.

The police dismissed this as ‚bad luck’. I got caught up in an ‚initiation ceremony’ of a Turkish gang which gives each new member the task of an ‚introduction round’ on our local promenade mile. This means: find an ‚obvious Austrian’ and beat him up.

In the end the whole gang were standing around me encouraging their new young member to lay into me.

I have already read two of your ‚Racism Reports’ and I was shocked by the fact that you have obviously become the victims of your own racism as no kind of racism against the ‚natives’ is mentioned.

In addition I would like to inform you that as a victim of racist violence myself I feel that the ‚piss is being taken out of me’ (excuse the expression) by the fact that you sometimes absurdly judge totally simple things like ‚Negerküsse’ (translator’s note: literally ‚Nigger kisses’ – a chocolate sweet) to be racist. Why do I feel like the piss is being taken out of me’?

1.) Because I have already been attacked by foreign people several times just because I am blond and blue-eyed. These attacks were exclusively directed against life and limb and brought me, among other things, hospital visits and therefore I find it ridiculous when such trivialities as sweets are characterised as ‚evil’.

2.) What is so bad about getting kisses from a ‚Nigger‘? Wouldn't it be more to the point even to make publicity with it and bring positive connotations to a word that has been common since around the 18th century, instead of claiming that the word is ‚negatively‘ connotated – which in the widest circles is not even the case – and in the best ‚1984‘ manner to despise this word and make it impossible. ‚Newspeak‘ can certainly not be the answer to everything, can it?

We can certainly agree that ‚Negerküsse‘, ‚Negerbrot‘, etc are certainly delicious things and therefore have positive connotations and therefore are certainly in a position either to neutralise negative connotations or even give them such positive connotations that the word ‚Nigger‘ itself, if it is supposed ever to have been negative, which I doubt, is finally designated as positive.

I have now shared some of my thoughts with you and thereby remain, with best regards“

A ZARA counsellor thanks Mr G. and writes to him, „ZARA is concerned in principle with all forms of racism, independently from whom the racist discrimination originates. It is self-evident that racism is not something exclusively Austrian. (...) The case which you describe is a crime of violence and therefore the police attend to it. With this type of crime it appears to us irrelevant which ‚ethnicity‘ the perpetrators are. We have laws which everybody should keep, no matter where they come from. (...) A selection of cases we have dealt with are included in the Racism Report. You will understand that we cannot publish all the cases. (...) We therefore attempt to include a representative sample for the various fields. The fact is that racist incidents against Austrians make up a very small number on account of existing structures. In 2006 we have only 2 cases in which Austrians were subject to racist discrimination, as opposed to 1,500 cases where Austrians have practised racist discrimination. As an educated student you will certainly appreciate that in Austria we mainly have a problem with racism originating from the majority society. (...) In my ‚widest circles‘ the word „Nigger“ is not used. Not for reasons of ‚newspeak‘ but out of respect for people. Why this term is still used in your ‚widest circles‘ you probably know better than I do. (...)“

What Happened to ...?

More and more cases can be reported and brought before court, the Equal Treatment Office or the Equal Treatment Commission. However, the mills of justice grind slowly. Therefore ZARA clients must often be accompanied for more than a year. In this section we report on cases in which we know the outcome or are informed of the current status. It is mostly very difficult for ZARA counsellors to find out the final result of a case. ZARA often receives no information from the authorities about the course of proceedings and/or the verdict. Nevertheless, some decisions of the Equal Treatment Commission have already been published and can be accessed online at www.bmgf.gv.at. However, the decisions of the Equal Treatment Commission do not lead to sanctions. A case of alleged discrimination can only be confirmed by the Equal Treatment Commission. Notwithstanding, even if proceedings in front of a commission with limited possibilities for enforcement do not seem ideal, it offers those affected the opportunity to be heard and to call perpetrators to account. In addition, the verdict of the commission can be built upon in possible subsequent court proceedings, the more so as a differing verdict must be justified.

Case 22 from the Racism Report 2005

Ms E., a Muslim who wears a headscarf, goes into a clothes shop with her baby and a friend. She is insulted by the sales assistant and kicked out of the shop. Ms E. and her friend must go to hospital because of their injuries. They report the incident to the police and approach ZARA distressed about what happened. Ms E. has been traumatised since the incident. On her request ZARA sets in motion criminal proceedings. The Public Prosecutor's Office suggests an out of court settlement (see Glossary). The perpetrator shows no regret. Ms E. is not well: the criminal proceedings demoralise her. Her statements are not sufficiently clear and the sales assistant is finally found not guilty. ZARA therefore puts the client in touch with Peregrina, the therapy centre for immigrants (www.peregrina.at). Ms E. receives therapy there. Ms E. and ZARA, together with the Klagsverband (Litigation Association of NGOs Against Discrimination) (www.klagsverband.at) have also brought a civil action under the new Equal Treatment Act for direct discrimination and harassment. In the first instance the court finds that discrimination and harassment did occur and Ms E. is awarded damages of 700 euros. At the time of going to print the verdict is not yet legally binding.

What happened in 2006

Ms E. is not satisfied with the verdict. She thinks that 700 euros is in no relation to the damages suffered and will not hurt the perpetrator. The Klagsverband (Litigation Association of NGOs Against Discrimination) (see Glossary) appeals on behalf of Ms E. At the time of the Racism Report 2006 going to print Ms E. is awaiting the outcome of proceedings in the second instance.

Case 26 from the Racism Report 2005

Three UN civil servants of African origin approached ZARA because they were not served by a waitress at a snack kiosk on the grounds that the boss did not want black people in his garden because they would be „dealing“. ZARA documented the incident. The people involved turned to the Equal Treatment Office which brought the case to the Equal Treatment Commission.

What happened in 2006

In the meantime the Equal Treatment Commission decided the case and found „an instruction to discriminate“. In the ruling, part of the snack kiosk proprietor's statement is quoted in which he confirms instructing his staff, „Not to serve Niggers (for me the word is absolutely not an insult – verbatim quote from the defendant's statement) who behave demonstratively in our area, because most of them deal with drugs. The Equal Treatment Commission proposed to the snack kiosk proprietor to contact the Equal Treatment Office and together to work out rules of the house which are free from discrimination and in line with equal treatment and to train his staff adequately and in accordance with the Equal Treatment Act.

A summary of the verdict can be found at:

www.bmgf.gv.at/cms/site/attachments/9/1/3/CH0271/CMS1147954825402/gbk_iii_5.pdf.

Case 27 from the Racism Report 2005

Together with a friend Mr G. tries to go into a Cuban dance club in the Vienna city centre. Both are Austrian citizens of African origin. They want to enter the club but are stopped by two doormen. They are given no reason and are pushed aside. Finally it is explained to them that they may not enter on account of their origin. This was not the first time that Mr G. had been subjected to racist discrimination at this club. Therefore he approaches ZARA. Together charges are brought

against the locale proprietor under Art IX Clause 1 Line 3 EGVG (Introductory Provisions to the Code of Administrative Procedure). In addition, in the name of Mr G., ZARA files a petition to the Equal Treatment Commission which will establish whether this is a case of discrimination on account of ethnic origin while attempting to access a service. The commission's verdict is still pending.

What happened in 2006

Mr G. has still not been questioned by the commission until today. The commission wanted to await the verdict of the EGVG (Introductory Provisions to the Code of Administrative Procedure) proceedings. These were ended in 2006 with the abandonment of proceedings against the manager of the club and the doormen. A hearing in front of the commission should take place in 2007. Mr G. is waiting.

Case 28 from the Racism Report 2005

Dr R. and his colleague want to go to a discotheque in Innsbruck. They are stopped by two doormen because they are Africans and foreigners in general are not allowed into the club. ZARA filed a complaint under Art IX Clause 1 Line 3 EGVG (Introductory Provisions to the Code of Administrative Procedure) and files a petition to the Equal Treatment Commission on behalf of Dr R. for direct discrimination because he was not allowed into the discotheque on account of the colour of his skin.

What happened in 2006

Mr G. was questioned about the incident by the commission in December 2006. Proceedings are still continuing because the manager of the discotheque said that he had in any case already made a statement to the authorities during the course of other EGVG (Introductory Provisions to the Code of Administrative Procedure) proceedings, of which ZARA unfortunately does not know the outcome. Despite this the manager will still have to testify in front of the Equal Treatment Commission. If he refuses, the case will be decided on the basis of the documentation.

Case 29 from the Racism Report 2005

The operator of a campsite in East Tyrol put up signs at reception saying, among other things, „No place for Gypsies“. The operator was of the opinion, „If someone comes who I don't like, I refuse him. After all, hotels can do that.“

ZARA explains to him that this is not the case. He

receives a complaint brought to the Regional Administrative Authority Lienz under Art IX Clause 1 Line 3 EGVG.

What happened in 2006

In the first instance the operator of the campsite is ordered to pay a fine of 450 euros under Art IX Clause 1 Line 3 EGVG. He appeals to the Independent Administration Council (see Glossary) of Tyrol. The fine is confirmed. The operator states that he will take the case to the Administrative Court and the Constitutional Court because, „Gypsy“ groups would have ruined his business through their insufferable behaviour. Whether he has in fact taken further legal steps is not known to ZARA. Also derstandard.at reports again.

See: <http://derstandard.at/?url=/?id=2669312>.

Case 31 from the Racism Report 2005

Mr K. wants to take the bus of his employer, the Evangelischen Flüchtlingsdienst (Evangelical Refugee Service) to be repaired. He is subjected to racist abuse by the owner of the vehicle repair garage and hunted from the premises. He is also insulted by the police officers who he has called for help and sent to a wrong police station. When Mr K. comes to ZARA he has already received a fine order for 60 euros for „aggressive conduct against public security officers“. A ZARA staff member appeals against this. At the same time a regulations complaint is made to the Independent Administration Council (see Glossary) about the behaviour of the police officers and a petition is filed to the Equal Treatment Commission on account of the discriminatory behaviour of the mechanic. The administrative criminal proceedings against Mr K. for „aggressive behaviour“ were abandoned. In point 3 of the regulations complaint about giving the wrong information about the police station and service numbers, Mr K. was proved correct. Proceedings on the other points (use of the familiar second person singular and making discriminatory comments) are still pending before the Independent Administrative Council (UVS). Proceedings at the Equal Treatment Commission are also not yet concluded.

What happened in 2006

In July 2006 proceedings begin in front of the Equal Treatment Commission. At the time of the Racism Report 2006 going to print the result of the individual checks of the commission was still pending.

Although the legal time limit of six months has already expired, the Independent Administrative Council has still not taken action in this case. In 2007 ZARA

tries to file a delay complaint to the Administrative Court. Mr K. is waiting for proceedings to begin.

Case 45 from the Racism Report 2005

There was already a report on this case under number 121 in the Racism Report 2004. Mr E., a Jordanian citizen, was subjected to racist discrimination at his workplace, a forwarding company. A legal verdict was reached at the time and his colleague was found guilty of assault and battery. Under employment law Mr E. was in a worse position than his Austrian colleague, was insulted by him as a „camel driver“ or „Arab arse“, mobbed and finally so beaten up that he landed in hospital.

The Equal Treatment Commission found that Mr E. had become the victim of massive harassment. At the time of the Racism Report 2005 going to print Mr E. was preparing to file a complaint to the responsible Employment and Social Court claiming appropriate compensation for pain and suffering. He is supported in this by ZARA, the Klagsverband (www.klagsverband.at) and the Vienna Chamber of Labour.

What happened in 2006

Mr E. is claiming damages to the amount of 8,000 euros against two of his former colleagues and against the company management, who did nothing against the discriminatory behaviour of their employees. Proceedings are not yet concluded.

Case 57 from the Racism Report 2005

Dr C., an Italian bioinformatician, who lives in Innsbruck, is interested in a flat advertised by an estate agency. When he asks for more information he is told that the flat is only available to „Austrians“.

What happened in 2006

Dr C. turned to the Equal Treatment Commission to establish discrimination on the grounds of ethnicity in access to housing. In the single-case decision it is confirmed that the refusal of the estate agent to rent him the flat on the grounds of his foreign origin represented unjustified discrimination under the Equal Treatment Act. An excerpt from the exact wording: „Senate III has thus formed the opinion that in the fact that the defendant did not even consider the plaintiff with regard to the flat which he was interested in renting, on the grounds of his Italian origin, and thereby obstructed his access to housing, this is a case of direct discrimination against the plaintiff on the grounds of ethnicity.“ For more information see: <http://www.bmgf.gv.at/cms/site/detail.htm?thema=CH0271&doc=CMS1147954825402>.

ZARA's demands

In spite of the existence of the Equal Treatment Act and a number of provisions against discrimination in the law of the federal provinces, and in spite of the installation of the Office of the Ombud for Equal Treatment and the Equal Treatment Commission, many of the demands made by ZARA since the year 2000 are still not fulfilled. In some areas, the situation even has deteriorated.

ZARA therefore demands to act against racism across party boundaries. All political parties have to take on political responsibility for this problem.

At the level of legislation, this means for example:

- Linking the right to stay and the right to dependent employment not just in the case of so called "key workers" (Schlüsselkräfte), but for everyone. Everybody who lives here shall also be able to work here.
- Easier possibilities for the transition from dependent employment to self-employment and vice versa.
- Right to family reunion.
- Access to further stay and the labour market for everybody graduating from an Austrian education institution.

Integration instead of assimilation. ZARA demands that equal opportunities and equal rights be created for all the people living in Austria.

At the level of legislation, this means for example:

- Political participation for migrants – like active and passive eligibility in elections at municipality level, in employee interest organisations and other interest organisations.
- Non-bureaucratic recognition of education and work experience acquired abroad.
- Austrian citizenship for children born in Austria and the possibility of dual citizenship.
- Targeted recruitment of personnel from ethnic minorities for professions in the public sector (like for example officials of youth welfare authorities, judges or police officers).

ZARA demands a comprehensive legal antidiscrimination package. In this area, there are some demands that have not been met at all so far.

At the level of legislation, this means for example:

- a genuine reversal of the burden of proof,
- deterrent provisions for compensation payments to victims of discrimination,
- precedence for the possibility to reach out-of-court settlements,
- the possibility of class action,
- possibility for victims of discrimination to complain and bring charges at no cost (no risk of legal costs for victims of discrimination)
- effective protection against victimisation.

ZARA also demands revising existing legal antidiscrimination provisions in the areas of administrative law, the Security Police Act, criminal law and civil law.

Further demands that have not been met so far, falling in the areas of the law enforcement authority in general and the Security Police Act in particular:

- ID numbers on the uniforms of law enforcement officers: Oriented on the Slovenian and Polish models, police officers in Austria should wear their official identification numbers on their uniforms clear for all to see.
- Considering the ethnic composition of the population in recruitment of law enforcement officers.
- Improved training and psychological support: Trainings should aim at police officers learning to identify the discriminatory dimension of an incident. Furthermore, trainings in applied and applicable conflict resolution should be carried out and officers should receive increased continuous psychological support.

In the area of denial of service

Upgrading the prohibition against discrimination from a minor administrative penal provision to an offence in the Criminal Code would be desirable. Shifting competence to the independent criminal courts and the office of the public prosecutor as public authority bringing charges against offenders would mean that such incidents could also be handled by means of out of court settlements ("Diversion", see "Glossary"). For example, the discriminating person might have to apologize personally to the victim or have to do community service. For repeat offenders, fines considerably higher than the current ones would be foreseen. Above that, there would be the possibility to award compensation payments to the victim in the framework of criminal procedures without the victim having to incur the risk of legal costs in a separate procedure under civil law. (for more, see "Know your rights").

Expanding the protection against incitement to hatred Sec 283 Criminal Code

Public agitation and incitement to hatred against certain groups of the population is one of the most loathsome forms of racism. ZARA demands to enhance the protection against incitement to hatred in so far as it should not only be "public order" that is considered to merit protection, but first and foremost the affected groups that should be under the protection of criminal law. The elements of the offence must be simplified and any form of unbearable slur against people, in particular migrants, aliens etc., must be criminalised in order to enable the judiciary to pursue hate speech and smearings instigating hatred (more: see "Know your rights").

Ratification of Protocol No 12 to the European Convention on Human Rights

Protocol No 12 to the European Convention on Human rights has been signed, but not ratified, by Austria. Article 1 of the Protocol encompasses a prohibition against discrimination in relation to all legally granted rights. Discrimination is prohibited especially on the grounds of "sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." The Protocol expands the competence of the European Court of Human Rights. ZARA recommends the ratification of the Protocol.

Glossary

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.

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.

Alleviation of the burden of proof / Reversal of the burden of proof

It goes without saying that entitlement to compensation payments can only be realised if complaints or claims under the Equal Treatment Act are successful. As in any other proceedings, ultimately it is 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 utterly 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 de-

fendant 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."

Out of court settlement („Diversion“ and „Aussergerichtlicher Tatausgleich ATA“)

In German, „Diversion“ describes the possibility to waive formal criminal court proceedings. After measures "of diversion" have been carried out, 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. Such a measure can also be proposed by the suspect, but usually is initiated by the public prosecutor or the court.

"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 achieving 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. The person who suffered the damage also has to agree in writing to the out of court compensation.

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.

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 Health and Women and may also be recalled from their office by the Minister under specific circumstances.

The Office of the Ombud for Equal Treatment is responsible for counselling of persons affected by discrimination, furthermore, 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. Furthermore, the Office of the Ombud can itself become active with measures serving the establishment of the truth. For example, the Ombud can demand a written statement from an employer. She can also be mandated by the competent Senate of the Equal Treatment Commission to conduct investigations inside the company in question. She is thus in some sense both a representative of the discriminated person and has an investigative function, which is not wholly unobjectionable from the perspective of the constitutional state.

Equal Treatment Commission (Gleichbehandlungskommission)

The Equal Treatment Commission is composed of three Senates with members representing Ministries and social partner organisations. Like the Ombud for the Equal Treatment, the Commission is attached to the Federal Ministry for Health and Women. The original idea of also including two representatives of non-governmental organisations each in every Senate was dropped later. It shall also be noted that the being a Senate member is an honorary position.

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. Victims can also choose to be represented by a trusted person, like for example representatives of non-governmental organisations.

The result of such proceedings before Equal Treatment Commission is an opinion, which, in contrast to the judgement of a court, is not legally binding. The advantage of this type of arbitration lies in the absence of the risk of legal costs which constitutes a threshold for court proceedings. Furthermore, there are far higher chances of reaching an amicable settlement. In light of the fact that equal treatment legisla-

tion "only" provides the opportunity to claim compensation payments for the discrimination suffered, but not an actual job or improved position, this also is an important aspect.

Litigation Association (Klagsverband, www.klagsverband.at)

The Litigation Association of NGOs Against Discrimination (Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern) was founded in 2004 as an umbrella organization 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 objective of the association is the realization of the rights of victims of discrimination. Furthermore, awareness raising in the general population shall further the recognition of the crucial contribution of NGOs to developing law and practice in the area of antidiscrimination.

The Litigation Association chiefly acts as counselling body for its members and their clients, and participates in procedures before the Equal Treatment Commission acting as expert with an advisory vote.

Sec 62 Equal Treatment Act gives the Litigation Association 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. This additional legal protection is available for discrimination in the area of employment as well as in other areas (access to goods and services).

Above that, the Litigation Association mediates contact between persons affected by discrimination and other relevant organizations.

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

Independent Administrative Tribunal (Unabhängiger Verwaltungssenat, UVS)

The Independent Administrative Tribunals of the federal provinces are responsible, among other things, for appeals against penalties imposed for an administrative offence and for complaints against the exercise of direct administrative authority and coercion (like complaints against police officers). The Independent Administrative Tribunals are public authorities not subject to instructions (*weisungsfrei*), where independent judges of the Tribunal pass decisions. Their decisions are final and binding and not open to further appeals in the regular sequence of courts. Yet, it is possible to turn to the highest courts (Administrative Court / *Verwaltungsgerichtshof* and Constitutional Court / *Verfassungsgerichtshof*).

Direct discrimination

Direct discrimination is taken to occur where person, on the grounds of a specific characteristic (e.g., skin colour, ethnic origin, a disability, or gender, etc.) is tre-

ated less favourably than another person is, has been or would be treated in a comparable situation.

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.



Zentrum
poliis
Politik Lernen
in der Schule

Weil politisch gebildete Menschen nicht vom Himmel fallen!

www.politik-lernen.at



www.gajwien.at

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 Beschmierungen des Marcus Omofuma Gedenksteins. Kostenlos zu bestellen per Email an shop@gajwien.at

Suspect

Das Suspect ist die Zeitung der GAJ Wien und erscheint 4 mal im Jahr. Wir versuchen, damit eine Alternative zum gesellschaftlichen Mainstream zu bieten, das Abo ist ebenfalls kostenlos auf unserer Homepage oder per Mail an shop@gajwien.at zu bestellen.

Jeden Dienstag ab 18:30 GAJ Wien Plenum in der Lindengasse 40, 1070 Wien, Tel.: 01/52125242, info@gajwien.at



Die Wiener Volkshochschulen

www.vhs.at | Wir wissen weiter.



Die Wiener Volkshochschulen

www.vhs.at | Wir wissen weiter.

BILDUNG
Stadt Wien

[SCHENKEN SIE GEISTIGE, BERUFLICHE UND KÖRPERLICHE FITNESS]

Mit einem Gutschein der Wiener Volkshochschulen schenkt man nicht nur individuell sondern auch sinnvoll. Denn im Gegensatz zu den meisten anderen Geschenken bleibt Wissen von dauerhaftem Wert.

Mit einem Gutschein der Wiener Volkshochschulen kann aktuell aus 18.000 Kursen und Vorträgen ausgewählt werden. Neben Angeboten zur persönlichen Entfaltung bieten die Volkshochschulen auch eine Vielzahl von Kursen in den Bereichen politische Bildung, berufliche Weiterbildung (mit anerkannten Zertifikaten und Diplomen), Persönlichkeitsbildung und Fitness.

Erhältlich sind sie im Wert von € 5,- € 10,-, € 50,- und € 100,- und können in allen 18 Wiener Volkshochschulen eingelöst werden.

Infos zu den Angeboten der Wiener Volkshochschulen erhalten Sie unter:



➔ www.vhs.at

☎ 01/893 00 83



From Strategy to Results.



It is our overall **goal** to unlock value and build true competitive advantage.

We **focus** on developing a highly effective organization
by creating passion for quality and performance.

We are committed to concrete and measurable **results**.

www.asp-consulting.com

European Headquarters	US Headquarters
ASP. Consulting GmbH Graben 10, 1010 Vienna, Austria Tel. +43-1-512-5000 • Fax +43-1-512-5000-50 office.austria@asp-consulting.com	ASP. Consulting LLC 45 Cole's Orchard Road, Suite 1 Duxbury, Massachusetts, USA 02332 Tel. +1-781-585 5442 • Fax +1-781-585 9189 office.usa@asp-consulting.com

Für Zivilcourage – gegen Rassismus!



TAXI 40100
...überall zu Hause



ServiceTel:
01/401 20-0
mail@oebv.com
www.oebv.com

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

INTEGRATION IN GRÜN

- ASYL SCHÜTZEN
- EINWANDERUNG NÜTZEN
- INTEGRATION FÖRDERN



→ Asylschutz

Menschen in Not dürfen nicht wie Schwerverbrecher behandelt werden. Relativer Wohlstand bringt auch Verantwortung mit sich. Österreich muss sich dieser Verantwortung stellen und Verfolgten den Schutz bieten, den sie benötigen.

→ Migrationsrealität nützen

Österreich ist ein Einwanderungsland – das belegen nicht nur Erfahrungen aus der Vergangenheit, sondern auch die aktuellen Einwanderungszahlen. Es geht darum, Integration menschenwürdig, diskriminierungsfrei und transparent zu gestalten.

→ Leben ermöglichen

Das Grüne Einwanderungsmodell ist die konstruktive Antwort auf die aktuelle Politik, die nur Scheinaktivitäten in Form fragwürdiger Gesetzesnovellen praktiziert.

→ Nicht »mehr« sondern »wie«

Arbeitsmigration und Familie müssen als Einheit gedacht werden. »Abgeschlossene Ausbildung«, »Qualifizierte Arbeitserfahrung«, »Verwandtschaft in Österreich« oder »PartnerInnenkriterien« bilden die Eckpfeiler des Grünen Punktesystems.

SCHUTZ GEBEN – INTEGRATION LEBEN – GRÜN WÄHLEN



rassismus ist gemein.

Deshalb bietet ZARA Vorträge, Trainings und Weiterbildung.

- | | |
|---------------------------------|----------------------------|
| () Sensibilisierung | () Argumentationstraining |
| () Zivilcourage | () Rechtliche Grundlagen |
| () Sprache und Diskriminierung | () Unternehmensarbeit |

Eine Initiative der Sozialistischen Jugend
gegen braunen Mief und rechte Rülpsen:

DEN RECHTEN DIE ZÄHNE ZEIGEN



Aktiv werden im ...
Netzwerk gegen Rechts
www.netzwerkGEGENrechts.at

www.sjoe.at

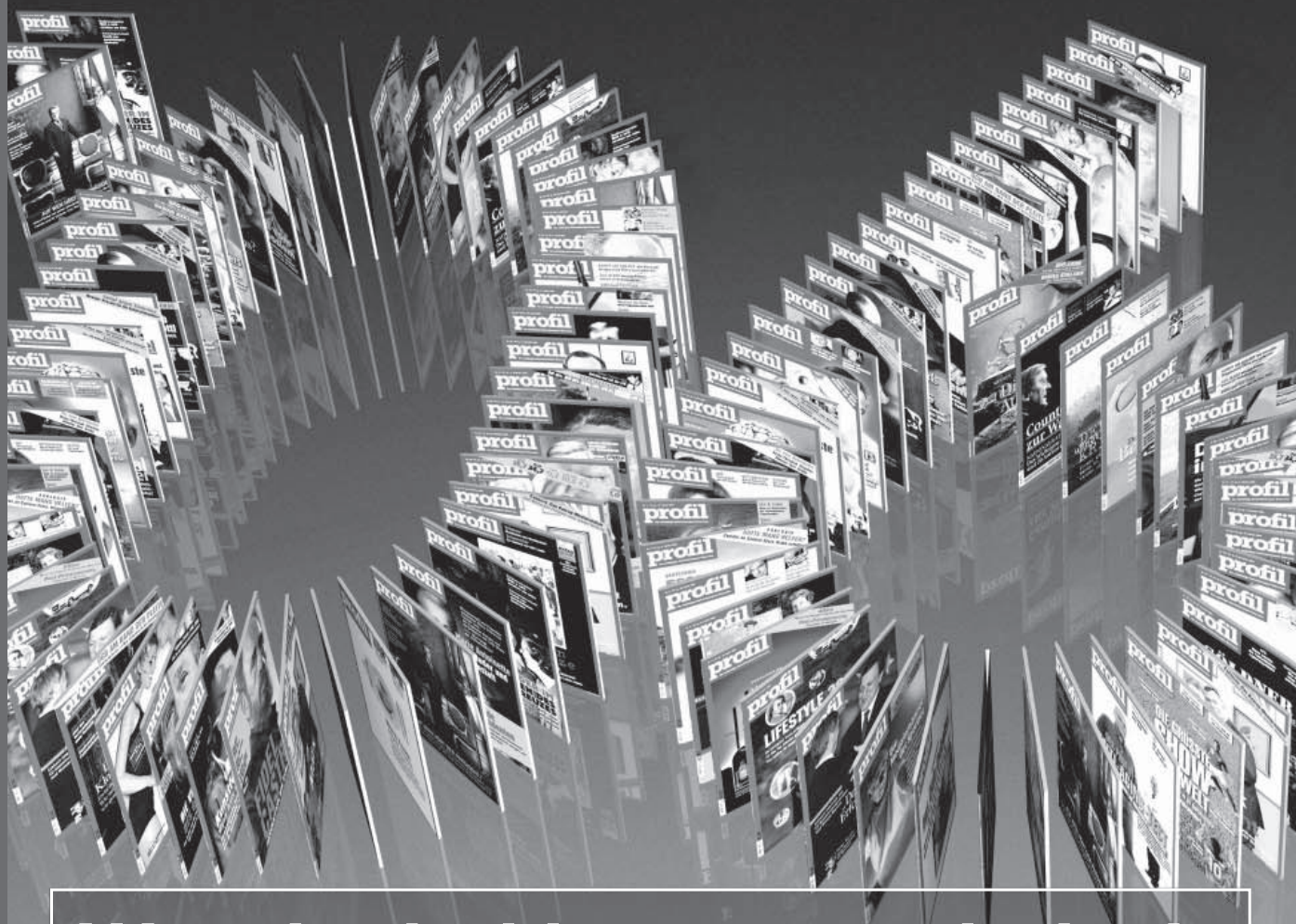


OHZ



Schluss mit den langen Wegen

www.onlinecampus.at



**Wo wir sind ist vorne, sind wir
hinten, dann ist hinten vorne.**

FALCO
„Brillant in' Brutal“

Lowe GGK
gratuliert

profil

zum Titel
„Bestes Magazin
Österreichs“
2005 & 2006

**BESTES MAGAZIN
ÖSTERREICHS**

erhoben von „der journalist“
unter allen printredaktionen

www.profil.at abo service: 01/95 55-100



Akakiko

EASY JAPANESE DINING



Eine Übersicht über die Leistungen der Magistratischen Bezirksämter finden Sie in einer aktuellen Broschüre. **Gratis zu bestellen bei der wien.at-LeserInnen-Hotline unter 01/277 55**

Wiens Bezirksämter sind für Sie da

Vom Meldezettel bis zum Fundservice

Sie wollen Ihren Pass erneuern? Oder möchten Sie ein Parkpickerl anfordern? Haben Sie Ihre Uhr verloren – oder etwas gefunden? In den 19 Magistratischen Bezirksämtern (MBA) sorgen mehr als 500 MitarbeiterInnen für die kompetente Erledigung dieser und zahlreicher weiterer Anliegen.

Service, Tipps und Infos für UnternehmerInnen

Ein spezielles Angebot gibt es für Wirtschaftstreibende: An den Projektsprechtagen können sich UnternehmerInnen in den MBAs bei MitarbeiterInnen des Arbeitsinspektorats, ExpertInnen der

Wirtschaftskammer und JuristInnen über die Vorschriften einer Betriebsgründung informieren.

Übrigens: Als besonderes Service bieten die Magistratischen Bezirksämter eine Reihe von Leistungen auch im Internet an.

INFO Das MBA verkürzt Ihre Amtswege

Mo–Fr 8.00–15.30 Uhr, Do 8.00–17.30 Uhr

Der direkte Draht zu Ihrem Bezirksamt:

01/40 00-01000 bis 01/40 00-23000,

Infos zu MBAs: **www.wien.at/mba**

Projektsprechtag: abwechselnd jeweils am Do 8.00–13.00 Uhr in verschiedenen MBAs

www.wien.at/mba/projekt.htm



U3>Neubaugasse, U4>Kettenbrückengasse sowie 57A und 13A.

ZARA – Counselling Centre for Victims and Witnesses of Racism

The ZARA team can be reached for making appointments::

Mo - Mi 10-14 Uhr und Do 17-19 Uhr

Luftbadgasse 14-16
A-1060 Wien

T: (01) 929 13 99
F: (01) 929 13 99-99

office@zara.or.at
www.zara.or.at