**Reply of the Government of Austria to the information request of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences**

**March 2021**

In reply to the **Call for input to report on contemporary forms of slavery as affecting persons belonging to ethnic, religious and linguistic minority communities** of **20 December 2021**, the Federal Ministry of European and International Affairs has the honour to submit the following information on behalf of the Austrian government.

**Introductory Remarks**

The Austrian government is fully committed to international human rights law and its implementation into domestic legislation. This concerns the relevant international agreements and the European Convention on Human Rights, as well as the resolutions of the UN Security Council, the Human Rights Council and the General Assembly.

Austria takes its obligations under international human rights treaties very seriously, including the obligation to abolish slavery. Respect for constitutionally enshrined human rights guides Austria in the design and implementation of its measures and policies to prohibit all forms of slavery.

**Replies in detail**

**1. Is there evidence of minorities being subjected to contemporary forms of slavery (e.g. forced labour, bonded labour, forced/child marriage, descent/caste-based slavery and related practices) in your country/community? If so, please provide information relating to the profiles of victims and the nature and extent of their exploitation and abuse. What additional traits and characteristics, including gender, age, sexual orientation and disabilities, have made them more vulnerable?**

Austria is a party to the relevant international conventions such as the International Covenant on Civil and Political Rights, which prohibits slavery and slave trade in all their forms as well forced or compulsory labour. Austria is also party to the European Convention on Human Rights (ECHR, which has constitutional status in Austria) and is committed to the Charter of Fundamental Rights of the European Union and implements them nationally. Forced labour, child labour, forced marriage, sexual slavery, domestic servitude, servile forms of marriage or descent-based slavery are prohibited by law and will be prosecuted regardless of race, religion, gender, age, sexual orientation, language or any form of disability. These bans are enforceable before Austrian courts including the Constitutional Court and finally before the European Court of Human Rights.

The Austrian legal system also provides effective constitutional protection against discrimination: On the one hand, there is a general prohibition of discrimination of Austrian nationals in place, which includes the principle of proportionality and a general prohibition of arbitrariness (cf. Art. 7 of the Austrian Constitution: „All nationals are equal before the law. Privileges based upon birth, sex, estate, class or religion are excluded. No one shall be discriminated against because of his disability. …“ ). According to the well-established case law of the Austrian Constitutional Court, this guarantee prohibits both the legislative and the executive branch from making any distinctions that cannot be justified by factual reasons. In addition, Art. I of the Federal Constitutional Law on the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination of 1973 (*Bundesverfassungsgesetz zur Durchführung des Internationalen Übereinkommens über die Beseitigung rassistischer Diskriminierung 1973*), provides for similar rights for aliens.

Furthermore, Art. 14 of the ECHR prohibits, inter alia, discrimination on any ground such as “race, colour, language, religion, […] national or social origin, [...] association with a national minority”. Against this background, there is a comprehensive framework of protection for workers and employees in place and comprehensive anti-discrimination legislation has been enacted which is being further developed continuously. In the fields of administrative and civil law, the transposition of the relevant EU Directives[[1]](#footnote-1) has contributed to strengthening anti-discrimination legislation in Austria.

Due to the structural disadvantages women and girls face worldwide, they are more vulnerable to being trafficked – this factor is added to other general risk factors for trafficking such as poverty and unstable political conditions. According to reports by the state-funded "Intervention Centre for Trafficked Women", women with additional disadvantages (such as transgender women, women with disabilities such as learning disabilities, physical or mental impairments, Roma women, etc.) face further discrimination and are thus particularly vulnerable to becoming victims of trafficking. These groups are highly marginalized by reduced access to political or social rights and education, which further facilitates exploitation.

In the past years, cases of exploitation for the purpose of begging in accordance with the criminal offence of human trafficking (§ 104a of the Austrian Criminal Code) have become known in Austria. Persons with strong physical and health impairments (for example persons with impaired vision and mental disabilities) are exploited by forcing them to beg in public areas. These persons are lured to Austria under false pretences from their home countries mainly from Romania and Bulgaria. Subsequently, they are transported to Austria and accommodated in places where they are made to beg under constant surveillance. Whatever money they obtain, they have to hand over. According to their own statements, they mostly belong to the ethnic minority of the Romani.

Statistical data for human trafficking are registered in the criminal police statistics Austria. The figures for the year 2021 were not available at the time of the reporting. It is expected that they will be published at the end of the first quarter 2022.

**2. What types of personal, situational and structural factors push minorities into contemporary forms of slavery in your country/community?**

See also answers to question 1.

Trafficked persons usually originate from impoverished or politically unstable backgrounds. In most cases, they are unable to secure a livelihood for themselves and their families in their home country. This vulnerability is a key to being tempted abroad with false promises such as job offers or marriage prospects, or to being abducted there by force. Since their papers are often taken from them after they enter the destination country, escape is impossible for most women and girls. Unless trafficked persons are recognized as victims of human trafficking, they also face deportation to their country of origin if apprehended, which similarly hinders them from approaching the authorities in confidence. In the case of marginalized groups, the situation is aggravated by the fact that dependencies already existed in the country of origin and they have a long history of discrimination to look back on. It is therefore particularly difficult for these victims to break through dependencies and to identify themselves as victims of trafficking.

According to information available to Austrian authorities, „socially disadvantaged persons“ (e.g.: persons with little money, no income, precarious housing situations, no education, no social attachment or homeless persons) or physically and mentally handicapped persons (e.g. handicaps such as amputations, visual impairment or dementia) are specifically and systematically selected by the offenders in their home countries and exploited as beggars.

**3. Are there wider political, economic, social, religious and cultural factors making persons belonging to minorities vulnerable to these practices?**

Please see answer to question 1 and 2.

As explained above, the addressed minorities are often highly marginalized, which makes them even more vulnerable to trafficking. Additionally, traffickers are well aware of these vulnerabilities and have developed tactics to target and exploit precisely these marginalized groups.

In addition, we should like to mention that the described factors also play an important part for the selection of victims. Social and economic factors in particular make the victims vulnerable to their exploiter.

**4. What has your government done at the local, national, or regional levels to protect minorities from being subjected to contemporary forms of slavery in your country? Please share examples.**

Austria is aware of the problem of forced marriage and human trafficking. To combat this issue, Austria has built up a broad network to protect women and girls in precarious situations by funding organizations to provide a low-threshold support system.

Austria is funding various non-profit associations that provide counselling, support as well as awareness raising on the subject of gender-based violence with focus on forced marriage. State-funded organizations also offer emergency housing for girls and women threatened and affected by forced marriage as well a nationwide coordination office on this issue. In addition, Austria is funding initiatives for the prevention and combating of human trafficking. The state-funded "Intervention Centre for Trafficked Women (IBF)" provides comprehensive counselling and support to women who have been trafficked to or within Austria. The IBF has a comprehensive approach to consulting and takes a specific anti-discriminatory approach into account. This allows also for marginalized groups to be reached and supported, the consultations are tailor-made and adapted to individual needs. In order to meet the increased demand, the counselling services of women with disabilities and trans women and girls were expanded in 2021 (see also question 9).

Since the right of residence often plays an important role for trafficked persons, victims of trafficking in Austria are entitled to a residence permit "special protection". The residence permit is to be granted ex officio or upon application, if this is necessary for the prosecution of the perpetrators or for the assertion of civil claims of the victim. However, such a residence permit is also possible independently of this if individual reasons can be asserted that the person concerned needs special protection that cannot be ensured in the country of origin.

In addition, there is a strong commitment to combating human trafficking at the government level. As a result, the inter-ministerial "Task Force on Human Trafficking" was set up in the Ministry of Foreign Affairs in 2004. The subject is discussed in the task force from the various perspectives of the relevant ministries together with independent experts. Moreover, the task force strives to continuously develop and improve Austria's measures against human trafficking. To ensure this, the Task Force has already developed six National Action Plans to combat human trafficking. In order to address specifically the different forms of exploitation, separate sub-working groups were established to address exploitation in prostitution, labour exploitation and child trafficking.

In all these measures, marginalized groups are given special consideration.

Another project led by the Task Force in 2016 was the creation of the web exhibition "Human Trafficking – Slavery of the 21st Century," which was designed in particular for use in schools and is available on the website of the Task Force.

The following facilities/initiatives support victims of human trafficking and labour exploitation and migrant workers, who often belong to minority ethnic communities. They are funded by the Austrian Government in the context of combating and preventing human trafficking and labour exploitation.

* MEN VIA, the Austrian victim protection facility for men who are affected by human trafficking, provides its clients with safe accommodation, multilingual psychosocial support, including during judicial proceedings, medical aid and other services. According to the needs of many affected men, since 2015 MEN VIA offers ongoing assistance (during daytime) at the shelter.
* UNDOK, the drop-in counselling centre for undocumented workers run by Austrian Trade Unions, assists migrants working in Austria without a secure residence permit and/or limited or no access to the labour market. The clients are provided with free multilingual information and counselling on labour and social rights considering migration and residency laws as well as assistance in asserting deprived entitlements resulting from undocumented employment relationships.
* The Austrian Government also financially supports a project run by the Austrian Trade Union Federation (ÖGB), which offers legal counselling for migrant workers in Arab, Bulgarian, Romanian and Russian language.

**5. What have non-governmental entities, including businesses and educational institutions, done to provide equal access to decent work and quality education in your country? Please share examples.**

The IBF's working approach focuses on empowerment: trafficked persons are to be supported in independent and self-determined living through targeted measures to improve their living and working conditions. The counselling sessions therefore also include educational programs that are tailored to the individual needs of the victims. These measures are also essential to counteract re-victimization.

Please also refer to question 9 for the exact range of counselling services offered by the IBF.

**6. What has been the role of civil society organisations, faith-based organisations, trade unions, and human rights defenders in protecting minorities from being subjected to contemporary forms of slavery? Please share examples.**

NGOs and NPOs serve as partners and receive a wide range of public funding to support government effort to combat all forms of violence against women and girls.

In addition to providing comprehensive support to victims, the IBF also provides outreach "social" work in order to reach those affected and to contribute to the self-identification of victims. In this context, *inter alia* the following measures have been implemented:

* Nationwide outreach work in digital space (newly established by IBF, since October 2021): Digital space has come to play a major role in many stages of exploitation, such as in the recruitment or deception process via social media. The innovative method of outreach work in the digital space is essential for the identification of victims and simultaneously provides a means of early detection - thus prevention. With the shift of THB also into digital space, outreach work online is a logical and necessary response to this change.
* UNDOK[[2]](#footnote-2) (in cooperation with IBF): contact point for undocumented workers in Austria, as especially workers without or with uncertain residence or limited access to the labour market are often affected by exploitation.
* SEZONIERI[[3]](#footnote-3) (in cooperation with IBF): Campaign for the rights of harvest workers in Austria: The campaign is carried out in Burgenland, Styria, Tyrol, Vienna, Lower Austria and Upper Austria together with local non-governmental organizations and activists. The aim is to inform harvest workers about their rights and to help ensure that at least the existing legal rules (in particular payment, humane treatment and accommodation, and occupational health and safety) are complied with.

**7. What has been the impact of the COVID-19 pandemic on minorities, including the related adopted measures and its social or economic effects with regard to contemporary forms of slavery? What actions has your government taken to protect them?**

The exit restrictions imposed in connection with COVID-19 further push trafficked persons into invisibility, making it even more difficult to recognise and use coercion and violence (e.g. Domestic servitude, forced marriage). There is a particular risk if the accommodation is directly linked to the work performance and both are provided by the (same) employer: When work cannot be performed due to COVID-19 measures, the housing condition creates an increased dependency on the employer.

Furthermore

* the ban on sex work imposed by COVID-19 measures increasingly pushed sex workers into illegality, making them more vulnerable to violence and exploitation,
* the prohibition of entry particularly exposes refugees and migrants to the danger of human traffickers.

It became evident once again how important control mechanisms are in order to identify and subsequently protect victims (labour inspections, controls in brothels, etc.). Furthermore, sensitisation work must continue online to enable self-identification and referral to support services.

Through COVID-19, it once again became apparent that those forms of exploitation that predominantly happen in the "hidden" – such as exploitation in 24-hour care, harvest help, or domestic workers, need increased attention. Offering counselling services online is essential, both now and in the long term, in order to reach those affected and provide them with the necessary support.

One of the most visible forms of poverty, begging, has severely been affected by the pandemic, in connection with all travel and movement restrictions, “lockdowns” and curfews. Existing hardships were significantly exacerbated by the pandemic.

The topic of poverty migration (begging) was included in the awareness-raising measures to make clear to civil society that “silent begging” is a constitutional human right, and that any kind of exploitation in this field will be punished.

The COVID-19 pandemic adds to the fact that economic hardship drives people into the arms of criminal human traffickers. The number of persons living in property has been increasing continuously. Therefore, especially women and children need protection as they are the major risk group for falling victim to human trafficking.

Furthermore, the pandemic has led to an increase of the use and visibility of regional and minority languages[[4]](#footnote-4) due to information of Covid-19 measures provided in the same languages. The provision of the respective information was carried out by the Austrian Broadcasting Corporation (ORF) National Minority Editorial Department in close cooperation with the responsible provincial TV studios of Burgenland and Carinthia, as well as the responsible provincial administrations (National Minority Office Carinthia and public relations of the Office of the Provincial Government of Burgenland).

The funding agreements of the National Minority Funding were quickly and un-bureaucratically aligned to the new situation. After a circular letter to all funding recipients and close individual contacts, new implementation possibilities were found quickly and creatively and, among others, online language learning, digital learners' support (especially in Vienna and Burgenland), as well as digital choir practice (in the Federal Province of Carinthia) were introduced.

During distance learning, the regional and minority languages were treated equal to the other languages of instruction and subjects. The thus developed study and teaching materials furthermore contribute vastly to the intensification and modernisation of the regional and minority languages programmes offered and, thus, sustainably support the language protection endeavours.

**8. What are persisting obstacles/challenges in preventing minorities from being subjected to contemporary forms of slavery?**

Marginalized groups have a long history of discrimination. Often they have been severely disadvantaged and excluded from an early age, both on an individual and structural level. As a result, there is a strong distrust of official bodies (including counselling centres, police), which makes it all the more difficult to reach out and build trust to provide support.

The major reasons for human trafficking are the vulnerability of the victims due to poverty, gender inequality and violence against women and children, conflict and post conflict situations, a lack of social integration and low job prospects as well as a lack of access to education and child labour.

Human traffickers use this kind of vulnerability for their complex and highly lucrative profitable business model, which still does not constitute a high risk criminal model but guarantees high profits.

The identification of victims is a major challenge requiring the greatest possible sensitivity from the investigating officers. Many concerned persons do not see themselves as victims and, for that reason, do not make reports to the police.

**9. What mechanisms exist in your country to report instances of contemporary forms of slavery as affecting members of minorities? How actively are such mechanisms used by members of minorities and to what extent have they been able to access justice and remedies? What are the main obstacles/challenges in this regard?**

Significant challenges in the fight against human trafficking and identifying victims are the self-identification of trafficked persons and access to trafficked persons. In addition to regular inspections of the various fields of work particularly vulnerable to exploitation (such as domestic work, seasonal work, 24-hour care or sex work), sustainable outreach work and awareness raising - both by the police and by counselling centres - are essential to reach trafficked persons. Furthermore, victims who do not receive comprehensive care and support, have little chance of escaping their traffickers, let alone facing a (criminal) trial and the inevitable stress that comes with it. It is therefore important to ensure effective cooperation between the police and counselling centres in order to create a functioning referral mechanism.

In light of this, the “IBF” (intervention centre for victims of trafficking in women), jointly funded by the Federal Ministry of the Interior and the Federal Chancellery, Department of Women's Affairs (50% each), offers a highly specialized support for female victims aged 16 and over: Since 1998, the intervention centre provides comprehensive outreach work, counselling and temporary sheltered housing. In addition, a referral process is established between the police and IBF, as trafficking victims identified by the police can be referred to IBF at any time. Over the years, a solid cooperation has developed between the IBF and the police, which is particularly valuable for the comprehensive support of victims.

The IBF is responsible for supporting trafficked women throughout Austria. In order to address today's challenges, the 2014 contract has been significantly expanded this year (October 2021) and the annual budget has been substantially increased. The following services are offered by the IBF:

* Shelter and counselling centre in Vienna: The counselling centre is located in Vienna in order to be in constant contact with all relevant institutions/establishments. Due to the central location of the shelter and counselling centre in Vienna, the anonymity of the victims is guaranteed. For victims who contact the IBF from other federal states, the IBF guarantees a safe and free transfer to Vienna.
* Counselling services: counselling is offered to women and girls from the age of 16 (in exceptional cases also to younger girls, in the case of minors only in consultation with and involvement of the Youth Welfare Office). The IBF is available to the police 24/7 thus victims identified by the police can be referred to the IBF at any time; counselling is provided regardless of the victim's willingness to testify. If necessary, accommodation is provided in a shelter or transitional housing.
* Shelter flats and transitional housing: 4 shelter apartments with a total of 28 places are available. Three "housing level models" are offered with 24-hour care or less, depending on the condition of the person concerned.

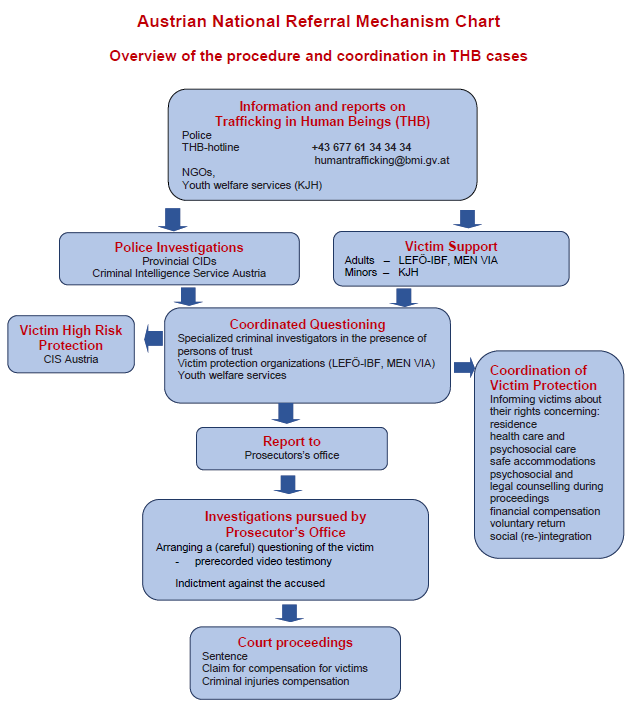
Additional services since contract extension 2021:

* Establishment of nationwide outreach work in digital space: Digital space has come to play a major role in many stages of exploitation, such as in the recruitment or deception process via social media. The innovative method of outreach work in the digital space is essential for the identification of victims and simultaneously provides a means of early detection - thus prevention. With the shift of THB also into digital space, outreach work online is a logical and necessary response to this change.
* Expansion of support for women with disabilities and trans women and girls (to address increased counselling demands)
* Expansion of police trainings by IBF: trained police staff, as first contact, play an important role in identifying victims. Training by the IBF is designed to ensure this awareness. Previously, training of police staff were conducted only in Vienna and Lower Austria. Now, these trainings are also offered in 6 more federal provinces.
* Expansion of support for the step into an autonomous life: IBF accompanies women and girls on their way to a self-determined and dignified life. Social inclusion in all its dimensions - in particular language, labour and social integration are essential for this process. COVID once more highlighted the significance of these aspects. To further support this process, the contract extension allowed for move-out apartments. These are intended to make it easier for women to move into independent living after the phase of shelter housing. In addition, a "buddy program" supports social inclusion.
* Expansion of networking and public relations work.

For challenges, please also see question 8. In access to justice, difficulties often arise due to a limited ability to testify (e.g. due to a physical/psychological impairment) and thus difficulties in the evidence procedure.

Everyone who is in possession of or has obtained knowledge about criminal offences can file complaints with each and every police station in Austria. Human smuggling is an offence for which prosecution is mandatory and the offenders are prosecuted by order of the public prosecutor’s office and the police.

The cooperation between the law enforcement authorities, victim protection organizations, the child and youth welfare offices and other stakeholders is the fundamental prerequisite for an efficient fight against human smuggling and the support of victims. Please see below the Austrian National Referral Mechanism Chart – an overview of the procedure and coordination in cases of trafficking in human beings (THB):



The fight against trafficking in human beings has been intensified by setting up a reporting office for human trafficking. Citizens have been able to anonymously report information about trafficking in human beings – also during lockdowns – under the phone no. +43 677 61343434 or by e-mail to menschenhandel@bmi.gv.at. The hotline is also published on the homepage of Criminal Intelligence Service. In 2021, this hotline received 650 tip-offs and reports. Numerous CID investigations were initiated, victims of human trafficking were identified and referred to victim protection services.

**10. What recommendations do you wish to propose in order to effectively address these ongoing challenges and protect minorities from contemporary forms of slavery?**

Human trafficking is a so-called control crime. In highly controlled areas, an increased number of trafficked individuals can be identified. More victims can be identified in areas where controls are conducted. In all forms of exploitation, efforts should be made to strengthen controls, raise awareness, and provide effective victim support (including outreach work) to identify victims and provide them with appropriate support and empowerment. However, especially in the case of marginalized groups, experiences of discrimination must be taken into account in this regard. Therefore, a victim-centred and inclusive approach must be at the forefront of all steps and at all levels (outreach work, in residence or criminal proceedings, in educational measures, etc.) in order to avoid re-victimization (and repeated discrimination).

The topic of poverty migration (begging) was included in the awareness-raising measures to make clear to civil society that “silent begging” is a constitutional human right, and that any kind of exploitation in this field will be punished.

1. See in particular Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (referred to as Anti-Racism Directive, OJ L 180/22 of 19 July 2000) and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (referred to as Anti-Discrimination Directive, OJ L 303/16 of 2 December 2000). [↑](#footnote-ref-1)
2. UNDOK - Anlaufstelle zur gewerkschaftlichen Unterstützung undokumentiert Arbeitender: »Arbeiten ohne Papiere … aber nicht ohne Rechte« [↑](#footnote-ref-2)
3. Für faire Arbeitsbedingungen in der Landwirtschaft! - SEZONIERI [↑](#footnote-ref-3)
4. Languages that were traditionally used by the six recognised national minorities on the territory of the Republic of Austria as regional and minority language in the sense of the European Charter for Regional and Minority Languages (Burgenland Croatian, Romani, Slovakian, Slovenian, Czech, and Hungarian). [↑](#footnote-ref-4)