

UN Universal Periodic Review Austria

Report by the Austrian Center for Ethnic Groups for the 10th Session of the UPR – Working Groups in January, 2011

I. Introduction: Austrian Center for Ethnic Groups

1. This report was produced by the Austrian Center for Ethnic (National Minority) Groups (NGO) in June, 2010. This center is an independent of government or political party influences and is an umbrella organization of all national minorities (ethnic groups)¹ in Austria. The following organizations have contributed to this *Report on the specific problems of national minorities in Austria*.

Council of Carinthian Slovenes / Rat der Kärntner Slowenen / Narodni svet koroških Slovencev,

Article VII-Cultural Club for Styria - Pavelhaus / Artikel-VII-Kulturverein für Steiermark – Pavelhaus / Kulturno društvo člen 7 za avstrijsko Štajersko – Pavlova hiša

Minority Council of the Czech and Slovak National Minority Groups in Austria / Minderheitsrat der tschechischen und slowakischen Volksgruppe in Österreich / Menšinová rada české a slovenské větve v Rakousko

Austrian-Slovak Cultural Club / Österreichisch-Slowakischer Kulturverein / Rakúsko-slovenský kultúrny spolok

Burgenland-Hungarian Cultural Club / Burgenländisch-Ungarischer Kulturverein /Burgenlandi Magyar Kultúregyesület

Central Federation of Hungarian Clubs and Organizations in Austria / Zentralverband ungarischer Vereine und Organisationen in Österreich / Ausztriai Magyar Egyesületek és Szervezetek Központi Szövetsége

Federation of Independent Hungarian Clubs in Austria / Dachverband der Unabhängigen ungarischen Vereine in Österreich / Ausztriai Független Magyar Kultúregyesületek Csúcsszervezete,

Club Roma / Verein Roma,

Cultural Club of Austrian Roma / Kulturverein österreichischer Roma

Croatian Cultural Club in Burgenland / Kroatischer Kulturverein in Burgenland / Hrvatsko kulturno društvo u Gradišću.

2. Up to the time of the actually producing the report, the Austrian federal government had not involved any of the above organizations in the contributing to the UPR-Report.

II. Short Summary

3. The basic problems are the **unequal protection of minorities** as well as the **non-implementation of articles of the State Treaty of Vienna** of 1955² and the **State Treaty of Saint Germain** of 1920³, through which above all the rights of the national minorities to their own organizations, free use of their languages, adequate school instruction and support of their own culture has been undermined. **Decisions of the Constitutional Court have not been implemented.** Minority rights have been conceded restrictively on the basis of “historical settlement rights”, whereby it has been attempted to further limit even those. Urbanization and rural depopulation have not been taken into consideration. Some national minorities, among them the Polish and Jenish, have not been given recognition at all.

Equality and Non-Discrimination

4. The protection of minorities in Austria is not uniform and there is discrimination against minority groups in particular as well as against individual members of minority groups. One example is the use of minority languages in school instruction:

- In contrast to Hungarian and Croatian language school instruction in Burgenland, there is only rudimentary instruction in the Roma language in Burgenland.
- In contrast to Carinthia and Burgenland, there is no bilingual instruction in public school in Vienna or Styria.
- The outmoded and strongly territorial limitations on granting minority rights that takes neither urbanization nor rural depopulation into consideration. This makes it nearly impossible for individual members of national minorities outside of the “historical settlement areas” to make use of their minority rights.
- In addition some national minorities, Polish and Jenish among others, have not been legally recognized and therefore are subject to discrimination.
- An additional example for unequal treatment is the Slovene music schools system / Glasbena šola. In contrast to the German music schools in the province of Carinthia, the Slovene music schools get 7-times fewer subsidies, although the financing comes from earmarked public funds from national media fees.
- A further similar example is the only surviving minority school Vienna for Czech and Slovak minority groups established through the “Brünner Treaty”⁴. Its existence is a duty of the federal state in compliance with the treaty, yet compared to the public schools it is insufficiently funded and so its existence is continually threatened.

The unequal treatment of the Slovene music schools and the Komensky School clearly represent breaches of Article 68 of the State Treaty of Saint Germain, which provides for minority groups a proportional part of public funds for educational purposes.

RECOMMENDATION:

*Unification of minority group rights according to the draft of the experts group report for new Austrian minority groups’ rights (28 September 2009)*⁵

Implementation of the State Treaties of Vienna of 1955 and Saint Germain of 1920

Rule of Law

5. The lack of willingness on the part of the Austrian federal government to implement the decisions of the Constitutional Court on the issue of the recognition of minority languages as official languages⁶ and on the issue of bilingual topography⁷ is alarming, as these cases demonstrate a blatant deficiency in the protection of minorities as well as a blatant lack of respect for the rule of law in Austria.⁸

The rule of law has been undermined by the decades-long pseudo-activities of the various Austrian federal governments and actively fought against by the government fractions of the province of Carinthia.⁹ Of the 19 relevant decisions of the Constitutional Court not a single one has been implemented. Individual complainants have been threatened,¹⁰ and also ridiculed by leading government bodies so that even physical attacks cannot be excluded.

RECOMMENDATION:

Implementation of the decisions of the Constitutional Court on topography and official languages

National Minorities

6. The national minorities in Austria – officially recognized are only the Croat, Slovene, Hungarian, Czech, Slovak national minorities and the Roma ethnic group – have been deprived for decades of basic minority rights guaranteed under international law (State Treaties of Saint Germain of 1920 and Vienna of 1955), and decisions of the Constitutional Court on these issues have been consistently not implemented. Thus, Austria has violated the basis of the adherence to human rights and basic freedoms, as well as respect for the rule of law.

7. Right to their own organizations

Representative organizations of national minorities are registered only as regular clubs and organizations under Austrian club-law and have no special competencies or rights; the enforcement of collective rights is impossible. These organizations cannot act in the name of members of minority groups. The advisory councils set up according to the Minority Act¹¹ are not legitimized by direct democracy¹² and when necessary can be easily manipulated. The “right to their own organizations” is understood by the independent representative organizations of national minorities in Austria as the right to self-administration in their own matters. Article 120a of the Austrian Federal Constitutional Law provides for the establishment of entities under public law for the self-administration of national minorities. Austria has refused so far any self-administration on the part of national minorities according to 120a of the Federal Constitutional Law (B-VG)¹³.

RECOMMENDATION:

Establishment of self-administrative bodies under public law for minorities according to article 120a of the Federal Constitutional Law (B-VG)

8. Right to free use of minority languages

The Constitutional Court decided in last resort that in the communities and municipalities that can show a population proportion of at least 10% of minority language speakers over a longer

period of time have to admit the minority language as an official language. With this decision, the Constitutional Court declared the ordinances concerning official languages for Slovene¹⁴ as unconstitutional. **The Austrian federal government has not yet changed these ordinances.** The use of minority languages in government offices and agencies in the provinces of Vienna and Styria is not possible at all and in Burgenland and Carinthia is only very limited¹⁵ because civil servants competent in minority languages are few and usable legal forms and documents in minority languages are rare. Individual applicants who insist on filling out forms in their minority language have even been discriminated against by the authorities.¹⁶

Recommendation:

Implementation of the decisions of the Constitutional Court including more manageable facilitation in the use of minority languages as official languages.

9 Bilingual topographical signs

As in the decisions concerning official languages, the Constitutional Court has decided in the case of bilingual topographical signs that bilingual place name signs are to be placed in all communities and settlements that show at least a 10% proportion of the population as minority language speakers over a longer period of time.

The legal decisions on bilingual topographical designations have been confirmed by the Constitutional Court in years following in 17 additional decisions.¹⁷ But, because **up to now none of the above-mentioned decisions of the Constitutional Court have been implemented**, there are at this time (June, 2010) 12 additional cases pending.

The right to bilingual topographical designations concerns not only place name signs but as stated in Article 7 of the State Treaty of 1955 “signs of topographical kind”. Here it should concern bilingual signs for directions, street and road names, public facilities, etc., but in these cases there is as good as no consideration. Concerning these “topographical terminologies and inscriptions” (directions, street, roads, paths, official buildings) there has not been up to now any legal way to implement their bilingual nature. (See explanation to “right to own organizations”)

The Austrian federal government wants to solve the place name issues with a listing of settlements and communities with bilingual signs in a constitutional law. This would mean a limitation of minority rights guaranteed in Article 7 of the State Treaty of 1955 by a constitutional law, and thus the Constitutional Court would in the future be deprived of legal control, and so this action would be equivalent to a revision of the Austrian State Treaty.

RECOMMENDATION:

Implementation of the decisions of the Constitutional Court and the installment of bilingual signs for a designation of a topographical kind according to the Articles of the State Treaty of 1955.

¹ In the Republic of Austria, the general term to designate language and ethnic autochthonic minorities is usually “Volksgruppen” or ethnic groups. This report uses the term “national minorities” that is more commonly used in the English language areas.

² Federal Law Gazette 1955/152.

³ State Law Gazette 1920/303.

⁴ Federal Law Gazette 1921/163.

⁵ See link: http://static2.orf.at/vietnam2/files/volksgruppen/200940/B-VGNov_u_VGG_u_Fonds_-_Broschur_93042.pdf.

⁶ V 91/99 (4 October 2000).

⁷ V 16.404/2001 (13 December 2001).

⁸ See Report by the Commissioner for Human Rights, Th. Hammarberg, on his visit to Austria, 21 – 25 May 2007, 26, para 98: “The Commissioner is particularly concerned by the non-implementation of the decisions of the Constitutional Court regarding bilingual topographical signs since the case reveals shortcomings in both the protection of national minorities and the respect for the rule of law in Austria”.

⁹ Vice-governor of Carinthia Gerhard Dörfler: „The rule of law is one thing, a “popular instinct” is another.” *Kärntner Tageszeitung*, 30 December 2006; Governor Jörg Haider started an advertising campaign in September ,2006, „Carinthia will become monolingual“ and sent a letter with the same content to the citizens of southern Carinthian communities.

¹⁰ At the beginning of 2006, the following text-message was circulated in Carinthia: “By opening this text message (SMS) you have killed a Carinthian Slovene. Forward this SMS to participate in “Clean Carinthia”.

¹¹ Federal Law Gazette 1976/396.

¹² The UN Committee on the Prevention of Race Discrimination in its 37th meeting (CERD/C/AUT/CO/17, para 22) in the year 2008 ascertained: „In this context, the Committee recommends that the State party review the relevant laws and provisions regarding Autochthonous National Minorities Advisory Councils and their structure, in order to ensure that national minority members of these Councils are freely elected by their respective minority and also to ensure that these Councils represent a real dialogue partner for the different bodies of the State party“.

¹³ Federal Law Gazette 1930/1, Art 120a(1): „Persons can be gathered into self-administrative bodies by law to act independently in perceiving public duties that pertain to or lay exclusively or primarily in their common interests, and through them to be provided by them together.”

¹⁴ Federal Law Gazette 1977/307.

¹⁵ Example: In official buildings there are no directories in the minority languages, no information one can turn to when one party wants to use a minority language, it is nowhere visible whether this is an official building where using a minority language is even allowed; there is a lack of civil servants who are fluent in the minority languages; fluency in a minority language is not a criteria for the civil service. In identification papers and documents - such as passports, identity cards etc – applications for the inserting the address or place of birth in both languages (German and minority language) are regularly denied; in legal acts that are carried out immediately there is no right to use the minority language. The demand to use the minority language as an official language leads to drastic lengthening of the procedures.

¹⁶ In the community of St. Kanzian/Škocjan in Carinthia, citizens who want their notices for the assessment of public fees to be issued in Slovene are harassed by the community officials with diverse legal actions and seizure procedures - garnishment of wages, impounding of chattel and forced statements of liens in title registers.

¹⁷ V 64/05-11; V 46/06-7; V 47/06-7; V 48/06-8; V 49/06-8; V 50/06-8; V 51/06-8; V 52, 53/06-8; V 54-58/06-12; V 310/08-8; V 311/08-8; V 329/08-9; V 330/08; V 331/08-9.