

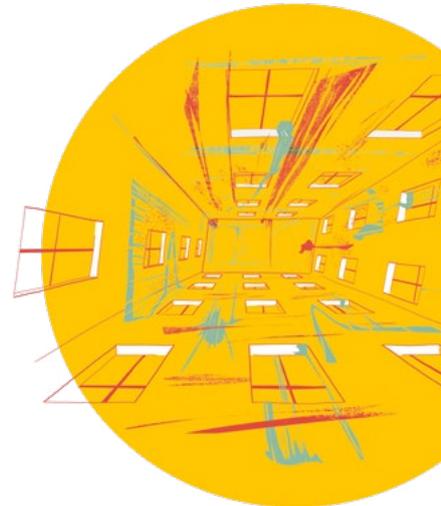
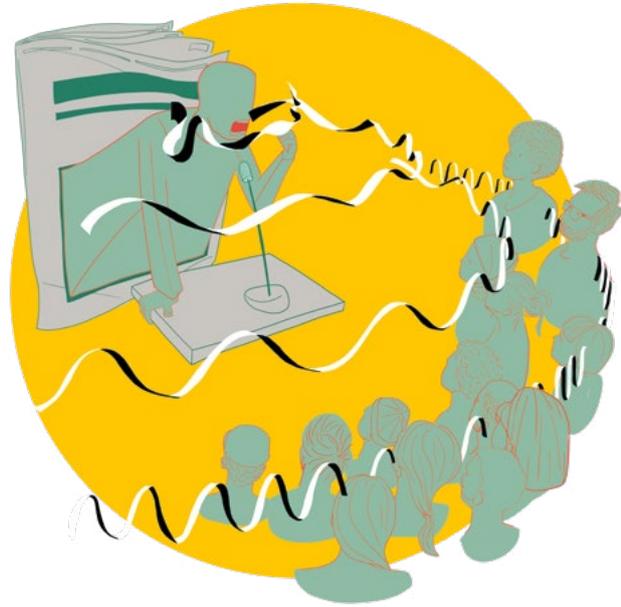


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Racism Report 2018

Individual case reports
on racist attacks and
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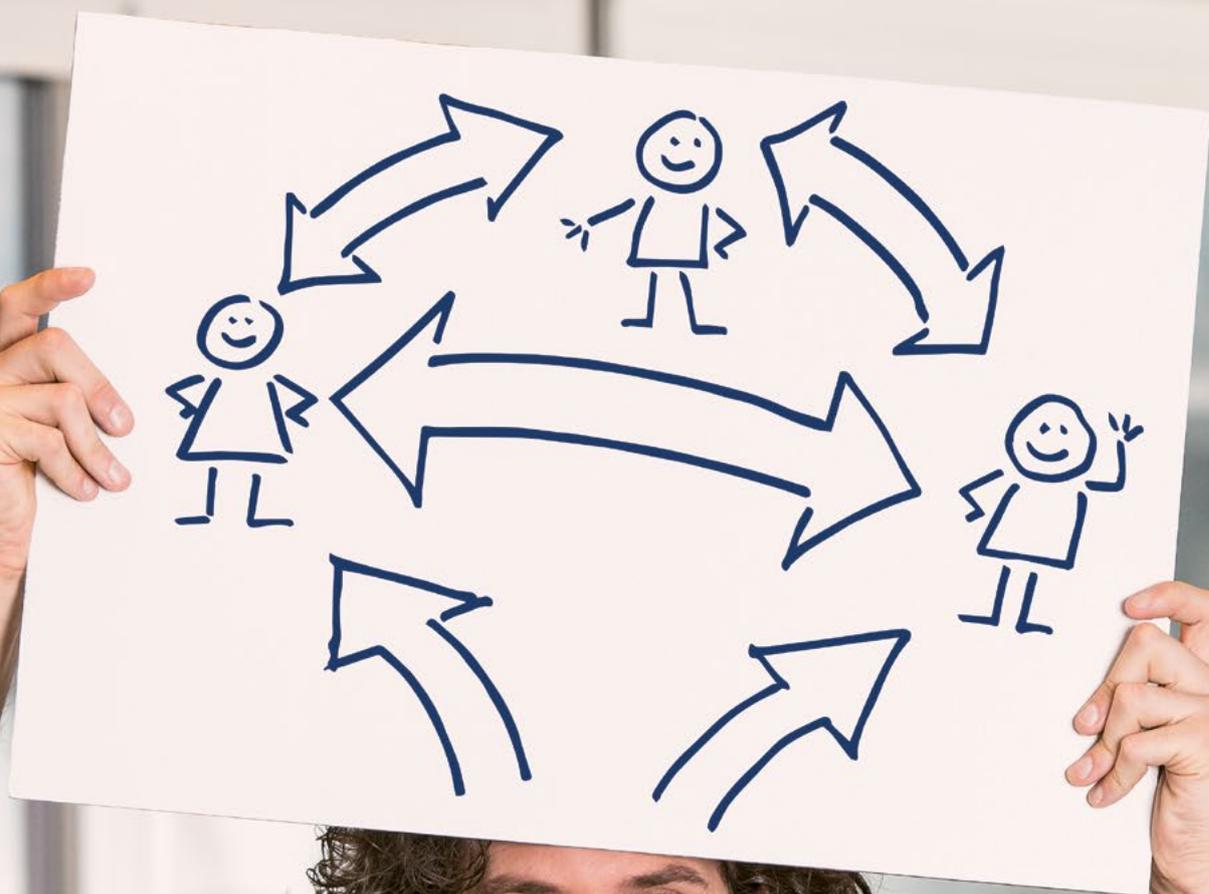
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Menschenrechtssprecherin Grüne Wien



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Editorial

Dear readers, supporters and friends,

Let us take a look at another turbulent and challenging year in the constant fight against racial discrimination. First of all, we would like to express a heartfelt thank you to the many people who supported our work (again) in 2018 – through membership, donations and voluntary commitment, by contributing money, ideas and hands-on work. A special thanks goes to the ZARA team that has devoted itself with courage and perseverance to the many challenges and the enormous workload we are facing.

In 2019, ZARA celebrates its 20th anniversary, and, unfortunately, anti-racism work has lost neither its urgency nor its necessity over the past 20 years. On the positive side, more and more people are approaching ZARA, are sharing their observations of and experiences with everyday racism and are thus actively combating it.

In your hands, you are once again holding our most important yearly publication with which we want to show what racist experiences look like in various spheres of life and to what extent every aspect of our lives is still permeated by them with the help of concrete examples of incidents reported to us. You will read about how marginalisation, hatred and violence are carried by a spirit of superiority based on nothing but ignorance, handed-down stereotypes and a blindness to privileges and how this harms solidarity and our society as a whole.

This report in itself is not a nice and comforting documentation, but it is an important one because it shows that there is still a need for action if we want our society to develop in a sustainable way. Furthermore, it shows that it is the barriers in our minds and hearts that keep us apart, create tensions and are in the long run detrimental to all of us.

At the same time, we want to emphasise that we live in a democratic constitutional state in which – embedded in an international and

transnational system of legal protection – many forms of so-called everyday racism are prohibited by law and that it makes sense to contact our counselling unit in order to actively take measures against it, and thus ensuring that justice is done. We must still not only protect the existing legal system and strengthen its effectiveness, but we also need to further increase our credibility and low-threshold availability so that more people who are directly affected by racism or who observe racist incidents turn to us because they trust that their contribution is in fact helpful and worth the effort.

For this edition of our racism report, we put a special focus on the prejudiced field of police conduct. We did this above all knowing that, on the one hand, experiences of injustice in such an important area of security administration lead to great insecurity and alienation and that, on the other hand, such a large and important apparatus has the means to further sustainable change and to take things into a different direction. We aim to support these changes and to make suggestions – you could also say: We will continue to be annoying. Why? Because it is important and because all the scientific evidence currently available shows that there is a substantial need for change, which we also experience in our daily work. In doing so, we are always trying to look at the subject from different angles and to also take into account the enormous challenges that come with daily police work.

Dear readers, we hope that this publication speaks to you – in the sense that it really tells you something about racist incidents in Austria and that it does not primarily shock or sadden you but rather strengthens your conviction that racism is a problem that deserves our continued attention and that can only be addressed effectively by joint action. Make use of our services and make your personal contribution with the help of ZARA! ■

Caroline Kerschbaumer
Head of the ZARA
Counselling Unit

Dieter Schindlauer
ZARA Managing
Director

Spheres of Life

2018 – Terms and Definitions

Public Sphere describes all incidents that take place in public and publicly accessible spaces, such as streets, public squares, traffic areas, parks and means of public transport. Racist smearings are contained within this chapter because the incidents of racist smearings reported to ZARA mostly take place in the public sphere.

Internet lists all incidents that take place on the internet. This includes online media, websites, online forums, social media, video platforms and blogs.

Politics and the Media includes any racist incidents attributed to politicians or political parties and their bodies as well as the traditional media (print, radio and television).

Police includes all reports that are connected in any way with the security administration and with public security bodies.

Other Authorities includes incidents that occur in administrative bodies, schools and other municipal institutions (except police).

Employment and Entrepreneurship relates to racist incidents associated with work and employment relationships in the broadest sense, e.g. labour market, job search, working conditions, working environment, job ads and so on.

Goods and Services (including access to housing) documents any incidents related to the access to and the supply with goods and services, such as in venues and stores or by other service providers.

Racism as a Reaction to Anti-Racism Work refers to intimidations directed towards ZARA and other anti-racism organisations.

ZARA's values

The interests of the people who contact the ZARA Counselling Unit are our first priority: Their statements are met with trust and understanding, and they are taken seriously. However, they are not adopted uncritically. As part of further steps, ZARA always endeavours to also examine the other party's or a third party's point of view. Therefore, counsellors cannot guarantee that the information provided to them – from various sides – is always truthful.

With the publication of individual case reports concerning racism, ZARA is acting right in the midst of the anti-racist dilemma, where it sometimes is necessary to reproduce racisms and racist language in order to fight racism.

In order to be sensitive in our approach to language, the authors of this report used diversity equitable language in the original german version. For the english translation, terms in the male form refer equally to both genders and the racist N-word is only implied.

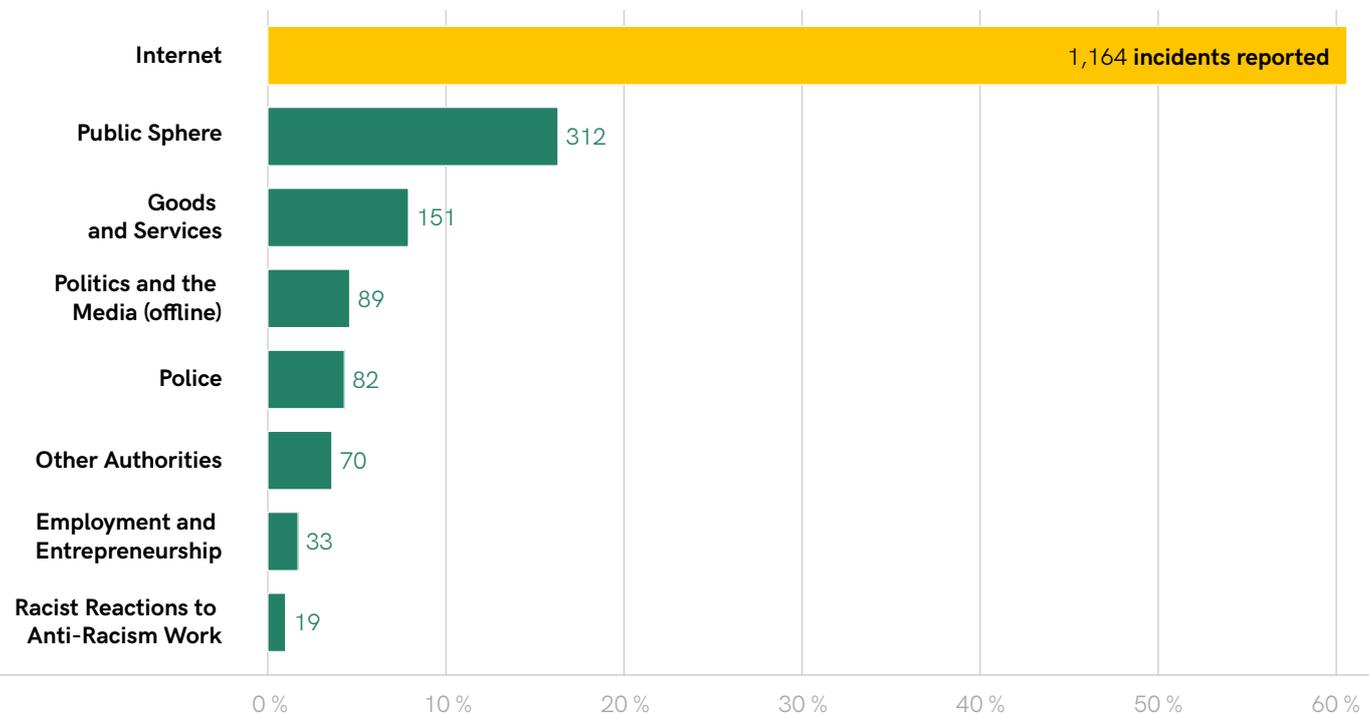
→ **ZARA's demands** (→ 20 Years, 20 Demands, p. 84)

→ **Further information** (→ Racist Incidents, p. 38)

Statistics 2018

In 2018, ZARA dealt with a total of 1,920 racist incidents.

3 out of 5 racist incidents reported took place on the internet.



WITNESSES

In 2018, 8 out of 10 racist incidents were reported to ZARA by witnesses.

Many people in Austria are aware of racism, assume responsibility and become active in the fight against it.



We need witnesses who show civil courage and who report racist incidents in order to make the whole dimension of the problem visible – and not only the tip of the iceberg.

According to a study by the European Union Agency for Fundamental Rights (FRA, EU-MIDIS II, 2018), only 14% of the persons directly affected report racist incidents.

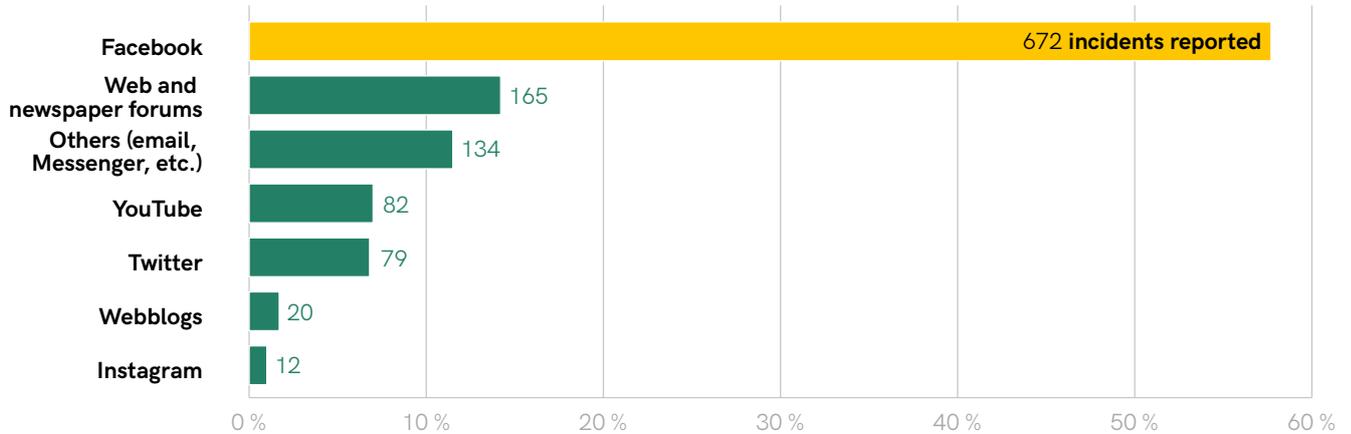
Source: FRA – European Union Agency for Fundamental Rights, 2018, "Second European Union Minorities and Discrimination Survey. Being Black in the EU"



INTERNET

The awareness to actually report racist hatred to ZARA is especially high on Facebook.

About 60% of all incidents of racism on the internet were reported by Facebook users.



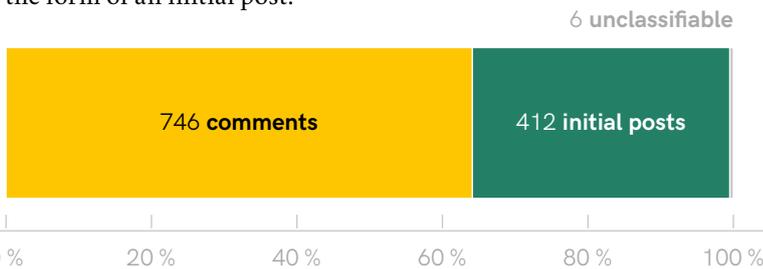
In almost 2 out of 3 cases, racist online hate took place in the form of a comment.

Hate posters promote racism almost twice as often as a reaction in the form of a comment than in the form of an initial post.

“Hatred is contagious, and we can observe that especially on Facebook. Often, the initial post is comparably harmless, but in the comments below, it gets really bad. In some discussions, we observe a veritable flood of racist comments – and there is the danger that users accept that kind of racism as a new normality.”



Ingrid Brodnig
Author of “Hass im Netz”
 (“Online Hate”)



POLICE

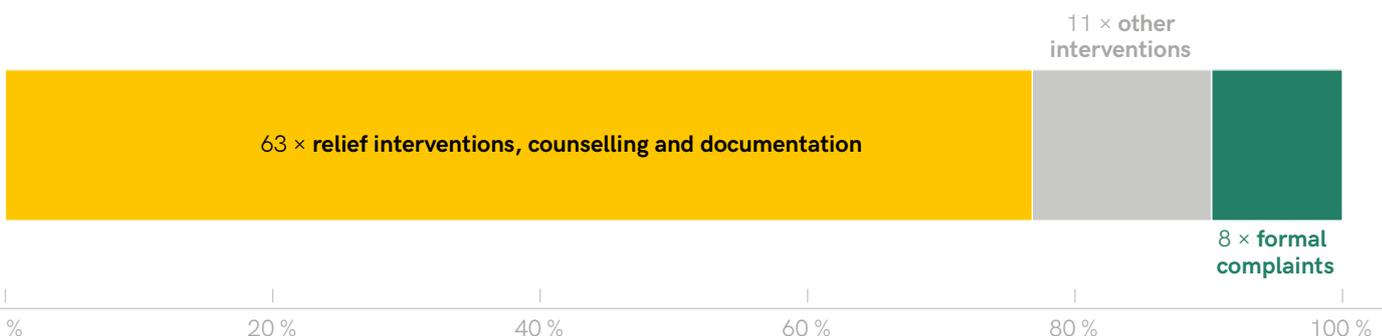
In only 8 out of 82 racist incidents involving police staff was it possible to file a formal complaint.

In 63 cases, ZARA’s services were concentrated on relief interventions, intensive counselling and documentation.

“The lacking chances of success, the fear of secondary victimisation by the police and the substantial effort of money, time and nerves are enormous obstacles on the way to a formal complaint against racist police conduct. This prevents honest feedback on misconduct from being actually reported back to the police as an institution.”



Caroline Kerschbaumer
Head of the ZARA
Counselling Unit



ZARA and the Police Relationship Status: It's Complicated

An attempt to answer frequently asked questions regarding this very special relationship.

Question 1

Why does ZARA always have to criticise the police? Can't you let them do their work in peace?

The chapter on perceived racist actions taken by police officers has been a constant in our Racism Reports since the beginning of our work almost 20 years ago. ZARA documents incidents ranging from verbal derailments to the unjustified exercise of violence that stem from an underlying bias towards those affected. We are not searching for these cases – we are only working with what is brought to our counselling unit. As we can see from the statistics on the reported incidents, taking legal action is only rarely effective and often not even desired, and it is even rarer that formal complaints actually lead to a successful outcome for the complainants. We regularly criticise the police for their handling of such incidents.

However, our criticism is by no means unreflected “police bashing,” as we are often accused of, or anarchistic barking that is automatically directed against uniformed people. Our criticism is the expression of our – admittedly high – expectations towards an institution governed by the rule of law that maintains the civil monopoly on the use of force. The police is not just some institution, it performs fundamental functions that are extremely important. For this very reason, police conduct is subject to particularly strict rules regarding objectivity and impartiality (→ Reviewability of Police Conduct, p. 17).

No other public bodies are legally required to “refrain from any action liable to give the impression of bias on their part [...],” as stated in the Directive for Interventions by Members of the Public Security Services, a kind of code of conduct for law enforcement officers. This is an important legal mandate – and at the same time, it is difficult to execute and to comply with in the course of millions of official acts per year, which are most often carried out under difficult circumstances and in states of emergency. To sum up: It is Austrian **law** that demands this, and it is not just an invention or some utopian fantasy by ZARA.

However, the law is also clear about the fact that police officers are human beings that are, as such, not able to act absolutely free from error. Therefore, all complaints are directed against the police as an **institution** (represented by the respective state police departments) and not primarily against individual police officers. And that is how it should be. Thereby, the law aims, on the one hand, at granting the complainants their unconditional and verifiable right to lawful treatment and, on the other hand, at dealing with individual mistakes by police officers internally – e.g. by means of disciplinary procedures –, whereby they have all grounds of justification laid down in the service law at their disposal. The authority can, therefore, fully assume its responsibility towards the complainants without having to mandatorily take measures against individual police officers involved.

Therefore, ZARA always directs its criticism towards “the police” and not towards “police officer X or Y.” So, what often may look like a general suspicion – such as “the police did this and that” – corresponds to the logics of our constitution that legally sees the actions of each and every individual police officer as an act of the police as an authority.

Question 2

Isn't ZARA prejudiced against the police? After all, you make them look bad all the time!

Every organisation which is primarily a point of contact for complainants must be aware of the danger of operational blindness and the “professional deformation” of its own point of view. This is something that ZARA, among other things, has in common with the police. If their experiences remained unprocessed and unreflected, the employees of our counselling unit would have to develop an increasingly biased attitude towards the police over time because they are always confronted with the negative experiences of others. At some point, they are prone to see every single police officer as a racially indoctrinated person right from the beginning. However, this image is as wrong and useless as every other form of generalisation.

To put things into perspective, ZARA tries to keep in touch with the police as an authority as well as with single police officers in order to exchange views on individual incidents and areas of concern. Internally, we make sure to build in reflection phases and to address this issue during supervisions. ZARA is aware of the many difficulties that come with the tasks the police have to perform as well as of the fact that many police officers do their work professionally, committedly and with sincere efforts to ensure non-discrimination.

Furthermore, in the last few decades, police training has progressed regarding non-discrimination issues.

All the more, we think it is important and beneficial to tirelessly point out areas where things do not work the way they should and where improvements would be appropriate not only from a moral but also from a legal point of view. With our complaints and criticism, our documentation and our cooperation offers, we want to show that we will not lower or abandon our expectations towards this authority but that we want to actively contribute to a process of learning and improvement in accordance with the legal mandate. At the same time, it remains our priority to defend the rights of those affected by inappropriate conduct and illegal actions taken by police officers. Both of these objectives determine and influence each other.

The people that contact us regarding complaints against police conduct usually do not do this out of a general hatred against the police but rather out of disappointment about what they had to experience – and out of the feeling that there must be another way and that they should legally be treated differently. Often, they are particularly shocked because they did not expect prejudiced behaviour on the part of the police. A reasonable and respectful handling of complaints by the police would be an effective means to restore trust in the police as an institution.

Question 3

Why does ZARA have a problem with ethnic profiling? Should the police look the other way when foreigners commit crimes?

ZARA stands against actions and behaviour that treat people less favourably due to racial stereotypes. This happens all the time

Mag. Hans Dieter Schindlauer is the Managing Director of ZARA. He is a lawyer and has worked for various anti-discrimination projects in the function of an internationally active human rights expert in leading position. Furthermore, he draws on many years of experience as an activist, academic, trainer and counsellor for various organisations. Since its foundation in 2004, he is the president of the Litigation Association of NGOs Against Discrimination (Klagsverband zur Durchsetzung der Rechte von Diskriminierungsoffern). Furthermore, he was a founding chairman of ZARA in 1999.



because such stereotypes are systematically present in our society. Everyone in a certain social and spatial environment has come across stereotypical attributions on the grounds of nationality, ethnicity and religious beliefs. But this does not mean that everyone believes in them or acts according to them. However, police officers can easily be tempted to fall victim to stereotypical attributions. In order to prevent these links from leading to discriminatory actions, the only thing that really helps is not the often propagated freedom from prejudice but rather a trained awareness: a mechanism in our heads that makes it possible to see through the distorting filters of stereotypes, experiences and handed-down prejudices. And this is indeed a skill that can and needs to be learned and trained. It is worth the effort because viewed from above, facts are more reasonable than blind trust in lasting rumours and temptingly simple established thought patterns – especially in the course of daily police work.

Ethnic profiling is a way too harmless technical term for what it really means when there is a lack of awareness for prejudices. When in a criminal trial a police officer testifies that *“there is always the suspicion of drugs being involved when a white and a black person are together in Vienna”* (→ 24 Racist statement of a police officer during trial, p. 51), this has nothing to do with tactical reasons relating to the investigation or with forensic probabilities, but it is simply a clear warning that racist attributions cloud perception in a way that makes police action in the sense of the legal requirement of impartiality impossible. And this is where the police as an institution must

intervene on a systematic level in order to truly fulfill its legal mandate.

Ethnic profiling is characterised by the mental linking of certain criminal offences to certain ethnic groups and a resulting higher attention on the part of police staff towards people that are assumed to belong to certain groups due to their ethnicity. However, this does not make any sense because these are artificial links that are not grounded on any real relationships. Therefore, such behaviour is not only discriminatory but also inefficient and unsuccessful. The dealing with the fact that there are actually offender groups which are mainly composed of people from certain countries of origin or which are structurally linked to certain countries, especially in the area of organised and cross-border crime, of course need to be dealt with differently. In these cases, the prohibition of ethnic profiling does not mean that the police should ignore these facts or that they are not allowed to include such indications in their tactical considerations. But when police officers take solely the (alleged) ethnic or national background into account in order to justify a suspicion, then this crosses a line. This is not profiling but mere investigative laziness that results in discrimination.

The question of whether the police should, in our opinion, look the other way when foreigners do something forbidden is a classic case of victim blaming when asked in reaction to racism accusations. Clearly, the police should not look the other way. Special protection or tolerance due to (alleged) origin or ethnic attributions is a form of racial discrimination which we clearly oppose as well. ■

Reviewability of Police Conduct

To cut a long story short: In Austria, police conduct is subject to very strict regulations and can be reviewed comprehensively. In this article, we will examine the existing possibilities of control and review and what these imply for dealing with complaints.

General information on the reviewability of administrative action

Administrative action may take different forms, such as regulations, orders, acts of direct administrative power or compulsion (Akte der unmittelbaren verwaltungsbehördlichen Befehls- und Zwangsgewalt, AuvBZ) and simple sovereign administrative action. Acts of direct administrative power or compulsion are either acts that represent orders which may be enforced with force in the event of non-compliance (e.g. the request for identification) or the exercise of violence against persons affected (e.g. forced entry into an apartment).

In order to take legal action against acts of direct administrative power or compulsion, the person affected may file a complaint with an administrative court (procedural complaint). The court will then determine if the police acted lawfully or not.

The prerequisite for unlawfulness is the direct infringement of the affected person's rights. Such rights typically include the right to protection from torture and degrading treatment in accordance with Article 3 of the

ECHR as well as the rights stipulated in the Law on the Protection of Personal Freedom and Article 5 of the ECHR (e.g. regarding arrests) and in the regulations on police powers and the use of force (e.g. the Security Police Act).

A procedural complaint allows persons affected to file a complaint in case they have to assume that their rights have been infringed upon by an act of direct administrative power or compulsion. It provides assurance regarding the legality of the administration and the core constitutional principle that administrative authorities must act within the framework of the law. When it comes to police acts, the protection of the citizen's human rights from undue interventions on the part of the executive plays an important role as well.

Police behaviour is particularly strictly reviewed

The conduct of (security) police staff can be reviewed quite comprehensively, i.e. the measures at hand are more precise, extensive and dense compared to other administrative acts.

Consolidation level 1 **Conformity between public and private law**

In the field of security police, Article 87 of the Security Police Act (Sicherheitspolizeigesetz, SPG) stipulates that every person affected by security police measures is entitled to have the legality of such measures reviewed comprehensively. Subject of the review are the questions whether the official act was legitimate, whether all formal rules have been observed and whether police conduct complied with the applicable regulations. Every person affected is entitled to an individual review regarding the compliance with all regulations pertaining to police conduct established by law.

Consolidation level 2 **Simple sovereign administrative action is subject to review as well**

Generally, simple sovereign administrative action cannot be reviewed by administrative courts. A simple sovereign administrative action is an act without the inherent power of command or the power of enforcement (e.g. mere inquiries). However, this principle may be ignored with regard to the security administration in order to ensure a more comprehensive examination of the conduct of state bodies. This represents a substantial and important extension of legal protection: Only since the introduction of Article 88 paragraph 2 of the Security Police Act in 2013, “simple acts of police conduct” may be reviewed as well. Thereby, any actions that do not qualify as acts of direct administrative power or compulsion may be reviewed to verify their legality.

From this concept of legal protection, the following may be deduced: The granting of extensive review possibilities may not only be seen as a competence of individuals – it shows at the same time quite clearly that the legal system attaches great importance to lawful policing. The administration must always act within the framework of the law, but such a comprehensive system of legal protection as stipulated in the Security Police Act can be equated with the mandate for the executive authorities to be especially careful in the exercise of their powers.

Consolidation level 3 **There is an additional instrument of control: the guidelines complaint pertaining to the Directive for Interventions by Members of the Public Security Services**

The aspects mentioned above show the need for specifically careful policing quite clearly. This requirement is significantly extended by Article 89 of the Security Police Act, which establishes an additional instrument of legal protection: the guidelines complaint that allows to assert violations of the Directive for Interventions by Members of the Public Security Services (Richtlinien-Verordnung, RLV).

The Directive for Interventions by Members of the Public Security Services lays down code of conduct regulations for organs of the public security services (including police officers). This “code of conduct” contains particularly ambitious guidelines. According to Article 5 of the Directive for Interventions by Members of the Public Security Services,

“[...] law enforcement officers have to refrain from any action liable to give the impression of bias on their part or that might be perceived as discrimination on the grounds of gender, race, skin colour, national or ethnic origin, religious beliefs, political opinion or sexual orientation.”

They must refrain from any action that might be perceived as discrimination! This directive is considered violated when the actions of police officers can objectively be perceived as discrimination, which means that the intention of the police officer to this effect is not necessary and that an actual discrimination does not have to take place. This interpretation also coincides with jurisdiction (e.g. VwGH, 29/6/2000, Nr. 96/01/1233).

On serious inspection, it cannot be expected that these comprehensive requirements are in every case met by people in stressful situations – which is often the case for police officers. Nevertheless, it must be an important objective of the police as an institution to work towards meeting the regulations laid down in the Directive for Interventions by Members of the Public

Security Services. Article 5 of said directive can, therefore, be seen as a primary objective for the police as an institution.

Recognising these dynamics represents a great opportunity when it comes to the question of to how to deal with guidelines complaints: When they are considered instruments helping the development of the organisation, they are helpful and can be used constructively to change things to the better. If there is a serious interest to find out what causes perceived racist behaviour in the course of official acts, the findings can be used to work on a systematic level, for example by implementing or adapting guidelines for police operations as well as training courses.

If it is understood that the decisive criterion is the eligibility for perceived discrimination, this may open the door for a honest handling of complaints. When it comes to a guidelines complaint pertaining to the Directive for Interventions by Members of the Public Security Services, the authority, respectively the individual police officer,

does not necessarily have to defend itself against allegations of culpable or intentional misconduct. Especially in non-intentional cases, the appreciative consideration of the experiences of the person affected by an act of official duty allows to desist from the logics of defence and justification and prepares the grounds for a truly constructive discussion about the intentions and effects of police conduct.

A mediation talk with the aim of the complaint being settled and no charges being brought (“Klaglosstellungsgespräch”), which is possible in the framework of a guidelines complaint pertaining to the Directive for Interventions by Members of the Public Security Services, is a perfect possibility to initiate a constructive discussion. As it gives the police officer and the complainant the possibility to exchange their points of view in a sheltered environment, a mediation talk has the potential to create understanding and to build trust.

Conclusion

Classifying procedural complaints and guidelines complaints pertaining to the Directive for Interventions by Members of the Public Security Services as instruments of organisational development, can be very constructive as they give the police the possibility to gain valuable insights into how their behaviour is perceived. By dealing honestly with these complaints, the police is able to actively strengthening trust in the executive. At the same time, persons affected by acts of official duty gain the opportunity to be actually heard, to understand the point of view of police officers and to regain or strengthen their trust in the police as an institution. ■

Mag. Lukas Gottschamel studied legal sciences in Vienna and worked at the University of Vienna as well as for several projects of the Parliament’s General Administration Office. Currently, he is working for the ZARA Counselling Unit and is in charge of its legal department. As an experienced lawyer, he informs persons affected as well as witnesses about possible options for action.



... you know exactly that you haven't done anything wrong

Dunia Khalil and Emily Zens in an interview with Rotimi Reichel (T-Ser) and Joel Omorowa (Sidney) on ethnic profiling, racism and the future.

Dunia Khalil: Last year, many people affected as well as witnesses reported racist incidents involving the police to ZARA. What are your experiences with ethnic profiling?

Joel Omorowa: In everyday life, it happens often that people treat you differently or think differently about you only because of your looks. This is also true for police officers. When controls take place, police officers almost always pick me or other people who do not look like “typical Austrians.” However, the incident in the Josef-Strauß-Park was a low point for me.

Rotimi Reichel: In any case, it happens often. But usually it's not as bizarre as it was in the park the other day. I'm supposed to tell you what kind of experiences I've made? I can tell you: shitty experiences.

DK: Have other people contacted you after the incident in the Josef-Strauß-Park that was all over the media?

JO: Yes, we have received thousands of messages from people who wanted to share their experiences. There were even some police officers who told us that they are being discriminated against at work because of their migrant background. And most of our friends made similar experiences. I've noticed that some of those affected have already become used to being treated differently or to being discriminated against on the grounds of their looks. For them, such incidents with the police are normal; and that's actually very sad.

RR: You see black people being controlled all the time. I think most of them haven't done anything wrong. Just like what happened to us: The police didn't control us hoping to find something, they didn't even search our pockets. Many people are stopped and have nothing on them, but when they are being controlled, a discussion arises, and then it is claimed that they were aggressive, screaming or gesturing around and so on – that's exactly what was put down in our report. I know that kind of procedure as long as I can remember. It almost seems as if police officers are told to act like that.

DK: What do you think: What does ethnic profiling do to people who are regularly confronted with it?

JO: I think many of them are beginning to question themselves, to wonder if they actually fit an offender's profile. You start to think: “Maybe I've done something wrong after all,” even though you know exactly that you haven't done anything wrong. I even received messages from children who were controlled because of their skin colour – one of them was only 14 years old. Somehow you start to think that police officers want you to fit this image.

RR: Many people in Austria are not aware of the actual extent of racism and racial profiling.

JO: In Austria, it's already a good sign when you don't rant about foreigners. It's extremely rare for people who are not affected to get upset because of racism or racial profiling.

People try to neutralise the issue, and in my opinion, it's played down too often. You hear things like: "It's not that bad!" or "Just let them talk!" That's a problem because people who say things like that think that they are not racist themselves – and that that's enough. But there is much more to it. If you accept racist remarks, it may be not as bad, but it also doesn't improve the situation.

DK: Today, I talked with a friend of mine about direct affectedness. Many people think that you have to be directly affected in order for racist incidents to somehow do something with you.

RR: I think that's the thing that most people don't understand. Just like the people that called me N***** at school. When I got upset, they told me: "You are only half black anyway." Half of my family is black, do they really think that this doesn't upset me? Just some days ago, someone on the street asked me where I lived. I spent a lot of time thinking about this, and I realised how offending such experiences can be. And then I'm always still nice to these people because, somehow, you are seen as a kind of representative of all black people.

JO: That's true. Actually, you don't want to be nice to them, but at the same time, you feel the need to show them that you are different from what they expect you to be. You want to show your best side, and at the same time, you think: "Who are you that I have to prove that to you?" And the worst thing is that being nice and behaving well doesn't even change anything! You just can't do it right.

RR: Most people are just thoughtless. Black people are controlled every day, and people tend to think: "There must be a reason for that." They have more trust in the state authorities than in their fellow human beings. People should really begin to question their attitudes.

Rotimi Reichel:

"As a white person, you may feel protected by the police. I've never, not for a second, felt protected by the police. As long as I can remember, I've been afraid of the police."

DK: How can the situation be remedied, what do you think?

JO: We need more awareness-raising at schools, actually in the whole society. And people need to understand the other side, the side of the people who experience such incidents. You often get the feeling that people only talk to get their opinion through and not to understand each other. And it's also very important to point out that generalisation is never an option.

RR: Somehow, you need to reach everyone, including the people that have different opinions, and not only your own communities, which most often are aware of the problem. The best way to ensure this is by changing things on the systemic level. I think most people could be reached at school. After all, everyone has to attend school in Austria.

JO: Education and the media – in my opinion, these are the areas that are able to introduce change for the better. Unfortunately, some media often give the wrong impression – just remember what they wrote about us! We were accused of things that were easily disproved by our videos.

RR: When an Austrian citizen commits a crime, nationality doesn't matter. But when it is an Austrian citizen with another cultural background, the media mention the background. So, then you are not Austrian?! Better training at schools and for journalists as well as objective reporting would definitely contribute to a more positive image. But in my opinion, those affected have to do something as well. If we had accepted what happened in the park and had just gone home, the police officers would have thought that this was a day like any other – and they would have done the same thing the next day. If every person affected makes public why and how some official acts take place, next time, the police officers will think twice about controlling someone in a park just because of his or her looks. That's why we chose the motto: "NichtMitUns" ("NotWithUs").

DK: The vice mayor honoured the eleven police officers involved in the incident in the park with the "Goldenes Wienerherz" ("Golden Viennese Heart"). How would you interpret that?

JO: On the one hand, police officers are encouraged to continue like that and to pursue

the same strategies, and on the other hand, this shows those affected that nobody gives shit about them.

RR: It encourages those who did something wrong, who discriminated against somebody, and it intimidates the persons that were discriminated against. And it shows that the state backs this kind of behaviour. To be honest, I'm glad because this shows Austria's true face. The Austrian Government was elected by the Austrian citizens, the award ceremony took place in the Vienna City Hall – it tells a lot about the situation in Austria that this was actually possible. Many people argued: "Not all police officers are like that." But the whole award ceremony showed that the police as an institution collectively are like that because they accepted the price. In doing so, they've laid all cards openly on the table.

DK: Do you think that the situation would improve if we started interacting more with the police? In America, there are discussion rounds between the police and the communities.

RR: If the police agreed to do that, it would certainly help. In my opinion, exchange is always positive. But they are not ready for exchange, we are ready, but the police isn't – and that's the problem.

DK: How do you feel right now in Austria?

RR: Honestly, I don't feel that well. I don't want

to whine or something, but it's hard. Especially because of the hopelessness.

JO: I always see a part of myself in Vienna, even when I'm travelling. I still have hope – and I feel the need to do something. I see that "NichtMitUns" gives people power and motivation, and this, in turn, empowers and motivates us. Ultimately, it's a big exchange of energy. I know that what we do is not the ultimate goal, but it's a step into the right direction.

RR: That's how I see it, too. What keeps me here are the children. I had no role models when I grew up.

JO: We missed a few things when we were children, and in my opinion, it's our task to fill the existing gaps.

Joel Omorowa:

"We want to be the role models that we would have needed when we were children."

RR: I'm glad that we are able to be here for the children. And I will continue to do what I do, no matter where I live. I will always come back to fight the system.

JO: There are a lot of things that upset me in Vienna, especially that many people tend to lag behind in thinking. But all in all, I have to say that I love this city and that, well, I'm a true Viennese. ■

Dunia Khalil studies legal studies at the University of Vienna and has been a part of the ZARA counselling team for several years. During the last year, she focused on incidents that involved the police and wrote a seminar paper on ethnic profiling. Currently, she is in charge of several incidents reported to ZARA involving the police.

Joel Omorowa's artist name is Sidney. He has been making music for two years, and in 2017, he co-founded the label "Akashic Recordz," whose members also engage in graphic design, photography, video production and fashion. Meanwhile, he has released five tracks, the most successful ones being "Lingard" and "lit."

Rotimi Reichel's artist name is T-Ser. He is an Austrian hip-hop/rap artist who has been making music since the age of eleven. His musical style ranges from demanding flow to fast trap beats and socio-critical lyrics. In 2017, he co-founded the music label "Akashic Recordz." His most successful single reached more than 1.5 million clicks.

Emily Zens currently supports ZARA in the areas of public relations and project work. She studies journalism and communication sciences at the University of Vienna, and in her minor subjects history and gender studies, she specialises in modern history, the roots of racism and gender-specific contexts.

Legal Enforceability of Complaints Against Police Conduct in Practice

In 2018, 82 incidents involving the police were reported to the ZARA Counselling Unit. In the course of these incidents, those affected perceived a certain behaviour on the part of the police officers involved as being racist. However, there were only a few cases in which ZARA employees were able to file formal complaints against the perceived racist behaviour: All in all, eight guidelines complaints pertaining to the Directive for Interventions by Members of the Public Security Services and two procedural complaints were filed.

In the beginning of 2019, the outcomes of the procedural complaints are still open, and with regard to the guidelines complaints, there was only one case that resulted in a satisfactory outcome for the complainant in the form of a successful mediation talk (“Klaglosstellungsgespräch”). In the vast majority of the cases involving the police, the activities of the ZARA counsellors focused on listening to the persons affected, on taking their experiences seriously, on giving them the feeling that it was the right thing to contact ZARA, on believing what they reported and on documenting the incidents. Such a way of proceeding is important for a lot of people affected in order to be able to process their experiences. Often, persons affected are content to know that their experiences have been documented and do not necessarily want to take legal action. Most often the reasons for this include a lacking belief in the success of legal actions, the fear of “messing with the police,” and the risk of costs in the amount of

several hundred Euros that arise in connection with certain legal procedures.

In fact, it is often not easy to achieve a satisfactory outcome through legal proceedings when it comes to allegations of mistreatment against police officers. In the framework of a recent study on the handling of allegations of mistreatment against law enforcement officers conducted by the Austrian Center for Law Enforcement Sciences (ALES) on behalf of the Ministry of Justice (“Studie über den Umgang mit Misshandlungsvorwürfen gegen Exekutivbeamte”) published in November 2018, all cases of mistreatment allegations against police officers that fell within the jurisdiction of the public prosecutor’s offices in Vienna and Salzburg from 2012 until 2015 were examined. In most of the cases, law enforcement officers were accused of physical violence against the persons affected. In more than fifty percent of the cases, physical injuries of the complainants were verified by medical reports, and more than 40 cases (both verified as well as non-verified) involved serious injuries. However, the majority of incidents involved minor injuries. In contrast, the majority of the accused police officers were not injured. According to the complainants, physical mistreatments were accompanied by verbal assaults and racist offences in almost 100 cases.

Only in seven out of the 1,518 cases examined, the public prosecutor’s office submitted criminal complaints to a court; in all other cases, the investigations against the police officers were discontinued or preliminary

¹ <https://www.justiz.gv.at/web2013/file/2c94848a66ede-49101671c374e097e39.de.0/ales%20studie%20endfassung%20nov18.pdf> (last accessed 27/1/2019)

investigations were not even initiated. The reasons for this were primarily the lack of verifiability of a punishable behaviour as well as the non-fulfilment of the offence of bodily harm, and in some cases, the exercise of physical violence as a legitimate coercion was considered appropriate. In the seven cases investigated further, there was not a single conviction according to media reports.

No single complaint – out of more than 1,500 – resulted in the discovery of an offence committed by the law enforcement officers involved. In return, the prosecution investigated in approximately 150 cases of defamation against complainants.

Also in November 2018, the Fundamental Rights Agency of the European Union (FRA) published the study “Being Black in the EU.” In the framework of this study, almost 6,000 people of African origin from twelve EU countries (Denmark, Germany, Finland, France, Ireland, Italy, Luxembourg, Malta, Austria, Portugal, Sweden and the United Kingdom)² were interviewed. The results of this study show a quite impressive negative “top ranking” of Austria, for example with regard to perceived racist behaviour on the part of police officers, as well as a substantial lack of trust in the police compared to the other countries:

On average, one-quarter of all persons surveyed (24%) were stopped by the police in the five years before the study. Among these, 10% characterised the last stop as racial profiling. In the last twelve months, on average 11% were stopped, with only 5% characterising these incidents as racial profiling. In both cases, Austria is far ahead: In the last five years before the study, two-thirds of all persons surveyed were stopped by the police, with more than one third (37%) characterising the most recent stop as ethnic profiling; and in the last twelve months, every second person surveyed was stopped, among which almost one third (33%) characterised the control as ethnic profiling – this is about six times more than the average.

Pursuant to the high number of cases that were characterised as ethnic profiling, respondents in Austria show by far the lowest level of trust in the police compared to the other countries surveyed: The average level of trust in the police on a scale from zero to ten is 6.3 – while Austria brings up the rear with a value of 3.6.

Furthermore, the interviewees were asked if the police treated them respectfully during the stops. A majority (60%) of all respondents who were stopped by the police in the five years before the survey say that they were treated respectfully during the most recent stop. In Austria, the number is way lower: Only 29% say that the police treated them respectfully during the last stop.

The above data show that we really have a problem in Austria: A vast majority of persons affected characterise police conduct as racially motivated and the police officers’ actions as disrespectful, and the level of trust in the police as an institution is comparatively low. At the same time, the results of the ALES study show that complaints against police conduct rarely lead to a satisfactory outcome for the complainants. In 100% of the cases, the authorities came to the conclusion that the police officers’ behaviour was correct – this is surprising and hard to imagine. All this data show quite clearly why those affected often have no confidence in the objective reviewability of police conduct.

The 82 incidents involving the police reported to ZARA represent only the tip of the iceberg. The dark figure is much higher because the majority of incidents are not reported according to the FRA study. This shows the need for urgent changes on the part of the police. Perhaps, change can be promoted by taking a look at countries like Finland, Ireland or Malta. Similar problems exist there, but obviously they are handled better. The level of trust in the Finnish police measured by the FRA is approximately 8.2 (of ten) – so we see that it is actually possible. ■

² The majority of persons interviewed are first-generation migrants – born in 59 different African countries – , many others were born in the EU and have at least one parent born in an African country.

Mag.a Caroline Kerschbaumer, E.MA is the head of the ZARA Counselling Unit and has been a ZARA trainer for many years. She studied legal sciences and is a graduate of the European Master’s Programme in Human Rights and Democratisation. Since her graduation, she has worked on the subject of human rights in various fields.



! Tip: Make sure to stay calm during official acts, and do not allow yourself to be provoked.

! Tip: Contact ZARA directly after the official act. We offer counselling free of charge as well as support during the prosecution of unlawful official acts.

YOU ARE NOT ALONE!

If you have any questions or need support, contact us:



+43 (0) 1 929 13 99

Schönbrunner Straße 119/13
Entrance: Am Hundsturm 7
A-1050 Wien

zara.or.at

KNOW YOUR RIGHTS

in Dealing with the Police

FOR PERSONS AFFECTED BY OFFICIAL ACTS

Your rights during identity checks (according to the Security Police Act):

§ 30. (1) Upon the exercise of power within the framework of the security administration, the person affected is

- entitled to be informed, upon request, about the reason and purpose of the identity check;
- entitled to be provided, upon request, the official identification number of the organs of the public security service involved;
- entitled to request the presence of a person of trust;
- entitled to present facts relevant to the official act and to have these documented.

(2) This shall not apply if it endangers the fulfilment of the task at hand. The rights of witnesses, persons involved and parties to administrative proceedings shall remain unaffected.

! Tip: You can also ask passers-by if they could quickly observe the official act as a witness.

Furthermore, you have the right to request the presence of a person of trust during the official act. This can be a friend as well as a passer-by. The police is not allowed to send this person away as long as he or she does not disturb the official act.

"Person of trust"

You have the right to ask police officers for their **official identification number**. Note the number, and make sure to remember the **time and place** of the official act. This is important if you want to file a complaint later.

Official identification number

You have the right to know why you are being controlled. Ask the police about the **"reason and purpose of the official act."**

"Reason and purpose of the official act"

In Austria, there is **no general obligation to provide evidence of identity**. However, the police are entitled to establish the identity of a person if there are specific reasons for doing so, for example, if the police suspect that a crime has been committed or if you are at a place where a large number of criminal offences occur. People who are **non-Austrian citizens** are required to always carry a valid travel document with them or have to keep it in a place from which it can be collected without undue delay (within one hour).

General obligation to provide evidence of identity

rights in the course of complaint procedures (e.g. procedural complaint, charges of bodily harm).

! Tip: ZARA advises against the publication of recordings where individual police officers involved are recognizable. However, the recordings may be used in order to enforce your rights in the course of complaint procedures (e.g. procedural

! Tip: It is best to do this discreetly without pointing your mobile phone right at the police officers' faces.

It is not forbidden to make audio or video recordings with your mobile phone during official acts as long as you do not disturb the official act.

Audio and video recordings

If you have the impression that a control is based on **ethnic profiling**, you can file a **complaint** as well (within six weeks).

Police officers are required to refrain from giving the impression of bias during official acts. They are not allowed to treat people differently on the grounds of gender, skin colour, national or ethnic origin, religious beliefs, political opinion or sexual orientation, and they are obliged to carry out their duties in a manner free of discrimination and to use the polite German form of address "Sie." If they do not behave in this way, you can contact us and we will support you in filing a complaint.

During official acts, police officers have to adhere to the Directive for Interventions by Members of the Public Security Services (Richtlinien-Verordnung, RLV), which is a kind of "code of conduct" for law enforcement officers.

"Code of conduct" for law enforcement officers

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DO NOT LOOK AWAY! SHOW CIVIL COURAGE!

If you have any questions or need support,
contact us:



CIVIL COURAGE &
ANTI-RACISM-WORK

+43 (0) 1 929 13 99

Schönbrunner Straße 119/13
Entrance: Am Hundsturm 7
A-1050 Wien

zara.or.at

KNOW YOUR RIGHTS

in Dealing with the Police

FOR WITNESSES OF OFFICIAL ACTS

- Do you witness a police check that you perceive as unlawful because the police officers are rude or aggressive or use unnecessary violence?
- Do you have the feeling that a person is controlled only because of his or her looks or skin colour or maybe just because he or she is homeless?
- You don't want to simply walk away, but you are not sure what to do?

Here are some tips on how to show civil courage and on how to support persons affected during official acts.

Person of trust

Tip: Ask the person being controlled if he or she wants you to be his or her person of trust. If the person being controlled agrees, you have the right to be present during the official act and the police officers are not allowed to send you away. You should not interfere directly, but you are officially a witness and may observe and document whether the official act is carried out correctly.

Thereby, the person being controlled feels supported and not left alone. If you do not want to intervene during the official act, you may observe it from a distance and then offer your support afterwards.

Witness

If you want to, you can give your contact details to the person being controlled and offer your help as a witness in case the person affected wishes to take legal action.

Witnesses are extremely important when it comes to the making a case and enforcing your rights before a court. Furthermore, it is important to inform the person affected about ZARA and our free services.

Video recordings

Filming a police control or an official act in the public sphere is not prohibited as long as you do not disturb the official act! You can easily stand a few meters away and record the situation with your mobile phone. Then, offer to give the video to the person affected as a piece of evidence. Such evidence is very important when it comes to determining whether the police acted lawfully. Filming is an important act of civil courage.

Attention:

Video recordings of unlawful official acts are an enormously important piece of evidence when it comes to legal proceedings. However, we strongly advise to refrain from publishing such recordings, e.g. on social media!

If the police tries to prevent you from filming, you can have a regional administrative court determine whether this was lawful or not. For further information, contact ZARA!

Tip: Always stay calm when dealing with the police, and do not allow yourself to be provoked. If you are upset and express your anger, this can be classified as aggressive behaviour towards the police, which is punishable.

Tip: Report any such incidents to ZARA! We can provide legal advice or simply document the incident.

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On our new website, you can inform yourself, book trainings, arrange free counselling appointments and report racism and online hate – also anonymously if you wish!

act! zara.or.at



Get Involved – Volunteer

Become a ZARAista and make use of the many possibilities to be active with us. Become part of a hands-on community!



Report racism

Racist discrimination means that a person or a particular group of persons is in some way disadvantaged, discriminated against or attacked because of their skin colour, language, appearance, religion, citizenship or origin.



Donate (online)

Donate online – to make sure that those affected by racism and online hate are not left alone with the injustice and humiliation!

Find us on ...



zara.or.at

Civil Courage Right From the Start

“You belong to the people that show civil courage, and with your commitment, you have proven that you have the courage to not look away, the courage to help others, that you know what diversity means and that you see it as an enrichment. PEER could also be an abbreviation for people with real backbone.”

With these words, the vocational school principal Daniela Kirnbauer congratulated the tenth PEER graduates of the peer education project “Mut zur Vielfalt! – Antidiskriminierung in der Berufsschule” (“Courage for Diversity! – Anti-Discrimination at Vocational Schools”) at the vocational school for administrative occupations in Vienna in October 2017.

Her speech summarises quite precisely which topics are covered in our school projects – two peer training projects at three vocational schools as well as the project “ZARA macht Schule” (“ZARA goes to School”) in four Viennese districts. We give positive impulses for a respectful atmosphere in everyday (school) life and teach children and young people new competences and communication skills. In doing so, we focus on three subject areas:

First, we aim to sensitise children and young people to discriminatory situations through an age-appropriate introduction of topics like identity, prejudices, discrimination and equal opportunities. The pupils deal with questions such as: “What prejudices do I have myself, and how do I deal with them?”, “What is my identity, and how do I deal with group affiliations?” or “What relevance do differences have?” By this, self-perception and the perception of others are questioned, attributions become visible, and feelings are expressed. Secondly, we focus on civil courage. Our workshops provide a safe environment for young participants to experiment with different strategies of how to deal with situations of violence as witnesses without putting themselves in danger. The pupils explore their own limits and possibilities and develop effective responses and creative counter-strategies to deal with discriminatory and racist situations and statements. Finally, the third workshop topic “Digital Civil Courage” aims at empowering children and young people

against hatred and incitement on the internet – an issue that becomes more and more important at schools. Apart from knowledge transfer in the areas of digital media, fake news and online hate, we aim to equip them with media skills and competences. Furthermore, it is our objective to raise awareness for hatred and incitement on the internet and the potential serious effects this can have on offenders, victims and “silent” readers.

Our workshops do not necessarily take place in the classroom. In the course of the project “Lernkurve Stadion” (“Learning Curve Stadium”) in cooperation with the Austrian Football Association, we organise workshops on the stands of the Ernst Happel Stadion with a view of the green field, which is always a highlight – not only for young football fans but also for our trainers. During the workshops, the pupils are confronted with topics such as civil courage, racism, being a foreigner/different and discrimination. Together, we develop strategies for how to act in discriminatory situations and for how to deal with diversity.

Of course, we also offer workshops and training courses for adults – at adult education centres in Vienna and the Amnesty Academy as well as in companies, universities, associations and authorities. In addition to our focus on awareness-raising, civil courage and digital civil courage, we offer argumentation trainings as well as the training course “Know Your Rights.” The latter revolves around knowledge transfer regarding the Equal Treatment Act and other relevant legal texts. After a short introduction to the work of the ZARA Counselling Unit, we discuss and develop terms and concepts on the topic of racism. Furthermore, we inform about possible legal actions and, thereby, aim at defining the law as an instrument that helps victims and witnesses of racism to react adequately.

If you are interested in further information on possible dates and training contents, please contact us via www.zara-training.at ■

Dr.in Bianca Schönberger studied history and politics in Tübingen and Oxford and has worked for international and developmental organisations, including the UN Development Aid Programme, for many years. Furthermore, she gained extensive practical experiences as an independent consultant for various EU projects. Since February 2014, she is the Managing Director of the newly founded ZARA Training GmbH.



Peer Education – Human Rights Education at Eye-Level

A report of the vocational school for administrative occupations on the “courageous citizens” training.

Together with ZARA Training, we have been working successfully towards a school free from prejudices for more than ten years. With the peer education project “Courage for Diversity – Anti-Discrimination at Vocational Schools,” the team of ZARA Training has become an integral part of our school democratic cooperation. The project aims at empowering pupils to actively confront topics such as prejudices, discrimination, civil courage and racism; trainings are carried out in all our first classes. In a next step, interested pupils are trained to become peer trainers who then carry out anti-discrimination trainings under the motto “Courage for Diversity” in other classes at our school. Experience has shown that pupils thereby not only engage in peer tasks but also actively take part in everyday school life and develop democratic competences. As an integral part of the school partnership, they make a significant contribution to a successful class and school culture and thereby also to our school development.

Respect and appreciation for each other – that is the standard at and the self-conception of our school. During the ZARA workshops, these values play an essential role in dealing with prejudices. ZARA works with open learning settings that do not aim at unambiguous results and conclusions but offer plenty of room for dialogue and group dynamics. The students take part with great zeal and are always very enthusiastic after the training days. Often, I can hear the future peers laughing all the way to my office – which, at the same time, recharges my batteries.

Demonstrate backbone, show civil courage. When it comes to civil courage,

we often think of great deeds in dangerous situations. However, it is not the big heroic deeds that we need in a democratic society but rather the arguing for one’s own rights and for those of our fellow human beings – and that is what civil courage means to us. Our peers are like vitamins, not only for our school: They are vital for the organism vocational school, working place and family. Again and again, other trainers, parents and delegates visit our school and are enthusiastic about the friendly atmosphere, the good manners of our pupils and the favourable school climate. As you can see: Our PEER vitamins do a great job, and they are contagious.

In autumn 2018, the PEER Education Project was awarded by the Department of Education of Vienna. Our project shows that diversity can be beneficial – when we work TOGETHER. ■



Daniela Kirnbauer, Dipl.Päd. is the principal of the Vocational School for Administrative Occupations Embelgasse in the fifth district of Vienna. As a certified didactician, she also teaches at the PH Vienna, where she herself completed her training.



Discrimination in the Education Sector Hinders Equal Opportunities and Furthers a Two-Class Education System

The IDB aims to promote educational equality and an education system that respects human and children's rights.

¹ <https://www.uni-mannheim.de/newsroom/presse/pressemitteilung/2018/juli/max-versus-murat-schlechtere-noten-im-diktat-fuer-grundschulkindern-mit-tuerkischem-hintergrund/>

² <http://diskriminierungsfrei.at/jahresberichte>

³ <https://derstandard.at/2000087382595/Kinder-und-Jugend-psychiatrie-hat-immer-noch-zu-wenig-Betreuungsplaetze>

Since 2016, the voluntary members of the Initiative for a Non-Discriminatory Education System (Initiative für ein diskriminierungsfreies Bildungswesen, IDB) document experiences of discrimination, which actually take place everywhere in the education sector in Austria. Thereby, the IDB covers all seven grounds of discrimination introduced by the EU. Anyone affected by racism, no matter if they are pupils or teachers, can contact the IDB and share their experiences anonymously via a form on the website www.diskriminierungsfrei.at, via the App "IDB – Report it" or via email to dokumentation@diskriminierungsfrei.at. Our aim is the full implementation of the European Convention on Human Rights and the UN Convention on the Rights of the Child throughout the whole education sector in Austria.

Discrimination within the education sector comes in many forms: racist statements by teachers, unjustified classifications as an extraordinary pupil, unjustified assignments to so-called special German education classes, lower grades for the same performance due to a foreign-sounding name (see study of the University of Mannheim¹), humiliation, degradation and embarrassment in front of the whole class by a teacher acting in violation of children's rights, sexist and racist remarks and harassments teachers have to experience through fellow teachers and so on. In our annual reports "Discrimination in the Austrian Education System 2016 and 2017"², which can

be downloaded for free from our website, you will find concrete individual case reports in anonymous form.

Experiences of discrimination can have particularly devastating effects if the victims are children or young people, i.e. pupils, and the offenders are adults, i.e. teachers. In this context, the imbalance of power and the existing relationships of dependence often lead to the development of physical and psychological problems. 25% of all children and young people undergoing psychiatric treatment state "problems at school" as the root of their problems³. In addition, their success at school suffers, and in the worst case, they drop out of school. If we take a look at the incidents of discrimination reported in detail, the statistical analysis 2017 shows the following:

In 2017, 173 cases of discrimination in the education sector were reported to the IDB, which represents an increase of 268% compared to the previous year. With 81%, pupils were the persons most frequently affected, followed by teachers (9%), university students and even kindergarten children. Regarding the grounds for discrimination, in 2017 Islamophobia ranked again first with 50%, followed by discrimination on the grounds of ethnicity (39%), a disability (6%), sexism, anti-Semitism and homophobia.

In 58% of all incidents of discrimination on the grounds of religious beliefs, the religious affiliation was "not visible," which in turn means that making religious beliefs invisible

does NOT protect against discrimination but, on the contrary, encourages discriminatory teachers in their attitude.

In order to reach our goal of an

education system free of discrimination, we developed a 10-point plan of action in 2016, which was extended by an 11th point in 2018.

11-Point Plan for the Establishment of a Non-Discriminatory Education System⁴

- 1 Data collection: studies on experiences of discrimination of pupils at public schools in Austria and evaluation of the number of teachers and principals that have a migrant background and/or are members of religious communities as well as the number of individuals without confession.
- 2 Establishment of an independent reporting and complaint unit for pupils affected by discrimination.
- 3 Introduction of anti-discrimination officers at every school. They should be the first point of contact.
- 4 Introduction of topic blocks on intercultural competence in workshops from elementary school onwards.
- 5 Diversification of the teaching staff: targeted admission of teachers with migrant background and/or of members of religious minorities in Austria as well as of persons without confession. Possibly introduction of a quota system, similar to the women's quota.
- 6 Diversification of the principals: targeted appointment of teachers with migrant background and/or of members of religious minorities in Austria as well as of persons without confession.
- 7 Introduction of standardised student surveys for the evaluation of teachers' behaviour as a quality assurance measure along the lines of quality assurance standards at universities.
- 8 Compulsory training and further education on the subject of German as a foreign and second language (DaF/DaZ), intercultural competence and sensitivity to discrimination for kindergarten pedagogues and teaching staff.
- 9 Obligatory involvement of Muslim theologians in case of questions or insecurities in connection with the Islam or when it is suspected that Muslim pupils have been radicalised. Ideally, the Islamic religion teachers within the school shall have advisory functions.
- 10 Implementation of the Articles 28, 29 and 30 of the UN Convention on the Rights of the Child to the Federal Constitutional Act on the Rights of Children. Beyond that, the School Instruction Act should be reformed according to the model of the Bremen School Law, which provides for disciplinary measures with appropriate pedagogical accompaniment *"in case of violations of the dignity of girls, women and homosexuals and of cultural, ethnic and religious groups"* (Article 47 paragraph 3).
- 11 Coaching, counselling and supervision for teachers during working hours in the event of (intercultural, interreligious, etc.) conflicts in the school environment in order to further conflict management as well as relationship competences.

⁴ This plan of action (abbreviated version) has been established independently by the members of the IDB. It aims to highlight what we consider to be the most important key points, and it does not claim to be complete.

⁵ http://www.antidiskriminierungsstelle.de/Shared-Docs/Downloads/DE/publikationen/Leitfaeden/Leitfaden_Diskriminierung_an_Schulen_erkennen_u_vermeiden.pdf?_blob=publicationFile&v=2

⁶ <https://www.morgenpost.de/berlin/article215806201/Die-meisten-Diskriminierungen-in-Schulen-sind-rassistisch.html>

In Germany, the Federal Anti-Discrimination Agency has published a targeted practical guide entitled “Recognizing and Preventing Discrimination at Schools.”⁵ In Berlin, an anti-discrimination officer has been installed as a member of the Administration Board of Education. She is not only responsible for documentation but also for initiating appropriate further procedures and consequences. *“Consequently, there were four cases in which teachers with civil servant status have been issued a reprimand or a written warning, two cases in which fines were imposed and three cases of compulsory retirement.”*⁶

From our point of view, consequences under the service law as well as disciplinary measures are also necessary in Austria, especially since in the vast majority of cases discrimination is exercised by teachers.

It is time to finally take legal and institutional action against discrimination in the education sector because according to a statement of the Austrian Ombudsman Board *“discrimination on the part of a stately body as well as the refusal to take action against discrimination are serious violations of human rights and a scourge that needs to be addressed.”* The IDB fully supports this statement. ■

The **Initiative for a Non-Discriminatory Education System (IDB)** is an independent, non-profit, voluntary association that documents experiences of discrimination since 2016. All seven grounds of discrimination introduced by the EU are documented. Thereby, it aims at the full implementation of the European Convention on Human Rights and the UN Convention on the Rights of the Child throughout the whole education sector. Victims of discrimination, no matter if they are pupils, teachers, witnesses or persons of trust, can contact the IDB and report experiences of discrimination anonymously via a special form on the website www.diskriminierungsfrei.at, via the app “IDB – Report it!” or via email to dokumentation@diskriminierungsfrei.at.

ZVR 421303680

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Dr. med. univ. Sonia Zaafrani is the founder and chairwoman of the IDB – Initiative for a Non-Discriminatory Education System. She works full-time as a general practitioner and has been voluntarily engaged in the fields of interreligious dialogue and the care of minor and young refugees and their families for years.

Solidarity and Effectiveness Through Networking and Exchange

Relationships, partnerships and networking activities are essential, if not vital for ZARA. As an organisation, we define ourselves through our activities and services: Through counselling, we help people to obtain their rights, through public relations, we raise awareness for the issue of racism, and in doing so, we aim to improve the situation. Even as a team of committed individuals who use their expertise and experiences to actively fight hatred and harassment on the internet, we need regular exchange and the support from various partners.

ZARA is convinced that effective anti-racism work is only possible when different actors work together – which is why strengthening networks and relationships is one of the most important focal points of ZARA's project work.

In order to ensure that as many people as possible know about ZARA and our work, we need partners who inform their communities, clients, members, participants, colleagues and partners about our services. Our clients often need more than just the support of our counselling unit. In some cases, they need psycho-social or therapeutic counselling or support during legal procedures because they have been victimised in a way that is relevant under criminal law. Therefore, ZARA needs partners with different areas of expertise to whom clients can be referred and who in turn offer their specialised expertise.

V-START – Victim Support Through Awareness-Raising and neTworking

Main focus: Improving support possibilities for victims of hate crimes

Within the framework of the EU project “V-START – Victim Support Through Awareness-Raising and neTworking,” ZARA had the opportunity to not only strengthen transnational partnerships but also to intensively promote networking on a national level.

V-START aims at improving the system of support services for victims of hate crimes, at counteracting so-called “underreporting” and at preventing hate crimes based on prejudices. In order to reach these goals, the first step are measures aimed at improving the visibility of this phenomenon – e.g. an overview report that collects the perspectives of local experts, brochures for potential victims of hate crimes in several languages, a handbook for practitioners, radio interviews and last but not least targeted training for civil society actors, police officers and legal experts.

At the core of the project lies networking and the cooperation with transnational partners, national civil society partners, colleagues and other actors concerned, such as the police.

The exchange with civil society colleagues and partners was more than fruitful and led to the establishment of a permanent network with the aim to jointly focus on the phenomenon of hate crimes:

Anna Schreilechner, BA studied African studies at the University of Vienna and is currently studying for a Master's degree in political sciences. In addition to her public relations work for ZARA, she is responsible for the coordination of transnational cooperations and occupies herself in depth with the phenomena of hate crimes and hate speech within the framework of the EU projects “V-START – Victim Support Through Awareness-Raising and neTworking” and “sCAN – Specialised Cyber-Activists Network.”



Five local networking meetings resulted in a Memorandum of Understanding that serves as a common declaration of intent for the fight against hate crimes. Thus, the network www.hatecrimekontern.at was founded in order to make hate crimes visible and to effectively and preventively confront them.

Unfortunately, there is still no universal and thus undisputed definition of the term hate crime. But this would not stop us.

The network works with the practice-oriented definition of hate crimes formulated by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) which states that:

"Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people."

The newly founded network sees further formulations of the definition coined by the ODIHR critically and, therefore, agreed on defining hate crimes in accordance with Austrian law as criminal acts motivated by prejudice directed towards groups of persons as stipulated in Article 283 paragraph 1 sub-

paragraph 1 of the Austrian Criminal Code or towards (alleged) members of such groups explicitly on the grounds of their affiliation to such a group.

In our understanding, so-called hate crimes are thereby directed

"towards a church or religious community or any other group of people or members of such a group of people defined according to existing or non-existing criteria of race, skin colour, language, religion or ideology, nationality, descent or national or ethnic origin, gender, physical or mental disability, age or sexual orientation explicitly due to their affiliation to this group."

If they qualify as criminal offences under Austrian law, the network considers hatred and harassments (online) a form of hate crime. Furthermore, online hatred and harassments are seen as potential triggers for hate crimes.

Hate crimes remind us of past catastrophes and, thereby, demand our responsibility to never forget or look away when hatred settles down in people's minds. In doing so, it is essential to keep an eye on critical trends and tendencies. ■

The projects V-START and sCAN are funded by the European Union's Justice Programme (2014-2020) and by the Federal Ministry of Labour, Social Affairs and Consumer Protection.



 **Bundesministerium**
Arbeit, Soziales, Gesundheit
und Konsumentenschutz



Increased Awareness and Cooperation Through Comparison and Knowledge Transfer

sCAN – Specialised Cyber-Activists Network

Main focus: Performing research on online hate speech and, thus, actively fighting it

Ten organisations from nine European countries – LICRA (France), CEJI – A Jewish Contribution to an Inclusive Europe (Belgium), Human Rights House Zagreb (Croatia), Romea (Czech Republic), Respect Zone (France), jugendschutz.net (Germany), Latvian Centre for Human Rights (Latvia), Spletno oko (Slovenia), CESIE (Italy) and ZARA – Civil Courage and Anti-Racism Work, advised by the International Network Against Cyber Hate (INACH) – have joined forces to find out more about the phenomenon of online hate speech by exchanging and transferring information, knowledge and experiences, to counteract this phenomenon on a large scale and to make the findings available to the public in a transparent manner.

The EU project sCAN is all about knowledge gain, exchange, transfer and innovation. It does not only focus on the content level but also on the technological level and aims at making hate speech on the internet easily recognisable in order to counteract this phenomenon effectively.

Together with many other organisations, all ten project partners – which are embedded within the university as well as the civil society context – are participating in four monitoring phases carried out by the European Commission that aim at

keeping an eye on the behaviour of large IT companies in order to ensure that they adhere to the promises made by signing the “Code of Conduct on Countering Illegal Hate Speech Online.” Furthermore, the sCAN partners make use of these phases to collect and publish findings from the monitoring activities that the European Commission is not able to evaluate.

A big part of the project still lies ahead of us, but we took the first important steps and are looking forward to many more interesting findings and comparisons. On the initiative of all organisations involved, further activities will be developed and prepared innovatively. So far, for example, the project “Facing Facts!” by CEJI – A Jewish Contribution to an Inclusive Europe has shared its knowledge concerning online courses on hate crimes and hate speech with all consortium partners. Within only three months, it was thereby possible to extend an existing English online course on hate speech and counter-narratives with national insights and trends and to offer it also in German and French. ■

For the German version “Hate Speech – Was tun!” see: <https://www.facingfactsonline.eu/enrol/index.php?id=24>



Public Sphere



This chapter contains a selection of the 312 incidents reported to ZARA that took place in the public sphere. Public Sphere describes all incidents that take place in public and publicly accessible spaces, such as streets, public squares, traffic areas, parks and means of public transport. Racist smearings are contained within this chapter because racist smearings reported to ZARA mostly take place in the public sphere.

1 Physical attack on a child

In spring, Ms. R. and her two sons were outside playing on a lawn close to their apartment. At some point, an elderly woman with her two dogs passes by and racially insults the children. Then, she steps on Ms. R.'s six-year old's foot, upon which the boy has to be brought to the emergency room. Ms. R. is very upset because of her son being injured and decides to contact ZARA. A ZARA counsellor informs her about the possibility to file charges of racist insult (→ Glossary, p. 69) and bodily harm. She also asks if Ms. R. knows the identity of the woman who attacked her son. Ms. R. explains that she knows the woman because she lives in the same neighbourhood and that before this incident there had already been insults, also against children, but that this was the first time that a child has been injured. Furthermore, Ms. R. explains that she has already filed charges against the woman. ZARA offers to accompany Ms. R. to her questioning by the police. Mrs. R. thanks ZARA stating that she is satisfied with the counselling and the inclusion of the incident in the individual case reports database.

2 Racist poster in an asylum seekers' home

Ms. U. runs an asylum seekers' home. In the summer, an incident occurred that shocked not only the residents but also Ms. U. herself. At the main entrance of the building, an unknown person had attached a poster. Since the poster is located right at the entrance and is quite big, it can easily be seen by everyone. The poster reads: "Fucking foreigners, off to the concentration camp you go." Ms. U. wants to take further steps herself but reports the incident to ZARA for documentation.

3 Racist insults on an underground train

In March, Mr. P. entered an underground train, his wife and two small children were already on the train. He passes by a man, accidentally touching him. Upon this, the man reacts very aggressively, and a discussion arises. Although Mr. P. tries to calm down the situation, the man insults him with the words "Fucking foreigners!" Mr. P. is shocked that the situation escalated so quickly. At the next stop, he and his family get off the train, and his son, who witnessed the incident, asks Mr. P. what "fucking foreigners" are. Mr. P. reports the incident

to ZARA and asks for support. He would like to arrange a clarifying talk with the man. He does not know the man's identity but remembers seeing a company logo on his clothes and assumes that the man works for this company. ZARA contacts the company with a description of the man. The company is cooperative but not able to help as it employs a large number of people who are allowed to keep their clothes even if they no longer work for the company. Mr. P. decides to take no further steps and to make peace with the incident.

4 Racist postcards in an apartment building

In 2017, Mr. E. discovered a postcard with racist and inhuman content in his post. As there were no address details, the postcard could not be assigned to any resident and was, therefore, placed next to the post boxes in the building. In January 2018, Mr. E. discovers another postcard with the following text in his post: "Why should we receive dirty N***** refugees? We have no interest in those scroungers from Africa. No-Thanks!" Mr. E. contacts ZARA and asks for documentation of the incident. In February, Mr. K. contacts ZARA because he also found a racist postcard in his building. Like Mr. E., Mr. K. lives in Vienna but in another district. The postcard he found reads: "Why do we have to grant asylum to those idiots from Africa? We are not interested in having the black race here. Nobody in Europe wants to have N***** folks here. Scroungers of social welfare benefits No-Thanks!" The postcards are not only similar in content but also in typeface. Mr. K. asks ZARA to document the incident.

5 Personal licence plate with NS code

Mr. T. contacts ZARA after having noticed the number "18" – a well-known National Socialist code – on a personal licence plate. The number combination stands for the initials of Adolf Hitler (AH). Mr. T. is surprised to see this code on a personal licence plate as he thought that such number combinations were no longer allowed on personal licence plates. A ZARA employee informs him that there is a decree by the Federal Ministry for Transport, Innovation and Technology (BMVIT) which explicitly mentions certain codes that are not allowed on personal licence plates – including the number "18." Personal licence plates that were handed out before the issuance of the decree may still be used but are not renewed. Since licence plates have a maximum validity of 15 years, there should be no such plates after 2030.

6 Racist insult because of headscarf

Ms. N. wears a headscarf for religious reasons. In autumn, she worked as a dialogue worker for an NGO. On her first day of work, a woman approaches her and begins to insult her for no reason. Among other things, she calls her a "criminal Muslim hoe" and tells her to go home. After that, the woman simply walks away. Ms. N. tells a friend about the incident who advises her to contact ZARA. She approaches ZARA and reports the incident. A ZARA counsellor informs her about the possibility to file charges of racist insult. Since Ms. N. does not know the woman's identity, she decides not to take any further steps.

KNOW YOUR RIGHTS

According to Article 115 of the Austrian Criminal Code (StGB), insults in the public sphere (→ Glossary, p. 69) – i.e. in front of at least three persons, victim and offender not included – are insults, mockeries, bodily mistreats or threats of bodily harm towards another person. They are to be punished with a custodial sentence

of up to three months or a fine of up to 180 daily rates.

In general, such an insult is considered an offence with private prosecution (→ Glossary, p. 69). This means that the offender is only prosecuted at the victim's request. The downside of a private prosecution is that the private prosecutor has to bear the costs of the criminal

proceedings if the offender is discharged. If, however, the insult is racially motivated, e.g. with reference to skin colour, ethnic origin or, as in Ms. N.'s case, the religion of the insulted person, it becomes an offence prosecutable upon complaint (→ Glossary, p. 69) in accordance with Article 117 paragraph 3 of the Austrian Criminal Code. According to the legal text, such an insult is considered a criminal offence if a person is abused, threatened with abuse, insulted or ridiculed in a manner that offends human dignity. Additionally, the insult must be directed against a member of a group – defined by certain criteria such as skin colour, language, religion, etc. – that is legally protected from incitement (see explanations on incitement to hatred in the chapter “Internet” (→ Internet, p. 43)). Groups such as “foreigners,” “migrants,” “refugees” and “asylum seekers” fall within the scope of this law.

The particularity of an offence prosecutable upon complaint, such as a racist insult, lies in the duty of the public prosecutor's office to prosecute the offence ex officio and

to initiate criminal proceedings provided that the victim has granted permission. In the course of such proceedings, the victim does not have to bear the risk of legal costs.

What can Ms. N. do?

Ms. N. has the possibility to file charges with the police or to submit an exposition of the facts to the public prosecutor's office. ZARA offers support as well as advice during these proceedings. If the public prosecutor's office concludes that the insult fails to comply with the criteria stipulated in Article 117 paragraph 3 of the Austrian Criminal Code, Ms. N. can still try to proceed against the offender privately. However, the problem with assaults in the public sphere is that offenders, as in the case of Ms. N., often remain anonymous and cannot easily be investigated. However, a complaint against unknown offenders to the public prosecutor's office serves to make such incidents known and to make sure that they appear in official statistics.

Racist Smearings

7 Anti-Muslim smearings

During a walk in Vienna, Ms. S. discovers a racist smearing on a house wall that reads “Muslims out.” She contacts ZARA and reports the incident. ZARA already knows this kind of smearing: A smearing with this wording was already reported in 2017 (see Racism Report 2017), and in 2018, there was a total of 30 similar smearings. In all incidents, the same words were used, and the smearings were all similar in colour and typeface. ZARA reports such smearings to the City Service of Vienna (→ Glossary, p. 69), and in most cases, they are removed shortly afterwards by the City Service.

8 Smearings on a poster

Mr. R. discovers the words “Austria, murderers, gyp***, romänte” smeared on an advertising poster

of an Austrian theatre. He contacts ZARA and asks for documentation, sending along a photo of the smearing. ZARA informs the theatre about the smearing, and the poster is removed immediately.

9 NS-smearings in a youth hostel

Mr. H. spends the night in a youth hostel in Upper Austria where he discovers several National Socialist smearings on a wall. Apart from swastikas, there are also the words “Heil Hitler.” During his stay, Mr. P. has no opportunity to tell the hostel staff about the smearings, but he now wants to write a letter to the owner of the hostel. He contacts ZARA and asks for legal advice. A ZARA worker informs him about the legal regulations applicable. At the time of going to press, it is unknown to ZARA if H. already sent a letter to the owner of the youth hostel.

KNOW YOUR RIGHTS

How can such smearings be legally classified?

Apart from damage to property (see below), a racist smearing can also be classified as a crime according to the Austrian Prohibition Act (VerbotsG, (→ Glossary, p. 69)), Article III paragraph 1 sub-paragraph 4 of the Introductory Act to the Administrative Procedure Acts (EGVG (→ Glossary, p. 69)) and Article 283 of the Austrian Criminal Code (“incitement to hatred” (→ Glossary, p. 69)). For more information on the offence of incitement to hatred see “Know Your Rights” in the chapter “Internet” (→ Internet, p. 43).

Prohibition Act

§ 3g. Whoever performs an activity inspired by the National Socialist ideology [...] will be punished with a prison sentence of between one and ten years or, if the perpetrator or the activity should pose a particularly grave danger, with a prison sentence of up to twenty years, unless the offence is not subject to a more severe sanction under a different provision.

§ 3h. In accordance with § 3g, anybody who denies, grossly minimises, approves or seeks to justify the National Socialist genocide or any other National Socialist crimes against humanity in a publication, a broadcasting medium or any other medium publicly and in any other manner accessible to a large number of people will also be punished.

Spreading swastikas, SS runes, National Socialist slogans and the like may fall within the scope of this provision if the offenders do have the intention to act according to National Socialist ideologies or to endorse NS crimes.

Furthermore, the Austrian Supreme Court has repeatedly ruled that exclamations such as “Heil Hitler” or “Sieg Heil” as well as the Hitler salute are symbolic of National Socialism. Thus, the demonstrative use of slogans and gestures of this kind in public in connection with the intention to perform activities inspired by the National Socialist ideology falls under the Prohibition Act and is punishable (see inter alia the decisions of the Austrian Supreme Court of 13/9/2000 with

the reference numbers 13 OS 45/00 and 13 OS 47/00).

Introductory Act to the Administrative Procedure Acts (EGVG)

Article III

(1) Persons who [...]

4. disseminate National Socialist ideologies as defined by the Prohibition Act, Austrian Criminal Code, National Law Gazette No. 13/1945, as amended by the Federal Constitution Act, Federal Law Gazette No. 25/1947,

commit, with regard to the offence under sub-para 3 or 4 only in cases not subject to a more severe sanction according to other provisions on administrative offences, an administrative offence punishable by the district administration, authority – in cases of sub-para 2 and 4 for areas of a municipality in which the state police department simultaneously is the security authority of first instance by the state police department – [...] with a fine of up to 2,180 Euros. In cases of sub-para 4, an attempt to commit the offence is punishable [...].

If the intention stipulated in the Prohibition Act (promotion of National Socialist ideas) is lacking in the act of spreading National Socialist symbols and there is no conviction, the offenders can still be punished under Article III paragraph 1 sub-paragraph 4 of the Introductory Act to the Administrative Procedures Acts. For the dissemination of National Socialist ideology in the sense of the Prohibition Act there is an administrative fine of up to 2,180 Euros.

Article 125 of the Austrian Criminal Code regulates the offence of damage to property. According to it, whoever destroys, damages, defaces or makes unusable the property of someone else commits an act of criminal damage to property. Smearings are mostly considered to be cases of defacement because they are a not insignificant changes to the outer appearance of an object. At the same time, this change must be so severe that the removal requires a certain effort. If the “lowest threshold” is not exceeded, e.g. if a small area

of a glass wall is painted with a water-soluble pencil, it is not a criminal offence.

In the case of simple damage to property, the maximum sentence is six months of imprisonment or a fine of 360 daily rates. If the damage exceeds an amount of 5,000 Euros or was done to a church, a grave or a building that is protected as a historic monument, the maximum sentence is two years. Alternatively, a fine of up to 360 daily rates may be imposed. If the damage exceeds an amount of 300,000 Euros, the sentence ranges from six months to five years of imprisonment.

What can you do about racist smearings?

Smearings are considered to be damages to property and are, as such, offences prosecuted *ex officio* (→ Glossary, p. 69), meaning the police have an obligation to file a complaint upon gaining knowledge about them. Since this rarely happens, smearings can be reported personally to a police department or by means of an exposition of the facts to the public prosecutor's office. Since the offenders are often unknown and it is not foreseeable if or when their identity may be determined, such complaints are sometimes merely useful for statistical purposes.

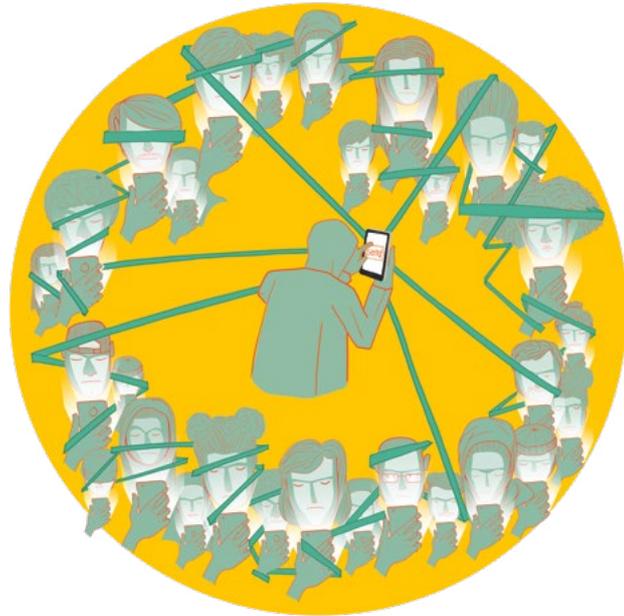
Ms. S., Mr. R. and Mr. H. can report the racist smearings to ZARA. The location and the content should be indicated as precisely as possible (address of the building, number and line of the public transport vehicle, etc.) and, if possible, a photo should be sent along. ZARA will then try to obtain the removal of the smearing, and in any case, ZARA documents the content, location and type of the smearing. Depending on the location of the smearing, ZARA employees will contact public institutions or relevant private contact points (e.g. City Service of Vienna (→ Glossary, p. 69), Wiener Linien, house managements) to request the removal. Most

of the institutions forward the request to the competent body if they are not responsible and inform ZARA accordingly. The City Service of Vienna arranges the removal of smearings in the public sphere in any case. If the smearing is placed on private property, the owners are contacted and asked to remove it. If you notice racist smearings, you can, of course, also directly contact the respective institution or the City Service of Vienna – via a contact form on their website www.wien.gv.at/kontakte/stadt-service/kontakt – yourself. In this case, ZARA would still be happy about a report to document all smearings and other racist incidents. The response to the request of removal of the smearing is documented as well.

If anyone wants to remove or cover a smearing autonomously, caution should be exercised. It is allowed to paint over a discriminatory smearing or a symbol of this sort with something easily removable, such as chalk, or to cover the smearing with an easily removable sticker.

If, however, a smearing is painted over and, thereby, additional damage is caused because, for example, the removal of the original smearing becomes more difficult as a consequence, then the person who painted over the racist smearing commits damage to property. If, however, the smearing is legally regarded as incitement to hatred, it could be argued to the effect that the lawful condition was restored by blurring the prohibited slogan/symbol and that, therefore, there is a justification. However, it is questionable whether a court would agree with this argument. Property owners may give permission to racist smearings being painted over as anybody has the possibility to allow damage to objects on their property caused by others *a priori* as far as the content of the painting itself is not punishable by law (e.g. in the case of incitement to hatred).

Internet



This chapter contains a selection of the 1,164 incidents reported to ZARA that took place on the internet. Internet lists all incidents that take place on the internet. This includes online media, websites, online forums, social media, video platforms and blogs.

10 Hate posts about the Viennese New Year's baby

At the beginning of the year, an outright wave of hatred in reaction to the first baby born in Vienna in 2018 caused excitement. The parents of the baby are of Turkish origin, the mother wears a headscarf. Media reports about the newborn result in a series of degrading posts and comments. More than 60 hate posts are reported alone to ZARA. Some of these degrading posts read as follows: "Next terrorist born," "Can't believe that something like that is allowed to reproduce ... I'm pro forced abortion of such inferior creatures," "Those are the potential murderers of our grandchildren ...," "Dirty packs," or "These devils reproduce and spread like the plague." ZARA reviews all posts and comments to determine their criminal relevance. Illicit posts are reported to the NS Reporting Office (→ Glossary, p. 69). Furthermore, ZARA arranges the deletion of the respective posts on Facebook. In September 2018, several media report about a woman convicted for incitement (→ Glossary, p. 69) after having published several posts, such as "Human garbage, worthless minus persons," in this context.

11 Racist comment in reaction to an advertising poster

After the ÖBB had launched an advertising poster that shows Mr. G. together with his black partner Mr. O. and a baby, a post by an FPÖ politician referring to the poster caused further discrimination. On Facebook, he posts the following comment: "I will definitely not extend my ÖBB benefit card but change to Westbahn instead. That's not normal! 2 supposed faggots w a baby and one of them a N*****. Terrifying ..." In the comments below, the exact job site of Mr. G. is revealed. Mr. G. and Mr. O. decide to report the incident to ZARA. ZARA supports them in filing charges with the public prosecutor's office. In November, ZARA learns from media reports that, before court, the FPÖ politician in question agreed to participate in the project "Dialogue instead of Hate" offered by the association Neustart (→ Glossary, p. 69). ZARA, furthermore, submits a complaint pertaining to harassment according to the Equal Treatment Act (→ Glossary, p. 69) to the Equal Treatment Commission on behalf of Mr. G. and Mr. O.

12 Hatred and violations of the Prohibition Act in a closed Facebook group

In a closed Facebook group, a large amount of degrading comments are posted. For example, there are swastikas and other comments that represent violations of the Prohibition Act (→ Glossary, p. 69) such as “Find the black man in the picture – Can’t find him? No wonder, he is a human being just like the rest of us. Just joking, of course he is in jail!” or “The Islam is the most dangerous plague that exists!” Y. is a member of this group in order to observe its activities and reports more than 50 of such degrading posts to ZARA. ZARA counsellors document the posts and assess their criminal relevance. In the case of illicit posts, ZARA files charges with the public prosecutor’s office and asks Facebook to delete the posts.

13 Racist depiction on a website

At the beginning of the year, B. discovers a racist depiction on the website of an IT company. On the homepage, there is an image of a drawn figure with black skin that is not in any recognizable connection with the services offered on the website. The figure has thick lips, is naked apart from a bast skirt and is armed with a spear and a

shield. B. is shocked and contacts ZARA. Another person already reported this racist depiction to ZARA, but then it was not possible to get the image deleted. Due to the renewed report, a ZARA employee decides to try to obtain the deletion of the image and writes a letter of intervention to the company. The company does not respond, but the image is deleted shortly afterwards.

14 Inflammatory comment

Below a video about refugees, a user posted the following: “Rats! Go home and leave our women in peace, you apes.” By accident, Mr. W. reads the comment and decides to report it to ZARA. A ZARA counsellor determines the criminal relevance of the comment and therefore reports it to the NS Reporting Office on the suspicion of incitement. In addition, ZARA asks Facebook to delete the comment. Shortly afterwards, ZARA receives a message from Facebook stating that the comment will not be deleted. Thereupon, ZARA decides to make use of its Trusted Flagger status (→ Glossary, p. 69) in order to obtain a deletion. Reports by Trusted Flaggers are classified as especially trustworthy. This means that illegal hate posts reported by ZARA are checked more closely and are, if necessary, deleted. Upon a Trusted Flagger notification, Facebook deletes the comment.

KNOW YOUR RIGHTS

According to Article 62 in conjunction with Article 67 of the Austrian Criminal Code, Austrian criminal law is applicable if the offender is physically present in Austria, if the success (meaning the results of the action) takes place in Austria or if the success is intended to take place in Austria. This also generally applies to criminal offences committed on the internet. If the relevant websites are located on a server abroad or the offender is not located in Austria, this complicates the situation and makes prosecution more difficult.

The comments made by the user in the case above represent violations of the Austrian criminal law. Some people

believe that inflammatory comments and statements injurious to human dignity are mere expressions of freedom of speech and are, therefore, allowed without exception, however, they are mistaken. In accordance with various international legal regulations for the protection of human rights, Austrian law provides for exceptions to the principle of freedom of speech in cases where it is no longer a matter of opinion but of incitement to hatred according to Article 283 of the Austrian Criminal Code (→ Glossary, p. 69) or in case of violations of the Prohibition Act.

According to previous jurisprudence on the offence of incitement to hatred,

“incitement” is defined as “a tendentious appeal to existing feelings or passions inciting hate and contempt” (cf. Supreme Court 28/1/1998, 15 Os 203/98).

**Article 283 of the Austrian Criminal Code –
Incitement to Hatred – stipulates the following:**

§ 283 (1) *Whoever publicly, in a manner such that it will be accessible to a large number of people,*

1. incites or instigates to commit a hostile act against a church or religious community or any other group of persons defined by criteria of race, skin colour, language, religion, world view, nationality, descent or national or ethnic origin, gender, a disability, age or sexual orientation or against a member of such a group explicitly on account of his/her belonging to such a group;

2. incites against a group defined in paragraph 1 or tries to insult or disparage it in a manner violating human dignity;

3. endorses, denies, seriously plays down or justifies crimes pursuant to Article 321 to 321f which have been legally established by a domestic or international court, whereby the crimes are directed against the groups defined in paragraph 1 or against a member of such a group explicitly on account of his/her belonging to such a group and when this is done in a manner likely to incite violence or hatred against said group or a member of said group

shall be liable to up to two years of imprisonment.

(2) Whoever carries out acts as defined in paragraph 1 by means of a printed work, in public broadcasting or in any other public manner such that the actions described in paragraph 1 are accessible to a broader public shall be liable to up to two years of imprisonment.

(3) Whoever causes, through an action as described in paragraph 1 or 2, other people to perform violence against the groups defined in paragraph 1 sub-paragraph 1 or against a member of such a group explicitly on account of his/her belonging to such a group shall be liable to six months up to five years of imprisonment.

(4) Whoever distributes or otherwise makes publicly available in an approving or justificatory

manner through a written publication, through public broadcasting or in another manner which makes it available to the broad public written material, images or other representations of ideas and theories which endorse, demand or incite hate or violence against groups as defined in paragraph 1 sub-paragraph 1 or against a member of such a group explicitly on account of his/her belonging to such a group shall be liable to up to one year of imprisonment or a fine of up to 720 daily rates, unless the offender is not subject to a more severe sanction as stipulated under Article 12 paragraphs 1 to 3.

The protected category of persons includes groups as well as individual members of such groups defined according to the presence or absence of the criteria referred to in paragraph 1 sub-paragraph 1. With regard to racist incidents, the law includes people or groups of people defined by the (ascribed or actual) presence or absence of the criteria of “race,” skin colour, language, religion, nationality, descent and national or ethnic origin as victims. The new wording establishes that groups such as “foreigners,” “migrants,” “refugees,” and “asylum seekers” fall within the scope of this law as well.

According to paragraph 1, it is forbidden to incite or instigate violence or hatred against such a group or members of such a group. According to paragraph 2, persons who have the intention to violate someone else’s human dignity by insulting a member of such a group in a manner likely to disparage or to discredit that group in public opinion are liable to prosecution.

Such acts are punishable if they are committed “publicly in a manner such that it will be accessible to a large number of people.” According to jurisprudence and doctrine, a “large number of people” indicates around 30 people.

The criminal offence stipulated in paragraph 1 sub-paragraph 3 implements international provisions with regard to the prosecution of certain forms and expressions of racism and xenophobia.

The higher punishment under paragraph 2 shall apply if the inflammatory statements become accessible to a “broader public.” Around 150 people fulfils the requirements of a broader public, thus, hate propaganda and the incitement to hatred on the internet, in magazines or in the course of well-

attended public events fall within this category.

If such an inflammatory action results in the use of violence against a group or a member of such a group, then it is liable to prosecution according to paragraph 3. Finally, paragraph 4 prohibits the dissemination of hate and inflammatory propaganda “in an approving or justificatory manner,” provided that it is accessible to a broader public. This paragraph clearly regulates that not only the independent composing of inflammatory material but also the dissemination of hateful content (e.g. on the internet) is prohibited. Merely reporting something with a critical intention is, however, not covered by the law.

What is problematic is the shortened limitation period as stipulated in the Austrian Media Act which applies when offences are committed via a medium. According to Article 1 paragraph 1 sub-paragraph 2 of the Austrian Media Act a medium is “every means of disseminating information or representations with intellectual content in word, writing, sound or image to a wider audience by means of mass production or distribution.” This includes, for example, newspapers, television programmes or – as in the case above – posts and comments on social media platforms. According to Article 32 of the Austrian Media Act, the limitation period for media-content offences (such as inflammatory posts and comments on social media platforms (→ Glossary, p. 69)) starts when the dissemination within the country begins. From this moment on, the limitation period is one year. In concrete terms, this means that inflammatory statements, e.g. on Facebook or on other social media platforms, can no longer be prosecuted after one year. For incitements to hatred that do not constitute media-content offences, i.e. that are not committed by means of a medium, the limitation period amounts to five years.

Incitement to hatred competes with the Prohibition Act (→ Glossary, p. 69)

under which National Socialist activities are punishable and is subsidiarily applicable to it. For more information on the Prohibition Act, see “Know Your Rights” in the chapter “Racist Smearings” (→ Racist Smearings, p. 40).

What can those noticing inflammatory comments on the internet do?

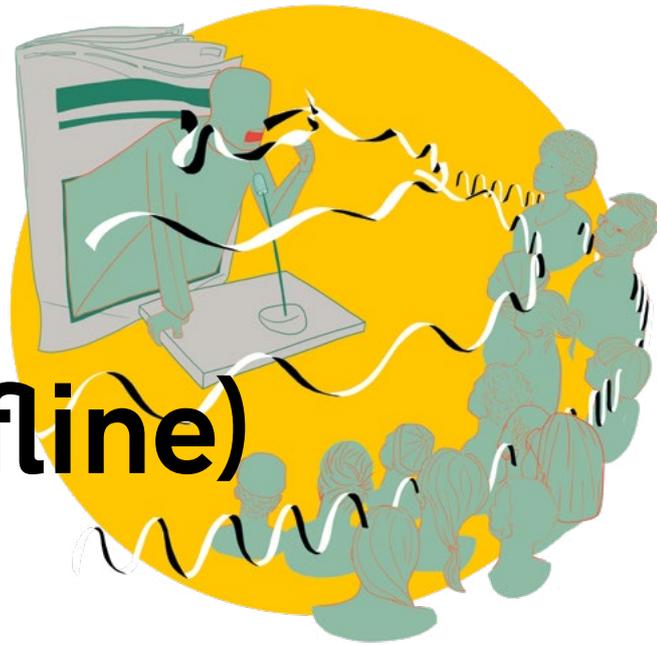
If the persons who wish to report such an incident contact ZARA, ZARA can submit the report to the police on their behalf – as described above. In order to obtain the removal of inflammatory comments from the internet, ZARA usually contacts the operators of the relevant websites and draws attention to the general terms and conditions (→ Glossary, p. 69), if they exist and exclude such content, and/or the criminal relevance of the comments. The operators are obliged to delete any entries that violate criminal law if they are informed about them. If the texts are inflammatory or fulfil the offence of glorifying and identifying with National Socialist activities and knowingly remain accessible, the operators of the site may also be prosecuted under criminal law.

Anyone who detects inflammatory content can also directly contact the NS Reporting Office (→ Glossary, p. 69), which is located at the Federal Office for the Protection of the Constitution and Counterterrorism (→ Glossary, p. 69) and receives reports on websites and articles with neo-Nazi, racist and anti-Semitic content via email to ns-meldestelle@bvt.gv.at.

It is helpful to provide a screenshot or a link to the corresponding comment as well as the exact date and time when the comment was posted. ZARA is also able to work faster if you can provide this kind of information to our counsellors, when you want to report such incidents.

Politics and the Media (offline)

4,6%



This chapter contains a selection of the 89 incidents reported to ZARA in the sphere of politics and the media. Politics and the Media includes any racist incidents on the part of politicians or political parties and their bodies and the traditional media (print, radio and television).

15 Statement against Muslims in a municipality building

In November 2018, a statement by the FPÖ Döbling caused media excitement. In the statement, the FPÖ Döbling demands the following: “No more Muslim migrants in municipality buildings in Döbling.” One building explicitly mentioned is the Karl-Marx-Hof, in whose inner courtyard exhibits a commemorative plaque that reminds society of the displacement of Jews from this very building in 1938/39. The association SOS Mitmensch submits an exposition of the facts to the public persecutor’s office on suspicion of incitement (→ Glossary, p. 69). ZARA documents the incident with the help of media reports.

16 Degrading video

Ms. L. comes from Slovakia, her husband is from Nigeria. While shopping after school, their eleven-year-old daughter is approached by a journalist

from an Austrian daily newspaper who asks her several questions, for example, how she likes school. Furthermore, Ms. L.’s daughter is filmed and photographed. Ms. L. is not asked for consent or informed about the interview. Later, her daughter tells Ms. L. about the interview who finds the article on the internet. Along with the article, there is a large photo of her daughter. The text conveys that children of migrants are underachievers and unmotivated. Among the comments, there are a lot of hate posts directed against L.’s daughter which also refer to her skin colour. Furthermore, there is also a video of the interview. Ms. L. is shocked about her daughter being interviewed without her consent and about the fact that the article was published without her knowledge or consent. She is especially upset because of the portrayal of her daughter as an “underachiever” and the racist comments. ZARA sends an letter of intervention to the newspaper asking for the deletion of the article, which happens shortly afterwards. Ms. L. is happy because of the quick reaction and thanks ZARA for its support.

17 Racist remarks by a member of a municipal council

Mr. D. is a member of the municipal council of his hometown. During an assembly of the municipal council, where, among other things, the allocation of apartments is discussed, another member of the municipal council makes degrading remarks about residents of Turkish origin. Since, according to the member of the municipal council, the building in question is only inhabited by “those Turks,” he states to be in favour of allocating the apartments to “native people.” Mr. D. is upset by this statement. Mr. D. contacts ZARA one week later, as he still had not received an apology. He wants to know how to deal with the situation in the municipal council and, finally, decides to address the incident once again during an assembly. Apart from that, it is important for Mr. D. to have the incident documented.

18 Racist FPÖ video about the E-Card with photo identification

In November 2018, several people report a video published by the FPÖ on its Youtube channel “FPÖ-TV” as well as on Facebook to ZARA. The video informs about the photo identification on the new E-Card that is said to prevent the abuse of the welfare system. The video features two cartoon characters named Ali and Mustafa and shows Ali using Mustafa’s E-Card to go to the dentists. Both are stereotypically represented: They wear long beards and red fezes. The dentist’s receptionist, on the other hand, is depicted quite differently. Christian Hafenecker, Secretary-General of the FPÖ, distances himself from the video, stating at the same time that it was a “fact” that those “abusing our welfare system are primarily migrants and foreigners.” This statement shows that the characters in the video are supposed to represent the groups mentioned. ZARA reports the video to the NS Reporting Office (→ Glossary, p. 69) on suspicion of incitement (→ Glossary, p. 69). Only one day after the publication of the video, it disappears from social media.

19 Anti-Semitic fraternity songbook

In the beginning of the year, a songbook of the fraternity Germania containing NS-glorifying and anti-Semitic passages, such as “And in their midst, stepped the Jew Ben Gurion and said: Step on the gas, you old Teutons, we’ll make the seventh million.” (“Da trat in ihre Mitte der Jude Ben Gurion: Gebt Gas, ihr alten Germanen, wir schaffen die siebte Million.”), provoked concern. The top candidate of the FPÖ Lower Austria, Udo Landbauer, is the vice chairman of the fraternity. He denies knowing anything about these passages but, nevertheless, temporarily resigns from all political duties and suspends his membership with the FPÖ. The public prosecutor initiates criminal investigations under the Prohibition Act (→ Glossary, p. 69), but these are discontinued in August. Shortly afterwards, Landbauer returns to politics as club chairman of the FPÖ Lower Austria. ZARA documents the incident with the help of media reports.

20 Incorrect statements in a newspaper

An Austrian daily newspaper published an article stating that two asylum seekers beat up a refugee counsellor who had to be brought to the hospital. Shortly afterwards, the incident is presented completely different in a press release by the police: There was a fight between two residents of Linz, one of whom was in the company of the two asylum seekers, but they were not involved in the fighting. The newspaper deletes the article upon this. ZARA documents the incident with the help of media reports and reports it to the Austrian Press Council (→ Glossary, p. 69) in order to have a possible violation of the Code of Honour of the Austrian Press examined. The Press Council decides not to initiate proceedings as it was not certain what kind of information had been communicated externally by the police prior to the publication of the article and as the article had been deleted anyway.

KNOW YOUR RIGHTS

One-sided racist reporting in the media is legally elusive. Newspapers can decide for themselves which reports and (allowed) opinions they publish. As long as there is no violation of the rights of individuals, e.g. through defamation (→ Glossary, p. 69) or the violation of the presumption of innocence, the Prohibition Act (→ Racist Smearings, p. 40; Glossary, p. 69) or other acts punishable under criminal law (e.g. incitement to hatred (→ Internet, p. 43)), legal steps are not possible.

However, since the re-establishment of the Austrian Press Council (→ Glossary, p. 69) in 2009, there is again the possibility to initiate proceedings pursuant to a possible violation of the media ethical principles of the Code of Honour of the Austrian Press by filing a complaint. The Press Council decides on reports in print media and on websites attributable to these media. According to its own definition, the Code of Ethics contains rules for the daily work of journalists intended to ensure compliance with journalist professional ethics. Regarding the protection against discriminatory and racist reporting, point 7 of the code states the following:

Protection against general disparagement and discrimination

7.1. General suspicions and general defamation of persons and groups are to be avoided at any rate.

7.2. Any discrimination on the grounds of age, a disability, gender, ethnicity, nationality, religion, sexual orientation and worldview or any other reasons is inadmissible.

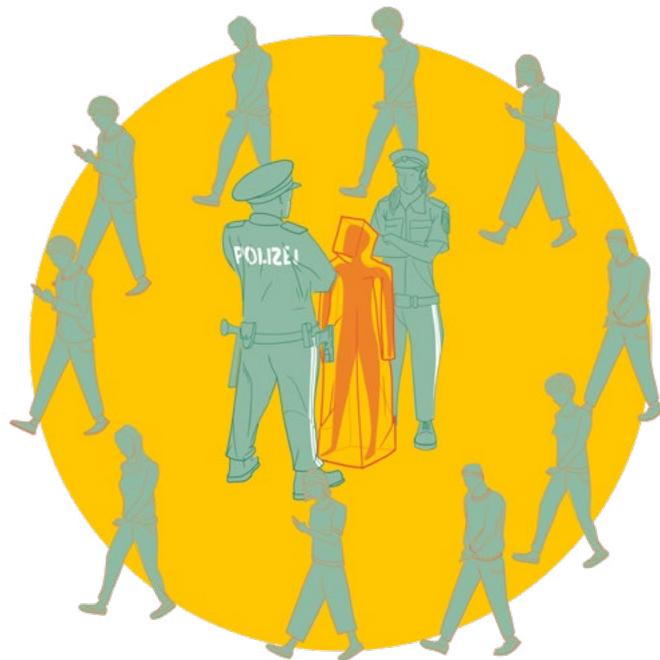
[...]

All decisions of the Press Council are available on its website www.presserat.at. Some of them are also brought to the public via press releases by the Press Council.

Furthermore, private individuals always have the possibility to contact the media owners in order to protest against racist reporting and to point out that such texts are rejected by the readership. If the incident is reported to ZARA, the counsellors can provide assistance or undertake this step on behalf of the reporting person.

Police

4,3%



This chapter contains a selection of the 82 incidents reported to ZARA that involved the police. Police includes all reports that are connected in any way with the security administration and with public security bodies.

21 Racist insult by a police officer

Mr. G. is a minor of Afghan origin. In summer, he visited the Vienna Danube Island Festival (Donauinselnfest). Suddenly, he finds himself right in the middle of a police control. Police officers grab him by his hands and pull him some meters away. During this, his jacket is damaged. A police officer films the whole incident. Mr. G. wants to show his identity documents to the officers, but one of the police officers says that he will do that himself. Then, one police officer says: “You fucking Afghan have no business here. Get your stuff, and go back home. You are not allowed on the Danube Island.” Mr. G. answers that he wants to stay. The police officer responds: “Get lost, you fucking Afghan, we don’t want you here.” Mr. G. tells his mother about the incident, who contacts ZARA. ZARA offers a personal consultation, however, G. and his mother inform us that they decided to seek legal advice. The further progress of the case is not known to ZARA.

22 Degrading treatment because of Chechen background

Mr. O. is 14 years old and a pupil. In September, he was on his way back home together with his siblings aged seven and twelve. Shortly before they were at home, he is suddenly attacked by an

unknown person, who tries to strangle him from behind. His siblings run inside and get their aunt, who tries to pull the stranger away from Mr. O. When their uncle arrives, he also tries to pull the unknown person away. Two women who happen to pass by try to pull Mr. O.’s uncle away from the unknown person. Shortly afterwards, the police arrive. The first thing they ask is where Mr. O. and his uncle come from. Mr. O. answers that they come from Chechnya. One police officer says: “All Chechens are stupid. Shut up now, and let the others tell us what happened.” There are about nine police officers present. They take the statements of the other people present but neither Mr. O.’s nor his family members’. Mr. O. states that he would like to tell his version of the story as he was the one being attacked from behind, and that he is hurt. At that, a police officer pushes Mr. O. so hard with his finger that Mr. O. slips backwards. The police officers say things like “Shut up now,” “I would be happy to wave at a plane taking you back home,” or “They are Chechens, they lie all the time.” In the end, Mr. O. is not allowed to make a statement. Mr. O.’s aunt also asks if she could make a statement. She hurt her arm and asks the police officers to take a picture of her injuries. This is dismissed with the answer: “Something like this never happened to you in Chechnya?” Subsequently, Mr. O. is charged with bodily harm, upon which his uncle contacts ZARA. A ZARA counsellor supports them in

filing a guidelines complaint (→ Glossary, p. 69). Additionally, Mr. O. and his uncle decide to seek legal assistance. In mid-December, a mediation talk (“Klaglosstellungsgespräch” (→ Glossary, p. 69)) takes place as a result of the guidelines complaint. During the mediation talk, the incident and the complaint are discussed between the police officers involved and Mr. O. and his family. Mr. O. has the feeling that the talk went well because some things were clarified and the police officers apologised for the incident. Nevertheless, Mr. O. cannot forget their insulting behaviour. Whether or not Mr. O. has taken any further legal action with the help of his lawyer, is unknown to ZARA.

23 Warning of beggars with “Eastern European looks”

On the internet, Mr. A. comes across an article stating that the State Police Department Vorarlberg in a press release warns of women “with Eastern European looks” who are pretending to be beggars in order to steal valuables. Mr. A. perceives this wording as racist and contacts ZARA. A ZARA employee sends a letter to the State Police Department Vorarlberg and to the online magazine that published the article. He draws attention to the fact that such wordings are dangerous as they convey the impression that all “Eastern Europeans” are criminals. ZARA does not receive any answer from the magazine. The State Police Department Vorarlberg informs ZARA that such wordings are normally not used in press releases and that internally there is awareness for a sensitive choice of wording. Unfortunately, in this case the wording somehow slipped through. ZARA informs Mr. A. about the outcome, who is satisfied.

24 Racist statement of a police officer during trial

Mr. P. is a lawyer in Vienna. During a criminal trial, he hears a police officer testifying that “there is always the suspicion of drugs being involved when a white and a black person are together in Vienna.” Mr. P. is shocked to hear such a statement from a

police officer during trial and reports the incident to ZARA for documentation. Furthermore, he files a disciplinary complaint against the police officer with the Federal Ministry for the Interior. ZARA tries several times to obtain information about the further course of the disciplinary complaint. At the time of going to press, we unfortunately still do not know more.

25 Unjustified identity check in a park

One summer day, Mr. F. and Mr. M. decide to move a business meeting with four friends from the office to a park because of the nice weather. They are sitting on the seating possibilities provided in the park. Both Mr. F. and Mr. M. have black skin. During the meeting, two police officers approach the group and ask them for their identity documents. The majority of the group show their documents, Mr. F. and Mr. M. do not have theirs with them. They are willing to disclose their personal details verbally and ask why they are being controlled. They are told that they look suspicious as they are sitting on the seating facilities in the park. One police officer states that the fact that they are sitting in a pavilion which hides them completely is suspicious in itself – even though the pavilion is open at the sides and hides them only from a certain perspective. After having checked their identities, the police officers stay next to the group. Upon request, the police officers state that the official act is over. Still, the police officers do not leave. One officer stands right behind them reading what they type on their laptop. Finally, the group decides to leave the park – and the police officers follow them. Since this behaviour is not understandable for the group, they decide to not accept it. They return to the park and are again followed by the police officers, but they decide to simply ignore them. A few minutes later, the police officers actually walk away. At this point, more than 50 minutes have passed since the first approach by the police officers. Mr. F. is upset because of this long period of time and, therefore, shouts: “Shame on you!” Shortly after that, several police cars arrive. The two police officers and

about ten other police officers approach the group. Everyone in the group is very upset because of the large number of police officers, but they try to stay calm. One police officer tells them that their behaviour is disturbing, and they are asked to leave the park. Mr. F. tells the police that they will do that, but that he would like to know why. The police officer replies that Mr. F. does not know how to behave. When Mr. F. asks what that means, the police officer approaches him and grabs him by the neck. Mr. F. asks why he is being touched and tells the police officer to not touch him. He states several times that he will leave the park and that he does not understand why body contact and the exercise of physical violence are necessary. Again, he asks to not being attacked and states that he would leave anyway. The police officer accompanies him to the park exit, still grabbing his neck and whispering “Shut up, shut up.” He is also told to “get into the car.”

Mr. M. is also accompanied out of the park, one police officer holding him by his jacket. Only after several request to refrain from touching him, the police officer lets go. Mr. M. and Mr. F. ask the police officers several times to treat them

normally and tell them that they will try to identify themselves. Mr. F. tries to reach his mother on the phone to ask her to bring him his identity documents. Finally, all persons involved are allowed to leave but are banned from the park for twelve hours. Even though they ask for the police officers’ official identification numbers several times, they do not hand them out. Mr. M. and Mr. F. film several short sections of the official act and post them online, which leads to a medial uproar. Shortly afterwards, Mr. F. receives a criminal order: He is accused of having resisted the police officers by aggressively pitting himself against them with his entire body weight. ZARA supports all persons involved in filing guidelines complaints (→ Glossary, p. 69) as well as procedural complaints (→ Glossary, p. 69). Additionally, ZARA files a complaint with the Office for Citizen Information (→ Glossary, p. 69) with the aim to have the incident internally investigated. Furthermore, an appeal against the criminal order is filed. At the time of going to press, we do not know anything about the outcome of the proceedings.

KNOW YOUR RIGHTS

On the general permissibility of identity checks

In Austria, there is no general obligation to provide evidence of identity. Therefore, every identity check by the police must have a clear legal basis. Article 35 of the Security Police Act and Article 118 of the Austrian Criminal Procedure Code establish a variety of cases in which organs of the security authorities are authorised to check a person’s identity and also set the limits for the permissibility of identity checks:

For example, if, on the basis of certain facts, it is to be assumed that a person is in some way connected with a criminal offence or may be in a position to give information on such an offence, they are obliged to cooperate in the establishment of their identity. Thus, both suspected offenders and witnesses of a criminal offence may be forced to cooperate in identifying themselves.

Furthermore, Article 35 paragraph 1 sub-paragraph 2a of the Security Police Act states that “a law enforcement officer has the right

to establish the identity of a person if there is the urgent suspicion that a serious crime could occur at the place where the person in question is currently situated.” The executive authorities have made greater use of this provision in recent years to carry out identity checks at heavily frequented areas (i.e. bus stops, public squares, pedestrian zones, etc.), regardless of whether the suspicion that a serious crime could occur existed. This very broad interpretation of the provision is used to argue that such identity checks are permissible, even though there is no concrete suspicion of a person’s involvement in a crime. This is problematic, to say the least, and, legally speaking, an extremely contentious issue.

Article 35 paragraph 1 sub-paragraphs 6 and 7 of the Security Police Act provide further legal grounds for carrying out identity checks in the area of travel (trains, train stations, motorways, airports, etc.). According to these provisions, identity checks are permissible

Sub-paragraph 6: if it is to be assumed, according

to the circumstances, that the person in question has, in the course of an ongoing journey, crossed the internal border or will cross it;

Sub-paragraph 7: if the person in question is met on a transport route used by international transit traffic under circumstances that are typically associated with cross-border criminal acts.

On the basis of these provisions, identity checks of persons, for example on trains, are regularly carried out both on suspicion as well as on a random basis. However, these regulations clearly do not make it lawful for police officers to “select” persons based on their skin colour or their ethnicity which represents an unlawful act of ethnic profiling (→ Glossary, p. 69).

Finally, the Aliens’ Police Act also contains provisions for establishing a person’s identity: In Austria, non-Austrian citizens (“aliens”) in principle must either carry a travel document with them as proof of their legal residence or keep it in a place from which it can be fetched without undue delay (within one hour). An “alien” person’s identity may be established if there is the suspicion that their presence on federal territory may be illegal.

The principle of proportionality (Security Police Act)

Article 29 of the Security Police Act defines the so-called principle of proportionality. According to this principle, the officers carrying out an identity check must, for example, choose from the methods which they are entitled to use during official acts the one which is expected to cause the least harm to the person being controlled. The protection of the person’s rights and their legitimate interests shall also be taken into account, and the expected result of the official action must be in reasonable proportion to the expected damages and dangers.

What can Mr. M. and Mr. F. do?

Procedural complaint (→ Glossary, p. 69):

Every identity check by the police must have a clear legal basis, and the person being controlled must, on request, be informed about the reason for being controlled. If there is no legally permissible basis for an identity check

and if it only takes place on the grounds of ethnic/racist profiling (→ Glossary, p. 69), the person affected may file a so-called procedural complaint. ZARA offers support in doing so. The complaint is to be submitted to the responsible regional administrative court (→ Glossary, p. 69) within a six-week period.

A procedural complaint cannot only be filed against violations of the Security Police Act but also against violations of constitutionally guaranteed rights (e.g. prohibition of torture and inhuman or degrading treatment according to Article 3 of the European Convention on Human Rights, the right to respect for private and family life according to Article 8 of the European Convention on Human Rights (ECHR (→ Glossary, p. 69)) or the Federal Constitutional Law on the Protection of Personal Freedom) as well as breaches of other rights guaranteed by simple law which police officers are obliged to adhere to when performing their duties.

In the course of procedural complaint (→ Glossary, p. 69) proceedings, independent judges determine whether the police officer’s action was lawful or not. The complaint is thereby always directed against the supervisory body in question. Individual officers act as respondents and are not directly affected by the regional administrative court’s decision. Once a trial has taken place before the regional administrative court, the police officer in question may, however, be subject to consequences under service law. Persons affected have, however, no influence on police-internal disciplinary proceedings and are not informed about such steps. A claim to compensation for victims of unlawful treatment by law enforcement officers is not provided for in this proceeding.

If the court upholds the complainant’s claim and establishes that the official act was unlawful, the complainant is only entitled to a lump-sum compensation for the procedural costs incurred. If the complaint is dismissed as unfounded, the relevant authoritative body is entitled to a lump-sum compensation for the procedural costs incurred, which has to be paid for by the complainant.

This method of settling costs entails a considerable risk of costs for complainants, if the court finds that there was nothing unlawful about the police officer’s conduct. Because of these financial hurdles, those affected

often do not press charges with the regional administrative courts, even though their complaint is justified. In some cases, ZARA can assume the risk of costs for procedural complaints.

Guidelines complaint pertaining to the Directive for Interventions by Members of the Public Security Services (→ Glossary, p. 69)

The so-called Directive for Interventions by Members of the Public Security Services (Richtlinien-Verordnung, RLV (→ Glossary, p. 69)) represents a kind of code of conduct on how law enforcement officers are to conduct themselves and defines certain duties:

Article 5 of the Directive for Interventions by Members of the Public Security Services (“Respect for human dignity”) states, for example, that law enforcement officers have to refrain from any action liable to give the impression of bias on their part or that might be perceived as discrimination on the grounds of gender, “race,” skin colour, national or ethnic origin, religious beliefs, political opinion or sexual orientation. Furthermore, law enforcement officers are obliged to use the polite German form of address “Sie” (instead of the familiar second person singular “Du”) for all persons where this corresponds to social conventions or who wish to be thus addressed.

According to Article 6 of the Directive for Interventions by Members of the Public Security Services, the persons affected by an official act must, upon request, be informed about their rights and the purpose of the act, unless the purpose of the act is obvious or if explaining it would prevent the police officers from fulfilling their task. Victims of criminal offences or persons who, for physical or psychological reasons, are not able to realise that an official action is taking place are to be treated with special consideration.

Article 8 of the Directive for Interventions by Members of the Public Security Services provides that persons entitled to information or entitled to request the presence of a person of trust or a legal advisor must be informed of said rights. Article 9 of the Directive for Interventions by Members of the Public Security Services stipulates that officers must disclose their official identification numbers to persons subjected to official acts upon request, which should preferably be handed out in written form.

If police officers do not comply with these requirements in the course of an official act, those affected have, according to Article 89 of the Security Police Act, the possibility to file a complaint against this violation (guidelines complaint). ZARA offers support in filing complaints and during the proceedings. The deadline for submitting a guidelines complaint is six weeks. The complaint can either be submitted to the competent supervisory body or to the respective regional administrative court (→ Glossary, p. 69).

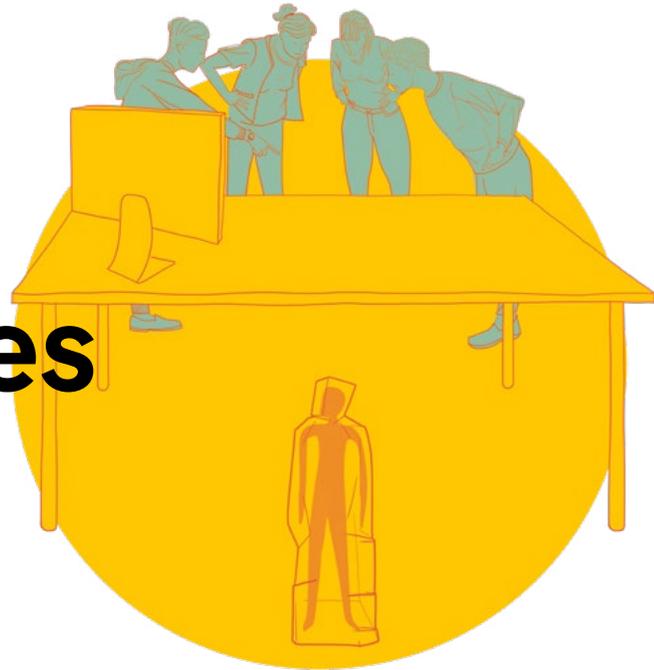
The competent supervisory authority must then investigate on the accusation (e.g. by inspecting files and questioning the officers in question) and then has to inform the complainant in writing if there was a violation of the Directive for Interventions by Members of the Public Security Services. The competent state police department also has the possibility to organise a discussion between representatives of the authoritative body in question and/or the officer involved and the complainant. The aim of such a discussion is for the matter to be settled without any charges being brought. If the person concerned is satisfied with the course and outcome of this so-called mediation talk (“Klaglosstellungsgespräch” (→ Glossary, p. 69)), the guidelines complaint procedure is closed. If, however, the complainant is not satisfied with the encounter and its outcome, the supervisory body has to provide a written statement as described above.

If the statement denies that a violation occurred or if no statement is delivered within three months of the complaint being filed, the complainants may demand an assessment of the complaint before the competent regional administrative court. The regional administrative court then has to initiate proceedings to determine whether the Directive has been violated.

The proceedings before court are carried out in a manner similar to that of a procedural complaint. With regard to the consequences for the police officer in question, the above comments on the procedural complaint apply, and the reimbursement of procedural costs is regulated accordingly. As with a procedural complaint, there is a considerable risk of costs for the complainant in the course of such proceedings, which often prevents persons affected from allowing their complaint to be subjected to judicial review.

Other Authorities

3,6%



This chapter contains a selection of the 70 incidents reported to ZARA that involved other authorities. Other Authorities collects incidents that occur in administrative bodies, schools and other municipal institutions (except police).

26 Generalising and degrading remarks in a German course

Ms. C. attends a German course offered by the Public Employment Service Austria (AMS) during which the teacher makes several degrading remarks. For example, she says that women who allow polygamy are whores, and she calls men in polygamous relationships dogs. Furthermore, she says: "Austrian men never cheat, Muslim men do." Ms. C. is shocked to hear such remarks in a German course. She tells her friend Mr. N. about it, who contacts ZARA. A ZARA counsellor discusses possible courses of action with them and suggests to either contact the teacher or directly the AMS. Since Ms. C. fears negative consequences on the part of the teacher, she decides not to take any further steps.

27 Primary school pupil advised to "grow a hard skin"

Ms. G.'s son attends the fourth class of elementary school. Ms. G.'s father is originally from Nepal, Ms. G. herself was born in Austria. In a Whatsapp group of the school class, the following message is posted: "Stupid Hindi woman. Get out of this group." The comment is supposedly directed towards Ms. G. Ms. G.'s son tells his parents about

the incident. Ms. G. informs the class teacher about the incident and notes that this might be a perfect example because the class is discussing "online hate" right now. The teacher responds: "We are talking about almost anything, even about Conchita Wurst, but in this case, your son should better grow a hard skin. Anyway, he isn't that dark." Ms. G. is upset about this answer and informs the principal about the incident. The principal discusses the incident internally and informs Ms. G. about having drawn consequences. Which consequences those were, is unknown to ZARA. Furthermore, Ms. G. informs the regional school authorities about the incident, and she contacts ZARA and asks for documentation. She does not want to take any further steps at present.

28 Disparagement during a school lesson

Ms. M. is a counsellor in a facility for unaccompanied minor and young adult refugees. She contacts ZARA after Ms. S., who lives in the facility, told her about the following incident. Ms. S. attends a new secondary school (NMS) in order to take her general school leaving certificate. In the beginning of the year, Ms. S. and her teacher have an argument in a history lesson. The teacher asks Ms. S. to sit in the first row, but Ms. S. refuses. At that, the teacher

says: “This is my country, this is not Somalia, go back to your country!”, throws over Ms. S.’s table and tells her to leave the classroom. Ms. S. does not leave, and the teacher continues to tell her that he will throw her and her belongings out of the window. Later, he tells another pupil to put Ms. S.’s belongings in front of the door, which she does. Then he puts a test paper in front of Ms. S. and tells her to fill it out. Ms. S. is very upset because of the teacher’s behaviour and does not start to fill out the test, upon which the teacher says loudly: “You have to learn to speak, you can’t speak German.” He tells the other pupils that they will only get their test papers when Ms. S. leaves the room, but Ms. S. refuses to leave. Now, also the other pupils ask her to leave. The teacher also claims that Ms. S. is a stupid pupil who needs to do exactly what he says because he is the teacher. Ms. S. answers that she will not leave because the teacher does not treat her with respect. The teacher again threatens to throw her out of the window. Then he writes an “F” on her test. S. is very upset because of the whole incident. Under no circumstances does she want to further attend this school. Her counsellor Ms. M. tries to

contact the school and calls the teacher as well as the vice principal. She is invited to a mediation talk that Ms. S. would like to join as well. It is important for Ms. M. to clarify the incident as the whole situation is very upsetting for Ms., but at the same time, she is afraid that this could jeopardise Ms. S. taking her leaving certificate. She contacts ZARA and asks for support. ZARA gives advise regarding the talk and also points out the possibility of contacting the municipal school council. The talk does not go well. Half an hour before the agreed time, Ms. M. receives a call from the school and is told that the teacher has class now and that she should come earlier, otherwise the talk will not take place. Ms. M. is not able to come earlier at such short notice. When she arrives at the school, the history teacher claims that there was no appointment scheduled. Ms. M. talks to the class teacher, who tries to find a constructive solution, but without the willingness of the teacher, this is not possible. Ms. M. decides to contact the district school inspector. ZARA offers support, however, Ms. M. does not contact ZARA anymore after this.

KNOW YOUR RIGHTS

The education sector is a juristically and psychologically complex area when it comes to the right to equal treatment. On the one hand, this is due to the different regulations established by the Federal Government and the regional states, and, on the other hand, it is not easy to take legal steps against teachers. But no matter which law ensures it, there is protection from racial discrimination and disparagement on the part of pedagogical staff.

If it comes to a racial discrimination on the part of a teacher against a pupil, this constitutes a violation of the Equal Treatment Act (→ Glossary, p. 69) or the corresponding regional state laws (e.g. the Vienna Anti-Discrimination Act).

As in other cases of discrimination, a claim of damages arises in the case of discrimination on the part of a teacher. However, it is important to know that damages may not be claimed against the teacher personally but against the federal government because such incidents fall into the jurisdiction of the public liability law (→ Glossary, p. 69).

For incidents concerning public liability, the first instance is always the competent regional court.

The fact that according to the Equal Treatment Act it is only possible to claim damages shows that in the framework of these stipulations the desired changes of behaviour may only be introduced indirectly.

In addition to the respective equal treatment acts, there are also other norms that may be relevant. In the case of misconduct, there is the possibility of disciplinary consequences, ranging from reprimands and fines to dismissals. In extreme cases, incidents may also constitute violations of criminal provisions, e.g. in the case of insults (→ Glossary, p. 69).

What can Ms. S. do?

Initially, there is always the possibility to report the incident truthfully to the superior of the offender and to seek dialogue. ZARA supports persons affected by accompanying them to such meetings.

Apart from that, it is also possible to take legal action. So far, there are no court decisions pertaining to whether discrimination of pupils on the part of pedagogues in the field of compulsory education should be treated according to the Equal Treatment Act or according to other corresponding anti-discrimination laws. From our point of view, there are prevailing reasons for the application of the Equal Treatment Act. In Ms. S.'s case, the incident classifies as harassment (Article 35 of the Equal Treatment Act (→ Glossary, p. 69)). Upon a violation of the prohibition of harassment, there is a right to compensation for damages of at least 1,000 Euros.

In order to assess if a violation of the Equal Treatment Act took place, the incident may be brought before a court and/or the Equal Treatment Commission (→ Glossary, p. 69). Each procedure has its advantages and disadvantages. There is no risk of costs in connection with a procedure before the

Equal Treatment Commission, however, its decisions are not necessarily enforceable. In the framework of a procedure before the Equal Treatment Commission, ZARA may take over the representation and can assist in the formulation of written submissions. And ZARA provides information on all relevant legal aspects in the course of counselling sessions, so that the persons affected are able to decide whether or not they want to take further steps and, if so, which steps they prefer.

After a procedure before the Equal Treatment Commission (actually also simultaneously), there is also the possibility to file charges with a court. In order to obtain a court decision, charges have to be filed within a period of three years after the incident took place.

A judicial clarification as to which law ensures protection against discrimination between pupils and teachers would be of great importance in order to ensure legal certainty.

WHAT HAPPENED TO ...? INCIDENT 42 OF THE RACISM REPORT 2017

In 2017, ZARA documented the following incident on the basis of a press release of the Litigation Association of NGOs Against Discrimination (→ Glossary, p. 69):

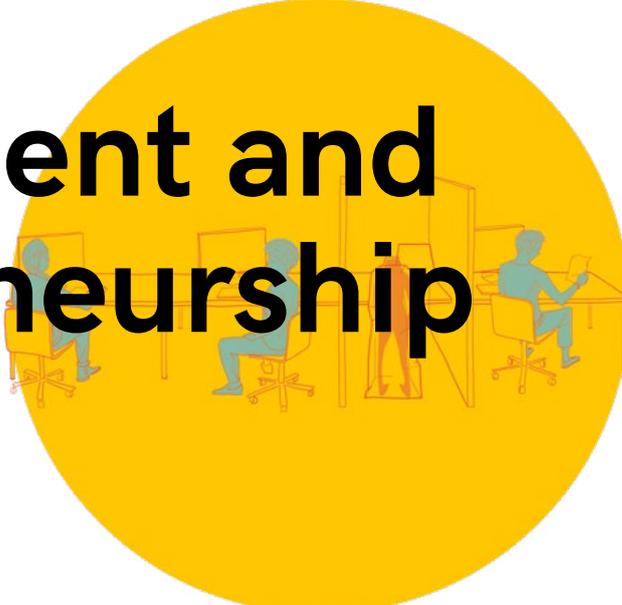
The Litigation Association supported Ms. T., a Turkish citizen and single parent, in a court proceeding under the Upper Austrian Anti-Discrimination Act. The basis of the proceeding was the fact that the requirements for the approval of housing grants are much stricter for third-country nationals than for Austrian, EU and EEA citizens. Only third-country nationals have to provide evidence of 36 monthly incomes within a period of five years as an additional requirement for the approval of housing grants. As a Turkish citizen and single parent, Ms. T. feels disadvantaged by this regulation because her period of employment was interrupted by her parental leave and, therefore, not recognised. As the Upper Austrian Anti-Discrimination Act clearly prohibits discrimination on the grounds of ethnicity in the field of social affairs, a complaint on this basis was possible.

In the end, the Province of Upper Austria is convicted of unequal housing grants admission requirements for third-country nationals and has to pay a compensation of 1,000 Euros and, subsequently, 1,500 Euros of housing grants. However, the amounts awarded were not paid by the Province of Upper Austria within the legally stipulated deadline. For this reason, the Litigation Association subsequently supported Ms. T. in initiating an execution proceeding (→ Glossary, p. 69). Along with this path, Ms. T. received the amounts awarded.

What happened in 2018?

Despite the conviction, Ms. T.'s new application for housing grants is again rejected. Still in 2017, she submits a further claim with the support of the Litigation Association. In December 2018, she wins again in second instance against the Province of Upper Austria. In the beginning of 2018, the Housing Construction Subsidy Act (WFG) of Upper Austria is amended. The amendment makes access to housing grants for third-country nationals even more difficult. Among other things, it now contains the requirement of German language skills. In 2018, T. applies again for housing grants and receives a further rejection.

Employment and Entrepreneurship



1,7%

This chapter contains a selection of the 33 incidents reported to ZARA that took place in the sphere of employment and entrepreneurship. Employment and Entrepreneurship relates to racist incidents associated with work and employment relationships in the broadest sense, e.g. labour market, job search, working conditions, working environment, job ads and so on.

29 Austrian citizenship as a requirement in a job ad

On the internet, Ms. F. comes across a job ad published by an Austrian community who is looking for a youth worker. Ms. F. notices that the ad states “Austrian citizenship or EU citizenship” as a requirement for the job. Since Ms. F. is not sure why such a requirement might be necessary, she contacts ZARA. ZARA informs her that such wordings in job ads actually represent a violation of the Austrian Anti-Discrimination Law and contacts the community. The community reacts immediately, apologises and removes the requirement from the job ad. A ZARA counsellor notices that this requirement is also part of other job ads published by the community. After a further intervention by ZARA, the community removes this wording from the other job ad as well. A few weeks later, there are only non-discriminatory job ads on the community’s website.

30 “Muslims not wanted”

Mr. K. is of Serbian origin and studies civil engineering in Vienna. Shortly before graduating, he applies for a job with a construction company. During the job interview, he has the feeling to be able to answer all questions satisfyingly. Even the salary is discussed, and Mr. K. is asked to provide his bank details. In the end, the contractor asks Mr. K. about his religious beliefs. When Mr. K. states that he is Muslim, the contractor says: “My customers asked me not to work with Muslims, I cannot hire you.” Mr. K. is shocked because of this rejection, especially because the interview went well until that point, and turns to ZARA. A ZARA employee explains that this behaviour represents a violation of the Equal Treatment Act (→ Glossary, p. 69) and supports Mr. K. in writing an letter of intervention to the company. Mr. K. wishes to have a clarifying discussion with the contractor as the discrimination hurt his feelings. Unfortunately, the contractor refuses, upon which Mr. K. is very upset. He thanks ZARA for its support and decides to take the incident to court with the help of a lawyer. At the time of going to press, the further course of the case is unknown to ZARA.

3 | Applicant rejected because of headscarf

Ms. L. wears a headscarf for religious reasons. In the beginning of January, she had an interview for a job as a human resources manager with Mr. S., the company's managing director. Right at the beginning of the interview, he asks Ms. L. where she was born and if she is an Austrian citizen. After this, Mr. S. asks her if she would be willing to take off her headscarf at work. Ms. L. answers that this is not possible due to her religious beliefs. Upon that, the interview is discontinued. Ms. L. is very upset because of this, and when Mr. S. notices that, he explains that there is a company dress code that does not allow a headscarf. Ms. L. is convinced that the rejection is only due to her headscarf because she was not asked any professional questions and the interview was cancelled immediately. Therefore, Ms. L. contacts ZARA and reports the incident. A ZARA worker explains that such a behaviour represents a violation of the Equal

Treatment Act (→ Glossary, p. 69) and offers to write a letter to the company in order to obtain a statement and an apology. A lawyer appointed by the company responds to the letter. He negates any responsibility under the Equal Treatment Act, and there is no apology or other statement pertaining to the job interview. ZARA sends a further letter with a detailed legal substantiation to the company. As a reaction, the lawyer announces to file a declaratory action (declaring that there was no discrimination) in case the incident is reported to the Equal Treatment Commission (→ Glossary, p. 69). Nevertheless, Ms. L. decides to file a complaint with the Equal Treatment Commission with the support of ZARA. Simultaneously, ZARA tries to mediate between Ms. L. and the company in order to reach a settlement. Finally, Mr. S. agrees to pay an indemnity payment in the amount of 500 Euros, and the complaint with the Equal Treatment Commission is withdrawn. Ms. L. thanks ZARA for its support.

KNOW YOUR RIGHTS

The Equal Treatment Act (Gleichbehandlungsgesetz, GlBG (→ Glossary, p. 69)) provides protection against discrimination on the grounds of ethnicity, religion, worldview, sexual orientation or age in the world of work. The prohibition of discrimination in the broadly defined world of work is applicable to applications, promotions, remuneration and the termination of employment relationships.

Wearing religious clothing at work is also protected by the Equal Treatment Act. A Muslim woman who wears a headscarf for religious reasons may neither be disadvantaged in the course of the application process nor in any other way at the workplace because of her headscarf. The often heard assertion on the part of the employers of not being able to offer a job because their clients would not want employees that wear a headscarf is clearly a violation of the Equal Treatment Act. The only exception are those occupations in which wearing a headscarf represents a significant obstacle to carrying out the work. In individual cases, certain technically necessary hygiene or safety regulations may justify that it is not possible to carry out specific tasks while wearing a

headscarf. Also a dress code in a company has to withstand the criterion of a "specific professional prerequisite."

What can Ms. L. do?

Since Ms. L. was obviously excluded from the further application process due to her headscarf, she is entitled to file a claim on the grounds of a violation of the Equal Treatment Act. In doing so, Ms. L. only has to credibly demonstrate that a discrimination took place, and in the following, the potential employer must prove that there were other motives for his behaviour.

Ms. L. has the possibility to have the Equal Treatment Commission (GBK (→ Glossary, p. 69)) determine whether a discrimination took place during the establishment of the employment relationship. If Ms. L. wishes so, ZARA supports and gives advice during this procedure, which is free of charge.

In addition, Ms. L. has the possibility to file a civil suit. Ms. L. is entitled to compensation from the potential employer. The amount of

the compensation depends on whether Ms. L. would have gotten the job in case of a non-discriminatory selection or whether another more qualified applicant would have gotten the job anyway. In contrast to decisions of the Equal Treatment Commission, which only has the possibility to make recommendations, a court ruling is legally binding – which means that the adjudged compensation must actually be paid. If this is not the case, the payment can be legally enforced. In the course of this procedure, there is a substantial risk of legal costs that Ms. L. would have to bear. However, the Litigation Association (→ Glossary, p. 69)

might take on the case and will then assume the representation before court as well as the risk of costs.

In a first step, ZARA will try to reach an out-of-court settlement with Mr. S., if Ms. L. so wishes. With a letter of intervention, ZARA will draw Mr. S.'s attention to the fact that his behaviour constitutes a violation of the Equal Treatment Act and will urge him to pay a compensation or to apologise, depending on what Ms. L. desires. Mr. S. thereby has the possibility to avoid a costly procedure by settling the dispute with an out-of-court agreement.

WHAT HAPPENED TO ...? INCIDENT 48 OF THE RACISM REPORT 2017

In June 2017, Ms. C. had coffee in a bakery in Vienna. There, she finds out that the bakery is searching for a salesperson. The list of what is expected from the applicants contains, among other things, "German without an accent." Ms. C. is irritated by this formulation and contacts ZARA. A ZARA counsellor sends a request for a statement to the bakery explaining the legal situation and demanding to formulate the job ad according to the law and, thus, free of discrimination. Thereupon, the counsellor receives a responding letter in which her competence to work for ZARA and her German language skills are criticised in a discriminating manner. She is told to not being able to formulate "in a coherent manner" and is advised to work "on her own German language skills." The counsellor's name allows the presumption of "not being Austrian," and since the request for a statement is written grammatically and stylistically correct and does not contain any spelling mistakes, it can be assumed that her "foreign-sounding" name is the reason for the instructive and discriminatory

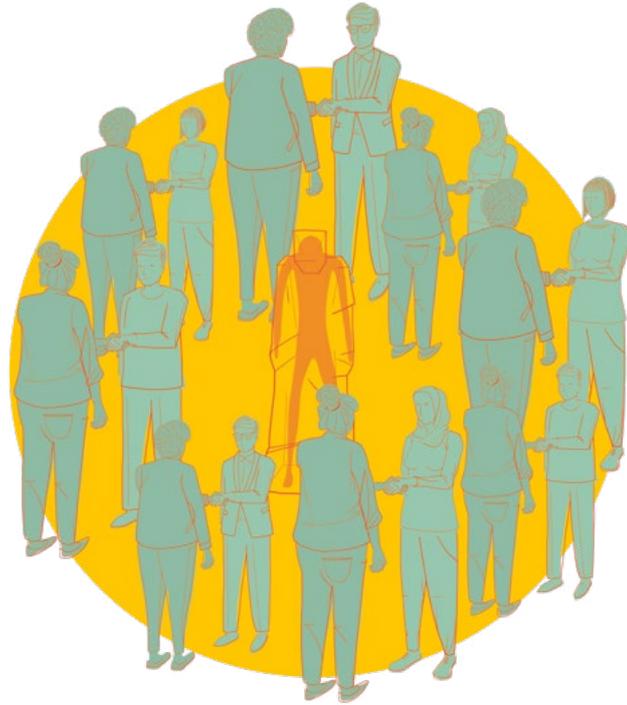
reaction. Since harassments due to ethnicity by third parties at work are prohibited under the Equal Treatment Act, the ZARA counsellor decides to initiate proceedings before the Equal Treatment Commission with the support of the Ombud for Equal Treatment.

What happened in 2018?

In January 2018, the Equal Treatment Commission confirmed that the incident represents a harassment on the grounds of ethnicity and proposed the payment of an appropriate compensation. The ZARA counsellor asks the bakery's authorised signatory via email to pay the compensation. They have been communicating via this communication channel before as well. As a reaction, she receives a letter from the lawyer of the company who accuses her of an obviously unjustified violation of the General Data Protection Regulation (GDPR) and asks her to pay a compensation. Only if she agreed to this, the company would be willing to forget the incident. At this point, the ZARA counsellor is already represented by a lawyer, and further legal steps are planned at the time of going to press.

Goods and Services

7,9%



This chapter contains a selection of the 151 incidents reported to ZARA in connection with goods and services. The chapter Goods and Services (including access to housing) documents any incidents related to the access to and the supply with goods and services, such as in venues and stores or by other service providers.

Housing and Neighbourhood

32 Adherence to “Central European basic rules”

In her residential building, Ms. H. discovers an announcement by the property management. It deals with ongoing pollution and demands “adherence to Central European basic rules.” Ms. H. is not sure whether this represents a racist incident and what she should do. Therefore, she contacts ZARA. A ZARA worker explains that this announcement definitely represent a racist incident because it implies that for “non-central Europeans” pollution is normal. He offers to contact the property management to have the announcement removed, but Ms. H. wants to personally talk to the property management. On the next day, the announcement is removed.

33 Discriminatory housing advertisement

In spring, when Ms. Z. was looking for a new apartment, she came across a housing ad on the internet, according to which the corresponding apartment was only available for people who have

been living in Austria for many years. ZARA informs Ms. Z. about the requirement of non-discriminatory housing advertisements according to Article 36 of the Equal Treatment Act and suggests to ask the real estate company that published the ad to change it accordingly. Ms. Z. thinks this is a good idea, and ZARA sends a letter of intervention to the real estate company. The company reacts immediately, apologises and changes the wording of the ad. Ms. Z. thanks ZARA for its support and is very happy about the immediate reaction.

34 Racist remarks by a neighbour

Ms. T. was born in Austria, her boyfriend Mr. P. is from Afghanistan. Ms. T. lives alone in an apartment. The two elderly men that live in the apartment below hers are always very friendly to Ms. T. They receive parcels for her and often invite her to have coffee with them. However, Ms. T. never accepted their offer. Since her boyfriend Mr. P. has his own apartment but often spends time at hers, she gives him spare keys. One day, Mr. P. forgets his keys and rings at the neighbours’ door to ask

them to let him in. Shortly after this, Ms. T. meets one of her neighbours in the garbage room of the building who asks her: “Do you know why the paper waste was so full last week? Oh and by the way, your companion, I don’t like him. He is impolite. He is a thorn in my side. The other day, he rang the bell because he couldn’t get in – into YOUR apartment. Oh and just so that you know: Recently, there was a burglary in the next building. We all know who that was ... and you should as well!” This statement is followed by racist remarks. Later, the neighbour accuses Mr. P. of having damaged several things in the house, and he approaches Ms. T. several other times saying things like: “I know girls like you, you are making a mistake” and “criminal foreigners.” Again and again, he intercepts Ms. T. as well as her boyfriend Mr. P. in the hallway and insults them. To Mr. P. he says for example: “Do not turn on the lights that we have to pay for. You don’t care because Caritas pays everything for you, but we do. Illegal dirty foreigners!” For the couple, the situation is becoming increasingly upsetting. Therefore, Ms. T. turns to ZARA and asks for support. Although she will move into another apartment in three months, she is desperate because she does not know how to handle the situation during the next three months. ZARA offers to contact the property management or the neighbour directly. Furthermore, a ZARA counsellor informs her about possible legal steps, e.g. according to the Equal Treatment Act (→ Glossary, p. 69). However, after this, Ms. T. does not contact ZARA anymore.

WHAT HAPPENED TO ...? INCIDENT 55 OF THE RACISM REPORT 2017

In May 2017, Mr. Z. was looking for an apartment for himself and his family. Finally, he came across an online ad for an apartment that met his requirements. He calls the landlord, expresses his interest and asks if he can make an appointment to discuss further details. The landlord immediately asks where Mr. Z. comes from. Mr. Z. explains that he comes from Syria, upon which the landlord replies that he would not rent his apartment to “Syrian people” – and hangs up without further comment. Mr. Z. is so shocked by this statement and the behaviour that he calls the landlord again. When he answers the phone, Mr. Z. asks why the landlord treated him so rudely. Without replying, the landlord hangs up again. Mr. Z. is shocked to be excluded as a potential tenant because of his descent and contacts ZARA. A counsellor writes a letter of intervention in which she asks for a statement and informs about the legal situation.

Since this remains unanswered, Mr. Z. decides to initiate proceedings before the Equal Treatment Commission (→ Glossary, p. 69). In the course of this procedure, the landlord draws up a counter-statement, which is formulated very aggressively. He accuses Mr. Z. of having “conducted an abnormal conversation” and says that he is probably only turning the facts around “in order to gain advantages for himself.” Mr. Z. is deeply concerned because of these insinuations. At the end of the year 2017, the proceedings were still not concluded.

What happened in 2018?

In September 2018, Mr. Z. receives a statement by the Equal Treatment Commission which determined an immediate discrimination (→ Glossary, p. 69) on the grounds of ethnicity. Since these findings do not lead to a claim for compensation, it is initially not clear if the landlord is willing to pay a compensation. A ZARA counsellor tries to mediate between the landlord and Mr. Z., and even though the landlord is unrelenting at first, he finally pays a compensation in the amount of 750 Euros. Mr. Z. is relieved and thanks ZARA for its support.

35 Racist insults in neighbourhood

Ms. S. was born in Colombia and has been living in Vienna for more than ten years. Already in 2015, a neighbour of hers called her a “black African ape.” Shortly afterwards, the neighbour also insulted Ms. S.’s daughter. Ms. S. then decided to keep out of the neighbours way, which worked well, until in February 2018, Ms. S. hears a loud noise in the hallway. She notices that her neighbour came home together with a man, knocked over a scooter parked in front of Ms. S.’s apartment and opened the window in the hallway. As it is February and quite cold, Ms. S. decides to close the window. Upon this, the neighbour says: “Shit, leave the window open” and opens the window again. She starts screaming loudly so that other neighbours become aware of the incident, calls Ms. S. a “black African ape” and says that she will kill her Columbian family and destroy her life. Due to the noise, Ms. S.’s daughters (aged nine and thirteen) become aware of the incident and enter the hallway. The neighbour refers to them as “whores” and states that Ms. S.’s husband must have brought her to Austria as a Colombian whore. She gets the man that accompanied her, tells him untruthfully that Ms. S. tried to hit her and adds: “Fuck off

to Colombia, you are not welcome here.” Upon this, Ms. S. takes her children back to her apartment. The neighbour adds that the window in the hallway needs to be open because Ms. S. is a “stinking N*****” and that the whole apartment and actually the whole house stinks of her. Ms. S. is very upset because of this incident, especially because of the insults against her children. She contacts ZARA and reports the incident. A ZARA counsellor informs her about the possibility of filing a criminal charge for racist insults according to Article 115 in conjunction with Article 117 of the Austrian Criminal Code (→ Glossary, p. 69) as well as the possibility to have the Equal Treatment Commission (Gleichbehandlungskom-

mission, GBK (→ Glossary, p. 69)) determine the existence of a discrimination. Furthermore, he offers to contact the property management to inform them about the situation, which Ms. S. accepts. The property management reacts quickly warning the neighbour and reminding her that such a behaviour represents a reason to terminate the rental contact. Ms. S. also decides to file an application with the Equal Treatment Commission with the support of ZARA. In August, the Equal Treatment Commission declares itself competent for the handling of the incident. At the time of going to press, the proceedings are still not concluded.

KNOW YOUR RIGHTS

Part III of the Equal Treatment Act (Gleichbehandlungsgesetz, GIBG (→ Glossary, p. 69)) protects against discrimination on the grounds of ethnicity or gender in “other areas.” The Equal Treatment Act defines “other areas” as every area pertaining to the access to and the supply with goods and services. For the criterion of ethnicity, the areas of social protection, social benefits and education are included as well (for more information on education see “Know Your Rights” in the chapter “Other Authorities” (→ Other Authorities, p. 55)).

Also in connection with the access to and the provision of housing, discrimination on the grounds of gender and ethnicity is unlawful. Housing ads need to be non-discriminatory, and violations of this may lead to an administrative fine. Furthermore, it is possible to proceed against the discrimination in gaining access to and in the provision of housing, and there are also regulations against harassment, e.g. in the form of racist remarks.

According to Article 35 of the Equal Treatment Act, harassment is defined as:

“Unwanted, inappropriate or offensive conduct related to one of the grounds in accordance with paragraph 31 or the sexual sphere, which aims at or results in

1. violating the dignity of the person concerned and

2. creating an intimidating, hostile, degrading, offensive or humiliating environment for the person concerned.”

Harassments on the part of landlords are included therein. With regards to the incident mentioned above, the Equal Treatment Commission affirmed its competence as well as the applicability of the Equal Treatment Act in the case of an harassment on the part of a neighbour. For harassment, the Equal Treatment Act provides for claims for damages (compensation for material loss as well as for the personal impairment suffered). Legally prescribed is a minimum compensation of 1,000 Euros for the personal impairment suffered.

What can Ms. S. do?

Ms. S. has the possibility to have the Equal Treatment Commission (Gleichbehandlungskommission, GBK (→ Glossary, p. 69)) determine the existence of a discrimination on the grounds of ethnicity. No costs arise from this, but a decision by the Commission is not legally binding. ZARA offers support during proceedings before the Equal Treatment Commission. Ms. S. also has the option of filing a civil action with a court to assert her right to compensation. However, the accuser has to bear the risk of costs in this case.

Retail, Gastronomy and Other Commercial Services

36 Burkini ban in a public swimming pool

Ms. U. learns that a public swimming pool in Lower Austria issued a Burkini ban: There is a large sign in front of the entrance that informs about the ban. She reports this to ZARA, upon which a ZARA employee sends a letter of intervention to the operator of the swimming pool. Shortly afterwards, the operator calls ZARA and apologises for the application of the sign stating that it has already been removed and that the incident is going to be discussed internally as well. Ms. U. is happy that the sign has been removed so quickly and thanks ZARA for its support.

37 Degrading remark by a postwoman

Mr. D. is black and runs a medical practice. In summer, a parcel that actually should have been delivered to his private apartment in the same building is delivered to his ordination. Upon informing the postwoman about this, she asks: "Do you belong here?" Mr. D. answers that he would prefer the formal address "Sie," as they do not know each other and this is the appropriate form of address. The postwoman responds: "Go back to Africa!" Mr. D. is concerned because of this remark and contacts ZARA. A ZARA worker offers to contact the postwoman's employer in order to inform him about the incident, which Mr. D. deems a good idea. The postwoman's employer reacts quickly and offers a clarifying talk. The talk takes place at Mr. D.'s medical practice, present are Mr. D., the postwoman and her employer. In the beginning, the postwoman denies to have said such things, but finally, she admits her mistake in front of her employer. The most important result for Mr. D. is that the postwoman apologised for the degrading remarks.

38 Refusal of taxi service for racist reasons

Ms. K. is a student in Vienna. In spring, she attended the birthday party of a friend of hers from Afghanistan who has been living in Austria for about three years. Shortly after midnight, Ms. K.

and her partner leave the party, and their friend accompanies them to the taxi stand. Before Ms. K. gets into the taxi, she hugs her friend. Upon that, the taxi driver says that he does not want to drive them and that they should get out of the car. Ms. K. does not understand why the taxi driver reacts like that after the hug and asks him what the problem is. The taxi driver answers that he could not drive them for "safety reasons." Ms. K. asks him what he means by this and why he is concerned, but the taxi driver gives no concrete reasons. With Ms. K., the impression arises that it has something to do with her friend's origin. Finally, Ms. K. decides to take another taxi to drive home. She contacts ZARA to have the incident documented. A ZARA counsellor offers to contact the taxi driver and informs Ms. K. about legal possibilities, e.g. under the Equal Treatment Act (→ Glossary, p. 69). However, Ms. K. does not contact ZARA again.

39 Refusal of entry to a club

Mr. H. lives in Peru. In February, he visited Austria and wanted to go to a club in Linz together with five friends from Austria. His friends are granted entry without any problems, while the doorman tells him: "You are not allowed in here." Mr. H. asks why he is not allowed, but the doorman does not answer. Since Mr. H. does not understand why he is denied entry, he assumes that this must have something to do with his skin colour. Mr. H. and his friends decide to go to another club. On the next day, he contacts ZARA because even though he will leave Austria shortly, he wants to do something about the incident. ZARA sends a letter of intervention to the club, but there is no answer. Since Mr. H. is already back in Peru, he decides not to take any further steps, e.g. under the Equal Treatment Act (→ Glossary, p. 69) or the Introductory Act to the Administrative Procedures Acts (→ Glossary, p. 69). One month later, ZARA surprisingly receives a comprehensive statement from the club. The operator sincerely apologises for the incident and informs ZARA that there had already been extensive internal talks in order to avoid such incidents in the future. Mr. H. is happy about the positive answer from the club and thanks ZARA for its support.

KNOW YOUR RIGHTS

What can Mr. H. do?

Mr. H. may take action against the doorman and the club as stipulated in Article III paragraph 1 sub-paragraph 3 of the Introductory Act to the Administrative Procedure Acts (EGVG (→ Glossary, p. 69)) and in Part III Article 30 to 40c of the Equal Treatment Act (→ Glossary, p. 69).

Equal Treatment Act

The Equal Treatment Act provides that people who are discriminated against on the grounds of ethnicity when trying to gain access to goods and services may contact the Equal Treatment Commission (Gleichbehandlungskommission, GBK (→ Glossary, p. 69)) to determine the existence of a discrimination. They may also enter into a civil lawsuit to assert their right to compensation.

The refusal of entry was apparently based on Mr. H.'s ethnicity. Therefore, Mr. H. is entitled to a compensation for the material loss and the personal impairment suffered as a result of this discrimination. In addition, the law provides that Mr. H. must only have reasonable proof that he was refused admission on discriminatory grounds (relief of the burden of proof (→ Glossary, p. 69)). The club must then prove that other, permissible reasons existed for denying him admission. No permissible reasons (i.e. unsuitable clothes, inappropriate behaviour) were provided for denying Mr. H. entry to the club, therefore, he would be able to credibly demonstrate that he was denied entry on discriminatory grounds in the course of a procedure before the Equal Treatment Commission

ZARA can provide the following support in such cases: ZARA can, if Mr. H. so desires, send a letter of intervention to the club in question, asking for a statement regarding the incident. In some cases, depending on the club operator's reaction or that of the security company involved, an out-of-court settlement may be reached, for example through a clarifying talk or an apology from the club. ZARA also supports those affected in proceedings before the Equal Treatment Commission and, if so desired, can also represent persons affected in any such proceedings.

Alternatively, or additionally, the person affected may also file a civil lawsuit. The case may, under certain circumstances, also be taken on by the Litigation Association of NGOs Against Discrimination (→ Glossary, p. 69), which will then represent the person affected in the proceedings before court and may also bear the risk of costs.

Introductory Act to the Administrative Procedures Acts

Article III paragraph 1 sub-paragraph 3 of the Introductory Act to the Administrative Procedures Acts is an administrative penal provision stipulating that anyone who discriminates against other persons and prevents them from entering premises or from obtaining services intended for use by the general public on the grounds of "race, skin colour, national or ethnic origin, religious denomination or disability" commits an administrative offence punishable by a fine of up to 1,090 Euros.

Corresponding charges have to be filed with the district administrative authorities ((→ Glossary, p. 69), in Vienna: the municipal authorities). This administrative offence is classified as a so-called offence *ex officio* (→ Glossary, p. 69), meaning witnesses of the incident as well as those directly affected by it may report the incident. ZARA will be happy to offer support in drafting a report and may, on request, also submit a written report to the authorities. Police officers who themselves witness incidents that could fall under this administrative provision have to make an official record of the incident as a possible offence *ex officio* and must forward it to the competent authorities. They are also to file and then forward charges to the same body in the same way as mentioned above if they are made aware of such an incident. The person reporting the incident does not bear any costs during the proceedings, however, this has the disadvantage that they may not be party to the case (→ Glossary, p. 69) and, therefore, have no right to be informed about its outcome. Compensation for the person discriminated against is also not provided for. However, whoever repeatedly violates Article III paragraph 1 sub-paragraph 3 of the Introductory Act may have their trade licence taken away, but ZARA is not aware of any cases in which this actually happened.

Racist Reactions to Anti-Racism Work



1,0%

This chapter contains a selection of the 19 incidents reported to ZARA involving actors active in the field of anti-racism work. Racism as a Reaction to Anti-Racism Work refers to intimidations directed towards ZARA and other anti-racism organisations.

40 Hateful letters

In spring, ZARA received three hateful letters within a short period of time. The letters contain, for example, the following statements:

“EVERYONE that acts as a member of the board here should be disposed of. With our tax money, you protect and finance all those foreign vermin, particularly Muslims. Send them to the Ayatollah, so that he can fuck you in the ass and then send you to heaven to the virgins. Fuck off, maybe someday there will be someone who disposes of you. Today would be better than tomorrow. Fuck off.” and “As said before, fuck off. I will bring a donation of shit to your door.”

41 Racist smearings

Shortly after the opening of an exhibition dealing with anti-Semitism during the Second World War and drawing comparisons to today’s social developments in a Viennese cinema, the words “Muslims get out” are sprayed onto the facade of the cinema, directly beneath a poster of the exhibition. The operator of the cinema files a charge against unknown persons and reports the incident to ZARA for documentation.

Best Practice Examples of Civil Courage

This chapter contains a selection of best practice examples of how to show civil courage. There are many situations in which people observe unjust or insulting behaviour and intervene in different ways. The incidents contained in this chapter are meant to inspire others and to show that it actually makes a difference when someone has the courage to stand up for people who are treated unfairly. The good thing is: Civil courage is contagious, and it is something that you can actually learn!

Commitment for victims of racist insults

On an underground train, Ms. B. observes a racist incident. Also on the train, there is a woman with two small children (a two-year-old girl and a four-year-old boy). Based on their language, Ms. B. assumes that they are of Chechen origin. A man starts talking to the children and says to the boy: “You idiot, if you don’t want to be here, just go away” and “You can’t beat your sister here.” The man also raises his voice. Upon that, Ms. B. gets up and approaches them in order to intervene. At the same time, three young men get up and tell her that she could stay behind as they will go over now. The three men ask the man to leave the boy alone. Upon that, the man continues to raise his voice focusing on the three men now. Ms. B. decides to inform the train driver about the incident, but there are too many people, and she is not able to get through. Therefore, she returns and sees that the man slaps the boy. The three young men ask the man to leave the train immediately. The man walks towards the door but does not get off the train. Only when Ms. B. dials the emergency number of the police, he gets off the train. Ms. B. approaches the mother, who is very upset because of the whole incident. Ms. B. gets off the train with the mother and her children and accompanies them to the next police station. At the station, they are told that there is nothing that can be done. Ms. B. is very concerned because of the incident and contacts ZARA. A ZARA employee informs

her about the legal background, such as racist insults according to Article 115 of the Austrian Criminal Code. Ms. B. thanks the employee for the information but does not want to take any further steps without the consent of the mother. It is important that there are many people who do not look away and who show civil courage.

Complaint about a racist sign

During a walk, Mr. A. notices a sign denoting a private property. Below the words “Private Property,” there is a drawing of a stylised figure which is crossed out. The eyes of the figure are represented by two thin lines, and it wears a triangular hat similar to an Asian conical hat. Obviously, the drawing is supposed to represent an Asian looking person. Mr. A. perceives this drawing as being very racist and writes an email to the mayor of the village. Fortunately, the sign is removed on the next day. Mr. A. reports the incident to ZARA and asks for documentation. He is pleased that his intervention was effective, that the mayor reacted immediately and that the sign was removed.

Support for a colleague

Ms. P. works in a care home. One of her co-workers, whom she considers a very competent colleague, is black. One day, a racist incident occurs at the care home. A relative of a resident says: “The black one shouldn’t enter my mother’s room” and claims that

her mother is not okay with a black person being in her room. However, Ms. P. noticed that relationship between the caretaker and the mother had always been good. The management of the care home informs the relative that the employer will continue to care for her mother because there is no medical indication for a change and because this is not for the relatives to decide. For two days, the situation seems to be resolved, but then the relative demands again that her mother should only be cared for by Austrians. She even forbids the caretaker to enter her mother's room. The situation becomes increasingly upsetting for Ms. P.'s colleague. As Ms. P. wants to support her colleague, she contacts ZARA and asks for advice on how to deal with the situation. A ZARA worker informs her about possible legal steps under the Introductory Act to the Administrative Procedures Acts (EGVG (→ Glossary, p. 69)) and the Equal Treatment Act (GIBG (→ Glossary, p. 69)) and also points out the importance of showing support for her colleague. Ms. P. wants to discuss possible actions with her colleague and will contact ZARA again if they need further support. ZARA is happy that the colleague affected is supported and that equal treatment at work is taken seriously.

Support during an official act

On a cold day in March in Vienna, Ms. L. notices two young men being stopped by the police. She hears that one of the police officers asks them for their wallets and identity documents. Ms. L. walks over and asks the police officers why the two men are being controlled, but they only tell her to not disturb the official act. They search the backpacks of the two men, and one of them is even asked to open his belt and trousers and is searched. Ms. L. is surprised by this procedure. One of the police officers asks the men about their income and searches their wallets to find out how much money they carry with them. Ms. L. asks in English why the police officers are doing this to make sure that the two men understand her. Again, the police officers tell her to not disturb the official act and ask her to speak German. One of the two men is allowed to leave. The police call the Federal Immigration and Asylum Service (BFA), and finally the second man is allowed to leave as well. Ms. L. tells the police officers that she would characterise their behaviour

as racial profiling (→ Glossary, p. 69). The police officers explain that the surroundings are a known spot for drug dealing and that the two men were stopped because of that. They ask Ms. L. if she would like to receive their official identification numbers or if they should inform her about where to complain. Ms. L. refuses and walks away, but she reports the incident to ZARA and asks for documentation. ZARA thanks her for her courageous behaviour and her confident intervention against the police officers.

Intervention upon a physical attack

In July, Ms. A. was waiting for the underground train around midnight. Although she listens to music with her headphones, she suddenly notices loud screams. She turns around and witnesses a black man being pushed across the platform towards the tracks. Suddenly, someone jumps on the man and chokes and beats him. Ms. A. immediately calls the emergency number, shouts "Stop it!" loudly and walks towards the two persons. The offenders stops beating the man and gets up. When Ms. A. reaches the two men, the victim asks the offender: "Why did you do that?" The offender does not reply and walks away. Shortly afterwards, the police arrive and are able to track down the offender. A few months later, the matter is disputed before court, and the offender is found guilty of bodily harm. However, the racist motive is not taken into account. Ms. A. makes a witness statement during the trial, and later, she talks to the victim and offers her support. The man tells her that he does not understand why the racist motive was not taken into account. Ms. A., therefore, suggests to contact ZARA. Shortly afterwards, they come to ZARA for a personal counselling talk. ZARA informs them that the racist motivation represents an aggravating factor (→ Glossary, p. 69), which, however, is often not sufficiently addressed or taken into account. Furthermore, the victim feels uncomfortable that the offender now has to pay damages as he does not want him to know his bank details. ZARA, Ms. A. and the victim discuss possible courses of action. Ms. A. and the victim thank ZARA for its support and will come back if they have further questions. We at ZARA are especially happy about the fact that Ms. A. continued to support the victim after the offence and that she initiated a counselling talk with ZARA.

Glossary

In alphabetical order

Afro Rainbow Austria (ARA)

ARA is the first organisation by and for LGBTQI+ migrants from African countries in Austria. It aims at being a platform for visibility, communication and change. Furthermore, ARA is also aware of the problems of LGBTQI+ people living in different African countries and of the interdependency between the diaspora and the people living on the African continent. Currently, ARA consists of a team in Austria and a team in Nigeria (ARA Outreach Nigeria).

Aggravating factor (Erschwerungsgrund)

When determining the extent of the punishment in the course of criminal proceedings, judges must take into account so-called aggravating or extenuating factors. These include for example racist motives. If such a motive is present, the punishment has to be higher than if such a motive was not present (Article 33 paragraph 1 sub-paragraph 5 of the Austrian Criminal Code).

Anti-Discrimination Office Styria

(Antidiskriminierungsstelle Steiermark – ADS)

The ADS is an initiative by the Integration Service of the Federal State of Styria and the City of Graz supported by the association Helping Hands Graz. The initiative offers a first point of contact as well as a clearing, counselling and monitoring unit. All people that feel affected have the possibility to contact the ADS personally, by telephone, in writing or online. In addition to its function as a first point of contact and a clearing and counselling unit, the ADS is also responsible for monitoring activities, scientific processing, networking, awareness-raising, sensitisation and regionalisation.

Appeal against a decision (Bescheidbeschwerde)

This term concerns the legal recourse a person affected has against an administrative authority's decision. As a rule, the appeal is to be submitted to the administrative authority that issued the contested decision.

Austrian Press Council (Österreichischer Presserat)

The Austrian Press Council (<http://presserat.at>) is a self-regulatory body of the Austrian print media. It is, for example, responsible for drawing attention to press-related grievances and to counteract those. It publishes the Code of Honour of the Austrian Press, which the Austrian print media can choose to adhere to, and violations of it may be reported to the Press Council. The Press Council may then initiate investigations in the course of which the senate determines whether the publication in question complies with the guidelines laid down in the Code of Honour.

Bullying (Mobbing)

Bullying is defined as ongoing harassment of a person over an extended period of time. Victims of bullying are typically targets of low-threshold aggression, attempts to marginalise, contemptuous comments, insults, false accusations, threats and even physical violence.

Citizen Information Service of the Police

(Büro für Bürgerinformation der Polizei)

The Citizen Information Service is a police institution where you can make suggestions as well as file informal complaints against official acts. However, these are no formal proceedings, and such complaints have no binding legal effect. But in most cases you will receive a relatively detailed answer.

City of Vienna Office for Combating Discrimination

(Stelle zur Bekämpfung von Diskriminierungen der Stadt Wien)

This anti-discrimination office run by the City of Vienna advises victims of discrimination according to the Vienna Anti-Discrimination Act and can, on request, initiate arbitration procedures. If no amicable agreement is reached in the course of arbitration proceedings, the victims may assert claims before a court. A precondition to this is the confirmation that the claimant has had recourse to arbitration proceedings.

City Service of Vienna (Stadtservice Wien)

The City Service of Vienna is responsible for a wide range of issues in the city of Vienna. ZARA contacts the City Service in order to obtain the removal of racist smearings.

Civil courage (Zivilcourage)

Civil courage begins with awareness and a sense of responsibility and culminates in showing support. It means having the courage to stand up for someone who is suffering injustice. In doing so, it is very important to always keep your own well-being as well as the victim's wishes in view.

Civil law (Zivilrecht)

Besides administrative law (e.g. the Introductory Act to the Administrative Procedures Acts, EGVG) and criminal law (e.g. incitement to hatred), civil law (e.g. compensation for damages) is another important area of law. Civil law frequently provides protection if an offence does not qualify as a criminal offence. It can easily be the case that an insulting statement is punishable according to civil law as an offence of honour but is unproblematic according to criminal law. An action for an injunction can represent a helpful legal remedy as well. In civil law, one has to file legal action before a civil court in the case of a dispute. In filing a civil lawsuit, the accuser bears the risk of litigation costs if the case is lost. Therefore, it is always advisable to seek legal representation by a lawyer in such cases.

Contributory or indirect discrimination (Mittelbare bzw. indirekte Diskriminierung)

See immediate or direct discrimination.

Council Neighbour Service (Wohnpartner)

Council Neighbour Services (www.wohnpartner-wien.at) are service centres operated by the City of Vienna. By means of projects and programmes, they aim to encourage co-existence and understanding for each other in municipal residential buildings and to promote dialogue. They assist tenants of Vienna municipality housing complexes in conflicts with their neighbours and try to help the conflict parties to recognise the problem together and to find a solution. Their services are free of charge for every inhabitant of public housing run by the City of Vienna.

Cyberbullying – Continued Harassment by Means of Telecommunications or Computer Systems (Cyber-Mobbing – Fortgesetzte Belästigung im Wege einer Telekommunikation)

The 2016 amendment to the Austrian Criminal Code introduced a new law against the “Continued Harassment by Means of Telecommunications or Computer Systems” – or cyberbullying. It is, thus, a criminal offence if a person is harmed in honour or if facts or images with highly personal content are published and are accessible for a larger number of people. In addition, this behaviour must continue for an extended period of time, and it must be likely to impair the lifestyle of the person unreasonably.

Cyber hate

The term “cyber hate” refers to the dissemination of insulting, discriminatory, inflammatory and threatening content on the internet. Incidents of cyber hate most often take place on social media platforms, by means of emails or on websites.

Dangerous threat (Gefährliche Drohung)

According to Article 107 of the Austrian Criminal Code, a person who threatens another person in order to cause them fear and unease is to be punished with a fine or a custodial sentence of up to one year.

Declaratory action (Feststellungsklage)

A declaratory action aims at determining the existence or non-existence of a legal relation, a right or the (non-)authenticity of a document in court.

Defamation (Üble Nachrede)

According to Article 111 of the Austrian Criminal Code, defamation is a criminal offence according to which, under certain circumstances, defamatory and untrue allegations are punishable. As a rule, these offences are subject to private prosecution, which means that the offence is only prosecuted if the injured party files a complaint.

Directive for Interventions by Members of the Public Security Services (Richtlinien-Verordnung – RLV)

This directive contains a catalogue of regulations which law enforcement officers must adhere to in the course of official acts. Among other things, police officers are obliged to refrain from

discriminatory behaviour, to disclose their official identification number upon request and to use the polite German form of address “Sie” (see also “Know Your Rights” in the chapter “Police”).

District administrative authority (Bezirksverwaltungsbehörde - BVB)

The district administrative authority is the district authority or the municipality (in towns and cities with their own statutes, in Vienna the individual municipal district authorities take on this role). Some of the district administrative authorities’ duties are carried out by regional police departments if the cases fall within their jurisdiction. The district administrative authority generally has the primary responsibility for disciplining those accused of administrative violations in the first instance.

Diversion and out-of-court resolution (Diversion und Tatausgleich)

Diversion is an option for the public prosecutor’s office to avoid carrying out a formal criminal trial in court. In order for criminal proceedings to be settled by means of a diversion, certain conditions have to be met. If the criminal offence was only minor or moderate or if the offender is asserted non-severe guilt, it can be renounced of a conviction after formal judicial proceedings, which means there will be no sentence or formal conviction. After the completion of diversion proceedings, which may only be carried out upon the consent of the person suspected of wrongdoing, the criminal proceedings are irrevocably suspended, and those affected have no criminal records. Diversion measures include out-of-court resolutions (Außergerichtlicher Tatausgleich, ATA), the provision of a probationary period (usually linked to the fulfilment of certain obligations), community work or the payment of a certain amount of money by the person suspected of wrongdoing. Out-of-court resolutions are carried out by the association Neustart, where social workers use it to enable a resolution between victim and offender by means of mediation. This can include compensation for damages and a written agreement (between offender and victim) about future conduct. The victim must also expressly agree to an out-of-court resolution. For the area of juvenile justice, other regulations apply when it comes to details.

Documentation Archive of Austrian Resistance (Dokumentationsarchiv des österreichischen Widerstandes - DÖW)

The Documentation Archive of Austrian Resistance (www.doew.at) is a foundation supported by the Republic of Austria, the City of Vienna and the association “Verein Dokumentationsarchiv.” It is a scientific institution engaged with subjects such as resistance during the Nazi era, National Socialist crimes, the Holocaust, restitution and right-wing extremism after 1945. The DÖW staff collect current cases of right-wing attacks, evaluate them and inform about the development of the right-wing extremist scene in Austria via various media and their own publications.

Dokustelle - Documentation and Counselling Centre on Islamophobia and Anti-Muslim Racism (Dokustelle - Dokumentations- und Beratungsstelle Islamfeindlichkeit & antimuslimischer Rassismus)

The Dokustelle (www.dokustelle.at), which is run by volunteers, documents cases of Islamophobia and anti-Muslim racism and offers advice and support for persons affected. In addition, there is a focus on educational work and empowerment, which is fulfilled through workshops and seminars.

Equal Treatment Act (Gleichbehandlungsgesetz - GIBG)

The Austrian Equal Treatment Act is intended to offer protection against discrimination on the grounds of gender, ethnicity, sexual orientation, religious beliefs, worldview and age in the world of work. Outside the world of work, it protects against discrimination on the grounds of ethnicity or gender when, for example, gaining access to good and services.

Equal Treatment Commission (Gleichbehandlungskommission - GBK)

The Equal Treatment Commission is composed of three senates whose (voluntary) members represent ministries and social partner organisations. The senates of the Equal Treatment Commission have to deal with all questions related to discrimination in their respective areas of competence. In particular, they are responsible for drafting expert reports on general issues relating to discrimination, and, in individual cases, they have to assess potential violations of the provisions of the equal treatment

laws. This may, in specific cases, be done on the request of the people affected, lobbying groups or the Ombud for Equal Treatment. Both the Ombud for Equal Treatment as well as the victims are party to these proceedings, which are free of charge for the persons affected. Victims may also choose to be represented by a person of trust, for example by an representative of a non-governmental organisation such as ZARA. The result of proceedings before the Equal Treatment Commission is a decision which, in contrast to a court ruling, is not legally binding.

Ethnic profiling

Ethnic profiling (often also referred to as racial profiling) is when the police use special criteria such as skin colour, language, presumed or actual ethnicity, religion or citizenship as factors when deciding whether or in what way an official act is to be carried out. This includes, for example, the targeted control of persons of dark skin colour without there being any concrete suspicion.

European Convention on Human Rights – ECHR (Europäische Menschenrechtskonvention – EMRK)

The European Convention on Human Rights (ECHR) is a convention of the Council of Europe that stipulates fundamental human rights. In Austria, the ECHR has constitutional status, which means that the rights specified in the ECHR are considered constitutional rights. When interpreting and implementing (simple) laws, special attention must be put on the compliance with the rights stipulated by the ECHR.

Execution proceeding (Exekutionsverfahren)

If a court determines a violation of a right and if from this violation a liability arises (e.g. a compensation for damages), this liability may be enforced by the court by means of an execution proceeding. This may take place in the form of an attachment of salary, which means that the employer pays part of the salary to someone else.

Federal Office for the Protection of the Constitution and Counterterrorism (Bundesamt für Verfassungsschutz und Terrorismus- bekämpfung – BVT)

The Federal Office for the Protection of the Constitution and Counterterrorism is a security agency within the Ministry of the Interior. Its

responsibilities include, for example, combating extremism and other terrorist phenomena. The federal office and its various regional authorities monitor the right-wing extremist scene in Austria and investigate violations of the Prohibition Act by means of activities intended to re-establish, glorify or identify with National Socialism. Neo-Nazi, racist and anti-Semitic content on the internet can be reported to the NS Reporting Office operated by this federal office.

Forum Against Anti-Semitism (Forum gegen Antisemitismus)

The Forum Against Anti-Semitism (www.fga-wien.at) is an association based in Vienna, which serves as a first point of contact for persons who want to report anti-Semitic incidents. It supports victims of anti-Semitic attacks by means of personal counselling and, if necessary, provides initial legal advice. Furthermore, the Forum engages in monitoring and networking activities.

General terms and conditions – GTC (Allgemeine Geschäftsbedingungen – AGB)

General terms and conditions (GTC) represent a variety of pre-formulated contractual terms and conditions that companies can enter into (usually) with individual persons (users) as a basis for completing a contract. As a rule, consent to the GTC is a prerequisite for the conclusion of a contract.

Guidelines complaint pertaining to the Directive for Interventions by Members of the Public Security Services (Richtlinienbeschwerde)

This complaint procedure is one method to have the behaviour of police officers reviewed by the responsible regional administrative court. The criteria for the review are the guidelines laid down in the Directive for Interventions by Members of the Public Security Services (see also: “Know Your Rights” in the chapter “Police”).

Harassment (Belästigung)

Harassment is a form of discrimination under the Equal Treatment Act in the course of which a person’s dignity is or will be harmed on the basis of one or more specific characteristics attributed to him or her (such as skin colour, religious beliefs, gender or sexual orientation) and which creates or which is intended to create a burdensome (e.g.

intimidating, hostile or humiliating) environment for the person affected.

Hate speech

Hate speech refers to statements that incite or inflame hatred or that are offending to certain individuals and/or groups. Depending on the concrete content and the legal situation of the country in question, such statements may also be relevant under criminal law. Hate speech can occur online or offline.

Immediate or direct discrimination

(Unmittelbare bzw. direkte Diskriminierung)

According to the Equal Treatment Act, immediate or direct discrimination shall be taken to occur when a person is treated less favourably than another person in a comparable situation due to specific characteristics (e.g. ethnicity). Contributory or indirect discrimination, on the other hand, is taken to occur when an apparently neutrally formulated regulation in practice disadvantages persons with specific characteristics (e.g. clothing regulations which discriminate women wearing a Muslim headscarf). Such regulations do not constitute a case of discrimination if they are objectively justified by a legitimate aim and if the means to achieve that aim are appropriate and necessary.

Incitement to hatred (Verhetzung)

The 2015 amendment to the Austrian Criminal Code, which came into power on January 1st, 2016, reformulates the criminal offence of incitement to hatred (Article 283 of the Austrian Criminal Code) in order to comply with international obligations and to compensate existing deficits, e.g. concerning the protection of people currently affected by incitement to hatred. Criminal incitement to hatred is directed against certain groups of persons or members of such groups and involves incitement to hatred as well as to violence. In relation to racist incidents, this law includes people or groups of people defined by, for example, existing as well as non-existing criteria of "race," skin colour, language, religion, citizenship, descent, nationality or ethnicity to be victims. In addition, the law now also considers offences such as the dissemination of inflammatory material or the denial of genocides to be criminal. The law also provides for higher

penalties, e.g. for offences on the internet (see also "Know Your Rights" in the chapter "Internet").

Insult (Beleidigung)

According to Article 115 paragraph 1 of the Austrian Criminal Code, a (simple) insult is a punishable offence with private prosecution which is defined as follows: "Anyone who publicly insults, ridicules, bodily mistreats or threatens bodily harm to another person shall be punished with a custodial sentence of up to three months or with a fine of up to 180 daily rates. This is if the person in question has not already been punished with another, harder sentence under another provision."

According to Article 117 paragraph 3 of the Austrian Criminal Code, a qualified insult is if one person insults another because they belong to a different church or religious community or to another group based on the existing or non-existing criteria of race, skin colour, language, religious belief, worldview, gender, citizenship, descent, national or ethnic origin, physical or mental disability, age or sexual orientation. An insult is understood to be mistreatment, the threat of mistreatment, an insult injurious to someone's dignity or the ridiculing of another person which is likely to disparage the person concerned in the public opinion. This is a prosecutable offence and not a matter for a private law suit. The public prosecutor's office must prosecute this offence ex officio with the consent of the person affected. The victim does not bear the risk of court costs.

Intervention of private parties in criminal proceedings (Privatbeteiligung im Strafverfahren)

The enforcement of compensation for damages usually takes place in the course of a civil lawsuit, in which the prosecutor has to bear the risk of costs. However, the damaged party is also able to assert compensation (e.g. for physical injury) from the offender already in the course of the criminal proceeding without having to bear the risk of costs. The judges may (but are not obliged to) award the compensation as estimated by the victim, partly or in total, in case the offender is sentenced. Ideally, the victim does not have to go through an expensive and time consuming civil lawsuit and receives the financial compensation promptly.

Introductory Act to the Administrative Procedures Acts 2008 (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 2008 – EGVG)

Article III of the Introductory Law to the Administrative Procedure Acts is an administrative provision which forbids, for example, racial discrimination when entering premises or shops. Such acts are punishable by an administrative fine of up to 1,090 Euros and may be reported to the district authorities or, in statutory cities, to the municipal authorities.

Litigation Association of NGOs Against Discrimination (Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern – KlaV)

The Litigation Association (www.klagsverband.at) was founded in 2004 as an umbrella organisation for NGOs engaged in combating discrimination and in counselling victims of discrimination. Today, more than 40 NGOs are members of the Litigation Association, all of which deal with discrimination in various areas. The Litigation Association mainly acts as an advisory body for the member NGOs, but it can also represent the member NGOs' clients in court proceedings under the Equal Treatment Act.

Mauthausen Committee Austria (Mauthausen Komitee Österreich – MKÖ)

The Mauthausen Committee Austria (www.mkoe.at) was founded in 1997 by the Austrian Trade Union Federation and the Austrian Bishops' Conference of the Roman Catholic Church in association with the Jewish communities of Austria as a successor organisation to the Austrian Camp Community Mauthausen. The organisation is independent of all political parties and religious creeds. It carries out commemoration work and is involved in the scientific and pedagogical supervision of the former concentration camp of Mauthausen and its associated camps. The MKÖ campaigns for the protection of the human rights of all people and opposes all forms of fascism, racism, neo-Nazism, chauvinism and anti-Semitism.

Mediation talk (Klaglosstellungsgespräch)

After a guidelines complaint against police conduct, a mediation talk may be arranged. The aim of this talk is to discuss the incident with representatives of the corresponding police department and/or the police officer(s) involved as well as the complainant.

If the complainant is satisfied with the course and the outcome of the mediation talk, the complaint procedure may be suspended.

Media-content offence (Medieninhaltsdelikt)

A media-content offence is a prosecutable act committed by means of a medium in the form of an announcement or representation addressed to a wider audience. This includes, for example, inflammatory articles in social media, newspapers or other media.

Mimikama

Mimikama (www.mimikama.at) is a non-profit organisation that deals, among other things, with fake reports, subscription traps, spam, malicious links and phishing emails and that serves as an international coordination unit for combating internet abuse as well as a central point of contact for internet users who want to report suspicious contents on the internet and have them removed.

Monitoring

The term "monitoring" generally refers to the systematic observation of a process, mostly by means of technical aids. ZARA uses this method with regards to instances of racism, online hate and cyberbullying.

Motion for continuation (Fortführungsantrag)

The victim of a criminal offence may request the continuation of the preliminary investigations if the suspension of said investigations by the public prosecutor's office was unlawful (e.g. if the reported offence is actually a punishable offence), if there are considerable legal misgivings concerning the facts used to justify the suspension of the investigations (e.g. if evidence was incorrectly qualified) or if the victim invokes new, unrecorded facts. If the application is rejected, the victim must pay a lump-sum of 90 Euros.

NEUSTART

Since 1957, the association Neustart has been working in the fields of judiciary social work, assistance for former offenders (probation services, support for ex-prisoners), victim support and prevention. Since January 2018, Neustart carries out the pilot project "Dialog statt Hass" ("Dialogue Instead of Hate"). By means of a diversion, persons

accused of incitement might not be immediately tried before court but may be assigned to this socially constructive programme.

NS Reporting Office (NS-Meldestelle)

The Federal Office for the Protection of the Constitution and Counterterrorism (BVT) operates the NS Reporting Office to which acts glorifying and identifying with National Socialism as well as neo-Nazi, racist and anti-Semitic content on the internet may be reported.

Offence prosecutable upon complaint (Ermächtigungsdelikt)

In contrast to an offence with private prosecution, an offence prosecutable upon complaint describes a punishable act which may only be prosecuted by the public prosecutor's office with the consent of the person affected. If the affected person refuses their consent, the public prosecutor's office is not entitled to take any further legal action. In contrast to an offence with private prosecution, the victim does not have to bear the risk of costs in case of an offence prosecutable upon complaint.

Offence prosecuted ex officio (Offizialdelikt)

An offence prosecuted ex officio refers to a criminal offence or an offence violating the administrative criminal law that is to be prosecuted by the competent authorities ex officio. This means that as soon as a law enforcement authority becomes aware of the commitment of a possible ex officio offence (e.g. through a report), it is obliged to initiate criminal investigations.

Offence with private prosecution (Privatanklagedelikt)

In the case of offences with private prosecution, the prosecution of offenders is initiated only at the instigation of the person affected, and the public prosecutor's office is not involved. The person affected has to initiate a civil case herself/himself and bears the risk of litigation costs.

Ombud for Equal Treatment (Gleichbehandlungsanwaltschaft – GAW)

Since 2005, the Ombud for Equal Treatment works in the following areas of competence: equal treatment and equality between women and men in employment and occupation, equal treatment

irrespective of ethnicity, religion or belief, age or sexual orientation in employment and occupation as well as equal treatment irrespective of sex or ethnicity in other areas (e.g. in gaining access to goods or services). The Ombud for Equal Treatment (www.gleichbehandlungsanwaltschaft.at) is, e.g. responsible for advising victims of discrimination and may also commission and carry out studies on discrimination in Austria. Incidents reported to the Ombud for Equal Treatment can be sent on to the Equal Treatment Commission to be assessed.

Online hate

In our understanding, online hate refers to hateful content on the internet directed against individuals or groups. Often, such contents refer to ethnicity, skin colour, sexual orientation, gender, religion, disability or age, and, as such, these often represent legal offences. ZARA actively combats legal as well as illegal forms of online hate.

Online hate is especially common on social media platforms, via emails and on websites.

Online hate comes in many forms. Some contents generally discriminate against entire population groups, e.g. by means of hateful posts or by deliberately spreading misinformation and fake news containing untruths about a specific group of people.

In the case of cyberbullying, the offender and the victim often know each other personally. Cyberbullying means that a person is deliberately harassed, insulted, exposed or harmed in honour or that facts or images with highly personal content are published and accessible for a larger number of persons. Further, this behaviour must continue for an extended period of time and must be likely to impair the lifestyle of the person concerned unreasonably. Since January 1st, 2016, cyberbullying is classified as a criminal offence and can be punished with a custodial sentence of up to one year. The prerequisite is the continued violation of the most personal sphere of life or of honour on the internet. Other criminal offences such as incitement to hatred, insult or defamation can take place online as well.

Party to the case (Parteistellung)

Being a party to an administrative proceeding involves certain rights, including the right to access

files, the right to be heard and the right to be informed about the decision by announcement or delivery of a notification. On the contrary, in administrative criminal proceedings, e.g. if proceedings against a racial discrimination are initiated in accordance with Article III paragraph 1 sub-paragraph 3 of the Introductory Act to the Administrative Procedure Acts, the affected person is generally not a party to the case and is not informed about the outcome of the proceedings.

Procedural complaint (Maßnahmenbeschwerde)

The procedural complaint is a legal remedy against unlawful police conduct. The complaint is to be submitted to the responsible regional administrative court within six weeks (see also: “Know Your Rights” in the chapter “Police”).

Prohibition Act (Verbotsgesetz)

The Prohibition Act prohibits various acts associated with National Socialism. Among other things, the re-establishing, glorifying or identifying with National Socialist activities is considered to be a crime and is, therefore, punishable. Furthermore, it prohibits to deny, grossly trivialise, approve or justify the National Socialist genocide or other National Socialist crimes against humanity.

Public liability law (Amtshaftungsrecht)

If employees of public authorities harm someone in execution of the law, compensation may not be received from the employees but, legal proceedings are directed against the state (state government, federal states, etc.).

Queer Base – Welcome and support for LGBTIQ Refugees

Queer Base is an organisation of people with and without refugee experiences. It was founded in 2015 and aims to support refugees who had to flee because of their sexual orientation and their gender identity.

The organisation, which is based in Vienna, serves as a point of contact for lesbian, gay, bisexual, inter*, trans*gender and queer refugees. LGBTIQs are criminalised in more than 70 countries around the world and threatened with physical, psychical and sexualised violence. It is possible to seek asylum in Austria as a “member of a social group” as a result of homophobic or

transphobic persecution. In such cases, Queer Base supports those affected.

Queer Base is based in the Türkis Rosa Lila Villa and was founded by Viennese LGBTIQ organisations.

Racial discrimination (Rassistische Diskriminierung)

Racial discrimination means that individuals and/or groups are in some way disadvantaged on the grounds of skin colour, language, looks, religious beliefs, nationality or origin.

Reduction of the burden of proof / Reversal of the burden of proof (Beweislasterleichterung/ Beweislastumkehr)

Before a court may take any decisions with regard to what is lawful in a certain case, it must determine what has happened (clarification of the facts). As in all proceedings, the question is ultimately one of the evidence available and the credibility of the person whom the court or authority considers to be in the right. However, discrimination cases can face an unequal balance of power even more frequently than employment relationships. The employees are often in a weaker position than their employer, especially in relation to their economic strength and their “proximity to the evidence.” This circumstance is taken into account in the area of employment law as well as in the framework of equal treatment legislation. According to European provisions, the burden of proof is shifted to the accused, who must plausibly free themselves from the accusations levelled against them with the help of all admissible evidence. In Austria, this latter provision has not been successfully implemented which leads to a slightly more complicated and less practical construction. This means that proceedings may only be initiated when the accuser can plausibly prove that a case of discrimination has taken place. The proceedings are considered to be at an end when the accused can prove “that, after all circumstances have been taken into account, it is more probable that another motive, which can be plausibly proved by the accused, was decisive for the different treatment.” Credibility is easier to achieve than proof.

Regional administrative courts (Landesverwaltungsgerichte – LVwG)

Regional administrative courts serve as complaints authorities for complaints concerning

administrative matters as well as administrative criminal cases.

Romano Centro

Romano Centro (www.romano-centro.org/) was founded in 1991 as one of the first Roma organisations in Austria. The organisation represents different groups of Roma and Romnja with the aim to collectively promote the improvement of their living conditions and to combat discrimination against them. Its focal points are education and culture. The Romano Centro is open to Roma as well as to non-Roma.

Special Investigations Office (Referat Besondere Ermittlungen)

The Special Investigations Office forms part of the Office for Quality Management of the State Police Department Vienna and is responsible for preliminary investigations against state police department employees suspected of having committed a criminal offence.

Suspended / partially suspended / non-suspended sentence (Bedingte/teilbedingte/unbedingte Strafe)

In the case of a suspended sentence, the convicted person is paroled. Parolees are given a probationary period by the court, during which they may not commit any criminal offences. If this is the case, the parolee is considered to have completed his or her sentence. Otherwise, the court may rescind the suspended sentence. Partially suspended sentence means that only part of the sentence is carried out on probation. Non-suspended sentence means that the whole sentence is carried out within a set period of time, however, there is the possibility of a suspended release.

Third-country nationals (Drittstaatsangehörige)

Third-country nationals are nationals of states which are not party to the Agreement on the European Economic Area (EEA). All EU member states as well as Iceland, Liechtenstein and Norway belong to the EEA. Switzerland is not an EEA member and, therefore, a third country. Swiss citizens do, however, have the same rights as EEA citizens through various bilateral treaties.

Trusted Flagger

Some operators of social networks award a so-called

Trusted Flagger status to trustworthy institutions. Reports by Trusted Flaggers concerning problematic and illegal contents on social network pages are given priority and are examined more thoroughly. This results, for example, in quicker responses by social network operators as well as greater success concerning the removal of such contents.

Upper Austrian Network Against Racism and Right-Wing Extremism (OÖ. Netzwerk gegen Rassismus und Rechtsextremismus)

In 2001, the Upper Austrian Network Against Racism and Right-Wing Extremism (Antifa-Network Upper Austria) was founded by 26 organisations in the course of a meeting following an invitation by the Wels Initiative against Fascism and the Education Centre Castle Puchberg. Since then, the network has had the purpose to exchange information and knowledge on observations and perceptions of right-wing extremism and xenophobia as well as to strengthen the cooperation between the member organisations.

Vienna Anti-Discrimination Act (Wiener Antidiskriminierungsgesetz)

The Vienna Anti-Discrimination Act prohibits the discrimination against persons by civil servants or by contract staff of the City of Vienna on the grounds of ethnicity, religious beliefs, worldview, disability, age, sexual orientation, gender identity and gender and especially on the grounds of pregnancy or parenthood. The scope of this act includes certain areas of the sovereign administration and the administration delegated to the private sector (e.g. social affairs, health, education) of the state and the City of Vienna, insofar as the cases fall within the regulatory competence of the state.

WEISSER RING – Assistance for Crime Victims (WEISSER RING – Verbrechensoferhilfe)

Weisser Ring (<http://www.weisser-ring.at>) is a private, politically independent, non-profit organisation that provides free support services for victims of crimes. Primarily, this includes legal support during court proceedings (especially the representation of private parties in criminal proceedings against offenders) as well as psychosocial support for victims of crimes.



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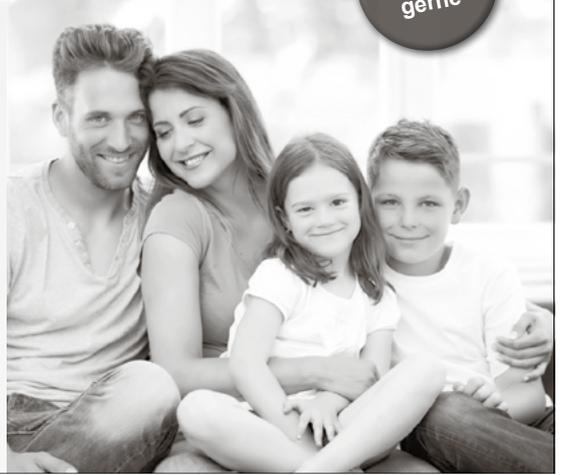


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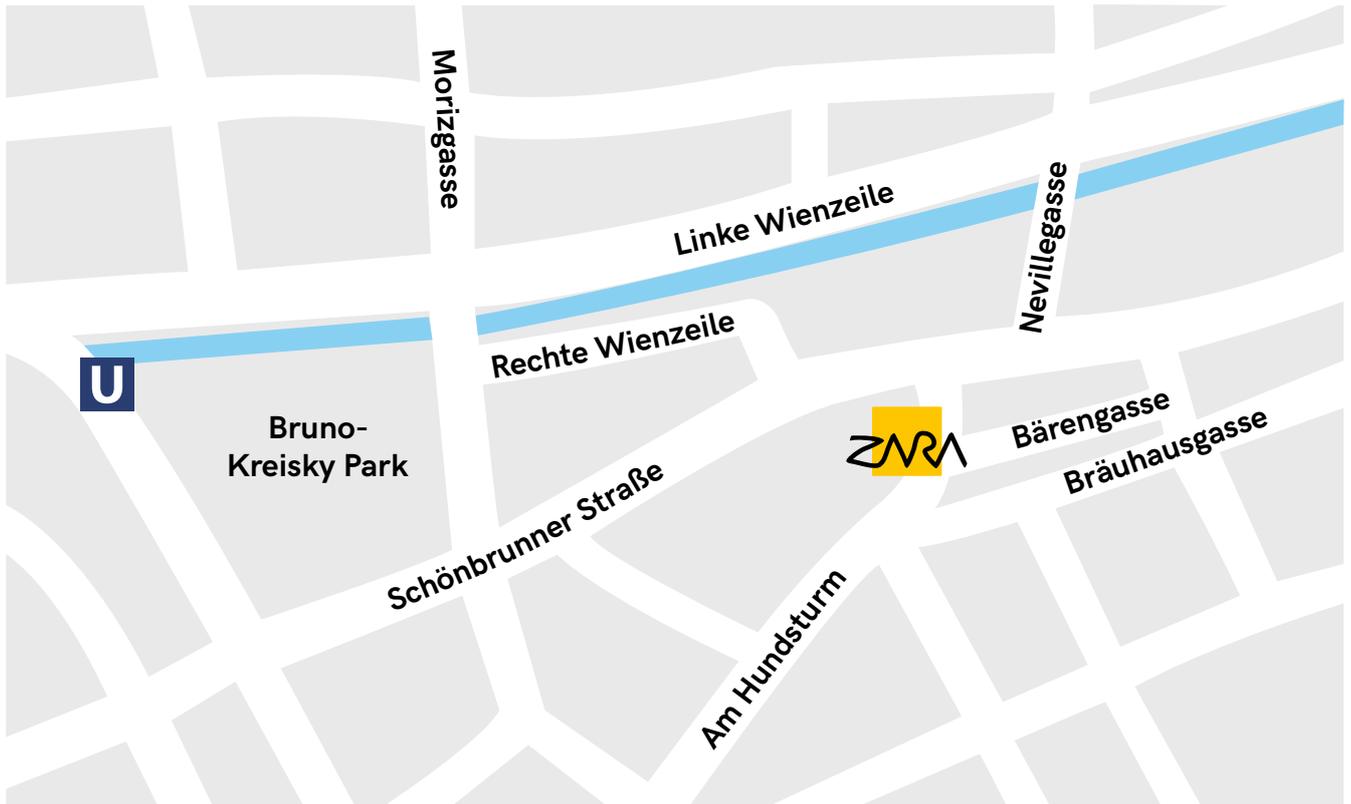
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To schedule a counselling appointment, contact the ZARA team via:

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Phone: +43 (0) 1 929 13 99
Email: office@zara.or.at
Web: zara.or.at



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20 Years, 20 Demands

We demand ...

- 1 ... the preparation and implementation of a national action plan against racism.
- 2 ... that the media refrain from publishing the actual or alleged origin or citizenship of suspects as this is not relevant information.
- 3 ... not to abuse the asylum system and the immigration law for racist discourses.
- 4 ... an adequate increase in resources for the public prosecutor's office as well as for police departments for the fight against racism and online hate.
- 5 ... the extension of the protection under the Equal Treatment Act to all existing grounds of discrimination (levelling up).
- 6 ... the harmonisation of the equal treatment laws of the federal states as well as more precise regulations regarding the scope of applicability of equal treatment and anti-discrimination laws.
- 7 ... the introduction of a criminal offence with regard to the protection of personal dignity without a precondition of having to occur in the public sphere.
- 8 ... the right for the Ombud for Equal Treatment and the Litigation Association to initiate legal action in all proceedings under equal treatment laws.
- 9 ... the implementation of a database for the internal recording of administrative fines in accordance with Article III paragraph 1 sub-paragraph 3 of the Introductory Act to the Administrative Procedures Acts in order for the sentence stipulated in Article 87 paragraph 1 sub-paragraph 3 of the Austrian Industrial Code to become applicable.
- 10 ... the right for ZARA to be a party to all proceedings according to Article III paragraph 1 sub-paragraph 3 and 4 of the Introductory Act to the Administrative Procedures Acts as well as to proceedings according to Article 87 paragraph 1 sub-paragraph 3 of the Austrian Industrial Code.
- 11 ... the right for ZARA and the Litigation Association to be a party to administrative criminal proceedings under the Equal Treatment Act.
- 12 ... the extension of the limitation period for media-content offences to the general limitation period, if the offences involve hatred and incitement. For host providers, the limitation period should begin upon the detection of illegal content.
- 13 ... an adequate investigation and application of "aggravating factors" in accordance with Article 33 paragraph 1 sub-paragraph 5 of the Austrian Criminal Code in cases of offences motivated by prejudice.
- 14 ... that the police comply with the obligation to refer victims of criminal offences motivated by prejudice to adequate civil society institutions.
- 15 ... an improved protection from secondary victimisation for people who file complaints against police conduct.
- 16 ... victims to be exempt from costs arising from procedural complaints or guidelines complaints against police conduct.
- 17 ... the mandatory invitation of persons affected to mediation talks ("Klaglosstellungsgespräch") in the case of guidelines complaints against police conduct and the mandatory participation of the law enforcement officers involved.
- 18 ... the installation of surveillance cameras in the premises of all police departments in Austria.
- 19 ... a transparent allocation of pupils to schools in order to promote integration and to avoid separation.
- 20 ... the appointment of contact persons at every school for incidents involving racism.