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**ECRI CONCLUSIONS  
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS  
IN RESPECT OF AUSTRIA  
SUBJECT TO INTERIM FOLLOW-UP**

*Adopted on 21 March 2018<sup>1</sup>*

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<sup>1</sup> Except where specifically indicated, any developments which occurred after 12.10.2017, the date on which the response of the Austrian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

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## FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012<sup>1</sup>, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

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<sup>1</sup> CM/Del/Dec(2012)1154/4.2.



1. *In its report on Austria (fifth monitoring cycle) published on 13 October 2017, ECRI recommended that the Austrian authorities merge the various anti-discrimination acts and institutions of the Federation and the Länder in order to improve the protection afforded to victims of racism and discrimination.*

The authorities underline that the division of competences in the area of anti-discrimination results from the federal structure of the Austrian state. With regard to the first part of the recommendation to merge the various anti-discrimination acts, ECRI regrets to note that there are no initiatives to merge the existing anti-discrimination laws at least in each of the nine Länder and the Federation, which would considerably reduce their number from over 35 towards 10.

With regard to the second part of the recommendation to merge the various anti-discrimination institutions, ECRI notes that no merger was initiated neither in the Federation nor any of the nine Länder. With regard to the other measures which ECRI suggested for simplification and improvement of the institutional framework (see § 13 of the report), the authorities refer to a report on the evaluation of the Austrian equal treatment instruments<sup>1</sup>, which recommends reinforcing the presence of the Federal Ombud for Equal Treatment (OET) in the Länder. ECRI welcomes that the competences of these regional offices were indeed extended as of 1 July 2017 and now also cover the discrimination grounds of ethnicity, religion or belief, age and sexual orientation, as well as discrimination on the ground of ethnicity in the field of providing goods and services. In addition, since 2014 a telephone hotline works as a central contact point for victims of discrimination based on ethnicity, ethnic origin or religion, and several Länder have also created such central contact points for victims of discrimination (for example Lower Austria). The federal and regional anti-discrimination bodies meet annually; these meetings contribute to resolving conflicts of competence.

Furthermore, the OET informed ECRI that it works, in co-operation with the Federal Chancellery and the EU Fundamental Rights Agency (FRA), on tools to provide better information to victims of discrimination about the various institutions that could help them to enforce their rights. At EU-level, FRA has put into service a tool named "Clarity"<sup>2</sup>, and at national level the development of an interactive tool is under way.

ECRI considers that valuable progress has been made, in particular through the extension of the competences of the regional offices of the OET, the telephone hotline and the tool "Clarity". However, the system remains complex and there is room for further improvement (cf. the additional measures proposed in § 13 of ECRI's 5<sup>th</sup> report on Austria). As, in addition, no steps have been taken to reduce the exceptionally high number of anti-discrimination acts, ECRI concludes that this recommendation has only been partly implemented.

2. *In its report on Austria (fifth monitoring cycle), ECRI strongly recommended that Austria ratifies the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.*

The Austrian authorities informed ECRI that the preparations for the accession to the Additional Protocol to the Convention on Cybercrime are on-going; they intend either to enact a legal provision making it an offense to disseminate racist material (Article 5 of the Protocol) or to make a reservation in this regard when ratifying the Protocol.

ECRI recalls that the dissemination of racist material should also be criminalised according to § 18f of its General Policy Recommendation No. 7 and encourages the authorities to finalise the ratification process as soon as possible. It concludes that this recommendation has not yet been implemented.

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<sup>1</sup> Austrian Ministry of Social Affairs 2016, Evaluierung der Instrumente des Gleichbehandlungsrechts.

<sup>2</sup> <https://fra.europa.eu/clarity/en/tool>, accessed on 4 December 2017.



