

The expert committee of the City of Salzburg - Human Rights Round Table - thanks you for the opportunity to submit a contribution on the topic of "Local government and human rights" and informs the United Nations High Commissioner for Human Rights of the following in response to his questions:

1. What capacity building initiatives have been taken to implement/incorporate human rights in local administration?

Since 1992, the City of Salzburg has had a Women's Representative who works for the equality of women and men and for the implementation of the relevant EU directives as well as national and provincial laws in the City of Salzburg. Since 2006, the Women's Representative is also to act as the Equal Treatment Officer of the City of Salzburg.

Since 1996, the City of Salzburg has had a Commissioner for Persons with Disabilities who works for the inclusion of people with disabilities and for the implementation of the UN Convention on the Rights of Persons with Disabilities.

Since 1997 there has been an advisory council for people with disabilities in the city of Salzburg, which is composed of representatives of public institutions, non-profit associations and self-advocacy organisations of people with disabilities. It is an advisory council that works to improve the living situation of people with disabilities in the city of Salzburg. The primary goal is the implementation of the UN Convention on the Rights of Persons with Disabilities. The Advisory Council is coordinated by the Commissioner for Persons with Disabilities, has an advisory function and the self-advocates work on a voluntary basis.

From 2006 to 2019, the City of Salzburg had a position of Integration Commissioner, which was anchored in the Magistrate's Office as a cross-cutting issue and was responsible for improving the situation of migrants, implementing the integration concept of the City of Salzburg and, from 2008 to 2016, also for implementing the "European Charter for the Safeguarding of Human Rights in the City"¹.

In 2011, the expert committee "Human Rights Round Table" (RTMR) of the City of Salzburg was established. The experts come from the administration (5), from the field of civil society (6) and from academia (2). The tasks of the RTMR are to monitor the human rights situation in the city of Salzburg, to advise politicians and administrators on human rights issues, to provide information and public relations, to make proposals for the implementation of concrete measures and to evaluate the implementation of the "European Charter for the Safeguarding of Human Rights in the City". Until 2016, the body was coordinated by the Integration Officer and until 2019 by the Deputy Equal Treatment Officer. Since 2019, RTMR has been coordinated by a staff member of the "Social Planning" service of the Municipal Department 3/00-Social Affairs.

Since 2019, the office "Team Diversity" has been located in the Municipal Department 3/00-Social Affairs. In this office, Women's Representatives/Equal Treatment Officer, Youth Representatives and Representatives for People with Disabilities are active and integration/language promotion is also supported.

2. Where are the gaps and needs of local governments in relation to implementing/incorporating of human rights at the local level?

¹ In December 2008, the Salzburg City Council decided to accede to the "European Charter for the Safeguarding of Human Rights in the City" with ten reservations (MD/00/57895/2008/001).

- a) There is no legal obligation to implement human rights mainstreaming and budgeting at national or municipal level and no control mechanisms for the implementation of the current laws at municipal level:
 - There is a need for improved laws and control mechanisms.
- b) There is too little awareness among decision-makers in Salzburg that racism and any form of discrimination means violence, that promoting human rights and combating discrimination benefits all citizens, is an important component of democracy, the basis of peaceful coexistence and saves costs for the future²:
 - There is a need for
 - i. Awareness-raising measures on human rights, inclusion, racism, anti-discrimination for politicians and administrators.
 - ii. Continuous information and training of politicians and administrators on the human rights laws.
 - iii. Recognition of racism as a problem for society as a whole, critical debate on racism in (political) organisations and public administrations, elimination of structural and institutional racism.
 - iv. Anchoring the topics of human rights, equal treatment, inclusion, anti-discrimination, promotion of diversity as cross-cutting topics of the administration.
- c) There are no institutionalised mechanisms of human rights mainstreaming (e.g. the involvement of RTMR experts or the Advisory Council of People with Disabilities) in the city's policy-making:
 - There is a need for legal obligations in municipal law to institutionalise human rights mainstreaming mechanisms.
- d) Austria ratified the UN Convention on the Rights of the Child in 1992 and enacted the "Federal Constitutional Law on the Rights of the Child" (BVG Kinderrechte) in 2011. Both legal instruments provide for the obligation that the best interests of the child must be a primary consideration in all measures affecting children. This obligation also applies to political decision-makers as well as all municipal employees (regardless of whether they act in the area of private sector administration or sovereign administration). There is too little awareness of this duty to consider and the best interests of the child are often not sufficiently taken into account. In the past, this concerned, for example, administrative procedures under the Settlement and Residence Act or the decisions of the crisis team taken in the context of the Covid 19 pandemic.
 - There is a need for awareness-raising measures for all politicians and executives of the administration up to a self-commitment to shed light on the effects of all measures that affect the well-being of children in a structured manner and to involve experts from the youth sector or the children and young people themselves in the context of participation (impact-oriented impact assessment at the municipal level).³
- e) There is no comprehensive policy and strategy to pursue and implement all areas of the UN Convention on the Rights of the Child. The pursuit of the same has been

² In 2017, the city of Salzburg repeatedly passed the begging ban and, for the first time, the ban on burkinis in the outdoor swimming pools, which discriminates Muslim women in particular; it also passed Housing Allocation Directive, which discriminates third-country nationals in 2019 and Senior Citizens' Home Directive, which discriminates persons with certain psychiatric diagnoses in 2020.

³ In Austria, there is a corresponding obligation of the ministries at the federal level (Ordinance of the Federal Chancellor on Principles of Impact-oriented Impact Assessment for Regulatory and Other Projects (WFA-Grundsatz-Verordnung - WFA-GV)).

recommended by the UN Committee on the Rights of the Child in its concluding observations on the combined fifth and sixth periodic report of Austria.

- There is a need for the comprehensive strategy to implement the UN Convention on the Rights of the Child.
- f) There are no human and financial resources and no mandate to be able to carry out regular monitoring or evaluation mechanisms for the effectiveness of measures taken by the city of Salzburg in the field of human rights:
- There is a need for legal obligations at the municipal level to install regular and effective monitoring or evaluation mechanisms for the implementation of the legal obligations in the field of human rights and the review of the effectiveness of the measures.
- g) In 2012, the city of Salzburg established an independent low-threshold anti-discrimination office at a private institution. Despite the high need for anti-discrimination work in the city of Salzburg, the city's policy in 2019 has cut the funding for this office by $\frac{1}{4}$. The Federal state of Salzburg sees no need for an independent low-threshold anti-discrimination office and does not fund it:
- There is a need for legal obligation to install independent low-threshold anti-discrimination offices with sufficient resources in larger municipalities.
- h) The Equal Treatment Officer of the City of Salzburg is also the Women's Representative and is legally responsible for anti-discrimination on the grounds of gender, ethnic origin, age, religion, ideology, sexual orientation or disability in the municipal administration and in access to services of the City of Salzburg. As the Equal Treatment Commissioner, she is not known as such to the general public, as she is mainly responsible for gender equality and the advancement of women.⁴ The Equal Treatment Commissioner also does not have a diverse, instruction-independent and multi-professional team at her disposal to deal with the extensive statutory tasks.
- There is a need for a visible, directive-independent body with wide-ranging competences, responsibilities, sufficient human (diverse, multi-professional) and financial resources to promote equal treatment in the city of Salzburg.
- i) On 1 January 2023, 32.3% of the citizens of the city of Salzburg will be citizens of other countries - 18.2% third-country nationals and 14.1% EU citizens. In addition to the partial exclusion of these citizens from voting, access to Austrian citizenship also involves high hurdles. Furthermore, there is no migrant advisory council and, since 2019, no integration officer in the city of Salzburg to address migrants' concerns and promote their participation.
- There is a need for
 - i. Decoupling the right to vote in municipal elections from citizenship and linking it to the duration of residence or domicile.
 - ii. Facilitate access to Austrian citizenship and enable dual citizenship.
 - iii. Creating other opportunities to have a say at the political level - e.g. a migrant advisory council that has an institutionalised advisory function in political committees.
 - iv. An independent migrant or integration officer who is not bound by instructions and who works for the participation and equal treatment of migrants in the city of Salzburg.

⁴ on the public homepage of the city of Salzburg she only has the function of the women's representative. Gender budgeting is not visible in the city's budget, etc.

- j) In both the Advisory Board for People with Disabilities and the RTMR of the City of Salzburg, some members - experts from civil society and from self-advocacy organisations - work purely on a voluntary basis without compensation for expenses. In two other expert bodies of the City of Salzburg - the Design Advisory Board and the Art Advisory Board - the members' expense allowances are paid. This practice makes the participation of civil society more difficult.
- There is a need for a legal regulation and requirement of expense allowances also in the area of the promotion of human rights, the participation of experts in the local authority bodies and measures.
- k) Many ongoing human rights projects in the city of Salzburg are poorly funded and staffed:
- There is a need to define standards for the promotion of human rights work in a needs-based and fair way (e.g. taking into account that interpretation services are needed, people with trauma, experiences of discrimination and low socio-economic status need more time for counselling, information in simple language, etc.) and to oblige states and local authorities to comply with them.
- l) In the city of Salzburg, since 2019, based on the interpretation of the requirements for subsidies and for the awarding of contracts by the Control Office of the City of Salzburg, the cooperation projects of the city administration with civil society organisations, e.g. in the context of human rights awareness-raising measures, have been prohibited. This also prevents mutual learning processes between the administration and civil society and self-advocacy organisations.
- There is a need to raise awareness of human rights agendas among federal, provincial and municipal monitoring bodies. These should be given competences with regard to human rights budgeting (anti-discrimination, promotion of equal opportunities for all, promotion of diversity in politics and administration) and, among other things, enable cooperation between the administration and civil society within the framework of concrete projects.
3. What measures are needed to further strengthen the capacity of local governments to implement/incorporate human rights at the local level?

There is a need for improved legal foundations:

- a) Human rights mainstreaming and budgeting, collection of equality data and control mechanisms

Since the Treaty of Amsterdam in 1997, gender mainstreaming has been anchored in the primary law of the European Union. According to Art 8 TFEU, all EU Member States undertake to apply gender mainstreaming in their policies. In Austria, Gender Mainstreaming is anchored in the Federal Constitution. Article 7 para 2 of the Federal Constitutional Act contains an obligation to equality between women and men and a prohibition of discrimination: "The federal government, the federal states and municipalities are committed to the actual equality of men and women. Measures to promote de facto equality between women and men, in particular to eliminate inequalities that actually exist, are permissible." In 2009, gender budgeting was constitutionally enshrined in Austria. The Federal Constitutional Act and the Federal Budget Act 2013 are legal foundations for a gender-equitable design of the budget.

Since 1997, important further EU anti-discrimination measures have been implemented in many Member States. Meanwhile, the third intersexual gender is

recognised in several EU states. Discrimination on the grounds of gender, ethnic origin, religion, belief, age, sexual orientation or disability, although prohibited by law in many areas, remains commonplace.

It would be purposeful and appropriate to also take intersexual gender into account in the area of gender mainstreaming and budgeting and to expand it with human rights mainstreaming and budgeting at the EU level as well as at all levels of the nation states and to anchor it in law in a similar way to gender mainstreaming and to install control bodies to check implementation at federal, state and municipal levels. This would anchor human rights as a principle and cross-cutting issue for politics and administration, promote equal opportunities also on the basis of other characteristics as well as diversity and enable effective combating of discrimination.

In order to evaluate human rights mainstreaming and budgeting, it is also recommended that local authorities be obliged to collect and evaluate equality data, publish reports on it, carry out awareness-raising work and combat discrimination.

- b) Equal treatment and anti-discrimination - equal level of protection in all areas, broadening the grounds of discrimination (e.g. socio-economic status, "family care responsibilities", "nationality", "artificial intelligence" etc.), broadening the time limits, legal right to stop the discriminatory practices, strengthening the rights of those subject to discrimination, facilitating access to justice etc.
- c) Strengthen independent monitoring with regard to the implementation of and compliance with the UN Convention on the Rights of the Child (See point 12 of the concluding observations of the UN Committee on the Rights of the Child on Austria's combined fifth and sixth periodic report).
- d) Legal obligation to/for
 - a. Right for Local voting for citizens from third countries.
 - b. Installation of political human rights committees in the local authorities.
 - c. Establishment of migrant advisory councils and independent migrant or integration officer at the local level.
 - d. Creation of institutionalized mechanisms for the inclusion of human rights (e.g. the involvement of human rights and/or equal treatment officers, migrant or integration officers, commissioner for people with disabilities, the experts from the RTMR, the advisory council for people with disabilities or the migrant advisory council) in political decisions the city.
 - e. Installation of human rights officer with a diverse, multi-professional team independent of instructions in the administrations for all other forms of disadvantage that are not covered by discrimination prohibited by law.
 - f. Establishment of the independent, low-threshold and well-equipped anti-discrimination office for clearing, advice and public relations for all possible forms of discrimination in the cities.
 - g. Establishment of the position of equal treatment officer with a multi-professional, diverse and independent team and with good budgetary resources and extensive competencies - intervention, statements, mediation, right of action, development and implementation of other effective measures to promote equal treatment and combat legally prohibited discrimination, etc.
 - h. Establishment of the positions of a women's representative, commissioner for people with disabilities and a youth representative.
 - i. Effective promotion of diversity and reduction of discrimination with effective control mechanisms - e.g. introduction of anonymous application procedures,

mandatory training for the public service on legal provisions and topics of "racism", "discrimination", "equal treatment", development and implementation of action plans against racism and for anti-discrimination in public administrations etc.

There is a need for information and awareness-raising measures:

- e) Raising awareness among politicians, administration, courts and media about human, child and youth rights, racism and every form of discrimination as an experience of violence and about the importance of combating discrimination.
- f) Training of the administration on applicable equal treatment law and ongoing training measures on human rights.
- 4. What are existing procedures and practices for engaging local governments in the work of the United Nations human rights mechanisms and in implementing, reporting and following up on relevant recommendations? How could the existing level of engagement be enhanced?

The Human Rights Round Table is not aware of any institutionalized procedures and practices.

- 5. What are the capacity building gaps and needs of local governments in relation to engaging with the United Nations human rights mechanisms and in implementing, reporting and following up on relevant recommendations?

The Human Rights Round Table is not aware of any institutionalized procedures. The implementation, reporting and follow-up of the United Nations recommendations would be possible at the local level through legal obligation and adequate resources. It would also be helpful if communication with the United Nations bodies were possible in the national languages.

- 6. What are the main challenges in your country in the promotion and protection of human rights at the local level?
 - a) Lack of awareness of human, child and youth rights and in particular that racism means violence and is a structural problem that affects everyone and can be experienced by those affected at all levels - politics, administration, courts, media, work, everyday life, etc.
 - b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has not yet been ratified in Austria.
 - c) The third additional protocol to the UN Convention on the Rights of the Child on an individual complaints procedure for children was not ratified by Austria.
 - d) Lack of implementation of the ratified UN conventions and the EU anti-discrimination directives.
 - e) Restrictive and participation preventing citizenship law in Austria.
 - f) Lack of capacity and resources to promote human rights at the local level.
 - g) No effective, low-threshold and well-equipped advice and support centers.
 - h) Barriers to access to justice.

See also under 3.

7. Please provide examples, good practices, challenges, and recommendations with regard to the above-mentioned issues.

A. Examples and best practices

See under 1.

B. Challenges and Recommendations:

See 2 and 3.

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